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List of CFR Parts Affected

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

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

Rules and Regulations

Title 14—AERONAUTICS AND SPACE

Chapter I—Federal Aviation Administration, Department of Transportation

[Docket No. 11953, Amdt. 39–1458]

PART 39—AIRWORTHINESS DIRECTIVES

Hawker Siddeley de Havilland Model DH–114 "Heron" Airplanes

Pursuant to the authority delegated to me by the Administrator (14 CFR 11.89), an airworthiness directive was adopted on April 20, 1972, and made effective immediately upon receipt as to all known U.S. operators of Hawker Siddeley de Havilland Model DH–114 "Heron" airplanes which do not have Modification 1161 incorporated on all of the main landing gear and the nose landing gear operating jacks. The directive requires the repetitive replacement of P/N AHO 19742 pistons with pistons of the same part number or the replacement of the affected operating jack assemblies with serviceable jack assemblies which have been modified to incorporate piston P/N ACO 23389 because of a reported landing accident caused by the failure of a piston in one of the three landing gear operating jacks.

Since it was found that immediate corrective action was required, notice and public procedure thereon was impracticable and contrary to the public interest and good cause existed for making the airworthiness directive effective immediately as to all known U.S. operators of Hawker Siddeley de Havilland Model DH–114 "Heron" airplanes which do not have Modification 1161 incorporated on all of the main landing gear and nose landing gear operating jacks by airmail letter dated April 20, 1972. These conditions still exist and the airworthiness directive is hereby published in the FEDERAL REGISTER as an amendment to § 39.13 of Part 39 of the Federal Aviation Regulations to make it effective as to all persons.

HAWKER, SIDDELEY AVIATION, LTD. Applies to Hawker Siddeley de Havilland Model DH–114 "Heron" airplanes which do not have Modification 1161 incorporated on all of the main landing gear and nose landing gear operating jacks.

Compliance required as indicated.

To prevent the possible failure of the main or nose landing gear operating jacks accomplish the following:

(a) Within the next 50 landings after the effective date of this AD, or before accumulating a total of 5,000 landings on a piston, P/N AHO 19742, in an operating jack assembly, whichever occurs later—

(1) Replace the affected operating jack assembly with a serviceable jack assembly which has been modified to incorporate piston, P/N ACO 23389 (Modification 1161), in accordance with de Havilland Aircraft Service, Modification News Sheet No. Heron 1161, dated March 17, 1958, or an FAA-approved equivalent, or

(2) Replace the piston in each affected operating jack assembly with a new piston of the same part number and thereafter continue to replace P/N AHO 19742 pistons at intervals not to exceed 5,000 landings.

(b) Operators who have not kept records of the number of landings on individual pistons, P/N AHO 19742, shall substitute the total number of airplane landings accumulated in lieu thereof.

(de Havilland Aircraft Service, Technical News Sheet, Series: Heron (114) No. S.2 dated Mar. 1, 1959, covers the same subject.)

This amendment is effective upon publication in the FEDERAL REGISTER (6–3–72), as to all persons except those persons to whom it was made immediately effective upon receipt of the airmail letter dated April 20, 1972, which contained this amendment.

(Secs. 313(a), 601, 603, Federal Aviation Act of 1958, 49 U.S.C. 1354(a), 1421, 1423; sec. 6(c), Department of Transportation Act, 49 U.S.C. 1655(c))

Issued in Washington, D.C., on May 26, 1972.

CLARENCE R. MELUGIN, Jr.,
Acting Director,
Flight Standards Service.

[FR Doc.72–8367 Filed 6–2–72;8:46 am]

[Docket No. 11377, Amdt. 39–1457]

PART 39—AIRWORTHINESS DIRECTIVES

Hawker Siddeley de Havilland Model DH–104 "Dove" Airplanes

A proposal to amend Part 39 of the Federal Aviation Regulations to include an airworthiness directive requiring the replacement of the two main air reservoir assemblies, P/N C.51450, with new assemblies, P/N SAS.388–002, which contain new air bottles, P/N BAT.205–001, by June 1, 1972, on Hawker Siddeley Model DH–104 "Dove" airplanes was published in 36 F.R. 18476 on September 15, 1971.

Interested persons have been afforded an opportunity to participate in the making of the amendment. No objections were received. However, the FAA has determined that P/N SAS.388–003 air reservoir assemblies are also an acceptable replacement and the AD has been revised to permit the use of either P/N SAS.388–002 or P/N SAS.388–003 assemblies. In addition, the compliance date has been extended to September 1, 1972, to avoid an undue burden on operators; a reference to the current service bulletin has been included in the parenthetical note at the end of the AD; and the phrase "manufactured from improved material" has been deleted from the AD inasmuch as the phrase is superfluous and might cause confusion. Since these revisions are editorial in nature, relieve a restriction, provide an alternative means of compliance, and an updated reference, respectively, and impose no additional burden on any person, notice and public procedure thereon are unnecessary and the amendment may be adopted as revised.

In consideration of the foregoing, and pursuant to the authority delegated to me by the Administrator (14 CFR 11.89), § 39.13 of Part 39 of the Federal Aviation Regulations is amended by adding the following new airworthiness directive:

HAWKER SIDDELEY AVIATION, LTD. Applies to Hawker Siddeley de Havilland Model DH–104 "Dove" airplanes.

Compliance is required on or before September 1, 1972.

To prevent possible failure of the air bottles, P/N B.2994, used in the two main air reservoir assemblies, P/N C.51450, of the pneumatic system, replace the main air reservoir assemblies, P/N C.51450, located in the fuselage nose with serviceable assemblies, P/N SAS.388–002, or SAS.388–003, containing air bottles P/N BAT.205–001.

(Hawker Siddeley Technical News Sheet, Series: CT(104) No. 223, Issues 1 and 2 dated June 21, 1971, and Sept. 28, 1971, respectively, cover this same subject.)

This amendment becomes effective July 3, 1972.

(Secs. 313(a), 601, 603, Federal Aviation Act of 1958, 49 U.S.C. 1354(a), 1421, 1423; sec. 6(c), Department of Transportation Act, 49 U.S.C. 1655(c))

Issued in Washington, D.C., on May 26, 1972.

CLARENCE R. MELUGIN, Jr.,
Acting Director,
Flight Standards Service.

[FR Doc.72–8366 Filed 6–2–72;8:46 am]

[Airspace Docket No. 72–NE–5]

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

Alteration of Control Zone and Transition Area

The Federal Aviation Administration is amending §§ 71.171 and 71.181 of Part 71 of the Federal Aviation Regulations so as to alter the Brunswick, Maine, control zone (37 F.R. 2066) and transition area (37 F.R. 2163).

On or about June 1, 1972, the Department of the Navy will decommission the Brunswick Radio Beacon, frequency 368 KHz ident NHZ. This action will permit the reduction of the Brunswick, Maine,

control zone and 700-foot-floor transition area. Since this amendment restores airspace to the public use and is less restrictive, notice and public procedure hereon are unnecessary and the amendment may be made effective in less than thirty (30) days. In view of the following, the Federal Aviation Administration, having completed review of the aircraft requirements in the terminal airspace of Brunswick, Maine, amends Part 71 of the Federal Aviation Regulations effective upon publication in the FEDERAL REGISTER (6–3–72).

1. Amend § 71.171 of Part 71 of the Federal Aviation Regulations so as to delete the description of the Brunswick, Maine, control zone and insert the following in lieu thereof:

Within a 5-mile radius of NAS Brunswick (latitude 43°53'35" N., longitude 69°56'20" W.); within 2 miles each side of the Navy Brunswick VOR 166° radial, extending from the 5-mile-radius zone to 8 miles south of the VOR; within 2 miles each side of the 166° bearing of the Navy Brunswick UHF RBN (latitude 43°53'42" N., longitude 69°-56'49" W.), extending from the 5-mile-radius zone to 8 miles south of the RBN; within 2 miles each side of the Navy Brunswick TACAN 008° radial, extending from the 5-mile-radius zone to 8 miles north of the TACAN, excluding that airspace within a 1-mile radius of Topsham Airport, Topsham, Maine (latitude 43°56'55" N., longitude 69°59'50" W.)

2. Amend § 71.181 of Part 71 of the Federal Aviation Regulations so as to delete the Brunswick, Maine, 700-foot-floor transition area and insert the following in lieu thereof:

That airspace extending upward from 700 feet above the surface within a 9-mile radius of NAS Brunswick (latitude 43°53'35" N., longitude 69°56'20" W.); within 2 miles each side of the Navy Brunswick VOR 166° radial, extending from the 9-mile-radius area to 12 miles south of the VOR

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

Issued in Burlington, Mass., on May 24, 1972.

WILLIAM E. CROSBY, Jr.,
Deputy Director,
New England Region.

[FR Doc.72-8365 Filed 6-2-72;8:46 am]

[Airspace Docket No. 72-EA-43]

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

Alteration of Control Zone and Transition Area

On page 7210 of the FEDERAL REGISTER for April 12, 1972, the Federal Aviation Administration published proposed regulations which would alter the Clarksburg, W. Va., control zone (37 F.R. 2070, 1358) and transition area (37 F.R. 2171, 1358).

Interested parties were given 30 days after publication in which to submit written data or views. No objections to the proposed regulations have been received.

In view of the foregoing, the proposed regulations are hereby adopted, effective 0901 G.m.t. July 20, 1972.

(Sec. 307(a), Federal Aviation Act of 1958, 72 Stat. 749; 49 U.S.C. 1348; sec. 6(c), Department of Transportation Act, 49 U.S.C. 1655(c))

Issued in Jamaica, N.Y., on May 18, 1972.

ROBERT H. STANTON,
Acting Director, Eastern Region.

1. Amend § 71.171 of Part 71 of the Federal Aviation Regulations so as to delete the description of the Clarksburg, W. Va., control zone and insert the following in lieu thereof:

Within a 5.5-mile radius of the center 39°17'44" N., 80°13'46" W. of Benedum Airport; within 3 miles each side of the Clarksburg VOR 219° radial, extending from the 5.5-mile-radius zone to 8.5 miles southwest of the VOR; and within 2.5 miles each side of the Benedum Airport ILS localizer northeast course, extending from the 5.5-mile-radius zone to 1 mile southwest of the OM. This control zone is effective from 0700 to 2300 hours, local time, daily.

2. Amend § 71.181 of Part 71 of the Federal Aviation Regulations so as to delete the description of the Clarksburg, W. Va., 700-foot floor transition area and insert the following in lieu thereof:

That airspace extending upward from 700 feet above the surface within an 8.5-mile radius of the center 39°17'44" N., 80°13'46" W., of Benedum Airport; within 5 miles each side of the Clarksburg VOR 219° radial, extending from the 8.5-mile-radius area to 11.5 miles southwest of the VOR and within 5 miles each side of the Benedum Airport ILS localizer northeast course, extending from the 8.5-mile-radius area to 10 miles northeast of the OM.

[FR Doc.72-8368 Filed 6-2-72;8:46 am]

[Airspace Docket No 72-SW-24]

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

Designation of Transition Areas

The purpose of this amendment to Part 71 of the Federal Aviation Regulations is to designate a 700-foot and a 1,200-foot transition area at Miami, Okla.

On April 12, 1972, a notice of proposed rule making was published in the FEDERAL REGISTER (37 F.R. 7209) stating the Federal Aviation Administration proposed to designate the Miami, Okla., transition areas.

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

In consideration of the foregoing, Part 71 of the Federal Aviation Regulations is amended, effective 0901 G.m.t., August 17, 1972, as hereinafter set forth.

In § 71.181 (37 F.R. 2143), the following transition areas are added:

MIAMI, OKLA.

That airspace extending upward from 700 feet above the surface within an 8-mile radius of the Miami Municipal Airport (latitude 36°54'02", longitude 94°53'03") and that airspace within the State of Kansas extending upward from 1,200 feet above the surface which is bounded on the south by the Kansas-Oklahoma State line and on the west along a line which is 7 miles east of and parallel to the Oswego, Kans., VOR 207° radial, on the north by the south edge of VOR Airway V-190 and on the east by the west edge of VOR Airway V-88.

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

Issued in Fort Worth, Tex., on May 25, 1972.

R. V. REYNOLDS,
Acting Director, Southwest Region.

[FR Doc.72-8369 Filed 6-2-72;8:46 am]

Chapter II—Civil Aeronautics Board

SUBCHAPTER A—ECONOMIC REGULATIONS

[Reg. ER-734, Amdt. 4]

PART 207—CHARTER TRIPS AND SPECIAL SERVICES

Performance of Overseas Military Personnel Charters

Adopted by the Civil Aeronautics Board at its office in Washington, D.C., on the 18th day of May 1972.

By supplemental notice of proposed rule making EDR-173C/SPDR-25,[1] the Board proposed, inter alia, certain amendments to Part 207. For the reasons set forth in SPR-54 (Part 372), published contemporaneously herewith, the Board hereby amends Part 207 of the Economic Regulations (14 CFR Part 207), effective June 3, 1972, as follows:

Amend § 207.11 to read as follows:

§ 207.11 Charter flight limitations.

* * * * *

(b) * * *

(6) By an overseas military personnel charter operator as defined in Part 372 of this chapter; or

(c) * * *

(3) By a study group charterer or foreign study group charterer as defined in Part 373 of this chapter;

(4) By an overseas military personnel charter operator as defined in Part 372 of this chapter:

Provided, That with respect to paragraph (c) of this section each person engaging less than the entire capacity of an aircraft shall contract and pay for 40 or more seats: *And provided, further,* That paragraph (c) of this section shall not be construed to apply to movements of property.

(Secs. 204(a), 401, Federal Aviation Act of 1958, as amended, 72 Stat. 743, 754, as amended; 49 U.S.C. 1324, 1371)

By the Civil Aeronautics Board.

[SEAL] HARRY J. ZINK,
Secretary.

[FR Doc.72-8438 Filed 6-2-72;8:50 am]

[1] Issued Aug. 27, 1971, 36 F.R. 17655 (Docket 21666).

[Reg. ER-735, Amdt. 5]

PART 208—TERMS, CONDITIONS, AND LIMITATIONS OF CERTIFICATES TO ENAGE IN SUPPLEMENTAL AIR TRANSPORTATION

Performance of Overseas Military Personnel Charters

Adopted by the Civil Aeronautics Board at its office in Washington, D.C., on the 18th day of May 1972.

By supplemental notice of proposed rule making EDR-173C/SPDR-25,[1] the Board proposed, inter alia, certain amendments to Part 208. For the reasons set forth in SPR-54 (Part 372), published contemporaneously herewith, the Board hereby amends Part 208 of the Economic Regulations (14 CFR Part 208), effective June 3, 1972, as follows:

1. Amend § 208.3 by revising the definition of "Indirect air carrier" in paragraph (u) to read as follows:

§ 208.3 Definitions.

* * * * *

(u) "Indirect air carrier" means any citizen of the United States who engages indirectly in air transportation including air freight forwarders, persons authorized by the Board to transport by air used household goods of personnel of the Department of Defense, tour operators, study group charterers, and overseas military personnel charter operators.

* * * * *

2. Amend § 208.6 to read as follows:

§ 208.6 Charter flight limitations.

* * * * *

(b) * * *

(4) By a tour operator or a foreign tour operator as defined in Part 378 of this chapter;

(5) By a study group charterer or foreign study group charterer as defined in Part 373 of this chapter; or

(6) By an overseas military personnel charter operator as defined in Part 372 of this chapter.

(c) * * *

(3) By a tour operator or a foreign tour operator as defined in Part 378 of this chapter;

(4) By a study group charterer or a foreign study group charterer as defined in Part 373 of this chapter; or

(5) By an overseas military personnel charter operator as defined in Part 372 of this chapter:

Provided, That with respect to paragraph (c) of this section each person engaging less than the entire capacity of an aircraft shall contract and pay for 40 or more seats: *And provided further*, That paragraph (c) of this section shall not be construed to apply to movements of property.

(Secs. 204(a), 401, Federal Aviation Act of 1958, as amended, 72 Stat. 743 and 754, as amended; 49 U.S.C. 1324 and 1371)

By the Civil Aeronautics Board.

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

[FR Doc.72-8439 Filed 6-2-72;8:50 am]

[1] Issued Aug. 27, 1971, 36 F.R. 17655 (Docket 21666).

[Reg. ER-736, Amdt. 3]

PART 212—CHARTER TRIPS BY FOREIGN AIR CARRIERS

Performance of Overseas Military Personnel Charters

Adopted by the Civil Aeronautics Board at its office in Washington, D.C., on the 18th day of May 1972.

By supplemental notice of proposed rule making EDR 173C/SPDR-25,[1] the Board proposed, inter alia, certain amendments to Part 212. For the reasons set forth in SPR-54 (Part 372), published contemporaneously herewith, the Board hereby amends Part 212 of the Economic Regulations (14 CFR Part 212) effective June 3, 1972, as follows:

Amend § 212.8 by adding new paragraphs (a)(6) and (b)(4), the section as amended to read as follows:

§ 212.8 Charter flight limitations.

* * * * *

(a) * * *

(6) Until October 1, 1972, by an overseas military personnel charter operator as defined in Part 372 of this chapter; or

(b) * * *

(3) By a study group charterer or foreign study group charterer as defined in Part 373 of this chapter;

(4) Until October 1, 1972, by an overseas military personnel charter operator as defined in Part 372 of this chapter: *Provided, however*, That with respect to paragraph (b) of this section each person engaging less than the entire capacity of an aircraft shall contract and pay for 40 or more seats: *And provided further*, That paragraph (c) of this section shall not be construed to apply to movements of property.

(Secs. 204(a), 402, Federal Aviation Act of 1958, as amended, 72 Stat. 743, 757; 49 U.S.C. 1324, 1372)

By the Civil Aeronautics Board.

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

[FR Doc.72-8440 Filed 6-2-72;8:50 am]

[1] Issued Aug. 27, 1971, 36 F.R. 17655 (Docket 21666).

[Reg. ER-737, Amdt. 6]

PART 214—TERMS, CONDITIONS, AND LIMITATIONS OF FOREIGN AIR CARRIER PERMITS AUTHORIZING CHARTER TRANSPORTATION ONLY

Performance of Overseas Military Personnel Charters

Adopted by the Civil Aeronautics Board at its office in Washington, D.C., on the 18th day of May 1972.

By supplemental notice of proposed rule making EDR-173C/SPDR-25,[1] the Board proposed, inter alia, certain amendments to Part 214. For the reasons set forth in SPR-54 (Part 372), published contemporaneously herewith, the Board hereby amends Part 214 of the Economic Regulations (14 CFR Part 214), effective June 3, 1972, as follows:

Amend § 214.7 by adding new subparagraphs (a)(4) and (b)(4), the section as amended to read as follows:

§ 214.7 Charter flight limitations.

* * * * *

(a) * * *

(4) Until October 1, 1972, by an overseas military personnel charter operator as defined in Part 372 of this chapter; or

(b) * * *

(3) By a study group charterer or foreign study group charterer as defined in Part 373 of this chapter;

(4) Until October 1, 1972, by an overseas military personnel charter operator as defined in Part 372 of this chapter:

Provided, however, That paragraph (b) of this section shall not apply with respect to any foreign air carrier to the extent that its permit authorizes it to engage in "planeload" charter foreign air transportation of persons:

And provided, further, That with respect to paragraph (b) of this section each person engaging less than the entire capacity of the aircraft shall contract and pay for 40 or more seats.

(Secs. 204(a), 402, Federal Aviation Act of 1958, as amended, 72 Stat. 743, 757; 49 U.S.C. 1324, 1372)

By the Civil Aeronautics Board.

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

[FR Doc.72-8441 Filed 6-2-72;8:50 am]

[1] Issued Aug. 27, 1971, 36 F.R. 17655 (Docket 21666).

[Reg. ER-738, Amdt. 41]

PART 241—UNIFORM SYSTEM OF ACCOUNTS AND REPORTS FOR CERTIFICATED AIR CARRIERS

Amendment of Reporting Requirements

Adopted by the Civil Aeronautics Board at its office in Washington, D.C., on the 18th day of May 1972.

By SPR–54 (Part 372), ER–734 (Part 207), and ER–735 (Part 208), published contemporaneously herewith, the Board is establishing a new class of charters, to be called overseas military personnel charters, and is authorizing direct air carriers to perform flights in connection with such charters.

The instructions for Schedule T–6—Summary of Civil Aircraft Charters—in sections 25 and 35 of Part 241 presently require that data shall be reported for all civil charter flights performed by the route and supplemental air carriers, respectively. It is thus necessary to amend Schedule T–6 itself in order to provide for the reporting of this newly established class of civil charters.[1] The amendments being editorial in nature, in that they merely reflect the establishment in Part 372 of a new class of civil charters, and since they impose no significant burden on anyone, the Board finds notice and public procedure thereon are unnecessary, and they may be made effective immediately.

Accordingly, the Civil Aeronautics Board hereby amends Part 241 of the Economic Regulations (14 CFR Part 241) effective June 3, 1972, as follows:

1. Amend Section 25, Schedule T–6 by adding a new subparagraph (6) to paragraph (c), the section as amended to read as follows:

Section 25—Traffic and Capacity Elements

* * * * *

SCHEDULE T–6—SUMMARY OF CIVIL AIRCRAFT CHARTERS

* * * * *

(c) * * *

(6) Overseas military personnel charter, as defined in Part 372 of this chapter (Board's Special Regulations).

* * * * *

2. Amend Section 35, Schedule T–6 by adding a new subparagraph (7) to paragraph (b), the section as amended to read as follows:

Section 35—Traffic and Capacity Elements

* * * * *

SCHEDULE T–6—SUMMARY OF CIVIL AIRCRAFT CHARTERS

* * * * *

(b) * * *

(7) Overseas military personnel charter, as defined in Part 372 of this chapter (Board's Special Regulations).

(Secs. 204(a), 407, Federal Aviation Act of 1958, as amended, 72 Stat. 743, 766; 49 U.S.C. 1324, 1377)

NOTE: The reporting requirements herein have been approved by the Office of Management and Budget in accordance with the Federal Reports Act of 1942.

By the Civil Aeronautics Board.

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

[FR Doc.72–8442 Filed 6–2–72;8:51 am]

[1] It should be noted that the new class of overseas military personnel charters are civil charters, as distinguished from the "military charters" presently referred to in Schedule T–6, which are not civil charters since they are performed for the Military Airlift Command.

[Reg. ER–739; Amdt. 18]

PART 249—PRESERVATION OF AIR CARRIER ACCOUNTS, RECORDS AND MEMORANDA

Preservation of Records by Overseas Military Personnel Charter Operators

Adopted by the Civil Aeronautics Board at its office in Washington, D.C., on the 18th day of May 1972.

By SPR–54 (Part 372), published contemporaneously herewith, the Board is establishing a new class of charters, to be called overseas military personnel charters, and is authorizing a new class of charter operators to act as indirect air carriers with respect to such charters. The rule being adopted in SPR–54 contains certain record retention requirements for the overseas military personnel charter operators. Specifically, they are being required to retain documents reflecting deposits made by, or refunds made to, each charter participant and statements, bills, and receipts from vendors of goods and services furnished in connection with the overseas military personnel charters. In the interest of uniformity, we are herein amending Part 249 so as to reflect the new record retention.

Since the amendments contained herein impose no significant burden upon any person, and are needed to reflect the record retention requirements imposed by Part 372, the Board finds that notice and public procedure thereon are unnecessary and they may be made effective immediately.

Accordingly, the Civil Aeronautics Board hereby amends Part 249 of the Economic Regulations (14 CFR Part 249), effective June 3, 1972, as follows:

1. Amend the Table of Contents by revising the title of § 249.9, the table as amended to read, in pertinent part, as follows:

Sec.
249.9 Period of preservation of records by tour operators, study group charterers, and oversea military personnel charter operators.

2. Amend § 249.1 to read as follows:

§ 249.1 Applicability.

Except as otherwise provided in this subpart or other parts of this subchapter, the provisions of this subpart shall apply to (a) air carriers, as defined in section 101(3) of the Act, which hold certificates of public convenience and necessity, supplemental air carriers, subject to the reporting requirements of Part 241 of this subchapter and former Part 242 of this subchapter, (b) holders of a permit authorizing the navigation in the United States of foreign civil aircraft pursuant to Part 375 of this chapter (Board's Special Regulations), (c) foreign air carriers, as defined in section 101(19) of the Act, (d) tour operators as defined in § 378.2(d) of this chapter, (e) study group charterers, as defined in § 373.2 of this chapter, and (f) overseas military personnel charter operators, as defined in § 372.2 of this chapter.

3. Amend § 249.2 by inserting therein, in alphabetical sequence, the definition of "overseas military personnel charter operator," as follows:

§ 249.2 Definitions.

For purposes of this part:

* * * * *

"Overseas military personnel charter operator" means any citizen of the United States, as defined in section 101(13) of the Federal Aviation Act, authorized under the provisions of Part 372 of this chapter (14 CFR Part 372) to engage in the formation of overseas military personnel charter groups and who complies with the provisions of Part 372 of this chapter.

* * * * *

4. Amend § 249.9 by revising the title and adding a new paragraph (c), the section as amended to read as follows:

§ 249.9 Period of preservation of records by tour operators, study group charterers, and overseas military personnel charter operators.

* * * * *

(c) Every overseas military personnel charter operator conducting an overseas military personnel charter pursuant to Part 372 of this chapter shall retain for 2 years after completion of the overseas military personnel charter or series of overseas military personnel charters true copies of the following documents at its principal or general office in the United States and shall make them available upon request by an authorized representative of the Board.

(1) All documents which evidence or reflect deposits made by, and refunds made to, each charter participant; and

(2) All statements, invoices, bills, and receipts from suppliers or furnishers of goods and services in connection with the overseas military personnel charter or series of overseas military personnel charters.

(Secs. 204(a), 407, Federal Aviation Act of 1958, as amended, 72 Stat. 743, 766; 49 U.S.C. 1324, 1377)

NOTE: The record-retention requirements herein have been approved by the Office of Management and Budget in accordance with the Federal Reports Act of 1942.

By the Civil Aeronautics Board.

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

[FR Doc.72–8443 Filed 6–2–72;8:51 am]

SUBCHAPTER D—SPECIAL REGULATIONS

[Reg. SPR-54]

PART 372—OVERSEAS MILITARY PERSONNEL CHARTERS

Adopted by the Civil Aeronautics Board at its office in Washington, D.C., on the 18th day of May 1972.

By supplemental notice of proposed rule making EDR-173C/SPDR-25,[1] the Board proposed to establish a new class of charter for overseas military personnel and their immediate families, enable air carriers and foreign air carriers to perform such charters, and relieve charter operators from certain provisions of the Federal Aviation Act in order to authorize them to act as indirect air carriers with respect to such charters.

Comments in response to the supplemental notice were filed by American Express Co. (AMEXCO), American Institute of Foreign Study, Inc. (AIFS), Capitol International Airways, Inc. (Capitol), the Davis Agency (Davis), the Department of Defense (DOD), Pan American World Airways, Inc. (Pan American), Saturn Airways, Inc., Shoftour Charters, Inc. (Shoftour), Trans International Airlines, Inc. (TIA), Trans World Airlines, Inc., the United Service Club (USC), Universal Airlines, Inc., Vacations Unlimited, Inc. (Vacations), and a large number of individual members of the public, groups of individuals, and organizations.[2]

Additionally, the Airlift Panel of the Special Subcommittee on Transportation of the House Committee on Armed Services has issued a report, including its recommendations,[3] following its own hearings on the subject of this rule making proceeding.[4]

Upon consideration of the foregoing, we have determined to adopt Part 372 as proposed, but with the modifications discussed hereinbelow.[5] Moreover, except as otherwise indicated, the tentative findings and conclusions set forth in EDR-173C are adopted and made a part hereof, including specifically the finding and conclusion that overseas military charter operators are indirect air carriers and that pursuant to section 101(3) of the Act it is in the public interest to relieve them from the provisions of section 401 of the Act. In reaching this conclusion and in creating a special class of charter for the benefit of military personnel stationed overseas on official orders, we are applying section 102 of the Act, which enjoins us to consider as an element of the public interest the "encouragement of an air-transportation system properly adopted to the present and future needs * * * of the national defense."

Virtually all the comments which have been received since the inception of this proceeding oppose adoption of the proposal. However, we think it is equally fair to say that virtually all the opposition from the public has been based upon misapprehension of the purpose of the proposal and of the legal status of the present so-called military charters. Thus, before discussing specific policy issues involved in this proceeding, we think it appropriate to set forth a brief general description of the legal framework within which this rule is being adopted.

The Board's proposal had its origin in a rule making proceeding which was instituted in December 1969,[6] because it was apparent to the Board that certain so-called charters for military personnel were not being conducted in accordance with statutory requirements. Under the Federal Aviation Act, as interpreted by the courts, a distinction must be maintained between charter service and individually ticketed scheduled service.[7] Charter service may not be used as a subterfuge for the provision of individually ticketed service. The Board, in its continuing efforts to reconcile the desire for charter services within the requirements of the law, has from time to time issued rules providing for various types of charter travel, such as: Pro rata, inclusive tours, single entity, and study groups.[8] Only charters operated in accordance with the Board's rules are lawful.

Over the past several years the traffic in military charters between Europe and the United States has been steadily enlarging. At first, it was composed mainly of U.S. military personnel but recently has included more and more civilian employees of the Department of Defense (DOD), retired military personnel and dependents. These charters are supposed to be conducted pursuant to the Board's general rules for pro rata charters since there are no special provisions governing military charters of this type. By the end of 1969, it had become apparent to the Board that the charters were being operated in violation of the Board's rules and raised serious regulatory problems. For example, participants were being solicited by travel agents through widespread advertising of a series of flight dates, flights were being advertised at flat one-way and round-trip fares rather than at the prorated share of the total charter price, and subterfuges were being employed by certain travel agents to avoid the prohibition against chartering to travel agents.

These practices, together with the charter operators' acceptance and solicitation of ever-enlarging categories of civilian groups which had none of the burdens and obligations of overseas military service, tended to make these charters less and less distinguishable from individually ticketed services, and thus violative of the distinction which the Board by law has to maintain. In addition, the acceptance of essentially civilian traffic on charters ostensibly conducted for the benefit of active-duty military personnel overseas was unfair to those civilian groups who remained ineligible for those charters.

At the same time, it had become clear that the general charter rules do not adequately meet the special needs of military personnel stationed overseas. For example, the restrictions on one-way passengers and on intermingling passengers tend to curtail the availability of lawfully operated pro rata charters for stateside visits by military personnel.

It was to deal with these various problems that the Board proposed the new rule set out in EDR-173C, and we turn now to discuss the specific features of the proposed rule, the comments received thereon, and our conclusions.

I. Modifications of Eligibility Classification

Many commenting parties have urged enlargement of the class of persons who would be eligible for the new class of charter. It has been suggested, variously, that eligibility be extended to such additional categories as military personnel stationed in the United States, retired military personnel, DOD civilian employees (or at least those who are stationed abroad), National Guardsmen, reservists, all veterans of the armed services, and the respective families of these persons.

The arguments against our proposed exclusion of these additional categories of persons from eligibility for participation in the new class of charters are of two kinds. First, it is argued that failure to include such persons would be an unfair curtailment of their own rights. It is said, for example, that

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[1] Issued Aug. 27, 1971, 36 F.R. 17655 (Docket 21666). The supplemental notice superseded EDR-173, issued Dec. 1, 1969 (34 F.R. 19297).

[2] In the main, the individuals are military personnel, retired military personnel, DOD civilian employees, and the families of such persons, while the groups and organizations are representative of such persons.

[3] H.A.S.C. No. 92-37, Jan. 25, 1972.

[4] H.A.S.C. No. 92-35, on hearings held Nov. 30, Dec. 1, 2, and 3, 1971. As noted in EDR-173C, the Board's initial proposal in EDR-173 had also been the subject of hearings conducted by the Subcommittee on Military Airlift of the House Committee on Armed Services, 91st Cong., second sess. (H.A.S.C. No. 91-51) and a report based thereon (H.A.S.C. 91-59).

[5] By ER-734, ER-735, ER-736, and ER-737, issued contemporaneously herewith, we are adopting amendments to Parts 207, 208, 212, and 214, consistent with our action herein. By the same token, in EDR-173F/SPDR-25C, also issued contemporaneously herewith, we are inviting public comments on the question whether foreign air carriers should be permanently authorized to carry the new class of overseas military charters. We are also adopting contemporaneously herewith various technical amendments to Parts 241, 249, and 389 which are necessitated by our action herein, as set forth in ER-738, ER-739, and OR-61.

[6] EDR-173, issued Dec. 1, 1969 (34 F.R. 19297).

[7] Individually ticketed service refers essentially to the kind of air service which is available to any member of the general public who wishes to purchase a ticket, at a predetermined price, for a scheduled flight between one point and another.

[8] By notice of proposed rule making EDR-218/SPDR-22A, dated Dec. 30, 1971 (37 F.R. 222), the Board has proposed the establishment of a new class of charter, to be called Travel Group Charters, which would in essence enable any group of 50 or more persons to charter an aircraft on a pro rata basis, regardless of any prior affinity among themselves, so long as the charter complies with prescribed conditions.

reduced-rate travel has become a recognized fringe benefit of past and present military service and civilian employment with DOD, and that retired and active military personnel frequently cannot afford the cost of scheduled air fares. With regard to DOD civilian employees working overseas, in particular, it is pointed out that they have special transportation needs similar to those of overseas servicemen. Second, it is argued that the exclusion of such large numbers of potential charter participants would necessarily result in lower frequency of flights, and higher costs, for our intended beneficiaries—the overseas military personnel and their families. In support of this argument, it is urged that the low cost of military charters depends upon high load factors, high utilization, and minimization of ferrying charges.

Our reasons for proposing to limit eligibility for the new class of charter to military personnel stationed overseas, and their immediate families, were set forth in EDR–173C. We recognized that their special travel needs could not be satisfactorily met by our existing charter rules, and, out of concern for their morale, we sought to fashion a special class of charters for their benefit. But at the same time, we tentatively concluded that extending the privileges of this exceptional charter rule to additional classes of beneficiaries would compromise the legally required distinction between charter service and individually ticketed service, as discussed above. Moreover, we believed that extending to those additional classes of citizens the special privileges of participation in the proposed new charter would be unjustifiably discriminatory against other citizens. Accordingly, we proposed to limit the application of the new rule solely to military servicemen stationed in foreign countries, and their immediate families. Our present determination is to adhere to that basic view, but with the two following modifications.

1. *Expansion of eligibility to servicemen stationed outside of 48 contiguous States.* First, we have concluded that it would be needless and arbitrary to limit the rule to military personnel stationed in foreign countries, thereby excluding servicemen stationed in Alaska, Hawaii, and U.S. territories and possessions. The distance and cost of travel between such points and points within the contiguous 48 States is comparable, in many cases, to that of travel between foreign points and the United States.[9]

2. *Expansion of eligibility to U.S. citizen civilian DOD employees serving abroad.* Second, upon further consideration of our tentative conclusions, we are now inclined toward the view that this class of charter should be available to DOD civilian employees who are U.S. citizens serving side by side with U.S. military personnel in places which are far distant from their homes. We are therefore extending eligibility to DOD civilian employees who are U.S. citizens stationed with U.S. military personnel in foreign countries, or in a U.S. territory or possession, and to their immediate families. Unlike the other mentioned classes of persons, whom we have now finally decided to exclude, we find that these civilian DOD employees also have special travel needs—not substantially distinguishable from those of the military personnel alongside whom they serve abroad—for low-cost transportation to their homes in the United States, as well as the same difficulties in enjoying charters available under our existing regulations. Moreover, as the Airlift Panel has observed, the size of this class of DOD civilian employees is not so large as to jeopardize the fundamental concepts of our charter rules, as described above. However, we have determined not to extend eligibility to civilian DOD employees stationed in Hawaii or Alaska, since they—unlike military servicemen stationed in those States—may generally be expected to have their permanent homes near their places of employment.[10]

Nor can we find that the public interest warrants the extension of eligibility hereunder to any of the other aforementioned classes. Thus, we have determined not to depart from our tentative conclusion in EDR–173C, that U.S.-based military personnel and DOD civilian employees, or retired military personnel, and their respective families, are no more entitled to participate in this special class or charter than any other active or retired Government employees, or, for that matter, any other citizens. Indeed, the named classes of persons are more likely than most citizens to be able to arrange vacation travel with presently lawful pro rata charters organized through recreational clubs, military associations, and other charterworthy groups and organizations; and some may even travel on a space-available basis.[11] In this connection, we again emphasize that the rule being adopted herein will not affect any person's eligibility for charter transportation under the Board's general charter rules.[12]

3. *Effect of limited eligibility on service and price to eligible participants.* Nor can we accept the argument that expansion of the eligible class is necessary in order to avoid reducing flight frequency or raising charter prices from the levels prevailing under the existing so-called military charter system. Since, as we explained above, the existing system is being operated in violation of our charter rules, we can hardly be receptive to an argument predicated on the proposition that this unlawful system should be perpetuated simply because it offers cheap prices and high flight frequencies. Moreover, even if the argument were legally tenable, we have never received persuasive data to provide a firm factual basis for the prediction that by so limiting eligibility we would effectively destroy the attractiveness and usefulness of military charters. The estimates which the charter operators have supplied at various stages of this proceeding, and in testimony before the Airlift Panel, are at marked variance with each other and are unsupported by meaningful traffic statistics.[13] Indeed, even if it were assumed that as much as 50 percent of the traffic will be eliminated under the eligibility provisions being herein adopted, it would not necessarily follow that the prices of the flights would thereby be significantly affected. We observed in EDR–173C that the military charter operators' prices have not exactly correlated with volume, noting that, for example, the Davis price in 1969 was as low as $65 per passenger from Frankfurt to New York, while in

[9] Actually we indicated in EDR–173C that we would be prepared to authorize charters to remote territories and possessions if such charters could be shown to be economically practicable. However, we are now persuaded that it would be unreasonable to require an advance showing of the economic practicability of these operations. The only test should be whether the operator is willing to assume the risks of the program, while complying with our regulatory requirements.

[10] Our determination herein to expand eligibility for participation in overseas military personnel charters to the described category of DOD civilian employees reflects, among other factors, our deference to the views of the Airlift Panel that these charters "contribute significantly to the morale and welfare of our military and DOD civilian personnel stationed abroad and their dependents." H.A.S.C. No. 92–37, p. 7438. We are of course mindful that our decision to exclude from eligibility those DOD civilian employees who are U.S. citizens stationed in Hawaii or Alaska is not in complete accord with the literal terms of the Airlift Panel's recommendation that eligibility should be extended to all such DOD civilian employees "assigned outside the continental limits of the 48 States * * *" (Ibid.); but, on the other hand, we believe that our decision fully accords with the underlying objective of the Airlift Panel's recommendations, namely, that this new class of charters "should be performed for the purpose of uniting families to minimize the hardship of family separations during extended overseas tours rather than for low-cost vacation travel." Id. at p. 7437.

[11] The Airlift Panel found that free air transportation on a space-available basis is now more readily available from the Military Airlift Command than during the period 1968–69. (H.A.S.C. No. 92–37, pp. 7436, 7438.)

[12] Davis' argument that reservists, National Guardsmen, and civilian and military personnel of DOD share no less affinity than do the employees of any large single business corporation is not to the point. This argument goes to the question whether such persons are eligible for regular pro rata charters under our general rules, but is largely irrelevant to the present issue. What we must here determine is whether these persons should be eligible for a newly created class of charter which will not include requirements of our existing affinity charter rules, such as those provisions governing pro rata pricing and intermingling of passengers.

[13] In its comment upon EDR–173, Davis estimated that 15 percent of its traffic would be eliminated under the eligibility provisions which were later proposed in EDR–173C; but in response to questioning by the Panel, counsel for Davis estimated that 30 percent to 40 percent of its traffic would be eliminated (H.A.S.C. 92–35, p. 7313). Shoftour, in its comment to EDR–173C, estimated that 55 percent would be eliminated. Counsel for USC told the Panel that nearly half of USC's traffic would be eliminated. (H.A.S.C. 92–35, p. 7280.)

1970, with much greater volume, it was $80 between those points. Finally, the hypothesis that a decrease in a charter operator's volume need not cause an increase in prices is supported by an analysis of the business of charter operators, as distinguished from that of direct air carrier. These charter operators do not own aircraft or even invest in a fixed-term lease of aircraft; they merely charter from direct air carriers such capacity as they require. Thus, unlike direct air carriers, they are not bound by economic necessity to maintain high aircraft utilization. While a direct air carrier must perform a minimum number of flights per week to prevent its aircraft from remaining unprofitably idle on the ground, charter operators can tailor their charter commitments to their needs.[14]

Consequently, we are not persuaded that the eligibility restrictions will prevent the charter operators from maintaining the high load factors which are necessary for low prices. Load factors are a function of both traffic and capacity; and the military charter operators, ability to control their capacity will enable them to maintain high load factors notwithstanding a possible decrease in traffic. Thus, even if we concede that the frequency of flights will be somewhat reduced from present levels, so long as at least half of the present traffic remains eligible,[15] reductions in frequency should not be so great as to substantially inconvenience the participants. It appears from the comments and the testimony before the Airlift Panel that approximately 1,222 flights were arranged by the three military charter operators in 1971;[16] thus, a 50-percent drop in frequency would still leave 611 flights.

II. TECHNICAL MODIFICATIONS

1. *Advertising.* Several comments have urged that the proposed prohibition against advertising and soliciting within the United States and its territories and possessions is unduly restrictive. The proposed prohibition was intended to prevent these charters from being advertised among persons who are ineligible for participation, and we must retain that objective. However, we have now concluded that the proposed prohibition is unduly broad and might even prevent advertisement from reaching many eligible participants in the United States, such as persons in this country who are in the immediate family of a military serviceman stationed abroad. We are therefore modifying the prohibition against advertising, by replacing the geographical limitation with a limitaton on the type of media which may be used. Accordingly, § 372.21 limits solicitation by charter operators to advertising in military-oriented media.[17]

2. *Bonds and escrows.* Davis and Shoftour recommend that the Board modify the proposed requirements for safeguarding customers' deposits. The proposed rule would have required a $100,000 surety bond plus a depository agreement with a bank, or, in the alternative, a bond in an amount not less than the maximum fare held out for charter flights scheduled during each calendar month, multiplied by 90 percent of the number of available seats on such flights. Both Davis and Shoftour argue that the depository agreement would be administratively impracticable, and Shoftour adds that the straight surety alternative would require such large bonds as to be unduly onerous.

The two alternative methods which we proposed for safeguarding customers' deposits are adapted from those which we have prescribed for study group charter operators and inclusive tour operators, under Parts 373 and 378, respectively. Those methods have proved to be generally satisfactory and we shall adopt them as alternatives available to military charter operators under this rule. However, since the military charter operators, unlike the operators of study group and inclusive tour charters, deal only with transportation services and receive customers' deposits only with respect to such services, we shall offer them a third alternative, adapted from the escrow requirement which we have imposed on supplemental air carriers, under Part 208. The escrow procedure will permit the operator to meet our security requirements by escrowing an amount equal to the sum, computed monthly, of the customers' deposits in excess of 25 percent of the operator's net worth, and by furnishing a $100,000 surety bond.[18] Of course, since the amount of funds to be escrowed varies with the amount of the operator's net worth, availability of this third alternative will be conditioned upon the operator's periodic submission to us of financial data disclosing his net worth.

3. *Foreign banks.* The proposed rule contemplated the use of both U.S.-regulated banks and certain foreign banks for purposes of the depository arrangement. We have now determined to require that only U.S.-regulated banks be used for purposes of the depository or escrow arrangements being provided herein.[19] Since participants in charters under this rule will be U.S. military and U.S. civilian employees of DOD, and their families, it seems more appropriate that banks used to safeguard their deposits should be subject to the regulatory jurisdiction of U.S. agencies, in the event that a controversy arises with respect to the bank's conduct as depository or escrowee. Moreover, Davis says that European banks are not even geared to handle depository arrangements of the type contemplated in the proposed rule, so that the use of foreign banks in connection with this rule might even be impractical.

4. *Surety company qualification.* The proposed rule provided that a bonding or surety company would be qualified for purposes of the military charters only if the company's surety bonds are accepted by the Interstate Commerce Commission under 49 CFR 1084.6 and the company is listed in Best's Insurance Reports (Fire and Casualty) with a general policyholders' rating of "A" or better. The purpose of the proposed absolute standard was to relieve the Board from the burden of determining the qualifications of bonding companies on a case-by-case basis. Subsequent to the issuance of EDR–173C, we issued SPDR–26[20] in which we have proposed inter alia, to adopt the same absolute standard for surety bonds pursuant to Parts 373,[21] 378,[22] and 378a[23] of the Board's special regulations.

AIFS and Vacations have commented adversely on this aspect of the proposal. While they have no direct interest in this proceeding, they are concerned that our adoption here of an objective standard for surety companies would constitute a prejudgment of the very same issue which they are opposing in our pending rule making proceeding initiated by SPDR–26, where they are interested parties. We are of the view that the standards for acceptable surety companies with regard to military charters should be consistent with those in the other parts of the Board's regulations. Accordingly, we have determined not to adopt the proposed standard at this time for the purpose of this particular proceeding, but rather to defer the question to the more general rule making proceeding in SPDR–26. Thus, pending our

[14] In fact, it appears from the record that much of the capacity which the military charter operators, in particular, have been purchasing from the direct air carriers is surplus capacity, such as an empty return leg of a one-way conventional charter trip, and it is thus space available at a relatively low price.

[15] As indicated earlier, 50 percent is a conservative estimate.

[16] 600 by Davis, 400 by Shoftour, and 222 by USC.

[17] It is noted that scheduled carriers now have in effect special "overseas military" fares which are competitive with those of the charter operators. Pan American, which is one of the scheduled carriers having such fares, argues that it is unfair to allow the military charter operators to solicit passengers on radio and television stations operated by the U.S. Armed Forces, so long as the Armed Forces networks, which are noncommercial, do not allow scheduled carriers to be identified in a "solicitation" sense in their broadcasts. The Board, of course, in permitting charter operators to advertise on Armed Forces broadcasts, does not purport to influence the advertising policies governing such broadcasts. The charter operators remain fully subject to whatever restrictions the Armed Forces stations may impose upon commercial advertisers; but we assume that Armed Forces stations will apply their rules even-handedly to the charter operators and the scheduled carriers, both of which are commercial enterprises.

[18] This is essentially the same procedure suggested by Shoftour, except that we are requiring a $100,000 bond in addition to the escrow.

[19] The rule being adopted herein, like the proposed rule, requires that the U.S. bank be a bank, savings and loan association, or other financial institution insured by the Federal Deposit Insurance Corporation or the Federal Savings and Loan Insurance Corporation.

[20] Oct. 26, 1971, 36 F.R. 20895 (Docket 23940).

[21] Study group charters.

[22] Inclusive tour charters.

[23] Contract bulk inclusive tours.

final action on SPDR–26, the standard for an acceptable surety company under this new Part 372 will be that which is presently contained in Parts 373, 378, and 378a. By the same token, such standard as we may ultimately adopt in SPDR–26 for Parts 373, 378, and 378a, would at the same time be adopted for this Part 372, by parallel amendment, so as to maintain consistency among all our charter rules on this question.

5. *Foreign air carriers.* Our proposal contemplated that charters under this rule would be operated by foreign air carriers as well as U.S. air carriers. Capitol, Pan American, and TIA contend that foreign air carriers should not be allowed to participate in the newly authorized class of overseas military charters. In support of this contention, it is urged that the participation of foreign carriers would adversely affect the U.S. balance of payments, and would be inappropriate in view of the uniquely military nature of the traffic. Additionally, TIA says that a number of European countries have more restrictive policies with regard to landing rights of U.S. supplementals than does the United States with regard to supplementals of those countries, and that any inclusion of foreign air carriers in this new class of charters should be the subject of bargaining in negotiations on the issue of such landing rights.

We believe that there is merit to the arguments against permitting foreign air carriers to perform the military charters which we are newly authorizing herein. Although the military charter operations are commercial ventures, all of the traffic on those flights will be related to the U.S. defense effort; thus, it seems quite appropriate that it move only on U.S. carriers. Nor does it appear that the elimination of foreign carriers from participation in the market would have any significant effect upon the military charter operators' ability to obtain capacity. The record of the hearings before the Airlift Panel indicates that, heretofore, a preponderance of the operators' capacity has been purchased from U.S. air carriers.[24] Thus, we have tentatively determined not to authorize foreign air carriers to perform these charters. However, in order to avoid disruption of arrangements for charter transportation of military personnel and their immediate families, via foreign air carriers, which may have already been made for the 1972 summer season, we will permit foreign air carriers to perform charters under this rule until October 1, 1972.

Moreover, to emphasize that this aspect of the rule is only tentative, we are issuing contemporaneously herewith a supplemental notice of proposed rule making[25] which invites comments upon the precise issue whether foreign air carriers should be permanently authorized to operate the class of charters established hereunder.

6. *Split charters.* Our proposal contemplated that this new class of charters would be authorized only on the basis of an "entire capacity" charter. Upon further consideration, and in light of the comments received, we have now determined that there is no real justification for this restriction. We will therefore permit split charters to be operated for this new class of charter to the same extent, and subject to the same limitations, as when operated in connection with other authorized classes of charters. Thus, the military charter operators will be able to obtain space on a less-than-planeload basis, so long as the charter for each group participating in the flight covers at least 40 seats, and the participating chartering groups in the aggregate engage the entire capacity of the aircraft.

7. *Tariffs.* We have proposed to require the charter operators to file tariffs showing all rates, fares, and charges for the charter trips as well as the rules, regulations, practices, and services in connection with the transportation. Additionally, in order to protect charter participants from unreasonable or discriminatory fares and conditions, we proposed to provide that the tariffs be subject to suspension, rejection, or cancellation by the Board, on reasonable notice but without the necessity of an evidentiary hearing.

AMEXCO and Shoftour argue that the tariff requirements would be unduly burdensome. Shoftour adds that the proposed suspension, rejection, or cancellation power is unnecessary because the adherence by charter operators to reasonable rates would be assured, both by natural market forces and by the constant background presence of DOD as a protector of the military charter participants. Moreover, Shoftour argues that the power to cancel without hearing would be contrary to the requirements of title X of the Act. Davis supports the proposed requirement for filing tariffs, but opposes the proposed provision for suspension or cancellation without hearing, arguing that the rules should authorize only the rejection of improperly filed tariffs and the establishment of minimum and maximum rates after investigation and hearing. Davis maintains that the charter operators' prices will be dependent upon cost levels and competitive pressures, and that the threat of retroactive cancellation could inhibit the successful marketing of the charters; nor is such cancellation necessary, says Davis, where the Board has the opportunity, in the first instance, to reject improperly filed tariffs and to investigate unreasonably low tariffs. Pan American, on the other hand, supports the proposal to require tariff filings, subjects to suspension, rejection, and cancellation, in order that the Board may regulate the extent of price markups to the serviceman and prevent overreaching with respect to the rules of the indirect air carriers regarding refunds, cancellations, and the like.

Upon consideration of the comments, we have determined to adopt the provisions relating to tariffs as proposed. It is true that we do not require tariffs to be filed by operators of study group tours and inclusive tours, but, as noted above, the operators of military charters are unique inasmuch as they provide only air transportation services. Consequently, their role vis-a-vis their customers is really more analogous to that of a direct air carrier than to those tour operators whose prices reflect a variety of services other than air transportation and thus do not lend themselves to tariff procedures. Although we hope that natural market forces and observation by DOD will tend to minimize overcharging and related problems,[26] we are charged with the ultimate responsibility for insuring that the operations which we are herein authorizing will be conducted in a manner consistent with the public interest.

However, we are withdrawing the proposed provisions for suspension, rejection, or cancellation of such tariffs. At the time we issued our proposal, the Board had no statutory authority to take such action with respect to tariffs covering foreign air transportation, and we therefore considered it desirable to condition our authorizations to this new class of indirect air carriers upon the reservation to the Board of such powers. Since that time, the Board's authority has been expanded by enactment of Public Law 92–259 (86 Stat. 95), which amended various provisions of the Federal Aviation Act of 1958. Under the Act, as so amended, the Board is now empowered to suspend, pending a hearing, tariffs in foreign air transportation and to reject or cancel such tariffs after hearing. We believe that our new statutory powers to deal effectively with foreign air transportation rates and practices will enable us to exercise adequate regulatory supervision of the tariffs filed by the charter operators hereunder, so that we need not adopt the proposed provisions for reserved powers.

Moreover, as will appear infra, it is contemplated that some flights will be operated during the coming summer season pursuant to arrangements which were made prior to the adoption of the rules contained herein. In recognition of the fact that, at the time such arrangements were made, the charter operators had no tariffs on file, the tariff filing rules being adopted herein will not become effective until October 1, 1972.[27]

8. *Record retention.* We are adopting record retention requirements consistent

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[24] H.A.S.C. 92–35, pp. 7296, 7319, and 7323.

[25] EDR–173F/SPDR–25C.

[26] In this connection, we note that our Office of Consumer Affairs receives a significant number of complaints about various aspects of the existing "military charter" operations, indicating that DOD's presumed interest in protecting participants does not afford complete protection to the customers of these charter operators.

[27] Although effectiveness of the tariff filing requirement is being postponed until Oct. 1, 1972, there will of course be no postponement of the effectiveness of the prohibitions against undue or unreasonable preferences or advantages or unjust discriminations or undue or unreasonable prejudices or disadvantages, contained in sec. 404(b) of the Act and § 372.22 of the part being adopted herein.

with those in effect for study group charterers[28] and inclusive tour operators.[29] Although this provision was not specifically included in our proposal, we find good cause to adopt it now without formal proceedings thereon. It is in the nature of a purely technical provision, desirable from our standpoint in order to facilitate enforcement, but without being in any way burdensome to the operators.

9. *Effective date.* We have determined to make this rule effective immediately, since it imposes no burden on anyone but, rather, prescribes the terms and conditions upon which a new class of charters may be performed by direct air carriers and a new class of indirect air carriers may be authorized to operate such charters. However, we recognize that travel arrangements for the summer season of 1972 may already have been innocently made under the existing system of so-called military charters. We are in accord with the Airlift Panel that undue hardship to innocent persons should be avoided. We have therefore determined to grant, as proposed in EDR–173C, interim operating authority to those charter operators who were engaged in these operations on August 27, 1971. Moreover, until October 1, 1972, flights performed pursuant to agreements already made by these operators with direct air carriers and foreign air carriers shall be permitted to include passengers drawn from classes of persons which have been regarded by these operators as eligible for the so-called military charters.

In consideration of the foregoing, the Civil Aeronautics Board hereby adopts Part 372 of its special regulations (14 CFR Part 372), effective June 3, 1972, as follows:

Subpart A—General Provisions

Sec.
372.1 Applicability.
372.2 Definitions.
372.3 Waiver.
372.4 Enforcement.
372.5 Suspension or revocation of authority.

Subpart B—Exemption

372.10 Exemption.

Subpart C—Conditions and Limitations

372.20 Requirement of operating authorization.
372.21 Solicitation.
372.22 Discrimination.
372.23 Methods of competition.
372.24 Surety bond, depository agreement, escrow agreement.
372.25 Tariffs to be filed for charter trips.
372.26 Prohibition on operations unless tariffs are observed.
372.27 Name of operator.
372.28 Record retention.

Subpart D—Operating Authorization

372.30 Application.
372.31 Issuance.
372.32 Effective period.
372.33 Nontransferability.

[28] 14 CFR 373.8.
[29] 14 CFR 378.7. See also EDR–218/SPDR–22A, 37 F.R. 222 (proposed rule for travel group charters).

Subpart E—Reporting Requirements

372.40 Reporting requirements.

AUTHORITY: The provisions of this Part 372 issued under secs. 101(3), 204(a), 401, 407, and 416(a) of the Federal Aviation Act of 1958, as amended, 72 Stat. 737, as amended, 743, 754, as amended, 766, as amended, and 771; 49 U.S.C. 1301, 1324, 1371, 1377, and 1386.

Subpart A—General Provisions

§ 372.1 Applicability.

This part establishes the terms and conditions governing the furnishing of overseas military personnel charters in air transportation by direct air carriers (and, until October 1, 1972, by foreign air carriers) and by overseas military charter operators. This part also relieves charter operators from the provisions of section 401 of the Act, for the purpose of enabling them to provide overseas military personnel charters utilizing aircraft chartered from such direct air carriers (and, until October 1, 1972, foreign air carriers). Nothing contained in this part shall be construed as repealing or amending any provisions of any of the Board's regulations, unless the context so requires.

§ 372.2 Definitions.

As used in this part, unless the context otherwise requires—

"Charter" means overseas military personnel charter.

"Charter operator" means overseas military personnel charter operator.

"Charter participant" means a member of the overseas military personnel charter group.

"Charter price" means the total amount of money paid by the charter participant to the charter operator for air transportation.

"Immediate family" means only the following persons: The spouse, children, and parents of military personnel on active duty with the U.S. Armed Forces (including Coast Guard) stationed outside the 48 contiguous States of the United States and the District of Columbia, and the spouse, children, and parents of civilian employees of the Department of Defense who are citizens of the United States and are stationed in a foreign country, or in a U.S. territory or possession, where U.S. military personnel are stationed.

"Overseas military personnel charter" means a charter, either one-way or round-trip, limited to military personnel on active duty with the U.S. Armed Forces (including the Coast Guard), stationed outside the 48 contiguous States of the United States and the District of Columbia, and/or civilian employees of the Department of Defense who are citizens of the United States and are stationed in a foreign country, or in a U.S. territory or possession, where such U.S. military personnel are stationed, and/or the immediate families of the foregoing persons, where the following conditions are met: (a) All military personnel and civilian employees of the Department of Defense participating in the charter are on official furlough, leave, pass, or other authorized absence from duty, and (b) the transportation is between a place in the 48 contiguous States of the United States or the District of Columbia and a place in Alaska, Hawaii, or a territory or possession of the United States, or a foreign country in which military personnel of the United States are stationed.

"Overseas military personnel charter operator" means any citizen of the United States, as defined in section 101 (13) of the Federal Aviation Act (49 U.S.C. 1301(13)) authorized hereunder to engage in the formation of overseas military personnel charter groups and who complies with the provisions of this part.

"Person" means any individual, firm, association, partnership, or corporation.

§ 372.3 Waiver.

A waiver of any of the provisions of this regulation may be granted by the Board upon its own initiative, or upon the submission by a charter operator of a written request therefor: *Provided*, That such a waiver is in the public interest and it appears to the Board that special or unusual circumstances warrant a departure from the provisions set forth herein.

§ 372.4 Enforcement.

In case of any violation of the provisions of the Act, or this part, or any other rule, regulation, or order issued under the Act, the violator may be subject to a proceeding pursuant to sections 1002 and 1007 of the Act before the Board or a U.S. district court, as the case may be, to compel compliance therewith, to civil penalties pursuant to the provisions of section 901(a) of the Act, or in the case of willful violation, to criminal penalties pursuant to the provisions of section 902(a) of the Act; or other lawful sanctions.

§ 372.5 Suspension or revocation of authority.

The Board reserves the power to suspend the authority of any charter operator, without hearing, if it finds that such action is necessary in order to protect the rights of the traveling public, or to revoke such authority for cause.

Subpart B—Exemption

§ 372.10 Exemption.

Subject to the other conditions of this part, charter operators are hereby relieved from the provisions of section 401 of the Act.

Subpart C—Conditions and Limitations

§ 372.20 Requirement of operating authorization.

No person shall engage in air transportation as an overseas military personnel charter operator by organizing, providing, selling, or offering to sell, soliciting or advertising an overseas military personnel charter or charters unless there is in force an operating authorization issued by the Board pursuant to

§ 372.31 authorizing such person to engage in such transportation: *Provided*, That any person engaged in operations as an overseas military personnel charter operator on August 27, 1971, may continue so to engage and be relieved of complying with § 372.24, until such time as the Board shall pass upon an application for an operating authorization, if within 45 days after the effective date of this part such person files an application pursuant to § 372.30: *And provided further*, That until October 1, 1972, the passengers participating in a charter flight performed pursuant to an agreement between any such person and any direct air carrier or foreign air carrier, which was fully executed prior to the effective date of this Part 372 and a copy of which is filed with the Board (Director, Bureau of Operating Rights) no later than 14 days after the effective date of this part, may be drawn not only from the eligible classes of persons specified in § 372.2, but also from the following additional classes of persons, and the members of their immediate families; U.S. military personnel stationed anywhere in the United States; retired U.S. military personnel; and civilian employees of the Department of Defense stationed anywhere in the United States.

§ 372.21 Solicitation.

Solicitation of charter participants through advertising by charter operators shall be restricted to the following:

(a) Radio and television stations operated by the U.S. Armed Forces:

(b) Newspapers, periodicals, or other printed media disseminated and distributed primarily among military personnel or civilian employees of the Department of Defense: *Provided, however*, That any printed advertisement of a charter operator shall include a statement explaining that eligibility for participation in such charters is limited to military servicemen who are stationed outside of the 48 contiguous States and the District of Columbia, and/or U.S. citizen civilian DOD employees who are stationed in a foreign country, or a U.S. territory or possession, where U.S. military personnel are stationed, and their respective immediate families.

§ 372.22 Discrimination.

No charter operator shall make, give, or cause any undue or unreasonable preference or advantage to any particular person, port, locality, or description of traffic in air transportation in any respect whatsoever or subject any particular person, port, locality, or description of traffic in air transportation to any unjust discrimination or any undue or unreasonable prejudice or disadvantage in any respect whatsoever.

§ 372.23 Methods of competition.

No charter operator shall engage in unfair or deceptive practices or unfair methods of competition in air transportation or the sale thereof.

§ 372.24 Surety bond, depository agreement, escrow agreement.

(a) Before selling or offering to sell, soliciting or advertising any charter flight, a charter operator shall comply with one of the three following requirements:

(1) The charter operator shall furnish a surety bond in an amount not less than the maximum fare held out for charter flights proposed to be operated during each calendar month multiplied by 90 percent of the number of available seats on such flights: *Provided, however*, That the liability of the surety to any charter participant shall not exceed the charter operator's applicable tariff fare. Such bond shall be filed with the Board not less than 45 days prior to the commencement of the calendar month covered by the bond together with a list of flights proposed to be operated during the month showing charter price, departure dates, equipment to be used for each flight and the seating capacity: *Provided, however*, That the amount of the bond shall be increased if additional charter flights are proposed or may be reduced if proposed charter flights are canceled, in which event a substitute bond and amended list of proposed flights shall be filed with the Board within 10 days of the date that the charter operator adds flights or cancels flights previously proposed, but in no event later than 2 days prior to the operation of any such additional charter flights; or

(2) The charter operator shall—

(i) Furnish and file with the Board a surety bond in the amount of $100,000 for the protection of the charter participants: *Provided, however*, That the liability of the surety to any charter participant shall not exceed the charter operator's applicable tariff fare; and

(ii) Enter into an agreement with a bank, the terms of which shall include the following:

(*a*) Each participant shall pay for his deposit and subsequent payments comprising the charter participant's tariff fare only by check or money order payable to such bank which shall maintain a separate accounting for each flight: *Provided, however*, That if the participant makes a cash deposit, the charter operator who receives such cash deposit shall forthwith remit to the designated bank a check for the full amount of the deposit;

(*b*) The bank shall not pay the air carrier the charter price for the transportation earlier than 60 days (including day of departure) prior to the scheduled day of departure of the originating or returning flight, upon certification of the departure date and price by the charter operator;

(*c*) The bank shall reimburse the charter operator for refunds made by the latter to the participants upon written notification from the charter operator;

(*d*) If the charter operator notifies the bank that a flight has been canceled, the bank shall make the applicable refunds directly to the participants;

(*e*) Except as provided in item (*c*) of this subdivision, the bank shall not pay any funds from the account to the charter operator prior to 2 banking days after completion of each flight when the balance in the account shall be paid to the charter operator upon certification of the completion date by the charter operator and direct air carrier;

(*f*) Notwithstanding any provisions above, the amount of total deposits required to be maintained in the depository account of the bank may be reduced by one or both of the following: The amount of surety bond in the form prescribed herein in excess of the minimum bond required by subdivision (i) of this subparagraph; an escrow with the designated bank of Federal, State, or municipal bonds or other negotiable securities which are publicly traded on a securities exchange: *Provided*, That such other securities shall be substituted for cash in an amount no greater than 80 percent of their market value at time of deposit in escrow with the bank: *And provided, further*, That should the valuation of such other securities decrease in an amount in excess of 20 percent of the valuation at time of original deposit, additional securities shall be placed in escrow so as to compensate for such decrease in value below 20 percent; or

(3) The charter operator shall:

(i) Furnish and file with the Board a surety bond in the amount of $100,000 for the protection of the charter participants: *Provided, however*, That the liability of the surety to any charter participant shall not exceed the charter operator's applicable tariff fare; and

(ii) Enter into an agreement with a bank, the terms of which shall include the following:

(*a*) Whenever the gross amount of customers' deposits exceeds 25 percent of the charter operator's net worth, as computed under generally accepted accounting principles, the charter operator shall, on or before the 30th day of the succeeding month, place in escrow or in trust with the bank cash in an amount at least equal to the amount by which such deposits exceed 25 percent of its net worth: *Provided*, That negotiable securities may be substituted for cash, but the market value thereof shall at all times be not less than the amount of cash for which they are substituted;

(*b*) The escrow agreement or the trust agreement between the bank and the operator shall not be effective until approved by the Board. Claims against the escrow or trust may be made only with respect to the nonperformance of air transportation.

(b) As used in this section, the term "bank" means a bank, savings and loan association, or other financial institution insured by the Federal Deposit Insurance Corporation or the Federal Savings and Loan Insurance Corporation.

(c) Any bond furnished under this section shall insure the financial responsibility of the charter operator and the supplying of the air transportation in accordance with the contract between the charter operator and the charter participants, and shall be in the form set forth in the appendix attached to this Part 372. Such bond shall be issued by a reputable and financially responsible bonding or surety company which is legally authorized to issue bonds of that type in the State in which the charter originates or

in which the charter operator is incorporated. For purposes of this section, the term "State" includes any territory or possession of the United States, or the District of Columbia. The Board will consider that a bonding or surety company is prima facie qualified under this section if such company's surety bonds are accepted by the Interstate Commerce Commission under 49 CFR 1084.6 and if such company is listed in Best's Insurance Reports (Fire and Casualty) with a general policyholders' rating of "A" or better. If the bond does not comply with the requirements of this section, or for any reason fails to provide satisfactory or adequate protection for the public, the Board will notify the direct air carrier and the charter operator, by registered or certified mail, stating the deficiencies of the bond. Unless such deficiencies are corrected within the time set forth in such notification, the subject charters shall in no event be operated.

(d) Any bond furnished under this section shall provide that unless the charter participant files a claim with the charter operator within sixty (60) days after completion of the charter, the surety shall be released from all liability under the bond to such charter participant. The contract between the charter operator and the charter participants shall contain notice of this provision.

§ 372.25 Tariffs to be filed for charter trips.

Effective October 1, 1972, a charter operator shall not operate or sell or offer to sell, solicit or advertise, any charter trips unless such operator shall have on file with the Board a currently effective tariff showing all rates, fares, and charges for such charter trips and showing the rules, regulations, practices, and services in connection with such transportation.

§ 372.26 Prohibition on operations unless tariffs are observed.

No charter operator shall charter aircraft to provide air transportation to charter participants except in accordance with the rates, fares, and charges and all applicable rules, regulations, and other provisions for such transportation as set forth in the currently effective tariff or tariffs of the direct air carrier transporting charter participants; and no such operator shall demand, collect, accept, or receive, in any manner or by any device, directly or indirectly, or through any agent or broker, or otherwise, any portion of the rates, fares, or charges so specified in the tariffs of such air carrier, and shall not demand, accept, or receive, either directly or indirectly, any privilege, service, or facility except those specified in the currently effective tariffs of such direct air carrier.

§ 372.27 Name of operator.

It shall be an express condition upon the exercise of the exemption herein granted and the operating authorizations issued hereunder, that the charter operator concerned, in holding out to the public and performing air transportation services, shall do so only in a name the use of which is authorized under the provisions of Part 215 of this chapter.

§ 372.28 Record retention.[29]

(a) Every charter operator conducting a charter pursuant to this part shall retain for 2 years after completion of the charter or series of charters true copies of the following documents at its principal or general office in the United States:

(1) All documents which evidence or reflect deposits made by, and refunds made to, each charter participant;

(2) All statements, invoices, bills, and receipts from suppliers or furnishers of goods and services in connection with the charter or series of charters.

(b) Every charter operator shall make the documents listed in this section available upon request by an authorized representative of the Board and shall permit such representative to make such notes and copies thereof as he deems appropriate.

Subpart D—Operating Authorization

§ 372.30 Application.

(a) *Application form.* Any person desiring to operate as an overseas military personnel charter operator may apply to the Board for an appropriate operating authorization. Such an applicant shall execute in duplicate an "Application for Operating Authorization as an Overseas Military Personnel Charter Operator" (CAB Form 372). The application shall be certified by a responsible official of such person and shall contain the following information:[30] (1) Date; (2) name of applicant, trade names, and name in which authorization is to be issued; (3) address of principal office and mailing address; (4) form of organization (i.e., corporation, partnership, etc.), State under whose laws company is authorized to operate and date company was formed; (5) a list containing the names of each officer, director, partner, owner, or member of applicant, and holder of more than 5 percent of outstanding stock if a corporation, or owner of more than a 5-percent interest if other than a corporation; an indication as to whether or not 75 percent or more of the voting interest is owned or controlled by citizens of the United States or one of its possessions; if more than 5 percent of applicant's stock is held by a corporation, an indication must be made as to whether or not 75 percent or more of the voting interest in such corporation is owned or controlled by citizens of the United States or one of its possessions; (6) a description of current business activities and of former business experience in, or related to, the transportation field; (7) description of operating authority granted applicant by agencies of the U.S. Government (such as customs broker, surface or air freight forwarder, motor carrier, ocean freight forwarder, etc.), and, if applicable, reasons for revocation or other termination; (8) list of names of the officers, owners, etc., of applicants who have at any time applied for any type of authority or registration from the Civil Aeronautics Board and, if applicable, reasons for revocation or other termination; (9) list of officers, owners, etc., of applicant who have at any time been employed by or associated with any air carrier authorized to operate by the Civil Aeronautics Board indicating dates of employment and capacity in which employed; (10) any additional information in support of application; (11) balance sheet as of a date not more than 3 months prior to application and profit and loss statement for the full year ending as of date of balance sheet; (12) brief account of any arrangement by which applicant will have available financial sources and facilities of other companies or individuals; (13) the charter operator's surety bond and, where applicable, a copy of the depository, escrow or trust agreement with a bank as provided in § 372.24.[31]

(b) *Additional information.* The applicant shall also submit such other additional information pertinent to its proposed activities as may be requested by the Board with respect to any individual application.

§ 372.31 Issuance.

(a) If, after the filing of an application for an operating authorization, it appears that the applicant is capable of performing the air transportation authorized by this part as an overseas military personnel charter operator and of conforming to the provisions of the Act and all rules and requirements thereunder, and that the conduct of such operations by the applicant will not be inconsistent with the public interest, the applicant will be notified by letter. Such notification will advise the applicant that, upon the filing of a valid tariff pursuant to § 372.25, an operating authorization will be issued to the applicant.

(b) If, after the filing of an application for an operating authorization, it appears that the applicant has not

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[29] Whoever, in any matter within the jurisdiction of any department or agency of the United States knowingly and willfully falsifies, conceals, or covers up by any trick, scheme, or device a material fact, or makes any false, fictitious, or fraudulent statements or representations, or makes or uses any false writing of document knowing the same to contain any false, fictitious, or fraudulent statement or entry, shall be fined not more than $10,000 or imprisoned not more than 5 years, or both. Title 18, United States Code sec. 1001.

[30] NOTE: Any person who claims to have been engaged in operations as an overseas military personnel charter operator on Aug. 27, 1971, and who has filed an application within 45 days after the effective date of this part shall also include certification as to the periods during which it has been continuously engaged in such operations. (See § 372.20.)

[31] The surety bond and, where applicable, a copy of the depository escrow, or trust agreement with the bank should not be filed with the Board until the applicant is notified by the Board to do so. See instructions to CAB Form 372, Appendix A, filed as part of the original document.

made a due showing of capability or that the conduct of operations by the applicant might otherwise be inconsistent with the public interest, the Board shall by letter notify the applicant of its findings to that effect. The Board may dismiss any such application unless within 30 days of the date of the mailing of such letter, the applicant has in writing requested reconsideration and submitted such additional information as it believes will make the necessary showing, or requested that the application be assigned for hearing, in which case the applicant shall outline the evidence to be presented at such hearing and shall show the need for hearing in order properly to present its case.

(c) In the event that reconsideration or hearing is requested, the Board may, without notice or hearing, enter an order of approval or of disapproval in accordance with its determination of the public interest upon the showing made, or on its own initiative may assign the application for hearing.

§ 372.32 Effective period.

Each operating authorization shall be effective upon the date specified therein, and shall continue in effect, unless sooner suspended or revoked, during such period as the authority provided by this part shall remain in effect, or if issued for a limited period of time, shall continue in effect until the expiration thereof unless sooner suspended or revoked.

§ 372.33 Nontransferability.

(a) An operating authorization shall be nonstranferable and shall be effective only with respect to the person named therein or his successor by operation of law, subject to the provisions of this section. The following persons may temporarily continue operations under an operating authorization issued in the name of another person, for a maximum period of 6 months from the effective date of succession, by giving written notice of such succession to the Board within 60 days after the succession:

(1) Administrators or executors of deceased persons;

(2) Guardians of incapacitated persons;

(3) Surviving partner or partners collectively of dissolved partnerships; and

(4) Trustees, receivers, conservators, assignees, or other such persons who are authorized by law to collect and preserve the property of financially disabled persons.

(b) All operations by successors, as above authorized, shall be performed in the name or names of the prior holder of the operating authorization and the name of the successor, whose capacity shall also be designated. Any successor desiring to continue operations after the expiration of the 6-month period above authorized must file an application for a new operating authorization within 120 days after such succession. If a timely application is filed, such successor may continue operations until final disposition of the application by the Board.

Subpart E—Reporting Requirements

§ 372.40 Reporting requirements.

Each charter operator shall prepare and file with the Bureau of Accounts and Statistics, within 45 days of the end of each calendar year, the following:

(a) The number of charter flights performed during each month of the year;

(b) The direct air carrier or foreign air carrier used on each flight;

(c) The total number of passengers carried on each flight with a breakdown of (1) the number of military personnel, (2) the number of civilian employees of the Department of Defense, and (3) the number of members of immediate family carried on each flight.

NOTE: The record-retention and reporting requirements herein have been approved by the Office of Management and Budget in accordance with the Federal Reports Act of 1942.

By the Civil Aeronautics Board.

[SEAL] HARRY J. ZINK,[2]
Secretary.

[FR Doc.72-8444 Filed 6-2-72;8:51 am]

SUBCHAPTER E—ORGANIZATION REGULATIONS

[Reg. OR-61, Amdt. 12]

PART 389—FEES AND CHARGES FOR SPECIAL SERVICES

Filing Fees Relating to Overseas Military Personnel Charters

Adopted by the Civil Aeronautics Board at its office in Washington, D.C., on the 18th day of May 1972.

By supplemental notice of proposed rule making EDR-173C/SPDR-25,[1] the Board proposed, inter alia, the adoption of a new Part 372 of its special regulations (14 CFR Part 372) which would establish a new class of charter for overseas military personnel and their immediate families, and to authorize a new class of charter operators to act as indirect air carriers with respect to such charters. The Board indicated at that time that if it finally adopted the rule proposed therein, Part 389 would be simultaneously amended, to provide fees for filings to be made under the new rule: $55 for a waiver of any of the provisions of Part 372, $275 for an application for an operating authorization, and $25 for surety bonds.

Since we have determined to adopt a final rule, as set forth in SPR-54, published contemporaneously herewith, we are also amending Part 389 in the manner indicated.

We are also taking this occasion to make certain editorial revisions in Part 389, by deleting certain references to Part 295, since that part is no longer in effect, having been superseded by Part 208; and by deleting subparagraph (2) of § 389.25(j) which sets forth provisions with respect to waivers for emergency transportation, since, in the circumstances therein described, requests for waivers are no longer required under the provisions of Part 208 which, as aforesaid, has superseded Part 295.

Since the amendment contained herein is in part editorial and in part one of agency procedure and practice, notice and public procedure hereon are not required and the rule may be made effective immediately.

Accordingly, the Civil Aeronautics Board hereby amends § 389.25 of Part 389 of the organization regulations (14 CFR Part 389), effective June 3, 1972, by amending paragraphs (j), (l), and (o) thereof, the section as amended to read as follows:

§ 389.25 Schedule of filing and license fees.

* * * * *

(j) *Other exemptions and Parts 207, 208, 372, 373, 378, and 378a waivers.* The filing fee for (1) an application for exemption under section 101(3) or section 416(b) of the Act, except applications within the provisions of paragraph (h) or (i) of this section, or (2) a request under § 207.16, § 208.3a, § 372.3, § 373.30, § 378.30, or § 378a.20 of this chapter for a waiver of any of the provisions of Parts 207, 208, 372, 373, 378, or 378a of this chapter, respectively, is $55: *Provided,* That the filing fee for an application for exemption or a request for waiver for the performance of a specific number of charters (one-way or round-trip) is $55, plus $5 for each charter (one-way or round-trip) described, subject to a maximum fee of $200.

* * * * *

(l) *Tour prospectus or bulk inclusive tour contracts and bonds.* The filing fee for each tour prospectus filed pursuant to § 378.10 or § 378.19 of this chapter, or for contracts and bonds covering a bulk inclusive tour or series of tours filed pursuant to § 378.10 of this chapter, or for bonds covering overseas military personnel charter operations filed pursuant to § 372.24 of this chapter is $25.

* * * * *

(o) *Operating authorization—air-freight forwarder or overseas military personnel charter operator.* The filing fee for an application, under Part 296, Part 297, or Part 372 of this chapter, for operating authorization as an air-freight forwarder, international air-freight forwarder, or overseas military personnel charter operator is $275.

* * * * *

(Sec. 204(a) of the Federal Aviation Act of 1958, as amended, 72 Stat. 743; 49 U.S.C. 1324; 65 Stat. 290, 31 U.S.C. 483a)

By the Civil Aeronautics Board.

[SEAL] HARRY J. ZINK,
Secretary.

[FR Doc.72-8445 Filed 6-2-72;8:51 am]

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[2] Appendices A and B filed as part of the original document.

[1] Aug. 27, 1971 (36 F.R. 17655).

Title 19—CUSTOMS DUTIES

Chapter I—Bureau of Customs, Department of the Treasury

[T.D. 72-150]

PART 8—LIABILITY FOR DUTIES; ENTRY OF IMPORTED MERCHANDISE

PART 24—CUSTOMS FINANCIAL AND ACCOUNTING PROCEDURE

Reporting of Importer Numbers; Notice of Delay in Effective Date

On April 18, 1972, Treasury Decision 72-106 was published in the FEDERAL REGISTER (37 F.R. 7592), which amended §§ 8.8(c) and 24.5(a) of the Customs regulations, to prescribe the reporting of an importer number for the ultimate consignee on the Entry Record, Customs Form 5101, for each dutiable consumption entry, and each warehouse, vessel repair, or drawback entry. Additionally, the amendment provided for notification of, or application for, such importer number on Customs Form 5106.

Treasury Decision 72-106 was to become effective May 18, 1972. However, in response to numerous requests from customhouse brokers and other interested parties, and because of problems involved in the administration of the new provisions, it has been determined to delay the effective date of T.D. 72-106. The initial 6-month period during which importers of record may submit an amended Customs Form 5101 to supply the importer number for an ultimate consignee which is not available at the time of entry, shall run from this delayed date.

Accordingly, the effective date of T.D. 72-106 is hereby designated as July 17, 1972.

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

Approved: May 25, 1972.

EUGENE T. ROSSIDES,
Assistant Secretary of the Treasury.

[FR Doc.72-8449 Filed 6-2-72;8:50 am]

Title 21—FOOD AND DRUGS

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

SUBCHAPTER B—FOOD AND FOOD PRODUCTS

PART 121—FOOD ADDITIVES

Subpart C—Food Additives Permitted in Feed and Drinking Water of Animals or for the Treatment of Food-Producing Animals

DALAPON

A petition (FAP 1H2660) was filed with the Environmental Protection Agency by the Dow Chemical Co., Post Office Box 1706, Midland, MI 48640, in accordance with provisions of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 346a), proposing that § 121.216 (21 CFR Part 121) of the food additive regulations be revised to provide for mixed residues of sodium and magnesium 2,2-dichloropropionate (calculated as 2,2-dichloropropionic acid) in addition to the presently regulated sodium 2,2-dichloropropionate when residues are present in dehydrated citrus pulp as a result of the application of the pesticide to the growing raw agricultural commodities. (For a related document, see this issue of the FEDERAL REGISTER, page 11167).

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

Having evaluated the data in the petition and other relevant material, it is concluded that the revision should be established.

Therefore, pursuant to provisions of the act (sec. 409(c) (1), (4), 72 Stat. 1786; 21 U.S.C. 348(c) (1), (4)), the authority transferred to the Administrator of the Environmental Protection Agency (35 F.R. 15623), and the authority delegated by the Administrator to the Deputy Assistant Administrator for Pesticides Programs (36 F.R. 9038), § 121.216 is revised in the heading and text to read as follows:

§ 121.216 Dalapon.

A tolerance of 20 parts per million is established for residues of the herbicide dalapon (calculated as 2,2-dichloropropionic acid) in dehydrated citrus pulp for cattle feed, when present therein as a result of the application of dalapon sodium salt or dalapon sodium-magnesium salt mixtures during the growing of citrus fruit.

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, Environmental Protection Agency, Room 3125, South Agriculture Building, 12th Street and Independence Avenue SW., Washington, DC 20460, written objections thereto in quintuplicate. Objections shall show wherein the person filing will be adversely affected by the order and specify with particularity the provisions of the order deemed objectionable and the grounds for the objections. If a hearing is requested, the objections must state the issue for the hearing. A hearing will be granted if the objections are supported by grounds legally sufficient to justify the relief sought. Objections may be accompanied by a memorandum or brief in support thereof.

Effective date. This order shall become effective on its date of publication in the FEDERAL REGISTER (6-3-72).

(Secs. 409(c) (1), (4), 72 Stat. 1786; 21 U.S.C. 348(c) (1), (4))

Dated: May 31, 1972.

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

[FR Doc.72-8427 Filed 6-2-72;8:53 am]

Title 40—PROTECTION OF ENVIRONMENT

Chapter I—Environmental Protection Agency

SUBCHAPTER E—PESTICIDES PROGRAMS

PART 180—TOLERANCES AND EXEMPTIONS FROM TOLERANCES FOR PESTICIDE CHEMICALS IN OR ON RAW AGRICULTURAL COMMODITIES

Dalapon

A petition (PP 1F1165) was filed by the Dow Chemical Co., Post Office Box 1706, Midland, MI 48640, in accordance with provisions of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 346a), proposing that § 180.150 (40 CFR Part 180) of the pesticide regulations be amended to provide for use of the herbicide dalapon sodium-magnesium salt mixtures calculated as dalapon (2,2-dichloropropionic acid) in addition to the presently regulated dalapon sodium salt in or on the same raw agricultural commodities. (For a related document, see this issue of the FEDERAL REGISTER, page 11167).

Based on consideration given data submitted in the petition and other relevant material, it is concluded that:

1. The herbicide is useful for the purpose for which the amendment is being established.

2. Established tolerances for residues in eggs, meat, milk, poultry are adequate to cover residues resulting from the proposed and established uses. The uses are in the category specified in § 180.6(a) (2).

3. The amendment established by this order will protect the public health.

Therefore, pursuant to provisions of the Federal Food, Drug, and Cosmetic Act (sec. 408(d)(2), 68 Stat. 512; 21 U.S.C. 346a(d)(2)), the authority transferred to the Administrator of the Environmental Protection Agency (35 F.R. 15623), and the authority delegated by the Administrator to the Deputy Assistant Administrator for pesticides programs (36 F.R. 9038), § 180.150 is amended by revising the heading and introductory sentence as follows:

§ 180.150 Dalapon; tolerances for residues.

Tolerances for residues of the herbicide dalapon (2,2-dichloropropionic acid) from application of dalapon sodium salt or dalapon sodium-magnesium salt mixtures in or on raw agricultural commodities are established as follows:

* * * * *

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, Environmental Protection Agency, Room 3125, South Agriculture Building, 12th Street and Independence Avenue SW., Washington, DC 20460, written objections thereto in quintuplicate. Objections shall show wherein the person filing will be adversely affected by the order and specify with particularity the provisions of the order deemed objectionable and the grounds for the objections. If a hearing is requested, the objections must state the issues for the hearing. A hearing will be granted if the objections are supported by grounds legally sufficient to justify the relief sought. Objections may be accompanied by a memorandum or brief in support thereof.

Effective date. This order shall become effective on its date of publication in the FEDERAL REGISTER (6-3-72).

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

Dated: May 31, 1972.

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

[FR Doc.72-8429 Filed 6-2-72;8:53 am]

Title 9—ANIMALS AND ANIMAL PRODUCTS

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

SUBCHAPTER C—INTERSTATE TRANSPORTATION OF ANIMALS (INCLUDING POULTRY) AND ANIMAL PRODUCTS

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

Areas Quarantined

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

In § 82.3, in paragraph (a)(1) relating to the State of California, a new subdivision (iv) relating to Kings County is added to read:

§ 82.3 Areas quarantined.

(a) * * *

(1) *California.* * * *

(iv) The eastern one-half of sec. 15, T. 19 S., R. 20 E. in Kings County.

* * * * *

(Secs. 4-7, 23 Stat. 32, as amended; secs. 1 and 2, 32 Stat. 791-792, as amended; secs. 1-4, 33 Stat. 1264, 1265, as amended; secs. 3 and 11, 76 Stat. 130, 132; 21 U.S.C. 111-113, 115, 117, 120, 123-126, 134b, 134f; 29 F.R. 16210, as amended; 37 F.R. 6327, 6505)

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

The amendment quarantines a portion of Kings County in California because of the existence of exotic Newcastle disease. The amendment imposes certain restrictions necessary to prevent the interstate spread of exotic Newcastle disease, a communicable disease of poultry, and must be made effective immediately to accomplish its purpose in the public interest. Accordingly, under the administrative procedure provisions in 5 U.S.C. 553, it is found upon good cause that notice and other public procedure with respect to the amendment are impracticable and contrary to the public interest, and good cause is found for making it effective less than 30 days after publication in the FEDERAL REGISTER.

Done at Washington, D.C., this 30th day of May 1972.

G. H. WISE,
Acting Administrator, Animal and Plant Health Inspection Service.

[FR Doc.72-8454 Filed 6-2-72;8:50 am]

Title 24—HOUSING AND URBAN DEVELOPMENT

Chapter II—Office of Assistant Secretary for Housing Production and Mortgage Credit-Federal Housing Commissioner [Federal Housing Administration] Department of Housing and Urban Development

[Docket No. R-72-184]

PART 275—LOW-RENT PUBLIC HOUSING

Prototype Cost Limits for Public Housing; Correction

On Wednesday, May 17, 1972 (37 F.R. 9902), the Department of Housing and Urban Development published prototype per unit cost schedules for low-rent public housing pursuant to section 15(5) of the U.S. Housing Act of 1937.

Subsequently, it was discovered the schedules for all localities in the State of Connecticut were incorrect. Accordingly, Part 275—Low-Rent Public Housing, Prototype Cost Limits for Public Housing is hereby amended in accordance with the following schedule.

JOHN L. GANLEY,
Deputy Assistant Secretary-Commissioner.

PROTOTYPE PER UNIT COST SCHEDULE

REGION I

	Number of bedrooms						
	0	1	2	3	4	5	6
Hartford, Conn.:							
Detached and semidetached	11,600	13,900	15,300	18,350	22,100	24,550	25,700
Row dwellings	11,050	13,150	14,700	17,450	21,000	23,400	24,450
Walk-up	9,500	11,700	13,250	15,800	18,200	20,050	21,050
Elevator-structure	14,600	16,950	21,500				
Danbury, Conn.:							
Detached and semidetached	11,100	13,250	14,650	17,500	21,100	23,450	24,550
Row dwellings	10,550	12,600	14,000	16,650	20,050	22,350	23,350
Walk-up	9,100	11,200	12,700	15,050	17,350	19,200	20,100
Elevator-structure	14,300	16,600	21,050				
New Milford, Conn.:							
Detached and semidetached	11,100	13,250	14,650	17,500	21,100	23,450	24,550
Row dwellings	10,550	12,600	14,000	16,650	20,050	22,350	23,350
Walk-up	9,100	11,200	12,700	15,050	17,350	19,200	20,100
Elevator-structure	14,300	16,600	21,050				
New Haven, Conn.:							
Detached and semidetached	12,550	15,050	16,550	19,850	23,950	26,600	27,850
Row dwellings	11,900	14,250	15,900	18,900	22,750	25,350	26,500
Walk-up	10,300	12,650	14,350	17,100	19,700	21,750	22,800
Elevator-structure	14,950	17,350	22,050				
Bridgeport, Conn.:							
Detached and semidetached	11,100	13,250	14,650	17,500	21,100	23,450	24,550
Row dwellings	10,550	12,600	14,000	16,650	20,050	22,350	23,350
Walk-up	9,100	11,200	12,700	15,050	17,350	19,200	20,100
Elevator-structure	14,300	16,600	21,050				
New London, Conn.:							
Detached and semidetached	11,350	13,600	15,000	17,900	21,650	24,050	25,150
Row dwellings	10,750	12,850	14,350	17,100	20,550	22,900	23,950
Walk-up	9,650	11,450	12,950	15,400	17,750	19,650	20,600
Elevator-structure	14,150	16,450	20,900				
Windham, Conn.:							
Detached and semidetached	11,350	13,600	15,000	17,900	21,650	24,050	25,150
Row dwellings	10,750	12,850	14,350	17,100	20,550	22,900	23,950
Walk-up	9,650	11,450	12,950	15,400	17,750	19,650	20,600
Elevator-structure	14,150	16,450	20,900				
Stamford, Conn.:							
Detached and semidetached	13,900	16,650	18,400	22,000	26,550	29,450	30,850
Row dwellings	13,200	15,800	17,600	20,950	25,200	28,100	29,350
Walk-up	11,400	14,050	15,950	18,900	21,850	24,100	25,300
Elevator-structure	15,550	18,100	22,950				
Ridgefield, Conn.:							
Detached and semidetached	13,900	16,650	18,400	22,000	26,550	29,450	30,850
Row dwellings	13,200	15,800	17,600	20,950	25,200	28,100	29,350
Walk-up	11,400	14,050	15,950	18,900	21,850	24,100	25,300
Elevator-structure	15,550	18,100	22,950				
Norwich, Conn.:							
Detached and semidetached	11,150	13,400	14,750	17,600	21,250	23,600	24,700
Row dwellings	10,600	12,650	14,100	16,750	20,150	22,500	23,500
Walk-up	9,150	11,250	12,750	15,150	17,450	19,300	20,200
Elevator-structure	14,150	16,450	20,900				

[FR Doc.72-8326 Filed 6-2-72;8:45 am]

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

SUBCHAPTER B—NATIONAL FLOOD INSURANCE PROGRAM

PART 1914—AREAS ELIGIBLE FOR THE SALE OF INSURANCE

List of Eligible Communities

Section 1914.4 is amended by adding in alphabetical sequence a new entry to the table. This entry differs from prior entries to the table in that a complete chronology of effective dates appears for each listed community. Each date appearing in the last column of the table is followed by a designation which indicates whether the date signifies (1) the effective date of the authorization of the sale of flood insurance in the area under the emergency or under the regular flood insurance program; (2) the effective date on which the community became ineligible for the sale of flood insurance because of its failure to submit land use and control measures as required pursuant to § 1909.24(a); or (3) the effective date of a community's formal reinstatement in the program pursuant to § 1909.24(b). The entry reads as follows:

§ 1914.4 **List of eligible communities.**

State	County	Location	Map No.	State map repository	Local map repository	Effective date of authorization of sale of flood insurance for area
* * *	* * *	* * *	* * *	* * *	* * *	* * *
Florida	Dade	Tamarac				June 2, 1972. Emergency.
Iowa	Wapello	Ottumwa				Do.
New Jersey	Middlesex	Woodbridge Township.	I 34 023 3705 06 through I 34 023 3705 14	Division of Water Resources, Department of Environmental Protection, Post Office Box 1390, Trenton, NJ 08625. New Jersey Department of Insurance, State House Annex, Trenton, N.J. 08625.	Division of Engineering, Woodbridge Township, Main St., Woodbridge, NJ 07095.	Sept. 25, 1970. Emergency. June 2, 1972. Regular.
Do	Bergen	Allendale				June 2, 1972. Emergency.
Do	Somerset	Branchburg Township.				Do.
Do	Morris	Dover				Do.
Do	Union	Union Township				Do.
North Carolina	Transylvania	Rosman	I 37 175 3990 01	North Carolina Office of Water and Air Resources, Department of Natural and Economic Resources, Post Office Box 27687, Raleigh, NC 27611. North Carolina Insurance Department, Post Office Box 26387, Raleigh, NC 27611.	Town Hall Bldg., Town of Rosman, Rosman, N.C. 28772.	Dec. 30, 1971. Emergency. June 2, 1972. Regular.
Oregon	Clackamas	Gladstone				June 2, 1972. Emergency.
Pennsylvania	Montgomery	Hatfield Borough				Do.
Texas	Dallas	Mesquite				July 24, 1970. Emergency. July 30, 1971. Regular. Dec. 31, 1971. Suspension. June 2, 1972. Reinstatement
Washington	Clark	Vancouver				June 2, 1972. Emergency.
West Virginia	Logan	West Logan	I 54 045 2770 02	West Virginia Insurance Department, State Capitol, Charleston, W. Va. 25305.	Office of the Recorder, City Hall, West Logan, W. Va. 25601.	Mar. 6, 1971. Emergency. June 2, 1972. Regular.

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

Issued: May 30, 1972.

GEORGE K. BERNSTEIN,
Federal Insurance Administrator.

[FR Doc.72-8385 Filed 6-2-72;8:45 am]

PART 1915—IDENTIFICATION OF SPECIAL HAZARD AREAS

List of Communities With Special Hazard Areas

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

§ 1915.3 List of communities with special hazard areas.

* * * * * * *

State	County	Location	Map No.	State map repository	Local map repository	Effective date of identification of areas which have special flood hazards
* * *	* * *	* * *	* * *	* * *	* * *	* * *
Florida	Dade	Tamarac				June 2, 1972.
Iowa	Wapello	Ottumwa				Do.
New Jersey	Middlesex	Woodbridge Township.	H 34 023 3705 06 through H34 023 3705 14	Division of Water Resources, Department of Environmental Protection, Post Office Box 1390, Trenton, NJ 08625. New Jersey Department of Insurance, State House Annex, Trenton, N.J. 08625.	Division of Engineering, Woodbridge Township, Main St., Woodbridge, N.J. 07095.	Sept. 25, 1970.
Do.	Bergen	Allendale				June 2, 1972.
Do.	Somerset	Branchburg Township.				Do.
Do.	Morris	Dover				Do.
Do.	Union	Union Township				Do.
North Carolina	Transylvania	Rosman	H 37 175 3990 01	North Carolina Office of Water and Air Resources, Department of Natural and Economic Resources, Post Office Box 27687, Raleigh, NC 27611.	Town Hall Bldg., Town of Rosman, Rosman, N.C. 28772.	Dec. 30, 1971.
Oregon	Clackamas	Gladstone				June 2, 1972.
Pennsylvania	Montgomery	Hatfield Borough				Do.
Washington	Clark	Vancouver				Do.
West Virginia	Logan	West Logan	H 54 045 2770 02	West Virginia Insurance Department, State Capitol, Charleston, W. Va. 25305.	Office of the Recorder, City Hall, West Logan, W. Va. 25601.	Mar. 6, 1971.

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

Issued: May 30, 1972.

GEORGE K. BERNSTEIN,
Federal Insurance Administrator.

[FR Doc.72-8386 Filed 6-2-72;8:45 am]

Title 7—AGRICULTURE

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

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

Subpart—U.S. Standards for Grades of Canned Red Tart Pitted Cherries

RECOMMENDED DRAINED AND FILL WEIGHTS

Correction

In F.R. Doc. 72–7406 appearing at page 9755 in the issue of Wednesday, May 17, 1972, paragraph (a) of § 52.775 should read as set forth below:

(a) *Definitions of terms and symbols.*

$\bar{X}_d$	Minimum sample average drained weight.
LL	Lower limit for individual container drained weight.
Subgroup	A group of sample units representing a portion of a sample.
$\bar{X}'_{min}$	Minimum lot average fill weight.
$LWL_{\bar{x}}$	Lower warning limit for subgroup averages.
$LRL_{\bar{x}}$	Lower reject limit for subgroup averages.
LWL	Lower warning limit for individual fill weight measurements.
LRL	Lower reject limit for individual fill weight measurements.
R'	A specified average range value.
R_{max}	A specified maximum range for subgroups.

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

[Navel Orange Reg. 270, Amdt. 1]

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

Limitation of Handling

(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 amendment until 30 days after publication thereof in the FEDERAL REGISTER (5 U.S.C. 553) because the time intervening between the date when information upon which this amendment is based became available and the time when this amendment must become effective in order to effectuate the declared policy of the act is insufficient, and this amendment relieves restriction on the handling of Navel oranges grown in Arizona and designated part of California.

(b) *Order, as amended.* The provisions in paragraph (b)(1)(i) of § 907.570 (Navel Orange Regulation 270, 37 F.R. 10554) are hereby amended to read as follows:

§ 907.570 Navel Orange Regulation 270.

* * * * *

(b) *Order.* (1) * * *

(i) District 1: 800,000 cartons.

* * * * *

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

Dated: May 31, 1972.

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

[FR Doc.72-8455 Filed 6-2-72;8:50 am]

[Lemon Reg. 536]

PART 910—LEMONS GROWN IN CALIFORNIA AND ARIZONA

Limitation of Handling

§ 910.836 Lemon Regulation 536.

(a) *Findings.* (1) Pursuant to the marketing agreement, as amended, and Order No. 910, as amended (7 CFR Part 910; 36 F.R. 9061), regulating the handling of lemons grown in California and Arizona, 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 Lemon 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 lemons, 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 lemons 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 lemons; 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 May 30, 1972.

(b) *Order.* (1) The quantity of lemons grown in California and Arizona which may be handled during the period June 4, 1972, through June 10, 1972, is hereby fixed at 300,000 cartons.

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

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

Dated: May 31, 1972.

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

[FR Doc.72-8485 Filed 6-2-72;8:53 am]

[Lime Reg. 2]

PART 911—LIMES GROWN IN FLORIDA

Limitation of Handling

§ 911.402 Lime Regulation 2.

(a) *Findings.* (1) Pursuant to the marketing agreement, as amended, and Order No. 911, as amended (7 CFR Part 911; 36 F.R. 14125; 37 F.R. 10497), regulating the handling of limes grown in Florida, 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 Florida Lime 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 limes, as hereinafter provided, will tend to effectuate the declared policy of the act.

(2) The need for the regulation stems from the current supply and market situation. There currently is available a much greater supply of limes than the market can absorb. The current crop of limes is estimated to be the largest crop of record and 14 percent above last season's record crop. Continued cool weather and rain in most major markets have resulted in an excessive supply of limes in such markets. The committee reports that because of the large supply available, excessive shipments were made prior to the start of volume regulation. It estimates that 28,000 bushels were shipped last week and that 18,400 bushels were shipped during the preceding week. Shipments of limes during the current week, the first week of volume regulation, were limited to 20,000 bushels. Such excess shipments have depressed prices for Florida limes. The present market is slow, and there are no indications of an increase in demand. Thus, a volume regulation is needed to permit supplies to clear the market and to prevent excessive shipments during the week of June 4 through June 10, 1972.

(3) It is hereby further found that it is impracticable and contrary to the public interest to give preliminary notice, engage in public rulemaking procedure, and postpone the effective date of this regulation 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 regulation is based became available and the time when this regulation 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 Florida limes, 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 regulation, 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 limes; it is necessary, in order to effectuate the declared policy of the act, to make this regulation effective during the period herein specified; and compliance with this regulation 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 May 31, 1972.

(b) *Order.* (1) The quantity of limes grown in Florida which may be handled during the period June 4, 1972, through June 10, 1972, is hereby fixed at 20,000 bushels.

(2) As used in this section, "handled" and "limes" have the same meaning as when used in said amended marketing agreement and order, and "bushel" means 55 pounds of limes.

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

Dated: June 1, 1972.

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

[FR Doc.72-8506 Filed 6-2-72;8:53 am]

[Cherry Reg. 11]

PART 923—SWEET CHERRIES GROWN IN DESIGNATED COUNTIES IN WASHINGTON

Limitation of Shipments

On May 19, 1972, notice of proposed rule making was published in the FEDERAL REGISTER (37 F.R. 10077) regarding a proposed regulation to be made effective pursuant to the marketing agreement and order No. 923 (7 CFR Part 923), regulating the handling of sweet cherries grown in designated counties in Washington. This notice allowed interested persons 7 days during which they could submit written data, views, or arguments pertaining to this proposed regulation. None were submitted. The proposed regulation was recommended by the Washington Cherry Marketing Committee established pursuant to the said marketing agreement and order. This program is effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674).

This action reflects the Department's appraisal of the need for regulation, and of the crop and current and prospective

market conditions. Shipments of sweet cherries from the production area are expected to begin on or about June 5, 1972. The grade and size requirements provided herein are designed to prevent the handling, on and after June 5, 1972, of any cherries grading lower than the grade herein specified, and smaller in size than as herein specified, so as to provide consumers with good quality fruit, consistent with the overall quality of the crop, while improving returns to the producers pursuant to the declared policy of the act. The proposed requirements herein that pertain to containers and the packaging of cherries in faced packs and any packs of 20 pounds, net weight, or larger, are designed to prevent deceptive packaging practices, promote buyer confidence, and maintain the integrity of the Washington sweet cherry industry. Individual shipments, not exceeding 100 pounds, of cherries sold for home use and not for resale, subject to necessary safeguards, are excepted from these requirements because the quantity of cherries so handled is relatively inconsequential when compared with the total quantity handled, and because it would be administratively impracticable to regulate the handling of such shipments due to the nearness to the source of supply.

After consideration of all relevant matters presented, including the proposal set forth in the aforesaid notice, the recommendation and information submitted by the Washington Cherry Marketing Committee, and other available information, it is hereby found and determined that the regulation as hereinafter set forth, is in accordance with the provisions of the said marketing agreement and order and will tend to effectuate the declared policy of the act.

It is hereby further found that good cause exists for not postponing the effective date of this regulation until 30 days after publication in the FEDERAL REGISTER (5 U.S.C. 553) in that (1) notice of proposed rule making concerning this regulation, with an effective date as hereinafter specified, was published in the FEDERAL REGISTER (37 F.R. 10077), and no objection to this regulation or such effective date was received; (2) compliance with the regulation will not require any special preparation on the part of the persons subject thereto which cannot be completed by the effective time hereof; and (3) shipments of the current crop of such cherries are expected to begin on or about the effective date hereof and this regulation should be applicable, insofar as practicable, to all shipments of such cherries in order to effectuate the declared policy of the act.

§ 923.311 Cherry Regulation 11.

(a) *Order.* During the period June 5, 1972, through June 30, 1973, no handler shall, except as provided in paragraph (b) of this section, handle any lot of cherries unless such cherries meet each of the following applicable requirements;

(1) *Minimum grade.* U.S. No. 1: *Provided,* That the following tolerances, by count, of the cherries in the lot shall apply in lieu of the tolerances for defects provided in the U.S. Standards for Grades of Sweet Cherries: a total of 10 percent for defects; including in this amount not more than 5 percent, by count, of the cherries in the lot for serious damage, and including in this latter amount not more than 1 percent, by count, of the cherries in the lot for cherries affected by decay: *Provided further,* That the contents of individual packages in the lot are not limited as to the percentage of defects but the total of the defects of the entire lot shall be within the tolerances specified.

(2) *Minimum size.* At least 95 percent, by count, of the cherries in the lot shall measure not less than forty-eight sixty-fourths of an inch in diameter.

(3) *Faced packs and any packs of 20 pounds, net weight, or larger.* At least 90 percent, by count, of the cherries in the lot shall measure not less than fifty-four sixty-fourths of an inch in diameter.

(4) *Containers.* The net weight of the cherries in any container having a capacity greater than that of a container with inside dimensions of 15⅛ by 10½ by 4 inches shall be not less than 20 pounds; and no container of cherries shall contain less than 12 pounds, net weight, of cherries.

(b) *Exceptions.* Notwithstanding any other provision of this section, any individual shipment of cherries which meets each of the following requirements may be handled without regard to the provisions of paragraph (a) of this section, and of §§ 923.41 and 923.55:

(1) The shipment consists of cherries sold for home use and not for resale;

(2) The shipment does not, in the aggregate, exceed 100 pounds, net weight, of cherries; and

(3) Each container is stamped or marked with the words "not for resale" in letters at least one-half inch in height.

(c) *Definitions.* Terms used in the marketing agreement and order shall, when used herein, have the same meaning as given to the respective term in said marketing agreement and order; "U.S. No. 1" and "diameter" shall have the same meaning as when used in the U.S. Standards for Grades of Sweet Cherries (7 CFR 51.2646–51.2660); and "faced pack" means that the cherries in the top layer in any container are so placed that the stem ends are pointing downward toward the bottom of the container.

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

Dated: June 1, 1972.

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

[FR Doc.72-8507 Filed 6-2-72;8:53 am]

Chapter XIV—Commodity Credit Corporation, Department of Agriculture

SUBCHAPTER B—LOANS, PURCHASES, AND OTHER OPERATIONS

PART 1464—TOBACCO

Subpart A—Tobacco Loan Program

FLUE-CURED TOBACCO, TYPES 11–14

On April 21, 1972, there was published in the FEDERAL REGISTER (37 F.R. 7902, 8533) a notice of proposed rule making setting forth the proposed price support advance rates for 1972 crop Flue-cured tobacco, types 11–14. Interested parties were given the opportunity to submit within 30 days data, views, and recommendations regarding the proposed advance rates.

No unfavorable comments have been received and proposed advance rates are hereby adopted without change and are set forth below. The material previously appearing under § 1464.16 remains applicable to the crop to which it refers.

Effective date. Date of filing with the Office of the Federal Register.

Signed at Washington, D.C., on May 26, 1972.

CARROLL G. BRUNTHAVER,
Acting Executive Vice President, Commodity Credit Corporation.

§ 1464.16 1972 Crop—Flue-cured tobacco, types 11–14, advance schedule.[1]

[Dollars per hundred pounds, farm sales weight]

Grade	Advance Rate	Grade	Advance Rate
A1F	98.25	B3LS	76.25
A2F	96.25	B4LS	73.25
B1L	91.25	B5LS	70.25
B2L	86.25	B6LS	64.25
B3L	83.25	B3FS	73.25
B4L	81.25	B4FS	71.25
B5L	78.25	B5FS	68.25
B6L	74.25	B6FS	62.25
B1F	91.25	B3KL	68.25
B2F	86.25	B4KL	66.25
B3F	83.25	B5KL	63.25
B4F	81.25	B6KL	58.25
B5F	78.25	B3KF	67.25
B6F	74.25	B4KF	65.25
B1FR	90.25	B5KF	62.25
B2FR	85.25	B6KF	57.25
B3FR	82.25	B3KM	71.25
B4FR	79.25	B4KM	69.25
B5FR	75.25	B5KM	66.25
B6FR	71.25	B6KM	61.25
B3R	70.25	B3KR	76.25
B4R	66.25	B4KR	73.25
B5R	61.25	B5KR	70.25
B6R	57.25	B4KV	67.25
B3K	76.25	B5KV	63.25
B4K	73.25	B6KV	59.25
B5K	70.25	B5RR	57.25
B6K	65.25	B4GL	70.25
B3LV	80.25	B5GL	67.25
B4LV	76.25	B6GL	62.25
B5LV	73.25	B4GF	69.25
B3FV	80.25	B5GF	65.25
B4FV	76.25	B6GF	61.25
B5FV	73.25	B4GR	63.25

[1] The advance rates listed are applicable to tied, and untied Flue-cured tobacco which is (1) eligible tobacco as defined in the regulations, and (2) identified by a marketing card which does not bear the notation "Discount Variety-Limited Support." Rates for eligible tobacco identified by a marketing card which bears the notation "Discount Variety-Limited Support" are 50 percent of the advance rates listed plus twelve and one-half cents ($0.125) per hundred pounds. Tobacco is eligible for advance only if consigned by the original producer and only if produced by a cooperator.

Tobacco graded "W" (doubtful keeping order), "U" (unsound), "N2," "No-G," or "scrap" will not be accepted. The cooperative association through which advances are made available is authorized to deduct 25 cents per hundred pounds to apply against overhead costs.

Grade	Advance Rate	Grade	Advance Rate
B5GR	58.25	X1L	88.25
B6GR	53.25	X2L	86.25
B4GK	65.25	X3L	84.25
B5GK	60.25	X4L	81.25
B6GK	56.25	X5L	77.25
B5RG	54.25	X1F	88.25
B4GG	56.25	X2F	86.25
B5GG	53.25	X3F	84.25
H1L	91.25	X4F	81.25
H2L	88.25	X5F	77.25
H3L	86.25	X3LV	80.25
H4F	84.25	X4LV	77.25
H5L	81.25	X3FV	80.25
H6L	77.25	X4FV	77.25
H1F	91.25	X3LS	79.25
H2F	88.25	X4LS	75.25
H3F	86.25	X3FS	77.25
H4L	84.25	X4FS	74.25
H5F	81.25	X4KL	75.25
H6F	77.25	X4KF	75.25
H3FR	83.25	X4KV	72.25
H4FR	80.25	X3KM	78.25
H5FR	77.25	X4KM	74.25
H6FR	74.25	X4KR	78.25
H4K	79.25	X4G	71.25
H5K	76.25	X5G	66.25
H6K	72.25	X4GK	69.25
C1L	92.25	P2L	83.25
C2L	90.25	P3L	80.25
C3L	88.25	P4L	77.25
C4L	86.25	P5L	72.25
C5L	84.25	P2F	83.25
C1F	92.25	P3F	80.25
C2F	90.25	P4F	77.25
C3F	88.25	P5F	72.25
C4F	86.25	P4G	68.25
C5F	84.25	P5G	62.25
C4LV	82.25	N1L	64.25
C4FV	82.25	N1XL	68.25
C4LS	80.25	N1K	63.25
C5LS	77.25	N1R	53.25
C4KL	80.25	N1GL	57.25
C4KF	80.25	N1GF	56.25
C4KM	80.25	N1GR	51.25
C4KR	82.25	N1GG	47.25

(Sec. 4, 62 Stat. 1070, as amended, sec. 5, 62 Stat. 1072, secs. 101, 106, 401, 403, 63 Stat. 1051, as amended, 1054, 74 Stat. 6; 7 U.S.C. 1441, 1445, 1421, 1423, 15 U.S.C. 714b, 714c)

[FR Doc.72-8456 Filed 6-2-72;8:53 am]

Title 13—BUSINESS CREDIT AND ASSISTANCE

Chapter I—Small Business Administration

[Rev. 5, Amdt. 2]

PART 120—LOAN POLICY

Business Loans and Guarantees

On March 2, 1972, there was published in the FEDERAL REGISTER (37 F.R. 4365) a notice that the Small Business Administration proposed to amend the policy pertaining to the eligibility of agriculture-related enterprises for SBA financial assistance. Interested parties were given thirty (30) days in which to comment on the proposal. After consideration of the comments received, the following amendment is adopted as the revision of subparagraph (10) of § 120.2 (d) of the Code of Federal Regulations.

§ 120.2 Business loans and guarantees.

* * * * *

(d) Financial assistance will not be granted by SBA:

* * * * *

(10) Generally, if the financial assistance would be used primarily in agricultural activities. Agricultural activities include, but are not limited to, the production of food and fiber. Where the applicant is engaged in an agricultural activity and financial assistance has been formally declined by an Agency of the Federal Government or an agricultural credit service supervised by the Farm Credit Administration, such applicant may be eligible for financial assistance from SBA: *Provided, however,* That an activity will not be eligible for financial assistance if it (i) produces (or in the last growing season produced) one or more crops currently eligible for a U.S. Department of Agriculture support payment or production loan; (ii) is engaged in the production of livestock or poultry, including eggs, except for (*a*) the operation of a hatchery for the production of baby chicks for sale to others, provided that the hatchery purchases from others more than 50 percent of its eggs; or (*b*) the operation of a commercial feed yard for cattle or hogs where its income is derived from the service operation of housing and feeding animals, either owned by others or purchased from producers solely for the purpose of fattening and resale prior to slaughter; or (iii) is engaged in the production of fish, unless the production process or type of fish is novel, innovative, or experimental in nature.

* * * * *

Effective date. This amendment shall become effective on June 6, 1972.

Dated: May 24, 1972.

THOMAS S. KLEPPE,
Administrator.

[FR Doc.72-8399 Filed 6-2-72;8:52 am]

[Rev. 11, Amdt. 6]

PART 121—SMALL BUSINESS SIZE STANDARDS

Responsibility for Size Standards Program

The responsibility for administration of the Small Business Size Standards Program has been reassigned to the Assistant Administrator for Planning, Research, and Analysis.

Accordingly, Part 121 of Chapter I of Title 13 of the Code of Federal Regulations is hereby amended by substituting the words "Assistant Administrator for Planning, Research, and Analysis" for the words "Assistant Administrator for Administration" in the first sentence of § 121.3-3 and the third sentence of § 121.3-10 thereof.

Effective date. This amendment shall become effective upon publication in the FEDERAL REGISTER (6-3-72).

Dated: May 26, 1972.

THOMAS S. KLEPPE,
Administrator.

[FR Doc.72-8400 Filed 6-2-72;8:47 am]

Chapter III—Economic Development Administration, Department of Commerce

PART 302—DESIGNATION OF AREAS

Termination

Part 302 of Chapter III, Title 13 of the Code of Federal Regulations (31 F.R. 11294 and 31 F.R. 16674) is amended to provide for annual review of designated areas prior to September 15 of each year and for terminating the designated status of areas no longer qualified upon 30 days' notice and prior to October 15.

Section 302.50 is amended by revising paragraph (a) as follows:

§ 302.50 Termination.

(a) Prior to September 15 of each year, the Assistant Secretary will conduct a review of all areas designated pursuant to this part, which will be used as the basis for terminating, upon 30 days' notice and prior to October 15, those areas in which economic circumstances have so improved that the area no longer meets the standards for designation set forth in § 302.1, § 302.2, or § 302.10.

* * * * *

This provision shall become effective 60 days after its publication in the FEDERAL REGISTER.

WILLIAM W. BLUNT, Jr.,
Acting Assistant Secretary for Economic Development.

MAY 31, 1972.

[FR Doc.72-8491 Filed 6-2-72;8:53 am]

Title 6—ECONOMIC STABILIZATION

Chapter III—Price Commission

PART 300—PRICE STABILIZATION

Addition of Form PC-10

The purpose of this amendment is to add Form PC-10 "Report of Markups by Retailing and Wholesaling Companies" with accompanying instructions, to Appendix II of Part 300 of the regulations of the Price Commission. The form has been approved by the Office of Management and Budget, pursuant to OMB-164-R0001, which expires April 30, 1973.

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

In consideration of the foregoing, Part 300 of Title 6 of the Code of Federal Regulations is amended by inserting the following Form PC-10 and instructions thereto, immediately before Form PC-50, effective June 2, 1972.

By direction of the Commission.

Issued in Washington, D.C., on May 31, 1972.

CARLETON S. JONES,
Deputy General Counsel.

Form **PC-10**
(May 1972)
Replaces Form PC-1R
Price Commission
2000 M Street, N.W.
Washington, D.C., 20508

Report of Markups by Retailing and Wholesaling Companies

a) Category of Company
(1) ☐ Prenotification
(2) ☐ Reporting

b) Type of Report
(1) ☐ Initial
(2) ☐ Quarterly

OMB-164-R0001
Approval Expires 4-30-73
PRICE COMMISSION USE ONLY

Corr. Control No.	SIC Code (1)
Reference No.	SIC Code (2)

Part I — Identifying Data

1a. Is this a resubmission which replaces a previous filing? (1) ☐ Yes (2) ☐ No	1b. If "Yes", indicate prior reference number	2. Date submitted *(Month, day, year)*	3. Period covered (month, day, year) From: To:

4. Parent Firm Data	5. Data on Reporting Entity Covered by this Filing *(Complete only if different from item 4)*
a. Name of firm	a. Name of reporting entity
b. Address *(Number and street)*	b. Address *(Number and street)*
City or town, State and ZIP code	*City or town, State and ZIP code*
c. Ending date most recent fiscal year *Mo. Day Year*	c. Ending date most recent fiscal year *Mo. Day Year*
d. Identification number	d. Identification number
e. Total revenues in most recent fiscal year $ (000 Omitted)	e. Total revenues in most recent fiscal year $ (000 Omitted)

Part II — Business Unit Covered by this Report

6. Indicate whether this report applies to
(a) ☐ Total reporting entity:
(b) ☐ Division or other grouping (describe):
(c) ☐ Store (location):

7. Total revenues in most recent fiscal year for business unit indicated in item 6. $ (000 Omitted)

Part III — Schedule of Initial Markup Data

8. Initial Percentage Markup

	Merchandise Category (a)	Price Commission Use Only (b)	Weighted Average Percentage Markup: Markup Base Period (c)	Current Period (d)	Comparable Period for Prior Year (e)	12 Months Since 11-1-71 (f)
(1)			%	%	%	%
(2)						
(3)						
(4)						
(5)						
(6)						
(7)						
(8)						
(9)						
(10)						
(11)						
(12)						
(13)						
(14)						
(15)						
(16)						
(17)						
(18)						
(19)						

9. Indicate in the appropriate boxes whether the percentages in Item 8 are based on:
a. (1) ☐ Cost, or (2) ☐ Sales Price
b. (1) ☐ Initial Percentage Markup, or (2) ☐ Gross Profit Margin Percentage
c. (1) ☐ Item-by-Item Pricing, or (2) ☐ Category Pricing

Mailing Instructions: Forward this form and all supporting documents to: **Price Commission, 2000 M St., N.W., Washington, D.C. 20508.** Indicate "Submission of Form PC-10" in the lower left-hand corner of the envelope.

Part IV — Additional Information

10. Have you previously submitted the additional information on pricing practices called for in the instructions to Item 10?
► If "No", attach such information to this filing
(1) ☐ Yes (2) ☐ No

11. You must maintain for possible inspection and audit, a record from which the initial percentage markups applied during the markup base period and the period subsequent to November 13, 1971, can be readily determined. Give location of such records:

12. Individual to be contacted for further information: Name and title
Address
Telephone Number (include area code)

13. For retail operations, have you prominently posted freeze base period prices for all covered food items and for other selected items specified in the regulations? (1) ☐ Yes (2) ☐ No (3) ☐ Not applicable

Part V — Certification

Firms which customarily price on the basis of item-by-item markups

I certify that selling prices will not and have not been adjusted so as to cause the base prices to be exceeded except through the application of the initial percentage markups prevailing during the markup base period to the cost of each item. I recognize that quality and quantity changes represent price changes. Records to establish customary initial percentage markups and pricing practices will be maintained for inspection and audit by Price Commission representatives at the location indicated in Item 11. I further certify that I have taken the steps necessary to ensure that the selling price of each item offered for sale will not exceed the base price except as a result of applying the customary initial percentage markup for that item to the cost of the item.

The percentages entered in Item 8 are the weighted average percentage markups or gross margins for the items comprising each category listed and have been computed in accordance with the instructions to this form. Subsequent reports will include comparable data and will be prepared in the same manner.

To the best of my knowledge and belief, the aggregate effect of all price changes will not result in an increase, in the authorized profit margin as a percentage of sales.

Chief Executive Officer of parent firm or other authorized executive officer

Typed name and title: _____ Name of company: _____

Sign here ► _____ _____ (Date)

Firms which customarily price on the basis of category markups

I certify that this firm has customarily determined the selling prices of products on a category basis as defined in the instructions to this form and that the categories listed in Item 8 represent the lowest level of aggregation of goods for which prices are established. I further certify that the customary initial percentage markup on each category of normal pricing determination is not and will not be exceeded and that I have taken the steps necessary to ensure that this result will be achieved. In so doing, I have taken into account the fact that quality and quantity changes represent price changes. Records to establish such customary initial percentage markups and practices will be maintained for inspection and audit by Price Commission representatives at the location indicated in Item 11.

The percentages entered in Item 8 are the actual customary initial percentage markups for each category and the percentages have been computed in accordance with the instructions to this form. Subsequent reports will include comparable data and will be prepared in the same manner.

To the best of my knowledge and belief, the aggregate effect of all price changes will not result in an increase in the authorized profit margin as a percentage of sales.

Chief Executive Officer of parent firm or other authorized executive officer

Typed name and title: _____ Name of company: _____

Sign here ► _____ _____ (Date)

The information submitted herewith will be considered as confidential within the meaning of section 205 of the Economic Stabilization Act of 1970 (as amended), Title 5, U.S. Code, section 552, and Title 18, U.S. Code, section 1905.

Price Commission

2000 M Street, N.W.
Washington, D.C. 20508

Instructions for the preparation of Form PC-10
Report of Markups by Retailing and Wholesaling Companies

General Instructions

Overall Guidelines

A. Purpose

Price Commission regulations provide that a wholesaler or retailer may generally increase the price of a product over the base price only if the cost of the particular product or category increases. The wholesaler or retailer may then increase the selling price for the product by applying the applicable customary initial percentage markup to the cost of the particular product or category.

If the customary practice of a firm on an item-by-item method of pricing (see B below) is to apply a range of markups to a product, the upper bound of that range, applied to that product, may not exceed the upper bound applied in the markup base period. Certain firms may qualify as category pricers as described in B below. These firms must not exceed their markup base period average markup for each pricing category during their shortest customary accounting period (but not to exceed a fiscal quarter) without acceptable justification based upon such factors as seasonal variations and unforeseen changes in product mix. Those firms whose customary practice has been to determine the prices of all items within a category simultaneously may never exceed their maximum category markup as described in B below.

While a company reports categories or higher aggregates in PC-10 reports filed with the Price Commission, each company must, nevertheless, continue to apply its historical product pricing procedure at the lowest level of normal application (item, product, category, etc.) for the firm. The reporting requirements for Form PC-10 are separate and distinct from the regulations regarding the determination of maximum permissible selling prices.

The merchandise categories used for reporting purposes on the Form PC-10 by item-by-item pricers will ordinarily reflect higher aggregations than those used by the firm to determine maximum permissible item selling prices. The primary purpose of Form PC-10 is to provide a comparison of the customary initial markups for merchandise categories with the actual markups for these same categories as supplied in the quarterly reports. The Price Commission intends to use the data reported for monitoring purposes and for determining where further information may be required.

Price Commission regulations further limit price increases if they result in a greater rate of profit than existed during the "profit base period". Generally, the "profit base period" means any two, at the option of the firm, of the firm's last three fiscal years ending prior to August 15, 1971. This profit margin limitation is monitored by reports on Forms PC-50 and PC-51 which are required, generally, of firms whose annual sales exceed $50 million.

It should be noted that a reduction in the quality, specifications, characteristics, or quantity constitutes a price increase unless it is accompanied by a commensurate reduction in the selling price.

B. Item-by-Item and Category Pricers

A wholesaler or retailer which has customarily determined the selling price of an item by applying a markup to the cost of that item is on an item-by-item method of pricing and must continue to adhere to that method of pricing. The item-by-item firm would therefore determine the maximum selling price of an item by applying the customary initial percentage markup established for each item during the markup base period to the cost of the item. However, in providing reports of markups to the Price Commission, the item-by-item firm must group items sold into categories which are then listed in Item 8 (a) of Form PC-10. The initial percentage markups reported for each category will therefore reflect the weighted average percentage markup for the items comprising the PC-10 merchandise categories.

A firm may determine the price of goods by applying a markup on a category basis only if:

(1) its prior practice was to determine prices for a group of items in order to achieve a particular weighted average markup for the entire group. A firm that uses average markup objectives for management control purposes (such as a target overall markup percentage for a department) does not necessarily qualify as a category pricer; or

(2) its prior practice was to determine prices by applying a single markup to a group of items classified on the basis of such factors as volume purchased, class of customer, or nature of products purchased. The particular predetermined markups used during the markup base period are the customary initial percentage markups which may not be exceeded.

A firm which does not determine prices in the specific manner indicated above is on an item-by-item pricing method.

A firm's eligibility to use category pricing as defined above must be supported by the firm's customary practice as documented by its business records. Accordingly, each firm is responsible for producing sufficient historic business records to establish its eligibility as a category pricer upon compliance checks by the Price Commission or its representatives.

A firm that qualifies as a category pricer for all or a portion of its operations must continue to apply the applicable category markups at the lowest levels of aggregation of goods to which those markups have been customarily applied. The maximum category markup for each category is determined by obtaining a weighted average of the markups applied for that category during the company's last fiscal year ending prior to August 15, 1971. In the event a firm determines the prices for all items within the category at the same time, the maximum category markup is, at the option of the firm, the weighted average markup for the last fiscal year as described in the previous sentence or the last category markup applied prior to November 14, 1971.

In providing reports of markups to the Price Commission, a company that qualifies as a category pricer must list each such category in Item 8 (a).

C. Applicability of Retailing and Wholesaling Regulations

Firms which are primarily retailers or wholesalers may include related manufacturing and service activities, and apply a markup to determine selling prices, if these activities are integrated into the firm's primary retail and wholesale activities and constitute 10 percent or less of the reporting entity's total retail and wholesale sales during its previous fiscal year. An example of an integrated activity is one in which the service or manufactured product is sold through the retailer's or wholesaler's normal outlets in the normal course of business. On the other hand, a separate unrelated business operation, such as a restaurant chain operated by a retailer or wholesaler is usually not integrated into the firm's retail or wholesale business and, therefore, does not qualify for markup treatment.

A firm whose related manufacturing and service activities are eligible for inclusion in the PC-10 would determine and apply markups in the following manner:

(1) For services furnished by retailers or wholesalers (other than by independent contractors), the maximum selling price, in excess of base price, is determined by applying a customary initial percentage markup to the authorized direct labor cost of furnishing such services. To the extent that any increases in wages or salaries paid exceed allowable wage and salary increases permitted under Price Commission policy, the excess may not be included in the authorized direct labor cost to which the markup is applied. The following is an example of the calculation of the maximum selling price:

Markup Base Period	
a. Direct labor cost	$ 7.00
b. Markup	2.80 (40% of a.)
c. Selling price	$ 9.80
Current Period	
a. Authorized direct labor cost (includes 5% increase)	$ 7.35
b. Markup	2.94 (40% of a.)
c. Maximum selling price	$10.29

(2) For services furnished by retailers and wholesalers which are performed by independent contractors, the maximum selling price, in excess of base price, is determined by applying a customary initial percentage markup to the authorized purchase price paid to independent contractors. To the extent that independent contractor prices include increases in wages or salaries which exceed wage and salary increases permitted under Price Commission policy, the excess may not be included in the authorized purchase price to which the markup is applied. The retailer or wholesaler is required to obtain a written statement from independent contractors indicating the extent to which a price increase is authorized as outlined above. The following is an example of the calculation of the maximum selling price:

Markup Base Period	
a. Purchase price paid to independent contractor	$5.00
b. Markup	1.00 (20% of a.)
c. Selling price	$6.00
Current Period	
a. Authorized purchase price paid to independent contractor	$5.20
b. Markup	1.04 (20% of a.)
c. Maximum selling price	$6.24

(3) For products manufactured by retailers or wholesalers, the maximum selling price, in excess of base price, is determined by applying a customary initial percentage markup to the sum of the direct material cost and the authorized direct labor cost of manufacturing the product. To the extent that any increases in wages or salaries paid exceed allowable wage and salary increases permitted under Price Commission policy, the excess may not be included in the authorized direct labor cost. The following is an example of the calculation of the maximum selling price:

Markup Base Period	
a. Direct material cost	$4.00
b. Direct labor cost	2.00
c. Sum of a. and b.	6.00
d. Markup	1.80 (30% of c.)
e. Selling price	$7.80

Current Period		
a. Direct material cost	$4.40	
b. Authorized direct labor cost (includes 5% increase)	2.10	
c. Sum of a. and b.	6.50	
d. Markup	1.95	(30% of c.)
e. Maximum selling price	$8.45	

When non-retail and non-wholesale activities do not meet the criteria set forth in the first paragraph of this Section C., all such non-retail and non-wholesale activities are subject to manufacturer or service organization regulations and may require the submission of a Form PC-1.

The retail and wholesale markup approach is not generally applicable where a manufacturer's products are sold directly to the consumer. Ordinarily, such price changes must be justified solely under the procedures applicable to manufacturing organizations. However, where a manufacturing entity has customarily transferred its products to a separate affiliated retailing or wholesaling entity at a price which is then marked up for subsequent resale, a different price justification method is required. In such cases, a prenotification or reporting category manufacturing firm would use Form PC-1 to justify an increase in its selling prices including any increase in transfer prices to affiliated retailing or wholesaling organizations. The retailing and wholesaling entity would file Form PC-10 and would be subject to the related regulations.

Where a manufacturer or service organization purchases products and resells those products without substantially changing their form, the retail and wholesale regulations apply and a PC-10 must be filed by prenotification and reporting firms. However, when, in the most recently ended fiscal year, the revenues derived from retail and wholesale sales of products amounted to 5% or less of the total manufacturing or service revenues of the reporting entity, and were related to the firm's primary activities, the maximum permissible selling prices of such products may be determined by the manufacturing or service organization regulations, which may require the submission of Form PC-1. Under these circumstances, Form PC-10 is not required.

Definitions

Generally, terms used in Form PC-10 and instructions follow the definitions in Price Commission regulations. The following additional definitions apply to terms which are not defined in the regulations or where a different term is used to clarify these instructions.

"Initial percentage markup" (referred to by some firms as "expected gross margin") means the markup applied to the cost of merchandise when first offered for sale. Cost includes the purchase price actually paid by the selling person plus transportation charges allocated to the merchandise. The following formula should be used to calculate initial percentage markups:

$$\frac{\text{Initial sales price minus cost}}{\text{Initial (sales price) or cost}} \times 100$$

"Gross profit margin" (referred to by some firms as "realized gross profit margin") means actual sales revenues less the cost (as explained above) of the goods sold. The following formula should be used to calculate the gross profit margin percentage:

$$\frac{\text{Actual sales revenues minus cost of sales.}}{\text{Actual (sales revenues) or cost of sales}} \times 100$$

"Markup base period" means, at the option of the reporting entity, either:

(a) the date on which the last customary initial percentage markup was applied before November 14, 1971, or

(b) the most recent fiscal year ending before August 15, 1971.

Confidentiality of Information

Although the Price Commission publishes statistical or narrative summaries of information reported on Form PC-10, it will respect the confidentiality of financial information submitted by individual companies, in a manner consistent with section 205 of the Economic Stabilization Act of 1970 (as amended), Title 5, U.S. Code, section 552, and Title 18, U.S. Code, section 1905.

Suggestions for Improvement

The Price Commission welcomes suggestions for improving this and other reports. In general, it seeks ways of obtaining the information it needs to exercise its responsibilities under the price stabilization program with a minimum amount of reporting burden on prenotification and reporting companies.

Who Must File

Price Commission reporting requirements are determined by the annual sales of the consolidated group of a parent firm. Generally, a firm with annual sales of $100 million or more is subject to "prenotification" requirements, and a firm with annual sales from $50 million to $100 million is subject to "reporting" requirements. Firms with annual sales of less than $50 million are ordinarily not required to submit reports to the Price Commission, but are subject to other Price Commission regulations.

As indicated below under "When to File", Form PC-10 must be used for prenotification purposes for the retailing and wholesaling activities of prenotification category firms. In addition, both prenotification and reporting category firms must use Form PC-10 for quarterly reports for their retailing and wholesaling activities.

A firm that has never increased any selling price above base price is not required to file Form PC-10. Firms choosing this option, however, must submit to the Price Commission the following certificate within 30 days of the close of each fiscal quarter:

> I certify that for the quarter ending _____ this firm has not increased any selling price of any item above its base price.
>
> _____
> Chief Executive Officer (or other authorized executive officer)

The Chief Executive Officer may authorize another executive officer to sign for him for this purpose. Such authorization must be in the form prescribed by the Price Commission.

Separate PC-10 forms must be prepared for each retailing or wholesaling division, subsidiary or other major organizational unit. Each such organizational unit is called a "reporting entity" and may be distinguished from other units of the firm or consolidated group because of separate or different management, methods of doing business, or other logical, customary distinctions. For example, where a corporation operates several distinct retail chains as divisions within the parent company, or as subsidiaries of the parent company, each such chain is a separate reporting entity.

Within each "reporting entity" a separate Form PC-10 must be prepared for each individual store, group of stores, or other logical entity of a business following the practices customarily employed in the business for calculating markups. Each such unit is a business unit as indicated in Item 6. Examples of such business units are pricing zones which a retail chain has established to determine prices in stores within each pricing zone.

If two or more firms own equal fractions of a subsidiary (so-called "joint ventures"), they should decide among themselves which parent is to file reports for the joint venture. The firm that elects to file such a report should explain the circumstances in its initial filing by means of an accompanying statement.

When to File

A "prenotification" retailer or wholesaler may not charge a price in excess of the base price before filing notification of its customary initial percentage markups with the Price Commission on this form. After this filing, and after posting the base prices as required by Price Commission regulations, the firm may then adjust its prices in accordance with Price Commission regulations.

Quarterly reports by prenotification and reporting firms must be filed not more than 45 days after the end of a fiscal quarter or 90 days after the end of the firm's fiscal year.

What to File

A. Methods for Calculating actual markups

Since the determination of maximum permissible selling prices requires the application of initial percentage markups, and since PC-10 reports are intended to monitor actual markups, (usually at a higher level of aggregation than for pricing purposes), summaries of actual initial percentage markups would provide the most useful data on PC-10 reports. However, the Price Commission recognizes that the usual accounting records maintained by some retailers and wholesalers would make it impossible to provide summaries of actual initial percentage markups on PC-10 reports. Generally, firms which record purchases at both cost and initial selling price (e.g., those using the retail inventory method of accounting) must report summaries of initial percentage markups on quarterly reports.

Those firms that are unable to calculate actual initial percentage markups should complete Item 8 on the basis of gross profit margins, with the percentages calculated as described above under "Definitions". Firms reporting on the gross profit margin basis should note that, as described in the instructions to Item 9b, their initial PC-10 report must be accompanied by an explanation of why they cannot report initial percentage markups, and a description of their method of computing gross profit margin percentages.

When a firm is able to calculate actual initial percentage markups on only certain merchandise categories, it should attach a supplemental statement indicating which merchandise categories have been reported on the basis of initial percentage markups, and which have been reported on the basis of gross profit margin percentages.

It is stressed that gross margin data may be used for reporting purposes only. Maximum selling prices in excess of base prices are determined by applying the customary initial percentage markup to actual landed costs.

B. Initial Filing

Prenotification firms shall complete all portions of Form PC-10 except that in the initial filing they should omit columns (b), (d), (e) and (f) of Item 8. Prices may not be increased above base prices until the required markup report has been filed. The effective date of a filing is the date on which it is officially received and stamped by the Correspondence Section of the Price Commission.

The initial and all quarterly filings of this form must include all merchandise categories of the business unit covered by the report even though price increases may be planned for less than all categories of that unit at the time the report is submitted.

For reporting category firms, the initial report will be the first quarterly report filed and all items on the form must be completed.

In column (a) of Item 8, the firm shall enter a list of product lines, departments, or other pricing units following the guidelines outlined below in the instructions to Item 8. To the extent that its customary pricing practice is applied to individual items without regard to product line or other grouping, it should classify such individual items into categories for the purposes of this report. All subsequent reports must include the same categories with comparable items classified in the same manner as in the initial filing.

C. Quarterly Reporting

Quarterly reports by prenotification and reporting firms require completion of all items on the form. Completion of columns (d), (e) and (f) of Item 8 will provide the Price Commission with the basis for monitoring the firm's compliance with its base period markups recorded in column (c).

D. Summary of Multiple Forms PC-10

As described above under "Who Must File", separate PC-10 reports are required for multiple business units of a reporting entity. Under these circumstances, a separate PC-10 should not be filed for the total reporting entity, but a covering document should be provided, indicating:

(a) Parent firm (Item 4) and reporting entity (Item 5), name, address and identification number.

(b) A listing of the following information from Forms PC-10 attached:

1. The description included in Part II, Item 6.

2. The amount entered in Part II, Item 7.

3. A total of the amounts entered in Part II, Item 7, which must correspond with total retailing and wholesaling sales of the reporting entity for the period covered.

Where to File

Form PC-10 and attachments should be mailed to:

Price Commission
2000 M Street, N.W.
Washington, D.C. 20508

Indicate "Submission of Form PC-10" in the lower left-hand corner of the envelope.

Rounding

For the purposes of this form, all percentages must be expressed to at least one decimal place (e.g., 5.9%). All dollar entries must be rounded to the nearest $1,000 and the 000 should be omitted (such as $1,750,892 entered as $1,751).

Specific Instructions

Heading of Form

(a) Indicate, by checking the appropriate box, whether the Parent firm is in the prenotification or reporting category (see "Who Must File", above).

(b) Indicate, by checking the appropriate box, whether this is an initial or quarterly report (see "What to File", above).

PART I Identifying Data

Item 1: Prior Reference Number—Answer the question in 1(a). If you are supplying requested additional information or resubmitting a report that had been initially returned, record the prior reference number in 1(b). The prior reference number is the number noted on correspondence received from the Price Commission.

Item 2: Date Submitted—Enter the date that this filing is made, regardless of whether this represents an initial filing, requested additional information, or a resubmission.

Item 3: Period Covered—Enter the beginning and ending month, day and year of the fiscal quarter covered by this report. On the initial filing by prenotification firms, leave this item blank.

Item 4: Parent Firm Data—A parent firm is the firm which controls a group of consolidated subsidiaries following the criteria for the preparation of consolidated financial statements in accordance with generally accepted accounting principles.

(a) Enter name of parent firm.

(b) Enter address of executive offices of parent firm.

(c) Enter the ending date of the most recent fiscal year as customarily used by the parent firm.

(d) Enter the parent firm's "Data Universal Numbering System" (D-U-N-S) Number, if known. If not known, leave this item blank. The D-U-N-S Number is a nine-digit number assigned to establishments by Dun & Bradstreet, Inc. Where the firm has more than one D-U-N-S Number, the number entered in this item should be that assigned to the firm for the address entered above in Item 4 (b) as the executive offices of the parent firm.

(e) Enter the total revenues of the parent firm during its most recent fiscal year (Item 4 (c)), from whatever source derived.

Item 5: Data on Reporting Entity Covered by This Filing—Fill in this item only if the "reporting entity" covered by this filing is different from the entity listed in Item 4. The criteria for determining such reporting entities are given above under "Who Must File."

(a) Enter name of reporting entity covered by this filing.

(b) Enter address of executive offices of reporting entity.

(c) Enter the date of the most recent fiscal year of the reporting entity as customarily used.

(d) Enter the reporting entity's "Data Universal Numbering System" (D-U-N-S) Number, if known. If not known, or if the reporting entity does not have a D-U-N-S Number, leave this item blank. The number entered in this item should be that assigned to the firm for the address entered above in Item 5 (b) as the executive offices of the reporting entity.

(e) Enter the total revenues of the reporting entity covered by this filing during its most recent fiscal year Item 5 (c), from whatever source derived.

PART II Business Unit Covered by this Report

Item 6: Indication of Unit Covered by this Report—Check the applicable box to indicate whether the business unit covered by this report is the entire reporting entity indicated in Item 5, a division, subsidiary or other grouping (which should be described), or an individual store or equivalent unit (whose location should be shown).

Item 7: Total Revenues in Most Recent Fiscal Year—Enter the total revenues, from whatever source derived, of the unit indicated above in Item 6, for the fiscal year indicated in Item 5 (c), if applicable, otherwise Item 4 (c).

PART III Schedule of Initial Markup Data

Item 8: Initial Percentage Markup—This item is used to record the average initial percentage markups prevailing in the markup base period. In subsequent reports it is used to provide a basis of comparison of actual initial percentage markups with the markup base period percentages.

As noted above in section A, under "What to File", in certain circumstances gross profit margin percentages may be reported in lieu of initial percentage markups. Percentages entered in this item must represent weighted average percentages. Weighted averages are calculated by accumulating dollar amounts covering the appropriate period, and then determining the percentage from the accumulated dollar amounts. For example, to calculate the weighted average initial percentage markup for a fiscal quarter, cumulate the dollars of initial selling prices and costs for the three months of the quarter, subtract the total cost from the total of the selling prices to determine the total dollars of markup, then divide the total dollars of markup by either the total cost or the total of the initial selling prices.

As described above in section B under "Overall Guidelines", firms may customarily determine prices on an item-by-item or category basis. Reporting entities which customarily determine prices on both bases must prepare two separate PC-10 reports, each reflecting solely item-by-item or category data.

Column (a) Merchandise Category—Record the customary categories normally used in the reporting entity to describe its product lines, departments or other management reporting units. Such categories should be reasonably descriptive and must include all merchandise categories of the business unit covered by the report even though price increases may be planned for less than all categories of that unit at the time the report is submitted. In indicating merchandise categories, do not use department numbers, code numbers, or other designations that are not meaningful to the Price Commission staff. It is the intention of the Price Commission to minimize the reporting burden placed upon prenotification and reporting companies, consistent with the needs of the Economic Stabilization Program. It is not intended that an excessive number of categories be recorded in Part III. However, as indicated in section B under "Overall Guidelines", category pricers must list all categories at the lowest level of aggregation customarily used for pricing purposes. The following examples represent submissions that might be expected from certain types of retailers and wholesalers, if their businesses encompass the sample product lines depicted:

A department store or chain
Categories used in the Bureau of Labor Statistics Department Store Inventory Price Indexes:

Merchandise Category
Piece Goods
Domestics and Draperies
Women's and Children's Shoes
Men's and Boys' Shoes
Infants' Wear
Women's Underwear
Women's and Girls' Hosiery
Women's and Girls' Accessories
Women's Outerwear and Girls' Wear
Men's Clothing
Men's Furnishings
Boys' Clothing and Furnishings
Jewelry
Notions
Toilet Articles and Drugs
Furniture and Bedding
Floor Covering
Housewares
Major Appliances
Radio and Television Sets

A supermarket chain
Basic major departmental categories, such as—

Merchandise Category
Grocery
Produce
Meat
Dairy
Baked goods
Delicatessen
Drugs
Liquor
Non-foods

A Drug Store chain
Basic major departmental categories, such as—

Merchandise Category
Clothing
Cosmetics and Toiletries
Non-Prescription Drugs
Prescription Drugs
Tobacco and Candy
General Merchandise (not listed above)

Related Service Categories
The following examples are illustrative of the type of related service categories that retailers or wholesalers might be expected to list in Item 8:
Installation
Fabrication
Automotive Service
Appliance Repairs
Transportation
Restaurant

Related Manufacturing Categories
The following examples are illustrative of the type of related manufacturing categories that retailers or wholesalers might be expected to list in Item 8:
Bakery
Food Processing
Candy Production

Column (b) Price Commission use only

Column (c) Markup Base Period—The markup base period for the determination of customary initial percentage markups is explained above under "Definitions". While that explanation must be used for determining permissible selling prices, a different time period is used for calculating the weighted average initial percentage markups entered in Column (c). Since Form PC-10 is designed to monitor the trend of actual initial percentage markups relative to a base period, the percentages entered in Column

(c) must be comparable to those entered in Columns (d), (e), and (f). Therefore, for item-by-item pricers the percentages entered in Column (c) must reflect the actual weighted average initial percentage markups of either: (1) the period between August 15, 1971, and November 13, 1971; (2) the three fiscal months ending prior to November 14, 1971; or (3) the most recent fiscal year ending prior to August 15, 1971. The percentages entered in Column (c) for category pricers must reflect the weighted average initial percentage markups of: (1) the most recent fiscal year ending prior to August 15, 1971; or (2) in the event a firm determines the prices of all items within a category at the same time, the weighted average for the last fiscal year as described in the previous phrase or the last category markup applied prior to November 14, 1971. The percentages entered in column (c) must be the same as those entered there in the initial filing. The percentages entered by category and item-by-item pricers must be calculated from business records comparable to those used to calculate the entries in Columns (d), (e) and (f).

Column (d) Current Period—Record the weighted average initial percentage markup for the quarterly period covered by this report submission. This is the period recorded in Item 3.

Column (e) Comparable Period Prior Year—Record the weighted average initial percentage markup for the quarterly period of the prior year comparable to the current period data in Column (d).

Column (f) Weighted Average for 12 Months Since November 1, 1971—The weighted average is calculated for the four most recent fiscal quarters. However, until four quarterly PC-10 reports have been filed, include only data for the cumulative period beginning on November 1, 1971 (or the nearest fiscal quarter to that date) to the end of the period covered by this report.

Item 9: Basis for Percentages in Item 8.

(a) As noted above under "Definitions", the denominator for calculating initial percentage markups and gross profit margin percentages may be either sales or cost. Indicate, by checking the appropriate box, whether the percentages in Item 8 are based on cost or sales price.

(b) As noted above in section A under "What to File", certain firms may be permitted to complete all or part of Item 8 on the basis of gross profit margin percentages. Indicate, by checking the appropriate box, whether the percentages in Item 8 reflect initial percentage markups, or gross profit margin percentages. Firms reporting gross profit margin percentages are required to attach a statement to their initial PC-10 filing explaining why they are unable to report initial percentage markups and describing their method of computing gross profit margin percentages.

(c) As noted above in section B under "Overall Guidelines", firms may customarily determine prices on an item-by-item or category basis.

Indicate, by checking the appropriate box, whether the percentages in Item 8 are based on item-by-item or category pricing practices.

Item 11: Location of Records and

Item 12: Individual to be Contacted for Further Information — Enter each geographic location of your pricing records and the individual(s) to contact in the event the Internal Revenue Service is requested to (a) verify your firm's report, or (b) investigate complaints. The Internal Revenue Service will be verifying reports of individual firms on a selected basis.

Item 13: Posting Requirement for Retail Operations — Check the appropriate box. A retailer is required to display prominently at the place of sale certain base price information stipulated in Price Commission regulations. Wholesalers should check box (3), "not applicable".

PART V Certification

Select the certification which is applicable to the method that the firm customarily uses in determining selling prices for items in the merchandise categories included in this report, i.e., item-by-item or category markups. Type the name and title (including the company name) of the individual who has signed the certification, on the lines above such signature. The individual certifying to this PC-10 must be the Chief Executive Officer of the parent firm, or such other executive officer as authorized by the Chief Executive Officer to sign for him for this purpose. Such authorization must be in the form prescribed by the Price Commission.

PART IV Additional Information

Item 10: If the firm has not already supplied the following information on pricing practices to the Price Commission, include such information with this Form PC-10 filing.

(a) Describe the pricing procedure your firm uses and be prepared to demonstrate that in applying markups to determine selling prices, your firm is using the lowest level of normal application (e.g., item, or category). The reported pricing procedure will be subject to verification by the Internal Revenue Service. If your firm is a category pricer (as described above in section B under "Overall Guidelines") list each category and describe (a) the criteria used for determining the composition of the category, and (b) the method used in pricing products within each category.

Explain, at the level of detail relevant to your operation, the established procedure of your firm by which the Internal Revenue Service can audit your reports to the Price Commission and investigate any alleged violations. If invoice records are not normally available and readily accessible, it will be necessary to establish separate records for monitoring and compliance purposes. In addition, submit copies if any of internal company instructions which have been distributed to your personnel to explain the requirements for compliance with the Economic Stabilization Program.

(c) The markup base periods which may be used for determining customary initial percentage markups are described above under "Definitions". For each merchandise category listed in Item 8, indicate the time period selected as the markup base period for determining customary initial percentage markups.

(d) If you have included manufacturing or service activities in Item 8 and are applying a markup to determine maximum permissible selling prices, provide the following information:

(1) Indicate the total revenues of each business unit derived from manufacturing and service activities during the most recent fiscal year.

(2) Describe the manufacturing and service activities and indicate their relationship to the primary retail or wholesale business.

(3) Indicate the total revenues of the reporting entity during its most recent fiscal year which was derived from manufacturing and service activities, and the percentage of these revenues to the reporting entity's total revenues from retail and wholesale activities.

IMPORTANT NOTICE

Effective May 31, 1972, the Price Commission will only process initial filings and quarterly reports by retailing and wholesaling companies that are submitted on this latest revised PC-10 form or facsimile copy of such form.

Reports which have been filed on PC-1R in accordance with procedures applicable at that time should not be resubmitted. However, any prenotification firm that chooses to determine maximum selling prices by applying a markup to manufacturing or service activities in accordance with these instructions may not increase such prices above base prices before filing an amendment to its previous filing.

[FR Doc.72-8432 Filed 6-2-72;8:53 am]

Proposed Rule Making

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

[7 CFR Part 29]

TOBACCO INSPECTION

Proposed Revision of Kentucky and Tennessee Fire-cured Standards

Notice is hereby given that the U.S. Department of Agriculture has under consideration a proposed revision of the official standard grades for Kentucky and Tennessee Fire-cured Tobacco, U.S. Types 22 and 23, pursuant to the authority contained in the Tobacco Inspection Act (49 Stat. 731; 7 U.S.C. 511 et seq.).

Statement of consideration. Grade standards for tobacco are issued under the authority of the Tobacco Inspection Act of 1935 which provides for the issuance of official U.S. grades to designate different levels of quality for the use of producers and buyers. Official grading service is also provided under the Act on both a mandatory and a permissive basis.

The current standards for Kentucky and Tennessee Fire-cured have been in use for 12 years. The proposed revision would update the standards to reflect present-day production and marketing practices. It would also clarify the terminology and simplify definitions and rules.

The proposal would incorporate oil as an element of quality. Experience has pointed out that this constituent is significant in the determination of quality in Fire-cured tobacco. Another change would delete leaf surface as an element of quality. Leaf surface is no longer considered a quality determinant in these types of tobacco. Also, "underripe" and "mellow" would be eliminated from the present five degrees covering the range of maturity. Marketing experience has indicated that a three-degree range is sufficient for this element of quality.

Grade specifications would be revised to correspond with the proposed changes in the elements of quality. Applicable definitions would also reflect these changes.

Some definitions and rules would be rephrased or condensed to aid interpretation and application.

Size 47 would be added to cover the first quality grades in the A, B, and C groups. Presentation of the sizes chart would be simplified.

The changes comprising the proposed revision are the result of several years of marketing experience and were requested by supervisory inspection personnel. The proposal has been discussed with industry representatives who have responded favorably to the recommended revision.

All persons who desire to submit written data, views, or arguments in connection with the proposed revision should file the same, in duplicate, with the Hearing Clerk, U.S. Department of Agriculture, Room 112, Administration Building, Washington, D.C. 20250, not later than the 30th day after the publication of this notice in the FEDERAL REGISTER. All written submissions pursuant to the notice will be made available for public inspection at the office of the Hearing Clerk during official hours of business (7 CFR 1.27(b)).

The proposed standards are as follows:

1. Subpart C of Part 29 is revised by deleting the heading "Official Standard Grades for Fire-cured Tobacco (U.S. Types 22 and 23)" and §§ 29.2501 through 29.2696 and substituting therefor the following:

OFFICIAL STANDARD GRADES FOR KENTUCKY AND TENNESSEE FIRE-CURED TOBACCO (U.S. TYPES 22 AND 23)

DEFINITIONS

ELEMENTS OF QUALITY

SIZES

RULES

GRADES

SUMMARY OF STANDARD GRADES

KEY TO STANDARD GRADEMARKS

AUTHORITY: The provisions of this Subpart C issued under the Tobacco Inspection Act (49 Stat. 731; 7 U.S.C. 511 et seq.).

OFFICIAL STANDARD GRADES FOR KENTUCKY AND TENNESSEE FIRE-CURED TOBACCO (U.S. TYPES 22 AND 23)

DEFINITIONS

§ 29.2501 Definitions.

As used in these standards, the words and phrases hereinafter defined shall have the indicated meanings so assigned.

§ 29.2502 Air-dried.

The condition of unfermented tobacco as customarily prepared for storage under natural atmospheric conditions.

§ 29.2503 Body.

The thickness and density of a leaf or the weight per unit of surface. (See chart, § 29.2601.)

§ 29.2504 Brown colors.

A group of colors ranging from a reddish brown to yellowish brown. These colors vary from low to medium saturation and from very low to medium brilliance. As used in these standards, the range is expressed as light brown (L), medium brown (F), and dark brown (D).

§ 29.2505 Class.

A major division of tobacco based on method of cure or principal usage.

§ 29.2506 Clean.

Tobacco is described as clean when it contains only a normal amount of sand or soil particles. Leaves grown on the lower portion of the stalk normally contain more dirt or sand than those from higher stalk positions. (See rule 4, § 29.2620.)

§ 29.2507 Color.

The third factor of a grade based on the relative hues, saturation or chroma, and color values common to the type.

§ 29.2508 Color intensity.

The varying degree of saturation or chroma. Color intensity as applied to tobacco describes the strength or weakness of a specific color or hue. It is applicable to brown colors. (See chart, § 29.2601.)

§ 29.2509 Color symbols.

As applied to these types, color symbols are L—light brown, F—medium brown, D—dark brown, M—mixed or variegated, VF—greenish medium brown, and G—green.

§ 29.2510 Condition.

The state of tobacco which results from the method of preparation or from the degree of fermentation. Words used to describe the condition of tobacco are undried, air-dried, steam-dried, sweating, sweated, and aged.

§ 29.2511 Crude.

A subdegree of maturity. Crude leaves are usually hard and slick as a result of extreme immaturity. A similar condition may result from firekill, sunburn, or sunscald. Any leaf which is crude to the extent of 20 percent or more of its surface may be described as crude. (See rule 19, § 29.2635.)

§ 29.2512 Cured.

Tobacco dried of its sap by either natural or artificial processes.

§ 29.2513 Damage.

The effect of mold, must, rot, black rot, or other fungus or bacterial diseases which attack tobacco in its cured state. Tobacco having the odor of mold, must, or rot is considered damaged. (See rule 20, § 29.2636.)

§ 29.2514 Dirty.

The state of tobacco containing an abnormal amount of dirt or sand, or tobacco to which additional quantities of dirt or sand have been added. (See rule 22, § 29.2638.)

§ 29.2515 Elasticity.

The flexible, springy nature of the tobacco leaf to recover approximately its original size and shape after it has been stretched. (See chart, § 29.2601.)

§ 29.2516 Elements of quality.

Physical characteristics used to determine the quality of tobacco. Words selected to describe degrees within each element are shown in the chart in § 29.2601.

§ 29.2517 Fiber.

The term applied to the veins in a tobacco leaf. The large central vein is called the midrib or stem. The smaller lateral and cross veins are considered from the standpoint of size and color.

§ 29.2518 Finish.

The reflectance factor in color perception. Finish indicates the sheen or shine of the surface of a tobacco leaf. (See chart, § 29.2601.)

§ 29.2519 Fire-cured.

Tobacco cured under artificial atmospheric conditions by the use of open fires from which the smoke and fumes of burning wood are partly absorbed by the tobacco.

§ 29.2520 Foreign matter.

Any extraneous substance or material such as stalks, suckers, straw, strings, rubber bands, and abnormal amounts of dirt or sand. (See rule 22, § 29.2638.)

§ 29.2521 Form.

The stage of preparation of tobacco such as unstemmed or stemmed.

§ 29.2522 Grade.

A subdivision of a type according to group, quality, and color.

§ 29.2523 Grademark.

A grademark normally consists of three symbols which indicate group, quality, and color. A letter is used to indicate group, a number to indicate quality, and a letter or letters to indicate color. For example, B3D means Heavy Leaf, good quality, and dark brown color.

§ 29.2524 Green (G).

A term applied to green-colored tobacco. Any leaf which has a green color affecting 20 percent or more of its surface may be described as green. (See rule 18, § 29.2634.)

§ 29.2525 Greenish.

A term applied to greenish-tinged tobacco. Any leaf which has a greenish tinge or a pale green color affecting 20 percent or more of its surface may be described as greenish. (See rule 17, § 29.2633.)

§ 29.2526 Group.

A division of a type covering closely related grades based on certain characteristics which are usually related to stalk position, body, or the general quality of the tobacco. Groups in these types are Wrappers (A), Heavy Leaf (B), Thin Leaf (C), Lugs (X), Nondescript (N), and Scrap (S).

§ 29.2527 Injury.

Hurt or impairment from any cause except the fungous or bacterial diseases which attack tobacco in its cured state. (See rule 15, § 29.2631.)

§ 29.2528 Leaf scrap.

A byproduct of unstemmed tobacco. Leaf scrap results from handling unstemmed tobacco and consists of loose and tangled whole or broken leaves.

§ 29.2529 Leaf structure.

The cell development of a leaf as indicated by its porosity. (See chart, § 29.2601.)

§ 29.2530 Length.

The linear measurement of cured tobacco leaves from the butt of the midrib to the extreme tip.

§ 29.2531 Lot.

A pile, basket, bulk, or more than one bale, case, hogshead, tierce, package, or other definite package unit.

§ 29.2532 Maturity.

The degree of ripeness. (See chart, § 29.2601.)

§ 29.2533 Mixed color or variegated (M).

Distinctly different colors of the type mingled together, or any leaf of which 20 percent or more of its surface is off brown, grayish, mottled, or bleached and does not blend with the normal colors of the type or group. (See rule 16, § 29.2632.)

§ 29.2534 Nested.

Any tobacco which has been loaded, packed, or arranged to conceal foreign matter or tobacco of inferior grade, quality, or condition. (See rule 22, § 29.2638.)

§ 29.2535 No grade.

A designation applied to a lot of tobacco classified as nested, offtype, rework, or semicured; tobacco that is damaged 20 percent or more, abnormally dirty, extremely wet or watered, contains foreign matter, or has an odor foreign to the type. (See rule 22, § 29.2638.)

§ 29.2536 Offtype.

Tobacco of distinctly different characteristics which cannot be classified as Fire-cured, U.S. Type 22 or 23. (See rule 22, § 29.2638.)

§ 29.2537 Oil.

A soft, semifluid constituent of tobacco. (See chart, § 29.2601.)

§ 29.2538 Order (case).

The state of tobacco with respect to its moisture content.

§ 29.2539 Package.

A hogshead, tierce, case, bale, or other securely enclosed parcel or bundle.

§ 29.2540 Packing.

A lot of tobacco consisting of a number of packages submitted as one definite unit for sampling or inspection. It is represented to contain the same kind of tobacco and has a common identification number or mark on each package.

§ 29.2541 Quality.

A division of a group or the second factor of a grade based on the relative degree of one or more elements of quality.

§ 29.2542 Raw.

Freshly harvested tobacco or tobacco as it appears between the time of harvesting and the beginning of the curing process.

§ 29.2543 Resweated.

The condition of tobacco which has passed through a second fermentation under abnormally high temperatures or refermented with a relatively high percentage of moisture. Resweated includes tobacco which has been dipped or reconditioned after its first fermentation and put through a forced or artificial sweat.

§ 29.2544 Rework.

Any lot of tobacco which needs to be resorted or otherwise reworked to prepare it properly for market, including: (a) Tobacco which is so mixed that it cannot be classified properly in any grade of the type, because the lot contains a substantial quantity of two or more distinctly different grades which should be separated by sorting; (b) tobacco which contains an abnormally large quantity of foreign matter or an unusual number of muddy or extremely dirty leaves which should be removed; and (c) tobacco not packed straight or otherwise not properly prepared for market. (See rule 22, § 29.2638.)

§ 29.2545 Semicured.

Tobacco in the process of being cured or which is partially but not thoroughly cured. (See rule 22, § 29.2638.)

§ 29.2546 Side.

A certain phase of quality, color, or length as contrasted with some other phase of quality, color, or length; or any peculiar characteristic of tobacco.

§ 29.2547 Size.

The length of tobacco leaves. (See chart, § 29.2606.)

§ 29.2548 Sound.

Free of damage.

§ 29.2549 Special factor.

A symbol or term authorized to be used with specified grades. Tobacco to which a special factor is applied may meet the general specifications but has a peculiar side or characteristic which tends to modify the grade. (See rule 10, § 29.2626.)

§ 29.2550 Steam-dried.

The condition of unfermented tobacco as customarily prepared for storage by means of a redrying machine or other steam-conditioning equipment.

§ 29.2551 Stem.

The midrib or large central vein of a tobacco leaf.

§ 29.2552 Stemmed.

A form of tobacco, including strips and strip scrap, from which the stems or midribs have been removed.

§ 29.2553 Strength.

The stress a tobacco leaf can bear without tearing. (See chart, § 29.2601.)

§ 29.2554 Strips.

The sides of a tobacco leaf from which the stem has been removed or a lot of tobacco composed of strips.

§ 29.2555 Subgrade.

Any grade modified by a special factor symbol.

§ 29.2556 Sweated.

The condition of tobacco which has passed through one or more fermentations natural to tobacco packed with a normal percentage of moisture. This condition is sometimes described as aged.

§ 29.2557 Sweating.

The condition of tobacco in the process of fermentation.

§ 29.2558 Tobacco.

Tobacco as it appears between the time it is cured and stripped from the stalk, or primed and cured, and the time it enters into the different manufacturing processes. The acts of stemming, sweating, and conditioning are not regarded as manufacturing processes. Tobacco, as used in these standards, does not include manufactured or semimanufactured products, stems, cutting, clippings, trimmings, siftings, or dust.

§ 29.2559 Tobacco products.

Manufactured tobacco, including cigarettes, cigars, smoking tobacco, chewing tobacco, and snuff.

§ 29.2560 Type.

A division of a class of tobacco having certain common characteristics and closely related grades. Tobacco which has the same charactertistics and corresponding qualities, colors, and lengths is classified as one type, regardless of any factors of historical or geographical nature which cannot be determined by an examination of the tobacco.

§ 29.2561 Type 22.

That type of Fire-cured tobacco, known as Eastern District Fire-cured, produced principally in a section east of the Tennessee River in southern Kentucky and northern Tennessee.

§ 29.2562 Type 23.

That type of Fire-cured tobacco, known as Western District Fire-cured or Dark-fired, produced principally in a section west of the Tennessee River in Kentucky and extending into Tennessee.

§ 29.2563 Undried.

The condition of unfermented tobacco which has not been air-dried or steam-dried.

§ 29.2564 Uniformity.

An element of quality which describes the consistency of a lot of tobacco as it is prepared for market. Uniformity is expressed as a percentage in grade specifications. (See rule 14, § 29.2630.)

§ 29.2565 Unsound (U).

Damaged under 20 percent (See rule 20, § 29.2636.)

§ 29.2566 Unstemmed.

A form of tobacco, including whole leaf and leaf scrap, from which the stems or midribs have not been removed.

§ 29.2567 Wet (W).

Any sound tobacco containing excessive moisture to the extent that it is in unsafe or doubtful-keeping order. Wet applies to any tobacco which is not damaged but which is likely to damage if treated in the customary manner. (See rule 21, § 29.2637.) (For extremely wet or watered tobacco, see rule 22, § 29.2638.)

§ 29.2568 Width.

The relative breadth of a tobacco leaf expressed in relation to its length. (See chart, § 29.2601.)

ELEMENTS OF QUALITY

§ 29.2601 Elements of quality and degrees of each element.

Tobacco attributes or characteristics which constitute quality are designated as elements of quality. The range within each element is expressed by words or terms designated as degrees. These degrees are arranged to show their relative value and are used in determining the quality of tobacco. The actual value of each degree varies with group.

Elements	Degrees		
Body	Thin	Medium	Heavy.
Maturity	Immature	Mature	Ripe.
Leaf structure	Close	Firm	Open.
Oil	Lean	Oily	Rich.
Elasticity	Inelastic	Semielastic	Elastic.
Strength	Weak	Normal	Strong.
Finish	Dull	Clear	Bright.
Color intensity	Pale	Moderate	Deep.
Width	Narrow	Normal	Spready.
Uniformity	Expressed in percentages.		
Injury tolerance.	Expressed in percentages.		

SIZES

§ 29.2606 U.S. standard 4-inch sizes.[1]

Inches	*Size*
12–16	43
16–20	44
20–24	45
24–28	46
Over 28	47

[1] The application of sizes is governed by the major portion of the lot or package.

RULES

§ 29.2616 Rules.

The application of these official standard grades shall be in accordance with §§ 29.2617–29.2638.

§ 29.2617 Rule 1.

Each grade shall be treated as a subdivision of a particular type. When the grade is stated in an inspection certificate, the type also shall be stated.

§ 29.2618 Rule 2.

The determination of a grade shall be based upon a thorough examination of a lot of tobacco or of an official sample of the lot.

§ 29.2619 Rule 3.

In drawing an official sample from a hogshead or other package of tobacco, two or more breaks shall be made at such points and in such manner as the inspector or sampler may find necessary to determine the kinds of tobacco and the percentage of each kind contained in the lot. All breaks shall be made so that the tobacco contained in the center of the package is visible to the sampler. Tobacco shall be drawn from at least two breaks from which a representative sample shall be selected.

§ 29.2620 Rule 4.

All standard grades must be clean.

§ 29.2621 Rule 5.

The grade assigned to any lot of tobacco shall be a true representation of the tobacco at the time of inspection and certification. If, at any time, it is found that a lot of tobacco does not comply with the specifications of the grade previously assigned it shall not thereafter be represented as such grade.

§ 29.2622 Rule 6.

A lot of tobacco on the marginal line between two colors shall be placed in the color with which it best corresponds with respect to body or other associated elements of quality.

§ 29.2623 Rule 7.

Any lot of tobacco which meets the specifications of two grades shall be placed in the higher grade. Any lot of tobacco on the marginal line between two grades shall be placed in the lower grade.

§ 29.2624 Rule 8.

A lot of tobacco meets the specifications of a grade when it is not lower in any degree of any element of quality than the minimum specifications of such grade.

§ 29.2625 Rule 9.

In determining the grade of a lot of tobacco, the lot as a whole shall be considered. Minor irregularities which do not affect over one percent of the tobacco shall be overlooked.

§ 29.2626 Rule 10.

Any special factor approved by the Director of the Tobacco Division, Agricultural Marketing Service, may be used after a grademark to show a peculiar side or characteristic of the tobacco which tends to modify the grade.

§ 29.2627 Rule 11.

Interpretations, the use of specifications, and the meaning of the terms shall be in accordance with determinations or clarifications made by the Chief of the Standards and Testing Branch and approved by the Director.

§ 29.2628 Rule 12.

The use of any grade may be restricted by the Director during any marketing season, when it is found that the grade is not needed or appears in insufficient volume to justify its use.

§ 29.2629 Rule 13.

Length shall be stated in connection with each grade of the A, B, and C groups and may be stated in connection with the grades of other groups. The 4-inch series of U.S. standard tobacco sizes shall be used.

§ 29.2630 Rule 14.

Uniformity shall be expressed in percentages. These percentages shall govern the portion of a lot which must meet each specification of the grade. The minor portion must be closely related but may be of a different group, quality, and color from the major portion. Specified percentages of uniformity shall not affect limitations established by other rules.

§ 29.2631 Rule 15.

Injury tolerance shall be expressed in percentages. The appraisal of injury shall be based upon the percentage of affected leaf surface or the degree of injury. In appraising injury, consideration shall be given to the normal characteristics of the group.

§ 29.2632 Rule 16.

Any lot of tobacco of the B, C, or X groups containing over 30 percent of mixed color or variegated leaves or over 30 percent of mixed color and variegated leaves combined shall be classified as "mixed" and designated by the color symbol "M."

§ 29.2633 Rule 17.

Any lot of tobacco containing 20 percent or more of greenish leaves or any lot which contains 20 percent of greenish and green leaves combined shall be designated by the color symbol "VF."

§ 29.2634 Rule 18.

Any lot of tobacco containing 20 percent or more of green leaves or any lot which is not crude but contains 20 percent or more of green and crude combined shall be designated by the color symbol "G."

§ 29.2635 Rule 19.

In the B, C, and X groups crude leaves shall be restricted to the fourth and fifth qualities of green grades. Any lot containing 20 percent or more of crude leaves shall be classified as Nondescript.

§ 29.2636 Rule 20.

Tobacco damaged under 20 percent but which otherwise meets the specifications of a grade shall be treated as a subgrade by placing the special factor "U" after the grademark. Tobacco damaged 20 percent or more shall be designated "No-G."

§ 29.2637 Rule 21.

Sound tobacco that is wet or in doubtful-keeping order but which otherwise meets the specifications of a grade shall be treated as a subgrade by placing the special factor "W" after the grademark. This special factor does not apply to tobacco designated "No-G."

§ 29.2638 Rule 22.

Tobacco shall be designated No Grade, using the grademark "No-G," when it is dirty, nested, offtype, semicured, damaged 20 percent or more, extremely wet or watered, or when it needs to be reworked, contains foreign matter, or has an odor foreign to type.

GRADES

§ 29.2661 Wrappers (A Group).

This group consists of leaves usually grown at or above the center portion of the stalk. Cured leaves of this group are elastic and show a low percentage of injury affecting wrapper yield.

U.S. grades	*Grade names and specifications*
A1F	Choice Medium-brown Wrappers Thin to medium body, ripe, firm, rich in oil, elastic, strong, bright finish, deep color intensity, spready, 90 percent uniform, and 10 percent of leaves not lower than B1 or C1.
A2F	Fine Medium-brown Wrappers Thin to medium body, ripe, firm, rich in oil, elastic, strong, bright finish, deep color intensity, spready, 75 percent uniform, and 25 percent of leaves not lower than B2 or C2.
A3F	Good Medium-brown Wrappers Thin to medium body, ripe, firm, oily, elastic, strong, clear finish, moderate color intensity, spready, 60 percent uniform, and 40 percent of leaves not lower than B3 or C3.
A1D	Choice Dark-brown Wrappers Thin to heavy body, ripe, firm, rich in oil, elastic, strong, bright finish, deep color intensity, spready, 90 percent uniform, and 10 percent of leaves not lower than B1 or C1.
A2D	Fine Dark-brown Wrappers Thin to heavy body, ripe, firm, rich in oil, elastic, strong, bright finish, deep color intensity, spready, 75 percent uniform, and 25 percent of leaves not lower than B2 or C2.
A3D	Good Dark-brown Wrappers Thin to heavy body, ripe, firm, oily, elastic, strong, clear finish, moderate color intensity, spready, 60 percent uniform, and 40 percent of leaves not lower than B3 or C3.

§ 29.2662 Heavy Leaf (B Group).

This group consists of leaves which are medium to heavy in body.

U.S. grades	*Grade names and specifications*
B1F	Choice Medium-brown Heavy Leaf Medium body, ripe, firm, oily, elastic, strong, bright finish, deep color intensity, normal width, 95 percent uniform, and 5 percent injury tolerance.

U.S. grades	Grade names and specifications
B2F	Fine Medium-brown Heavy Leaf Medium body, ripe, firm, oily, elastic, strong, clear finish, deep color intensity, normal width, 90 percent uniform, and 10 percent injury tolerance.
B3F	Good Medium-brown Heavy Leaf Medium body, ripe, firm, oily, semielastic, normal strength, clear finish, moderate color intensity, normal width, 80 percent uniform, and 20 percent injury tolerance.
B4F	Fair Medium-brown Heavy Leaf Medium body, mature, close, lean in oil, inelastic, weak, dull finish, pale color intensity, narrow, 70 percent uniform, and 30 percent injury tolerance.
B5F	Low Medium-brown Heavy Leaf Medium body, mature, close, lean in oil, inelastic, weak, dull finish, pale color intensity, narrow, 60 percent uniform, and 40 percent injury tolerance.
B1D	Choice Dark-brown Heavy Leaf Heavy, ripe, firm, oily, elastic, strong, bright finish, deep color intensity, normal width, 95 percent uniform, and 5 percent injury tolerance.
B2D	Fine Dark-brown Heavy Leaf Heavy, ripe, firm, oily, elastic, strong, clear finish, deep color intensity, normal width, 90 percent uniform, and 10 percent injury tolerance.
B3D	Good Dark-brown Heavy Leaf Heavy, ripe, firm, oily, semielastic, normal strength, clear finish, moderate color intensity, normal width, 80 percent uniform, and 20 percent injury tolerance.
B4D	Fair Dark-brown Heavy Leaf Heavy, mature, close, lean in oil, inelastic, weak, dull finish, pale color intensity, narrow, 70 percent uniform, and 30 percent injury tolerance.
B5D	Low Dark-brown Heavy Leaf Heavy, mature, close, lean in oil, inelastic, weak, dull finish, pale color intensity, narrow, 60 percent uniform, and 40 percent injury tolerance.
B3M	Good Mixed Color or Variegated Heavy Leaf Medium to heavy body, ripe, firm, oily, semielastic, normal strength, clear finish, normal width, 80 percent uniform, and 20 percent injury tolerance.
B4M	Fair Mixed Color or Variegated Heavy Leaf Medium to heavy body, mature, close, lean in oil, inelastic, weak, dull finish, 70 percent uniform, and 30 percent injury tolerance.
B5M	Low Mixed Color or Variegated Heavy Leaf Medium to heavy body, mature, close, lean in oil, inelastic, weak, dull finish, narrow, 60 percent uniform, and 40 percent injury tolerance.
B3VF	Good Greenish Medium-brown Heavy Leaf Medium body, mature, firm, oily, semielastic, normal strength, clear finish, normal width, 80 percent uniform, and 20 percent injury tolerance.
B4VF	Fair Greenish Medium-brown Heavy Leaf Medium body, mature, close, lean in oil, inelastic, weak, dull finish, narrow, 70 percent uniform, and 30 percent injury tolerance.
B5VF	Low Greenish Medium-brown Heavy Leaf Medium body, mature, close, lean in oil, inelastic, weak, dull finish, narrow, 60 percent uniform, and 40 percent injury tolerance.
B3G	Good Green Heavy Leaf Heavy, mature, firm, oily, semielastic, normal strength, clear finish, normal width, 80 percent uniform, and 20 percent injury tolerance.
B4G	Fair Green Heavy Leaf Heavy, mature, close, lean in oil, inelastic, weak, dull finish, narrow, 70 percent uniform, and 30 percent injury tolerance.
B5G	Low Green Heavy Leaf Heavy, immature, close, lean in oil, inelastic, weak, dull finish, narrow, 60 percent uniform, and 40 percent injury tolerance.

§ 29.2663 Thin Leaf (C Group).

This group consists of leaves that are thin in body.

U.S. grades	Grade names and specifications
C1L	Choice Light-brown Thin Leaf Thin, ripe, firm, oily, semielastic, normal strength, bright finish, deep color intensity, normal width, 95 percent uniform, and 5 percent injury tolerance.
C2L	Fine Light-brown Thin Leaf Thin, ripe, firm, oily, semielastic, normal strength, clear finish, deep color intensity, normal width, 90 percent uniform, and 10 percent injury tolerance.
C3L	Good Light-brown Thin Leaf Thin, ripe, firm, oily, inelastic, normal strength, clear finish, moderate color intensity, normal width, 80 percent uniform, and 20 percent injury tolerance.
C4L	Fair Light-brown Thin Leaf Thin, mature, close, lean in oil, inelastic, weak, dull finish, pale color intensity, narrow, 70 percent uniform, and 30 percent injury tolerance.
C5L	Low Light-brown Thin Leaf Thin, mature, close, lean in oil, inelastic, weak, dull finish, pale color intensity, narrow, 60 percent uniform, and 40 percent injury tolerance.
C1F	Choice Medium-brown Thin Leaf Thin, ripe, firm, oily, semielastic, normal strength, bright finish, deep color intensity, normal width, 95 percent uniform, and 5 percent injury tolerance.
C2F	Fine Medium-brown Thin Leaf Thin, ripe, firm, oily, semielastic, normal strength, clear finish, deep color intensity, normal width, 90 percent uniform, and 10 percent injury tolerance.
C3F	Good Medium-brown Thin Leaf Thin, ripe, firm, oily, inelastic, normal strength, clear finish, moderate color intensity, normal width, 80 percent uniform, and 20 percent injury tolerance.
C4F	Fair Medium-brown Thin Leaf Thin, mature, close, lean in oil, inelastic, weak, dull finish, pale color intensity, narrow, 70 percent uniform, and 30 percent injury tolerance.
C5F	Low Medium-brown Thin Leaf Thin, mature, close, lean in oil, inelastic, weak, dull finish, pale color intensity, narrow, 60 percent uniform, and 40 percent injury tolerance.
C1D	Choice Dark-brown Thin Leaf Thin, ripe, firm, oily, semielastic, normal strength, bright finish, deep color intensity, normal width, 95 percent uniform, and 5 percent injury tolerance.
C2D	Fine Dark-brown Thin Leaf Thin, ripe, firm, oily, semielastic, normal strength, clear finish, deep color intensity, normal width, 90 percent uniform, and 10 percent injury tolerance.
C3D	Good Dark-brown Thin Leaf Thin, ripe, firm, oily, inelastic, normal strength, clear finish, moderate color intensity, normal width, 80 percent uniform, and 20 percent injury tolerance.
C4D	Fair Dark-brown Thin Leaf Thin, mature, close, lean in oil, inelastic, weak, dull finish, pale color intensity, narrow, 70 percent uniform, and 30 percent injury tolerance.
C5D	Low Dark-brown Thin Leaf Thin, mature, close, lean in oil, inelastic, weak, dull finish, pale color intensity, narrow, 60 percent uniform, and 40 percent injury tolerance.
C3M	Good Mixed Color or Variegated Thin Leaf Thin, ripe, firm, oily, inelastic, normal strength, clear finish, normal width, 80 percent uniform, and 20 percent injury tolerance.
C4M	Fair Mixed Color or Variegated Thin Leaf Thin, mature, close, lean in oil, inelastic, weak, dull finish, narrow, 70 percent uniform, and 30 percent injury tolerance.
C5M	Low Mixed Color or Variegated Thin Leaf Thin, mature, close, lean in oil, inelastic, weak, dull finish, narrow, 60 percent uniform, and 40 percent injury tolerance.
C3VF	Good Greenish Medium-brown Thin Leaf Thin, mature, firm, oily, inelastic, normal strength, clear finish, normal width, 80 percent uniform, and 20 percent injury tolerance.
C4VF	Fair Greenish Medium-brown Thin Leaf Thin, mature, close, lean in oil, inelastic, weak, dull finish, narrow, 70 percent uniform, and 30 percent injury tolerance.
C5VF	Low Greenish Medium-brown Thin Leaf Thin, mature, close, lean in oil, inelastic, weak, dull finish, narrow, 60 percent uniform, and 40 percent injury tolerance.
C3G	Good Green Thin Leaf Thin, mature, firm, oily, inelastic, normal strength, clear finish, normal width, 80 percent uniform, and 20 percent injury tolerance.
C4G	Fair Green Thin Leaf Thin, immature, close, lean in oil, inelastic, weak, dull finish, narrow, 70 percent uniform, and 30 percent injury tolerance.

U.S. grades	Grade names and specifications
C5G	Low Green Thin Leaf Thin, immature, close, lean in oil, inelastic, weak, dull finish, narrow, 60 percent uniform, and 40 percent injury tolerance.

§ 29.2664 Lugs (X Group).

This group consists of leaves that normally grow near the bottom of the stalk. Leaves of the X group usually have a high degree of maturity and show ground injury.

U.S. grades	Grade names and specifications
X1L	Choice Light-brown Lugs Thin, ripe, firm, oily, normal strength, clear finish, moderate color intensity, 95 percent uniform, and 5 percent injury tolerance.
X2L	Fine Light-brown Lugs Thin, ripe, firm, oily, normal strength, clear finish, moderate color intensity, 90 percent uniform, and 10 percent injury tolerance.
X3L	Good Light-brown Lugs Thin, ripe, firm, lean in oil, weak, dull finish, pale color intensity, 80 percent uniform, and 20 percent injury tolerance.
X4L	Fair Light-brown Lugs Thin, mature, open, lean in oil, weak, dull finish, pale color intensity, 70 percent uniform, and 30 percent injury tolerance.
X5L	Low Light-brown Lugs Thin, mature, open, lean in oil, weak, dull finish, pale color intensity, 60 percent uniform, and 40 percent injury tolerance.
X1F	Choice Medium-brown Lugs Medium body, ripe, firm, oily, normal strength, clear finish, moderate color intensity; 95 percent uniform, and 5 percent injury tolerance.
X2F	Fine Medium-brown Lugs Medium body, ripe, firm, oily, normal strength, clear finish, moderate color intensity, 90 percent uniform, and 10 percent injury tolerance.
X3F	Good Medium-brown Lugs Medium body, ripe, firm, lean in oil, weak, dull finish, pale color intensity, 80 percent uniform, and 20 percent injury tolerance.
X4F	Fair Medium-brown Lugs Thin to medium body, mature, open, lean in oil, weak, dull finish, pale color intensity, 70 percent uniform, and 30 percent injury tolerance.
X5F	Low Medium-brown Lugs Thin to medium body, mature, open, lean in oil, weak, dull finish, pale color intensity, 60 percent uniform, and 40 percent injury tolerance.
X1D	Choice Dark-bown Lugs Heavy, ripe, firm, oily, normal strength, clear finish, moderate color intensity, 95 percent uniform, and 5 percent injury tolerance.
X2D	Fine Dark-brown Lugs Heavy, ripe, firm, oily, normal strength, clear finish, moderate color intensity, 90 percent uniform, and 10 percent injury tolerance.
X3D	Good Dark-brown Lugs Heavy, ripe, firm, lean in oil, weak, dull finish, pale color intensity, 80 percent uniform, and 20 percent injury tolerance.
X4D	Fair Dark-brown Lugs Medium to heavy body, mature, open, lean in oil, weak, dull finish, pale color intensity, 70 percent uniform, and 30 percent injury tolerance.
X5D	Low Dark-brown Lugs Thin to heavy, mature, open, lean in oil, weak, dull finish, pale color intensity, 60 percent uniform, and 40 percent injury tolerance.
X3M	Good Mixed Color or Variegated Lugs Thin to heavy, ripe, firm, lean in oil, weak, dull finish, 80 percent uniform, and 20 percent injury tolerance.
X4M	Fair Mixed Color or Variegated Lugs Thin to heavy, mature, close, lean in oil, weak, dull finish, 70 percent uniform, and 30 percent injury tolerance.
X5M	Low Mixed Color or Variegated Lugs Thin to heavy, mature, close, lean in oil, weak, dull finish, 60 percent uniform, and 40 percent injury tolerance.
X3VF	Good Greenish Medium-brown Lugs Medium body, mature, firm, lean in oil, weak, dull finish, 80 percent uniform, and 20 percent injury tolerance.
X4VF	Fair Greenish Medium-brown Lugs Thin to medium body, mature, close, lean in oil, weak, dull finish, 70 percent uniform, and 30 percent injury tolerance.
X5VF	Low Greenish Medium-brown Lugs Thin to medium body, mature, close, lean in oil, weak, dull finish, 60 percent uniform, and 40 percent injury tolerance.
X3G	Good Green Lugs Heavy, mature, firm, weak, lean in oil, dull finish, 80 percent uniform, and 20 percent injury tolerance.
X4G	Fair Green Lugs Thin to medium body, immature, close, lean in oil, weak, dull finish, 70 percent uniform, and 30 percent injury tolerance.
X5G	Low Green Lugs Thin to medium body, immature, close, lean in oil, weak, dull finish, 60 percent uniform, and 40 percent injury tolerance.

§ 29.2665 Nondescript (N Group).

Extremely common tobacco which does not meet the minimum specifications or which exceeds the tolerance of the lowest grade of any other group except Scrap.

U.S. grades	Grade names and specifications
N1L	First Quality Crude Green Nondescript Thin to medium body and 60 percent injury tolerance.
N1D	First Quality Dark Colored Nondescript Medium to heavy body and 60 percent injury tolerance.
N1G	First Quality Crude Green Nondescript 60 percent crude leaves or injury tolerance.
N2	Substandard Nondescript Nondescript of any group or color; over 60 percent crude leaves or injury tolerance.

§ 29.2666 Scrap (S Group).

A byproduct of unstemmed and stemmed tobacco. Scrap accumulates from handling tobacco in farm buildings, warehouses, packing and conditioning plants, and stemmeries.

U.S. grades	Grade names and specifications
S	Scrap Tangled, whole, or broken unstemmed leaves, or the web portions of tobacco leaves reduced to scrap by any process.

Summary of Standard Grades

§ 29.2686 Summary of standard grades.

6 Grades of Wrappers

A1F	A3F	A2D	A3D
A2F	A1D		

19 Grades of Heavy Leaf

B1F	B1D	B3M	B5VF
B2F	B2D	B4M	B3G
B3F	B3D	B5M	B4G
B4F	B4D	B3VF	B5G
B5F	B5D	B4VF	

24 Grades of Thin Leaf

C1L	C2F	C3D	C3VF
C2L	C3F	C4D	C4VF
C3L	C4F	C5D	C5VF
C4L	C5F	C3M	C3G
C5L	C1D	C4M	C4G
C1F	C2D	C5M	C5G

24 Grades of Lugs

X1L	X2F	X3D	X3VF
X2L	X3F	X4D	X4VF
X3L	X4F	X5D	X5VF
X4L	X5F	X3M	X3G
X5L	X1D	X4M	X4G
X1F	X2D	X5M	X5G

4 Grades of Nondescript

N1L	N1D	N1G	N2

1 Grade of Scrap

S

Special factors "U" and "W" may be applied to all grades. Tobacco not covered by the standard grades is designated "No-G."

U.S. Standard Sizes Applicable

A1, A2, A3 ..... 45, 46, 47
B1, B2 ..... 44, 45, 46, 47
B3, B4, B5 ..... 43, 44, 45, 46, 47
C1, C2 ..... 44, 45, 46, 47
C3, C4, C5 ..... 43, 44, 45, 46, 47

Key to Standard Grademarks

§ 29.2696 Key to standard grademarks.

Groups

A—Wrappers.
B—Heavy Leaf.
C—Thin Leaf.
X—Lugs.
N—Nondescript.
S—Scrap.

Qualities

1—Choice.
2—Fine.
3—Good.
4—Fair.
5—Low.

Colors

L—Light brown.
F—Medium brown.
D—Dark brown.
M—Mixed or variegated.
VF—Greenish medium brown.
G—Green.

(49 Stat. 734; 7 U.S.C. 511m)

Done at Washington, D.C., this 30th day of May 1972.

JOHN C. BLUM,
Acting Deputy Administrator, Marketing Services.

[FR Doc.72-8344 Filed 6-2-72;8:45 am]

Rural Electrification Administration

[7 CFR Part 1701]

LOANS TO ELECTRIC DISTRIBUTION BORROWERS

Criteria for Participation in Supplemental Financing

Notice is hereby given that, pursuant to the Rural Electrification Act, as amended (7 U.S.C. 901 et seq.), REA proposes to issue an amendment to REA Bulletin 20–14, Supplemental Financing for Loans Considered Under Section 4 of the Rural Electrification Act, dated June 1971. The purpose of this amendment is to provide for the broadening of the participation of supplemental lenders in loans to rural electric distribution systems made concurrently with REA.

In recognition of REA borrowers' growing need for capital and the availability of REA loan funds to meet these needs, the National Rural Utilities Cooperative Finance Corporation (CFC) has proposed an increase in its participation in loans to distribution systems made concurrently with REA. To fully utilize CFC and other supplemental financing resources, REA proposes amending REA Bulletin 20–14 to provide for increased participation by supplemental lenders.

The principal provisions of the proposed amendment to REA Bulletin 20–14 are as follows:

1. On concurrent loans to distribution borrowers from REA and supplemental lenders, the loan proportions from the two sources of financing will continue to be based on the Plant Revenue Ratio (PRR) but the formula has been modified to broaden the participation of the supplemental lenders. The revised formula is specified below in the proposed revision of Attachment A to REA Bulletin 20–14. This new formula would be effective when total REA loans in the electric program made after July 1, 1971 total $545 million.

2. Borrowers which have previously received one or more concurrent REA and non-REA loans, will be generally expected to continue to obtain a portion of their long-term funds from a supplemental financing source.

The Times Interest Earned Ratios (TIER) and the Debt Service Coverage (DSC) ratios, establishing eligibility of distribution borrowers for supplemental financing, are not changed.

Persons interested in this amendment to REA Bulletin 20–14, may submit written data, views, or comments to the Director, Power Supply, Management and Engineering Standards Division, Room 3313, South Building, Rural Electrification Administration, U.S. Department of Agriculture, Washington, D.C. 20250. The comments and views should be submitted not later than 30 days from the publication of this notice in the FEDERAL REGISTER. All written submissions made pursuant to this notice will be made available for public inspection at the Office of the Director, Power Supply, Management and Engineering Standards Division during regular business hours.

The proposed supplemental loan criteria for electric distribution borrowers are shown below in the proposed revision of Attachment A to REA Bulletin 20–14.

ATTACHMENT A

SUPPLEMENTAL LOAN CRITERIA FOR ELECTRIC DISTRIBUTION BORROWERS

I. *Borrower eligibility for supplemental financing.* Borrowers in either of the following two categories will be expected, unless there are exceptional circumstances as determined by the Administrator, to obtain a portion of their long-term loan funds from a supplemental financing source:

A. Borrowers which have not previously received a concurrent REA and non-REA loan and which have a:

1. Times Interest Earned Ratio (TIER) (average of highest two ratios in last 3 years) of 1.5 or more, and

2. Debt Service Coverage (DSC) (average of highest two of last 3 years) of 1.25 or more.

B. Borrowers which have received one or more concurrent REA and non-REA loans.

II. *Loan proportions for concurrent loans:* The loan proportions for concurrent loans will be based on the borrower's Plant Revenue Ratio (PRR). The following proportions become effective when the REA electric loans made after July 1, 1971, total $545 million:

PRR	REA percentage	Supplemental lender percentage
9.01 and above	90	10
8.01 to 9.0	80	20
8.00 and below	70	30

DAVID A. HAMIL,
Administrator.

[FR Doc.72-8457 Filed 6-2-72;8:53 am]

FEDERAL AVIATION ADMINISTRATION

[14 CFR Part 39]

[Docket No. 72-WE-10-AD]

McDONNELL DOUGLAS MODEL DC–8 AND DC–9 AIRPLANES

Proposed Airworthiness Directives

The Federal Aviation Administration is considering amending Part 39 of the Federal Aviation Regulations by adding an airworthiness directive applicable to McDonnell Douglas Models DC–8 and DC–9 Airplanes. Rudder pedal casting arm failures have been reported. These failures were caused by defective castings. X-ray inspection of other rudder pedal arm castings has detected four additional defective castings. Failure of the rudder pedal could jeopardize the safe operation of the airplane. The manufacturer has issued Service Bulletins 27–247 and 27–148 to operators of Model DC–8 and DC–9 Airplanes outlining an inspection procedure for the detection of defective rudder pedal arm castings. Since this condition is likely to exist in other airplanes of the same type design, the proposed airworthiness directive would require a one-time-only inspection of the rudder pedal arm casting per the manufacturer's inspection instructions and replacement of any casting that exceeds the defect limits specified in the service bulletins.

Interested persons are invited to participate in the making of the proposed rule by submitting such written data, views, or arguments as they may desire. Communications should identify the docket number and be submitted in duplicate to the Department of Transportation, Federal Aviation Administration, Western Region, Attention: Regional Counsel, Airworthiness Rule Docket, Post Office Box 92007, Worldway Postal Center, Los Angeles, CA 90009. All communications received on or before July 3, 1972, will be considered by the Administrator before taking action upon the proposed rule. The proposals contained in the notice may be changed in light of comments received. All comments will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons.

In consideration of the foregoing, it is proposed to amend § 39.13 of Part 39 of the Federal Aviation Regulations by adding the following new airworthiness directive.

McDONNELL DOUGLAS. Applies to Model DC–8 Series Airplanes, Fuselage Nos. 1 through 551, inclusive, which correspond to the factory serial numbers listed in Douglas Service Bulletin No. 27–247, dated January 21, 1972, or later FAA-approved revisions; and Model DC–9 Series airplanes, Fuselage Nos. 1–19, 21–32, 35–546, 548–638, and 640 which correspond to the factory serial numbers listed in Douglas Service Bulletin No. 27–148, dated January 21, 1972, or later FAA-approved revisions.

Compliance required within the next 90 days after the effective date of this AD unless already accomplished.

To detect defective rudder pedal arm castings perform a one-time-only inspection in accordance with:

(1) For Model DC–8 airplanes; per Service Bulletin 27–247, dated January 21, 1972, or later FAA-approved revisions or other FAA-approved equivalent inspection, or

(2) For Model DC–9 airplanes; per Service Bulletin 27–148, dated January 21, 1972, or later FAA-approved revisions, or other FAA-approved equivalent inspection.

Replace any casting that exceeds the defect limits specified in paragraph 2(h) of the Service Bulletins.

This amendment is proposed under the authority of sections 313(a), 601, and 603 of the Federal Aviation Act of 1958 (49 U.S.C. 1354(a), 1421, and 1423) and section 6(c) of the Department of Transportation Act (49 U.S.C. 1655(c)).

Issued in Los Angeles, Calif., on May 24, 1972.

ROBERT O. BLANCHARD,
Acting Director,
FAA Western Region.

[FR Doc.72-8370 Filed 6-2-72;8:46 am]

[14 CFR Part 71]

[Airspace Docket No. 72-AL-7]

CONTROL ZONE AND TRANSITION AREA

Proposed Alteration

The Federal Aviation Administration is considering amendments to Part 71

of the Federal Aviation Regulations which would alter the Homer, Alaska, terminal airspace structure.

Interested persons may submit such written data, views, or arguments as they may desire. Communications should be submitted in triplicate to the Chief, Air Traffic Division, Alaskan Region, Federal Aviation Administration, 632 Sixth Avenue, Anchorage, AK 99501. 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 amendments. No public hearing is contemplated at this time, but arrangements for informal conferences with Federal Aviation Administration officials may be made by contacting the Chief, Air Traffic Division. Any data, views, or arguments presented during such conferences must also be submitted in writing in accordance with this notice in order to become part of the record for consideration. The proposal contained in this notice may be changed in the light of comments received.

The official docket will be available for examination by interested persons at the office of the Regional Counsel, Federal Aviation Administration, 632 Sixth Avenue, Anchorage, AK 99501.

Application of the U.S. Standard for Terminal Instrument Procedures (TERPS) and revised criteria for establishment of terminal controlled airspace require amendments to the Homer, Alaska, control zone and transition area. In addition, the effective period of the Homer control zone would be reduced to coincide with the Homer Flight Service Station hours of operation. Refined coordinates of the Airport Reference Point (ARP) are also contained in this docket. The following airspace actions are proposed:

1. Alter the Homer, Alaska, control zone by redesignating it as that airspace within a 5-mile radius of Homer Airport (latitude 59°38'35" N., longitude 151°28'-52" W.). This control zone is effective from 0545 through 2145 local time daily, or during the specific dates and times established in advance by Notice to Airmen. The effective date and time will thereafter be continuously published in the U.S. Government Flight Information Publication Supplement Alaska.

2. Alter the Homer, Alaska, transition area by redesignating it as that airspace extending upward from 700 feet above the surface within 2 miles each side of the 234° True (210° Magnetic) bearing from the Homer Airport (latitude 59°38'35" N., longitude 151°28'52" W.), extending from the control zone to 8.5 miles southwest of the airport; that airspace extending upward from 1,200 feet above the surface, within 8.5 miles south and 5.5 miles north of the 265° True (241° Magnetic) and 085° True (061° Magnetic) bearings from the Homer RR, extending from 17.5 miles west to 7 miles east of the RR; within 7.5 miles northwest and 12 miles southeast of the Homer VORTAC 224° True (200° Magnetic) and 044° True (020° Magnetic) radials, extending from 22.5 miles southwest to 10 miles northeast of the VORTAC; and within a 55.5-mile radius of the Homer VORTAC extending counterclockwise from the south boundary of V436E west of Homer, to the west boundary of V438W southwest of Homer.

The action proposed herein would alter the Homer transition area by increasing the overall dimension to provide controlled airspace, required by the revised criteria, for aircraft executing prescribed instrument departure and holding procedures beyond the limits of the control zone.

The proposed addition of a 700-foot floor to the transition area southwest of the Homer Airport would provide necessary controlled airspace, under revised criteria, for aircraft executing prescribed instrument departures from Runway 21.

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

Issued in Anchorage, Alaska, on May 19, 1972.

JACK G. WEBB,
Director, Alaskan Region.

[FR Doc.72-8371 Filed 6-2-72;8:46 am]

[14 CFR Part 71]

[Airspace Docket No. 72-AL-9]

CONTROL ZONE AND TRANSITION AREA

Proposed Alteration

The Federal Aviation Administration (FAA) is considering amendments to Part 71 of the Federal Aviation Regulations that would alter the Point Barrow, Alaska, control zone and transition area.

Interested persons may participate in the proposed rule making by submitting such written data, views, or arguments as they may desire. Communications should identify the airspace docket number and be submitted in triplicate to the Director, Alaskan Region, Attention: Chief, Air Traffic Division, Federal Aviation Administration, 632 Sixth Avenue, Anchorage, AK 95501. 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 amendments. The proposals contained in this notice may be changed in the light of comments received.

An official docket will be available for examination by interested persons at the Federal Aviation Administration, Office of the General Counsel, Attention: Rules Docket, 800 Independence Avenue SW., Washington, DC 20591. An informal docket also will be available for examination at the office of the Regional Air Traffic Division Chief.

As parts of these proposals relate to the navigable airspace outside the United States, this notice is submitted in consonance with the ICAO International Standards and Recommended Practices.

Applicability of International Standards and Recommended Practices by the Air Traffic Service, FAA, in areas outside domestic airspace of the United States is governed by Article 12 of and Annex 11 to the Convention on International Civil Aviation, which pertain to the establishment of air navigation facilities and services necessary to promoting the safe, orderly, and expeditious flow of civil air traffic. Their purpose is to insure that civil flying on international air routes is carried out under uniform conditions designed to improve the safety and efficiency of air operations.

The International Standards and Recommended Practices in Annex 11 apply in those parts of the airspace under the jurisdiction of a contracting state, derived from ICAO, wherein air traffic services are provided and also whenever a contracting state accepts the responsibility of providing air traffic services over high seas or in airspace of undetermined sovereignty. A contracting state accepting such responsibility may apply the International Standards and Recommended Practices to civil aircraft in a manner consistent with that adopted for airspace under its domestic jurisdiction.

In accordance with Article 3 of the Convention on International Civil Aviation, Chicago, 1944, state aircraft are exempt from the provisions of Annex 11 and its Standards and Recommended Practices. As a contracting state, the United States agreed by Article 3(d) that its state aircraft will be operated in international airspace with due regard for the safety of civil aircraft.

Since these actions involve, in part, the designation of navigable airspace outside the United States, the Administrator has consulted with the Secretary of State and the Secretary of Defense in accordance with the provisions of Executive Order 10854.

The airspace actions proposed in this docket would:

1. Amend the Point Barrow control zone to read as follows:

Within a 5-mile radius of the Point Barrow AFS Airport (lat. 71°20'21" N., long. 156°37'-45" W.); within a 5-mile radius of the Wiley Post-Will Rogers Memorial Airport (lat. 71°-17'11" N., long. 156°46'15" W.); within the arc of a 10-mile radius of the Point Barrow RBN (PBA), extending clockwise from the 010° bearing to the 066° bearing of the Point Barrow RBN (PBA); within 2.5 miles each side of the Barrow RBN (BRW) 090° bearing, extending from the 5-mile-radius zone to 14 miles east of the RBN; within 2.5 miles each side of the Barrow RBN (BRW) 226° bearing, extending from the 5-mile-radius zone to 10 miles southwest of the RBN; and within 2.5 miles each side of the Barrow RBN (BRW) 270° bearing, extending from the 5-mile-radius zone to 10.5 miles west of the RBN.

2. Amend the Point Barrow transition area to read as follows:

That airspace extending upward from 700 feet above the surface within 3 miles each side of the Point Barrow RBN (PBA) 160° bearing, extending from the control zone to 10 miles south of the RBN; and that airspace extending upward from 1,200 feet above the surface within a 22-mile radius of lat. 71°-18'00" N., long. 156°43'00" W.

The proposed alterations of the control zone and transition area are necessary to provide controlled airspace required by existing criteria for aircraft operating under instrument flight rules to and from the Point Barrow terminal area.

These amendments are proposed under the authority of sections 307(a) and 1110 of the Federal Aviation Act of 1958 (49 U.S.C. 1348(a) and 1510), Executive Order 10854 (24 F.R. 9565) and section 6(c) of the Department of Transportation Act (49 U.S.C. 1655(c)).

Issued in Washington, D.C., on May 26, 1972.

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

[FR Doc.72-8372 Filed 6-2-72;8:46 am]

[14 CFR Part 71]

[Airspace Docket No. 72-AL-11]

CONTROL ZONE AND TRANSITION AREA

Proposed Alteration

The Federal Aviation Administration is considering amendments to Part 71 of the Federal Aviation Regulations which would alter the Kodiak, Alaska, terminal airspace structure.

Interested persons may submit such written data, views, or arguments as they may desire. Communications should be submitted in triplicate to the Chief, Air Traffic Division, Alaskan Region, Federal Aviation Administration, 632 Sixth Avenue, Anchorage, AK 99501. 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 amendments. No public hearing is contemplated at this time, but arrangements for informal conferences with Federal Aviation Administration officials may be made by contacting the Chief, Air Traffic Division. Any data, views, or arguments presented during such conferences must also be submitted in writing in accordance with this notice in order to become part of the record for consideration. The proposal contained in this Notice may be changed in the light of comments received.

The official docket will be available for examination by interested persons at the office of the Regional Counsel, Federal Aviation Administration, 632 Sixth Avenue, Anchorage, AK 99501.

Application of the U.S. Standard for Terminal Instrument Procedures (TERPS) and revised criteria for establishment of terminal controlled airspace require amendments to the Kodiak, Alaska, control zone and transition area. Refined coordinates of the Airport Reference Point (ARP) are also contained in this docket. The following airspace actions are proposed:

1. Redesignate the Kodiak, Alaska, control zone as that airspace within a 5-mile radius of the Kodiak Airport (latitude 57°45'02" N., longitude 152°29'19" W.); and within 3 miles north and 3.5 miles south of the Kodiak VORTAC 072° True (049° Magnetic) and 252° True (229° Magnetic) radials extending from the 5-mile radius zone to 9.5 miles east of the VORTAC.

2. Redesignate the Kodiak, Alaska, transition area as that airspace extending upward from 1,200 feet above the surface within a 29-mile radius of the Kodiak Airport (latitude 57°45'02" N., longitude 152°29'19" W.); and within a 35-mile radius of the Kodiak Airport, extending clockwise from the 029° True (006° Magnetic) to the 085° True (062° Magnetic) bearing from the airport.

The action proposed herein would alter the Kodiak control zone by increasing the length and width of the present northeast extension to comply with new criteria. The present extension to the east would be eliminated due to decommissioning of the TACAN. The 1,200-foot transition area would be increased to provide additional controlled airspace for aircraft executing prescribed instrument departures.

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

Issued in Anchorage, Alaska, on May 19, 1972.

JACK G. WEBB,
Director, Alaskan Region.

[FR Doc.72-8373 Filed 6-2-72;8:46 am]

[14 CFR Part 71]

[Airspace Docket No. 71-AL-19]

CONTROL ZONE DESCRIPTION AND TRANSITION AREA

Proposed Alteration

The Federal Aviation Administration is considering amendments to Part 71 of the Federal Aviation Regulations which would correct the name of the airport at Tanana, Alaska, to reflect a relatively recent name change and alter the Tanana, Alaska, transition area.

Interested persons may submit such written data, views, or arguments as they may desire. Communications should be submitted in triplicate to the Chief, Air Traffic Division, Alaskan Region, Federal Aviation Administration, 632 Sixth Avenue, Anchorage, AK 99501. 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 amendments. No public hearing is contemplated at this time, but arrangements for informal conferences with Federal Aviation Administration officials may be made by contacting the Chief, Air Traffic Division. Any data, views, or arguments presented during such conferences must also be submitted in writing in accordance with this notice in order to become part of the record for consideration. The proposal contained in this Notice may be changed in the light of comments received.

The following airspace actions are proposed:

1. Amend the text of the Tanana, Alaska, control zone description by changing the airport name from "Tanana Airport" to "Ralph M. Calhoun Memorial Airport."

2. Alter the Tanana, Alaska, transition area by redesignating it as that airspace extending upward from 700 feet above the surface within a 5-mile radius of the Ralph M. Calhoun Memorial Airport (latitude 65°10'30" N., longitude 152°06'32" W.); and within 9.5 miles south and 4.5 miles north of the Bear Creek radio beacon 251° True (225° Magnetic) bearing extending from the radio beacon to 18.5 miles west.

The action proposed herein would amend the Tanana, Alaska, control zone description by changing the airport name. The transition area would be altered by adding a 5-mile radius area to provide protected airspace, from 700 feet above the surface, for aircraft conducting instrument approach and departure procedures when the control zone is not effective.

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

Issued in Anchorage, Alaska, on May 19, 1972.

JACK G. WEBB,
Director, Alaskan Region.

[FR Doc.72-8374 Filed 6-2-72;8:46 am]

[14 CFR Part 71]

[Airspace Docket No. 72-CE-16]

TRANSITION AREA

Proposed Designation

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

Interested persons may participate in the proposed rule making by submitting such written data, views, or arguments as they may desire. Communications should be submitted in triplicate to the Director, Central Region, Attention: Chief, Air Traffic Division, Federal Aviation Administration, Federal Building, 601 East 12th Street, Kansas City, MO 64106. All communications received within 45 days after publication of this notice in the FEDERAL REGISTER will be considered before action is taken on the proposed amendment. No public hearing is contemplated at this time, but arrangements for informal conferences with Federal Aviation Administration officials may be made by contacting the Regional Air Traffic Division Chief. Any data, views, or arguments presented during such conferences must also be submitted in writing in accordance with this notice in order to become part of the record for consideration. The proposal contained in this notice may be changed in the light of comments received.

A public docket will be available for examination by interested persons in the Office of the Regional Counsel, Federal Aviation Administration, Federal Building, 601 East 12th Street, Kansas City, MO 64106.

A new public use instrument approach procedure is being developed for the Oelwein Municipal Airport, Oelwein, Iowa. Consequently, it is necessary to provide controlled airspace protection for aircraft executing this new approach procedure by designating a transition area at Oelwein, Iowa.

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

In § 71.181 (37 F.R. 2143), the following transition area is added:

OELWEIN, IOWA

That airspace extending upward from 700 feet above the surface within a 6-statute-mile radius of the Oelwein Municipal Airport (latitude 42°41'04" N., longitude 91°58'42" W.); and within 3.5 statute miles each side of the 303° bearing from the airport reference point extending from the 6-mile radius to 11.5 miles northwest of the airport; that airspace extending upward from 1,200 feet above the surface within the arc of a 29-mile-radius circle centered on the Waterloo VORTAC, excluding that portion overlying the Waterloo, Iowa, 1,200-foot 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), and of section 6(c) of the Department of Transportation Act (49 U.S.C. 1655(c)).

Issued in Kansas City, Mo., on May 16, 1972.

CHESTER W. WELLS,
Acting Director, Central Region.

[FR Doc.72-8375 Filed 6-2-72;8:47 am]

[14 CFR Part 71]

[Airspace Docket No. 72-EA-32]

TRANSITION AREA

Proposed Designation

The Federal Aviation Administration (FAA) is considering an amendment to Part 71 of the Federal Aviation Regulations that would designate a transition area at Westhampton Beach, N.Y.

Interested persons may participate in the proposed rule making by submitting such written data, views, or arguments as they may desire. Communications should identify the airspace docket number and be submitted in triplicate to the Director, Eastern Region, Attention: Chief, Air Traffic Division, Federal Aviation Administration, Federal Building, John F. Kennedy International Airport, Jamaica, N.Y. 11430. 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. The proposal contained in this notice may be changed in the light of comments received.

An official docket will be available for examination by interested persons at the Federal Aviation Administration, Office of the General Counsel, Attention: Rules Docket, 800 Independence Avenue SW., Washington, DC 20591. An informal docket also will be available for examination at the office of the Regional Air Traffic Division Chief.

As part of this proposal relates to the navigable airspace outside the United States, this notice is submitted in consonance with the ICAO International Standards and Recommended Practices.

Applicability of International Standards and Recommended Practices by the Air Traffic Service, FAA, in areas outside domestic airspace of the United States is governed by Article 12 of and Annex 11 to the Convention on International Civil Aviation, which pertain to the establishment of air navigation facilities and services necessary to promoting the safe, orderly, and expeditious flow of civil air traffic. Their purpose is to insure that civil flying on international air routes is carried out under uniform conditions designed to improve the safety and efficiency of air operations.

The International Standards and Recommended Practices in Annex 11 apply in those parts of the airspace under the jurisdiction of a contracting state, derived from ICAO, wherein air traffic services are provided and also whenever a contracting state accepts the responsibility of providing air traffic services over high seas or in airspace of undetermined sovereignty. A contracting state accepting such responsibility may apply the International Standards and Recommended Practices to civil aircraft in a manner consistent with that adopted for airspace under its domestic jurisdiction.

In accordance with Article 3 of the Convention on International Civil Aviation, Chicago, 1944, state aircraft are exempt from the provisions of Annex 11 and its Standards and Recommended Practices. As a contracting state, the United States agreed by Article 3(d) that its state aircraft will be operated in international airspace with due regard for the safety of civil aircraft.

Since this action involves, in part, the designation of navigable airspace outside the United States, the Administrator has consulted with the Secretary of State and the Secretary of Defense in accordance with the provisions of Executive Order 10854.

The airspace action proposed in this docket would designate a transition area to read as follows:

WESTHAMPTON BEACH, N.Y.

That airspace extending upward from 700 feet above the surface within a 9-mile radius of Suffolk County Airport, Westhampton Beach, N.Y. (lat. 40°50'39" N., long. 72°37'-49" W.).

The proposed transition area is needed to provide controlled airspace for aircraft executing arrival and departure procedures at Suffolk County Airport. A new TACAN facility will be established to support these procedures.

This amendment is proposed under the authority of sections 307(a) and 1110 of the Federal Aviation Act of 1958 (49 U.S.C. 1348(a) and 1510), Executive Order 10854 (24 F.R. 9565) and section 6(c) of the Department of Transportation Act (49 U.S.C. 1655(c)).

Issued in Washington, D.C., on May 26, 1972.

LOUIS H. MCCAUGNEY,
Acting Chief, Airspace and Air Traffic Rules Division.

[FR Doc.72-8376 Filed 6-2-72;8:47 am]

[14 CFR Part 71]

[Airspace Docket No. 72-GL-29]

FEDERAL AIRWAY SEGMENT

Proposed Alteration

The Federal Aviation Administration (FAA) is considering an amendment to Part 71 of the Federal Aviation Regulations that would alter the segment of VOR Federal airway No. 10 between Bradford, Ill., and Naperville, Ill.

Interested persons may participate in the proposed rule making by submitting such written data, views, or arguments as they may desire. Communications should identify the airspace docket number and be submitted in triplicate to the Director, Great Lakes Region, Attention: Chief, Air Traffic Division, Federal Aviation Administration, 2300 East Devon, Des Plaines, IL 60018. 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. The proposal contained in this notice may be changed in the light of comments received.

An official docket will be available for examination by interested persons at the Federal Aviation Administration, Office of the General Counsel, Attention: Rules Docket, 800 Independence Avenue SW., Washington, DC 20591. An informal docket also will be available for examination at the office of the Regional Air Traffic Division Chief.

The FAA proposes to realign V-10 segment from Bradford via the intersection of Bradford 056° T(052° M) and Naperville 253° T(251° M) radials; to Naperville. This proposed amendment would shorten the en route mileage for the airway segment. In addition the realigned segment would adjust to the revised Chicago ARTC sector boundaries and would facilitate the movement of traffic within the Chicago terminal 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 section 6(c) of the Department of Transportation Act (49 U.S.C. 1655(c)).

Issued in Washington, D.C., on May 26, 1972.

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

[FR Doc.72-8377 Filed 6-2-72;8:47 am]

[14 CFR Part 71]

[Airspace Docket No. 72-SW-31]

TRANSITION AREA

Proposed Designation

The Federal Aviation Administration is considering amending Part 71 of the

Federal Aviation Regulations to designate a 700-foot transition area at Kenedy, Tex.

Interested persons may submit such written data, views, or arguments as they may desire. Communications should be submitted in triplicate to Chief, Airspace and Procedures Branch, Air Traffic Division, Southwest Region, Federal Aviation Administration, Post Office Box 1689, Fort Worth, TX 76101. 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 public 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 the light of comments received.

The official docket will be available for examination by interested persons at the Office of the Regional Counsel, Southwest Region, Federal Aviation Administration, Fort Worth, Tex. An informal docket will also be available for examination at the Office of the Chief, Airspace and Procedures Branch, Air Traffic Division.

It is proposed to amend Part 71 of the Federal Aviation Regulations as hereinafter set forth.

In § 71.181 (37 F.R. 2143), the following transition area is added:

KENEDY, TEX.

That airspace extending upward from 700 feet above the surface within a 5-mile radius of the Karnes County Airport (latitude 28°49'30" N., longitude 97°51'55" W.) and within 5 miles each side of the Three Rivers VORTAC 038° T (029° M) radial extending from the 5-mile radius to 17 miles northeast of the Three Rivers VORTAC.

The proposed transition area will provide controlled airspace for aircraft executing approach/departure procedures at the Karnes County Airport, Kenedy, Tex.

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

Issued in Fort Worth, Tex., on May 25, 1972.

R. V. REYNOLDS,
Acting Director, Southwest Region.

[FR Doc.72-8379 Filed 6-2-72;8:47 am]

[14 CFR Part 75]

[Airspace Docket No. 72-SW-18]

JET ROUTE SEGMENTS

Proposed Alteration

The Federal Aviation Administration (FAA) is considering amendments to Part 75 of the Federal Aviation Regulations that would alter segments of Jet Routes Nos. 22, 29, 37, and 138.

Interested persons may participate in the proposed rule making by submitting such written data, views, or arguments as they may desire. Communications should identify the airspace docket number and be submitted in triplicate to the Director, Southwest Region, Attention: Chief, Air Traffic Division, Federal Aviation Administration, Post Office Box 1689, Fort Worth, TX 76101. 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 amendments. The proposals contained in this notice may be changed in the light of comments received.

An official docket will be available for examination by interested persons at the Federal Aviation Administration, Office of the General Counsel, Attention: Rules Docket, 800 Independence Avenue SW., Washington, DC 20591. An informal docket also will be available for examination at the office of the Regional Air Traffic Division Chief.

As parts of these proposals relate to the navigable airspace outside the United States, this notice is submitted in consonance with the ICAO International Standards and Recommended Practices.

Applicability of International Standards and Recommended Practices, by the Air Traffic Service, FAA, in areas outside domestic airspace of the United States is governed by Article 12 of and Annex 11 to the Convention on International Civil Aviation, which pertain to the establishment of air navigation facilities and services necessary to promoting the safe, orderly, and expeditious flow of civil air traffic. Their purpose is to insure that civil flying on international air routes is carried out under uniform conditions designed to improve the safety and efficiency of air operations.

The International Standards and Recommended Practices in Annex 11 apply in those parts of the airspace under the jurisdiction of a contracting state, derived from ICAO, wherein air traffic services are provided and also whenever a contracting state accepts the responsibility of providing air traffic services over high seas or in airspace of undetermined sovereignty. A contracting state accepting such responsibility may apply the International Standards and Recommended Practices to civil aircraft in a manner consistent with that adopted for airspace under its domestic jurisdiction.

In accordance with Article 3 of the Convention on International Civil Aviation, Chicago, 1944, state aircraft are exempt from the provisions of Annex 11 and its Standards and Recommended Practices. As a contracting state, the United States agreed by Article 3(d) that its state aircraft will be operated in international airspace with due regard for the safety of civil aircraft.

Since these actions involve, in part, the designation of navigable airspace outside the United States, the Administrator has consulted with the Secretary of State and the Secretary of Defense in accordance with the provisions of Executive Order 10854.

The FAA proposes the following airspace actions:

1. Realign Jet Route No. 22 segment from Corpus Christi, Tex., direct Palacios, Tex., direct to Lake Charles, La.

2. Realign Jet Route No. 29 segment from Corpus Christi, direct Palacios direct Humble, Tex., direct to Lufkin, Tex.

3. Extend Jet Route No. 37 from New Orleans, La., via the intersection of New Orleans 257° T (251° M) and Houston, Tex., 090° T (082° M) radials; to Houston.

4. Extend Jet Route No. 138 from Houston direct to Lake Charles.

These proposed actions are designed to provide shorter route segments and to allow greater operational flexibility in the movement and control of turbojet aircraft operating in the Houston terminal area.

These amendments are proposed under the authority of sections 307(a) and 1110 of the Federal Aviation Act of 1958 (49 U.S.C. 1348(a) and 1510), Executive Order 10854 (24 F.R. 9565) and section 6(c) of the Department of Transportation Act (49 U.S.C. 1655(c)).

Issued in Washington, D.C., on May 26, 1972.

LOUIS H. MCCAUGHEY,
Acting Chief, Airspace and Air Traffic Rules Division.

[FR Doc.72-8378 Filed 6-2-72;8:47 am]

DEPARTMENT OF LABOR

[41 CFR Part 29-12]

Office of the Secretary

OCCUPATIONAL SAFETY AND HEALTH

Proposed Coverage of Persons Receiving Occupation or Job Training Under Department of Labor Contracts Who Are Not Employees of Contractor

Notice is hereby given that the Secretary of Labor proposes to amend Chapter 29, Subtitle A of Title 41 of the Code of Federal Regulations by adding a new Part 29-12 to read as set forth below. The purpose of the amendment is to extend the protection of the Occupational Safety and Health Act of 1970 (29 U.S.C. 651 et seq.) to persons who are receiving occupation or job training under contracts with the Department of Labor, but who are not employees of the contractor. The amendment is issued pursuant to the provisions of the acts authorizing the manpower programs of the Department.

Interested persons are invited to submit written comments, suggestions, or objections regarding the proposed amendment to the Assistant Secretary for Administration and Management, U.S. Department of Labor, Washington,

D.C. 20210, within 30 days after the date of publication of this notice in the FEDERAL REGISTER.

A new Part 29–12 of Title 41, Code of Federal Regulations, is proposed to be added as follows:

PART 29–12—LABOR

Subpart 29–12.50—Occupational Safety and Health

Sec.
29–12.5000 Scope of subpart.
29–12.5001 Basic protection.
29–12.5002 Applicability.
29–12.5003 Contract clause.
29–12.5004 Notice of award.

AUTHORITY: The provisions of this Subpart 29–12.50 issued under 80 Stat. 379, 5 U.S.C. 301; sec. 207, 76 Stat. 29, 42 U.S.C. 2587; sec. 602, 78 Stat. 528, 42 U.S.C. 2942; and sec. 204(a), 81 Stat. 888, 42 U.S.C. 639.

Subpart 29–12.50—Occupational Safety and Health

§ 29–12.5000 Scope of subpart.

This subpart extends the standards policies of the Occupational Safety and Health Act of 1970 (29 U.S.C. 651 et seq.) to persons who are receiving occupation or job training under Department of Labor contracts but who are not employees of the contractor.

§ 29–12.5001 Basic protection.

The Occupational Safety and Health Act of 1970 provides the following basic protection for employees:

(a) It requires the employer to furnish to each of his employees employment and a place of employment which are free from recognized hazards that are causing or are likely to cause death or serious physical harm to his employees.

(b) It requires the employer to comply with occupational safety and health standards promulgated under the Act, which are published in Part 1910 of Title 29, Code of Federal Regulations.

§ 29–12.5002 Applicability.

The Department of Labor shall require its contractors providing occupational and job preparation training to persons who are not employees to protect such persons as though they were employees with respect to the provisions of Federal or State occupational safety and health standards, as applicable.

§ 29–12.5003 Contract clause.

The following clause shall be included in all contracts with the Department of Labor which provide for occupational or job preparation training (including basic education, counseling, personal and cultural development, recreational activities, and work-experience training) when the trainees are not employees of the contractor: Occupational Safety and Health Act

(a) In the performance of this contract, the contractor agrees to provide all trainees, who are not employees, with safety and health protection which shall be at least as effective as that which would be required under the Occupational Safety and Health Act of 1970 (29 U.S.C. 651 et seq.) if the trainees were employees of the contractor thereunder.

(b) All records pertaining to injuries and illnesses of trainees who are not employees shall be maintained in accordance with the provisions of Part 1904 of Title 29 of the Code of Federal Regulations.

(c) Contractor agrees to include the substance of this clause in all subcontracts which provide for the training of persons who are not employees of the subcontractor.

(d) Failure of the contractor to comply with the provisions of this clause shall be grounds for the termination of this contract or the invocation of the "Debarred, Suspended, and Ineligible Bidders" procedures of the Federal Procurement Regulations and the Department of Labor Procurement Regulations.

§ 29–12.5004 Notice of award.

Contracting Officers of the Department of Labor shall submit a notice of award of a contract containing the clause in § 29–12.5003 to the Occupational Safety and Health Administration (OSHA) Regional Administrator within the region where the contract is to be performed at the following addresses:

REGION I

Regional Administrator, OSHA, U.S. Department of Labor, John F. Kennedy Federal Building, Government Center, Room E–308, Boston, Mass. 02203.

REGION II

Regional Administrator, OSHA, U.S. Department of Labor, 341 Ninth Avenue, Room 920, New York, NY 10001.

REGION III

Regional Administrator, OSHA, U.S. Department of Labor, Penn Square Building, Room 410, Juniper and Filbert Streets, Philadelphia, Pa. 19107.

REGION IV

Regional Administrator, OSHA, U.S. Department of Labor, 1375 Peachtree Street NE., Suite 587, Atlanta, GA 30309.

REGION V

Regional Administrator, OSHA, U.S. Department of Labor, 300 South Wacker Drive, Room 1201, Chicago, IL 60604.

REGION VI

Regional Administrator, OSHA, U.S. Department of Labor, Suite 600, Texaco Building, 1512 Commerce Street, Dallas, TX 75201.

REGION VII

Regional Administrator, OSHA, U.S. Department of Labor, 823 Walnut Street, Room 300, Kansas City, MO 64106.

REGION VIII

Regional Administrator, OSHA, U.S. Department of Labor, Post Office Box 3588, Federal Building, 1961 Stout Street, Denver, CO 80202.

REGION IX

Regional Administrator, OSHA, U.S. Department of Labor, 10353 Federal Building, 450 Golden Gate Avenue, Seattle, WA 98102.

REGION X

Regional Administrator, OSHA, U.S. Department of Labor, 1804 Smith Tower Building, 506 Second Avenue, Seattle, WA 98104.

Effective date. This part shall apply to all contracts, the bids, or negotiations for which are commenced following the publication of this document in the FEDERAL REGISTER.

Signed at Washington, D.C., this 30th day of May 1972.

J. D. HODGSON,
Secretary of Labor.

[FR Doc.72–8433 Filed 6–2–72;8:52 am]

CIVIL AERONAUTICS BOARD

[14 CFR Parts 207, 208, 212, 214, 372]

[Docket No. 21666; EDR–173F]

OVERSEAS MILITARY PERSONNEL CHARTERS

Supplemental Notice of Proposed Rule Making

MAY 18, 1972.

By supplemental notice of proposed rule making EDR–173C/SPDR–25,[1] the Board proposed to establish a new class of charter for overseas military personnel and their immediate families, and to authorize a new class of charter operators to act as indirect air carriers with respect to such charters.

By SPR–54 (Part 372), published contemporaneously herewith, we are adopting the proposal, but with certain modifications. For the reasons set forth in the preamble to Part 372, we have tentatively determined to authorize foreign air carriers to perform this new class of charters only through September 30, 1972, but to issue simultaneously this supplemental notice of proposed rule making in order to have the benefit of additional comments directed to the specific issue whether such authorization should be continued beyond that date.

Interested persons may participate in this proceeding through submission of twelve (12) copies of written data, views, or arguments pertaining solely to the above-described issue, addressed to the Docket Section, Civil Aeronautics Board, Washington, D.C. 20428. All relevant material in communications received on or before July 18, 1972, will be considered by the Board before taking final action on said issue. Copies of such communications will be available for examination by interested persons in the Docket Section of the Board, Room 712, Universal Building, 1825 Connecticut Avenue NW., Washington, DC upon receipt thereof.

By the Civil Aeronautics Board.

[SEAL] HARRY J. ZINK,
Secretary.

[FR Doc.72–8437 Filed 6–2–72;8:53 am]

[1] Issued Aug. 27, 1971, 36 F.R. 17655.

FEDERAL HOME LOAN BANK BOARD

[12 CFR Part 545]

[72-623]

FEDERAL SAVINGS AND LOAN SYSTEM

Mergers of Federal Savings and Loan Associations

MAY 25, 1972.

Resolved that the Federal Home Loan Bank Board considers it advisable to amend Part 545 of the rules and regulations for the Federal Savings and Loan System (12 CFR Part 545) for the purpose of requiring the approval by members of mergers involving Federal savings and loan associations. Accordingly, the Federal Home Loan Bank Board proposes to amend said Part 545 by revising paragraphs (c) and (d) of § 546.2 to read as follows:

§ 546.2 Procedure; effective date.

* * * * *

(c) Application for approval by the Board of the merger as provided by the said merger agreement shall be made by filing with the Federal home loan bank of which the resulting association is a member two copies of the merger agreement, properly executed in the name of the respective associations and two certified copies of such portions of the minutes of the meetings of the respective boards of directors as relate to the consideration and approval of the plan of merger by such boards. Upon receipt of such application, the Board will (1) disapprove the merger; (2) withhold final action but recommend modifications of the plan of merger as submitted; or (3) approve the merger subject to compliance by the parties to the merger with the provisions of this section and such conditions as the Board may specify in a particular case. If the modifications recommended by the Board are accepted by the directors of each of the associations, such directors shall amend such merger agreement accordingly and shall submit the amended merger agreement in the same manner as hereinabove provided.

(d) (1) Except as is otherwise provided in paragraph (e) of this section and except for a merger instituted for supervisory reasons, promptly after the Board approves a merger pursuant to the provisions of paragraph (c) of this section, the plan of merger shall be submitted to the members of the merging Federal association or associations at special or regular meetings of such associations, duly called by mailing notices which comply with the provisions in such associations' bylaws regarding notices for special meetings and by enclosing the following information in such mailings: (i) A copy of the balance sheet of each party to the merger as of the end of the preceding December and as of the end of the month immediately preceding the month in which such notice is mailed; (ii) a copy of the resulting association's pro forma balance sheet as though the proposed merger had been effected as of the end of the month immediately preceding the month in which such notice is mailed; (iii) a list of the resulting association's proposed officers and directors, stating the home address and principal business affiliation of each such person; and (iv) a statement making full disclosure of any consideration received or to be received by the officers and directors of the parties to the merger agreement in connection with the proposed merger. As to the merging Federal association or associations, such merger shall not become effective until such merger receives the affirmative vote of not less than two-thirds of the qualified votes cast thereon in person or by proxy at each meeting called pursuant to the provisions of this subparagraph, unless the Board waives or modifies this requirement or specifies a different percentage of the votes in a particular case. If an association so provides in its notice of a meeting called pursuant to the provisions of this subparagraph, only the qualified votes cast in person and by special proxy solicited solely for use at such meeting will be counted for the purposes of this subparagraph.

(2) The Board may, when it deems it appropriate, require that the plan of merger be submitted to the members of a resulting Federal association for their approval as provided in subparagraph (1) of this paragraph for merging Federal associations.

(3) As to associations other than Federal associations, such merger shall not become effective until each such party to the merger agreement has complied with any conditions specified by the Board, the applicable provisions of this section, and the requirements of law of the jurisdiction of its creation.

* * * * *

(Sec. 5, 48 Stat. 132, as amended; 12 U.S.C. 1464. Reorg. Plan No. 3 of 1947, 12 F.R. 4891, 3 CFR, 1943-48 Comp., p. 1071)

Resolved further that interested persons are invited to submit written data, views, and arguments to the Office of the Secretary, Federal Home Loan Bank Board, 101 Indiana Avenue NW., Washington, DC 20552, by July 14, 1972, as to whether this proposal should be adopted, rejected, or modified. Written material submitted will be available for public inspection at the above address unless confidential treatment is requested or the material would not be made available to the public or otherwise disclosed under § 505.6 of the general regulations of the Federal Home Loan Bank Board (12 CFR 505.6).

By the Federal Home Loan Bank Board.

[SEAL] EUGENE M. HERRIN,
Assistant Secretary.

[FR Doc.72-8401 Filed 6-2-72;8:52 am]

[12 CFR Part 546]

[72-621]

FEDERAL SAVINGS AND LOAN SYSTEM

Withdrawal of Proposed Amendments Relating to Mergers by Federal Savings and Loan Associations

MAY 25, 1972.

Whereas, by Resolution No. 71-1115, dated October 26, 1971, and duly published in the FEDERAL REGISTER on November 3, 1971 (36 F.R. 21066), this Board resolved to propose amending Part 546 of the rules and regulations for the Federal Savings and Loan System (12 CFR Part 546), as set out in said publication, for the purposes of (1) requiring the publication of notice of the filing by Federal savings and loan associations of certain merger applications and (2) providing for public inspection of such applications; and

Whereas, careful consideration has been given to such proposed amendment:

It is hereby resolved, That this Board determines not to adopt the amendment proposed by said Resolution No. 71-1115.

(Sec. 5, 48 Stat. 132, as amended; 12 U.S.C. 1464. Reorg. Plan No. 3 of 1947, 12 F.R. 4981, 3 CFR, 1943-48 Comp., p. 1071)

By the Federal Home Loan Bank Board.

[SEAL] EUGENE M. HERRIN,
Assistant Secretary.

[FR Doc.72-8402 Filed 6-2-72;8:52 am]

[12 CFR Part 563]

[72-622]

FEDERAL SAVINGS AND LOAN INSURANCE CORPORATION

Withdrawal of Proposed Amendments Relating to Certain Applications by Insured Institutions Regarding Mergers, Consolidations, or Purchases of Bulk Assets

MAY 25, 1972.

Whereas, by Resolution No. 71-1116, dated October 26, 1971, and duly published in the FEDERAL REGISTER on November 3, 1971 (36 F.R. 21067), this Board resolved to propose amending Part 563 of the rules and regulations for Insurance of Accounts (12 CFR Part 563), as set out in said publication, for the purposes of (1) requiring the publication of notice of the filing of applications concerning certain mergers, consolidations, or purchases of bulk assets and (2) providing for public inspection of such applications; and

Whereas, careful consideration has been given to such proposed amendment:

It is hereby resolved, that this Board determines not to adopt the amendment proposed by said Resolution No. 71-1116.

(Secs. 402, 403, 48 Stat. 1256, 1257, as amended; 12 U.S.C. 1725, 1726. Reorg. Plan No. 3 of 1947, 12 F.R. 4981, 3 CFR, 1943–48 Comp., p. 1071)

By the Federal Home Loan Bank Board.

[SEAL] EUGENE M. HERRIN,
Assistant Secretary.

[FR Doc.72-8419 Filed 6-2-72;8:47 am]

FEDERAL POWER COMMISSION

[18 CFR Parts 141, 260]

[Docket No. R-443]

CERTAIN ANNUAL REPORT

Information on Future Finance Requirements

MAY 26, 1972.

Pursuant to 5 U.S.C. 553, sections, 301, 304, and 309 of the Federal Power Act (49 Stat. 854, 855–856, 858–859; 16 U.S.C. 825, 825c, 825h) and sections 8, 10, and 16 of the Natural Gas Act (52 Stat. 825, 826, 830; 15 U.S.C. 717g, 717i, 717o), the Commission gives notice it proposes to amend for the reporting year 1972:

A. FPC Form No. 1, Annual Report for Electric Utilities, Licensees and Others (Class A and Class B) prescribed by 18 CFR 141.1.

B. FPC Form No. 2, Annual Report for Natural Gas Companies (Class A and Class B) prescribed by 18 CFR 260.1.

The proposed amendment to the Commission's Annual Report Forms No. 1 and No. 2 will add one additional schedule page to each of the aforementioned forms. The schedule page shall be numbered and entitled schedule page 120, Forecast of Financing Requirements.

The trend of demand for services provided by natural gas and electric utility companies makes it apparent that large amounts of new capital will be needed to enable the companies to meet future needs. Sound management practices require that the companies prepare periodic estimates of the future capital needs and plans for obtaining such capital.

The Commission understands that information on future financial requirements and how they are planned to be met is prepared by most companies and believes that this data would be useful in carrying out its responsibilities under the Natural Gas Act and the Federal Power Act. Accordingly, the Commission proposes to amend its Annual Report Forms No. 1 and No. 2 by adding new schedules which will provide for the reporting of such information.

The proposed amendment to FPC Form No. 1 would be issued under the authority granted the Federal Power Commission by the Federal Power Act, particularly sections 301, 304, and 309 (49 Stat. 854, 855–856, 858–859; 16 U.S.C. 825, 825c, 825h).

The proposed amendment to FPC Form No. 2 would be issued under the authority granted the Federal Power Commission by the Natural Gas Act, as amended, particularly sections 8, 10, and 16 (52 Stat. 825, 826, 830; 15 U.S.C. 717g, 717i, 717o).

A. Effective for the reporting year 1972, it is proposed to amend FPC Form No. 1, Annual Report for Electric Utilities, Licensees and Others (Class A and Class B) prescribed by 18 CFR 141.1, by adding a new schedule page 120 entitled Forecast of Financing Requirements, as set out in Attachment A[1] hereto.

B. Effective for the reporting year 1972, it is proposed to amend FPC Form No. 2, Annual Report for Natural Gas Companies (Class A and Class B) prescribed by 18 CFR 260.1, by adding a new schedule page 120 entitled Forecast of Financing Requirements, as set out in Attachment A hereto.[1]

C. Amend § 141.1(d) in Title 18 of the Code of Federal Regulations as follows:

1. Add a new schedule titled "Forecast of Financing Requirements" immediately following schedule "Source and Application of Funds for the Year—Statement E", so that it will read:

§ 141.1 Form No. 1, Annual report for electric utilities, licensees and others (Class A and Class B).

* * * * *

(d) This annual report contains the following schedules:

* * * * *

Forecast of Financing Requirements.

* * * * *

D. Amend § 260.1(c) in Title 18 of the Code of Federal Regulations as follows:

1. Add a new schedule titled "Forecast of Financing Requirements" immediately following schedule "Source and Application of Funds for the Year—Statement E", so that it will read:

§ 260.1 Form No. 2, Annual report for natural gas companies (Class A and Class B).

* * * * *

(c) This annual report contains the following schedules:

* * * * *

Forecast of Financing Requirements.

* * * * *

Any interested person may submit to the Federal Power Commission, Washington, D.C. 20426, not later than July 10, 1972, data, views, comments, or suggestions in writing concerning the amendments to the annual report forms proposed herein. Written submittals will be placed in the Commission's public files and will be available for public inspection at the Commission's Office of Public Information, Washington, D.C. 20426, during regular business hours. The Commission will consider all such written submittals before acting on the matters herein proposed. An original and 14 conformed copies should be filed with the Secretary of the Commission. In addition, interested persons wishing to have their comments considered in the clearance of the proposed revisions in the report forms pursuant to 44 U.S.C. 3501–3511 may, at the same time, submit a conformed copy of their comments directly to the Clearance Officer, Statistical Policy Division, Office of Management and Budget, Washington, D.C. 20503. Submittals to the Commission should indicate the name, title, mailing address, and telephone number of the person to whom communications concerning the proposal should be addressed, and whether the person filing them requests a conference with the staff of the Federal Power Commission to discuss the proposed revisions. The Staff, in its direction, may grant or deny requests for conference.

The Secretary shall cause prompt publication of this notice to be made in the FEDERAL REGISTER.

By direction of the Commission.

KENNETH F. PLUMB,
Secretary.

[FR Doc.72-8410 Filed 6-2-72;8:48 am]

[1] Attachment A is filed as part of the original document.

Notices

DEPARTMENT OF THE TREASURY

Bureau of Customs

[T.D. 72-149]

CERTAIN STEEL WIRE BASKETS AND STEEL DOLLIES

Instruments of International Traffic

MAY 30, 1972.

It has been established to the satisfaction of the Bureau that steel wire baskets with open mesh bottom and sides, 23 inches by 23 inches by 7 inches, and steel dollies with rubber wheels, 21 inches by 22 inches by 6 inches, used for the transportation of bread, 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 baskets and dollies as "instruments of international traffic" within the meaning of section 322(a), Tariff Act of 1930, as amended. These baskets and dollies may be released under the procedures provided for in § 10.41a, Customs regulations.

[SEAL] LEONARD LEHMAN,
Acting Commissioner of Customs.

[FR Doc.72-8448 Filed 6-2-72;8:49 am]

Internal Revenue Service

[Cost of Living Council Ruling 1972-52]

MICE BREEDING

Cost of Living Council Ruling

Facts. Company A raises mice for experimental purposes for sale to school, laboratories, and other such institutions. A may not sell directly to this institution in all cases, but may sell to distributors. B is a breeder who raises pedigree dogs at his own kennel. He sells the dogs to the general public.

Issue. Are the animals raised by A and B exempt under Economic Stabilization Regulation § 101.32(a), 6 CFR 101.32(a), (January 27, 1972)?

Ruling. Specially bred animals such as those referred to in the facts above are exempt within the meaning of Economic Stabilization Regulation § 101.32(a), 6 CFR 101.32(a) (January 27, 1972).

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

Dated: May 30, 1972.

LEE H. HENKEL, Jr.,
Acting Chief Counsel.

Approved: May 30, 1972.

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

[FR Doc.72-8396 Filed 6-2-72;8:52 am]

[Pay Board Ruling 1972-37; Cost of Living Counsel Ruling 1972-50]

CERTAIN SELF-EXECUTING PAY ADJUSTMENTS FOR STATE AND LOCAL GOVERNMENT EMPLOYEES

Pay Board and Cost of Living Council Ruling

Facts. Economic Stabilization Regulations, 6 CFR 201.11(a) (3), (4), and (5), 37 F.R. 7616 (April 18, 1972), 37 F.R. 7696 (April 19, 1972), relating to various exceptions to the general wage and salary standard provide that under certain circumstances pay increases in excess of 5.5 percent are self-executing and prior approval of the Pay Board (or its delegate) is not necessary before implementation. However, Economic Stabilization Regulations. 6 CFR 101.28, 37 F.R. 2491 (February 2, 1972) relating to pay adjustments of State and local employees provide in part that "Approval, however, must be granted by the Pay Board for any pay adjustment in excess of 5.5 percent which affects the employees of State and local governments."

Issue. For purposes of the Economic Stabilization Regulations, 6 CFR 101.28, will self-executing pay adjustments above the 5.5 percent general wage and salary standard which are made pursuant to the provisions of § 201.11(a) (3), (4), or (5) of such regulations constitute approval by the Pay Board?

Ruling. Yes. Self-executing pay adjustments of State and local government employees made pursuant to Economic Stabilization Regulations, 6 CFR 201.11(a) (3) ,(4), or (5), 37 F.R. 7616 (April 18, 1972), 37 F.R. 7696 (April 19, 1972) will be considered to constitute sufficient approval of the Pay Board for purposes of § 101.28 of such regulations. Additionally, approval of a wage and salary increase by a delegate of the Pay Board shall also constitute approval by the Pay Board for purposes of § 101.28 of the regulations.

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

Approved: May 30, 1972.

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

[FR Doc.72-8393 Filed 6-2-72;8:52 am]

[Pay Board Ruling 1972-38]

CERTAIN RETROACTIVE PAYMENTS

Pay Board Ruling

Facts. A labor contract between Company X and its employees expired on June 15, 1971. On January 5, 1972, a new contract was executed which provided for certain retroactive payments with respect to the period of August 15, 1971, through November 13, 1971. Retroactivity is demonstrated to be an established past practice of Company X and its employees.

Issue. Under the Economic Stabilization Regulations, 6 CFR 201.13(e), 37 F.R. 1242 (January 27, 1972), may the retroactive payments in question be made for such period?

Ruling. No, such retroactive payments are not authorized under the regulations. Section 201.13(a) of such regulations provides that "scheduled increases in wages and salaries for services rendered by employees on or after August 15, 1971, and before November 14, 1971, which were not paid because prohibited by the freeze, may be made retroactively if permitted by any other paragraph of this section." While the facts of the instant case satisfy the literal requirements of paragraph (e) of such section of the regulations, the fact remains that the instant case does not meet the general requirements of paragraph (a) of such section of the regulations. Specifically, during Phase I of the President's Economic Stabilization Program there were no scheduled increases in wages and salaries which were not paid because prohibited by the freeze. In fact, such scheduled increases came into existence upon the execution of the contract on January 5, 1972.

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

Approved: May 30, 1972.

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

[FR Doc.72-8394 Filed 6-2-72;8:52 am]

[Pay Board Ruling 1972-39]

TREATMENT OF LONGEVITY INCREASES

Pay Board Ruling

Facts. An employment contract which was in existence prior to November 14, 1971, provided for a 2-percent longevity increase. A new employment contract which was negotiated after November 14, 1971, increases the longevity payments from 2 percent to 4 percent.

Issue. For purposes of the 5.5-percent general wage and salary standard, will the 2-percent increase in longevity payments be taken into account?

Ruling. Yes. Economic Stabilization Regulations, 6 CFR 201.57(b), 37 F.R. 7619 (April 18, 1972) provides that "[l]ongevity increases in an employment contract in effect on November 13, 1971, or in a pay practice previously set forth and in existence on such date" are excluded from adjustment computations. However, no such exclusion is provided for increases paid pursuant to contracts

or pay practices which came into existence after November 13, 1971. Therefore, in the instant case, the longevity increase of 2 percent paid pursuant to the contract entered into after November 13, 1971, is subject to the provisions of Economic Stabilization Regulations § 201.10, 36 F.R. 25427 (December 27, 1971).

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

Approved: May 30, 1972.

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

[FR Doc.72-8395 Filed 6-2-72;8:52 am]

[Price Commission Ruling 1972-180]

DISCLOSURE BY A STATE ADVISORY BOARD

Price Commission Ruling

Facts. The Governor of State X has designated a State advisory board for considering health services aspects of the Economic Stabilization Program pursuant to the Economic Stablization Regulations, 6 CFR 300.18(e), 36 F.R. 23384 (December 30, 1971).

State X has an open meeting law which provides that all meetings of the governing body of a public agency shall be open and public and that all persons shall be permitted to attend any meeting of the governing body of a public agency.

Issue. Does the open meeting law apply to the State advisory board when the Board is considering health services aspursuant to the Economic Stabilization Program?

Ruling. Section 205 of the Economic Stabilization Act of 1970, as amended, provides for confidentiality of information and incorporates by reference to section 1905 of title 18, United States Code, the information required by that section to be kept confidential. Section 1905 requires that information relating to "income, profits, losses, or expenditures" be kept confidential. When fulfilling its duties according to the Economic Stabilization Regulations, 6 CFR 300.18, 36 F.R. 23384 (December 30, 1971), a State advisory board "shall consider all of the kinds of cost increases involved in each application * * *." To disclose information regarding cost increases would be to disclose information relating to expenditures. This type of disclosure is prohibited by § 205 of the Economic Stabilization Act.

When there is a conflict between Federal and State statutes, Federal law prevails. U.S. Constitution, Article VI (Supremecy Clause); Florida v. Mellon, 273 U.S. 12, 47 S. Ct. 265, 71 L. Ed. 511 (1927); see Price Commission Ruling 1972-28. Therefore, the State open meeting law is not controlling on a State advisory board considering health services aspects of the Economic Stabilization Program.

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

Dated: May 30, 1972.

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

Approved: May 30, 1972.

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

[FR Doc.72-8397 Filed 6-2-72;8:52 am]

[Price Commission Ruling 1972-181]

FURNISHING OF INFORMATION BY THE INTERNAL REVENUE SERVICE TO A STATE ADVISORY BOARD

Price Commission Ruling

Facts. A State advisory board, established pursuant to Economic Stabilization Regulation, 6 CFR 300.18(e), 36 F.R. 25384 (December 30, 1971), wishes to obtain a revised price schedule together with related supporting information which was filed with the Internal Revenue Service by an institutional provider of health services pursuant to § 300.18 (c)(1)(i).

Section 300.18(c)(1) and (2) provides that an institutional provider of health services must send a copy of its revised price schedule to the Internal Revenue Service together with supporting data in cases where the price increase in question will increase the provider's aggregate annual revenues by more than 2.5 percent over the amount those revenues would have been if only the prices previously authorized had been charged.

Issue. To what extent will the records and information filed with the Internal Revenue Service by an institutional provider of health services under § 300.18(c)(1)(i) be made available to a State advisory board where the provider's aggregate annual revenues will not be increased by more than 6 percent over the amount those revenues would have been if only the prices previously authorized had been charged?

Ruling. Section 300.18(c)(2) provides that an institutional provider of health services must receive an exception from the Price Commission if the provider wishes to increase its aggregate annual revenues by more than 6 percent over the amount those revenues would have been if only the prices previously authorized had been charged. The function of the State advisory board, as set forth in § 300.18(f) is to review applications for exceptions submitted under § 300.18(c)(2) and recommend whether the exception should be granted.

If an institutional provider of health services sends a revised price schedule together with related supporting documentation to the Internal Revenue Service in accordance with § 300.18(c)(1), the Service will, upon request, furnish a State advisory board with a copy of the revised price schedule to the extent that the same information must be made available for public inspection pursuant to § 300.18(g).

However, the Service will not furnish a State advisory board with copies of related supporting documentation submitted by the provider if the proposed price increase will not increase the provider's aggregate annual revenues by more than 6 percent over the amount those revenues would have been if only the prices previously authorized had been charged.

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

Dated: May 30, 1972.

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

Approved: May 30, 1972.

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

[FR Doc.72-8398 Filed 6-2-72;8:52 am]

Office of the Secretary

PENTAERYTHRITOL FROM JAPAN

Determination of Sales at Less Than Fair Value

Information was received on February 19, 1971, that pentaerythritol, including nitration grade pentaerythritol, monopentaerythritol, technical pentaerythritol, dipentaerythritol, tripentaerythritol, and mixtures thereof, from Japan was being sold at less than fair value within the meaning of the Antidumping Act, 1921, as amended (19 U.S.C. 160 et seq.) (referred to in this notice as "the Act").

A "Withholding of Appraisement Notice" issued by the Commissioner of Customs was published in the FEDERAL REGISTER of March 2, 1972.

I hereby determine that for the reasons stated below, pentaerythritol from Japan is being, or is likely to be, sold at less than fair value within the meaning of section 201(a) of the Act (19 U.S.C. 160(a)).

Statement of reasons on which this determination is based:

The information before the Bureau reveals that the proper basis of comparison for fair value purposes is between purchase price and home market price of such or similar merchandise.

Purchase price was calculated on the basis of an ex-factory or f.o.b. port price, as appropriate, with deductions for inland freight and shipping charges.

Home market price was based on a f.o.b. monthly weighted-average price in the home market. Deductions were made for transportation costs. Adjustments were made for credit costs, rebates and packing, as appropriate.

Using the above criteria, purchase price was found to be lower than the

home market price of such or similar merchandise.

The U.S. Tariff Commission is being advised of this determination.

This determination is published pursuant to section 201(c) of the Act (19 U.S.C. 160(c)).

[SEAL] EUGENE T. ROSSIDES,
Assistant Secretary of the Treasury.

JUNE 1, 1972.

[FR Doc.72-8513 Filed 6-2-72;9:00 am]

DEPARTMENT OF AGRICULTURE

Agricultural Stabilization and Conservation Service

[Dockets Nos. SH-306, 307]

MAINLAND SUGARCANE AREA

Notice of Hearings on Sugarcane Wages and Prices in Florida and Louisiana, and Designation of Presiding Officers

Pursuant to the authority contained in sections 301(c)(1) and 301(c)(2) of the Sugar Act of 1948, as amended (61 Stat. 929; 7 U.S.C. 1131), and in accordance with the rules of practice and procedure applicable to wage and price proceedings (7 CFR 802.1 et seq.), notice is hereby given that public hearings will be held as follows:

At Belle Glade, Fla., on June 16, 1972, at the Everglades Experiment Station, State Road 80, beginning at 9:30 a.m.;

At Houma, La., on June 21, 1972, in the Municipal Auditorium, 880 Verret Street, beginning at 9:30 a.m.

The purpose of these hearings is to receive evidence likely to be of assistance to the Secretary of Agriculture in determining, (1) pursuant to the provisions of section 301(c)(1) of the act, whether the wage rates established for Florida sugarcane fieldworkers in the wage determination which became effective January 10, 1972 (36 F.R. 24980), and for Louisiana sugarcane fieldworkers in the determination which became effective January 10, 1972 (36 F.R. 24983), continue to be fair and reasonable under existing circumstances, or whether such determination(s) should be amended; and (2) pursuant to the provisions of section 301(c)(2) of the act, fair and reasonable prices to be paid for the 1972 crops of sugarcane in Florida and Louisiana, under either purchase or toll agreements, by producers who process sugarcane grown by other producers and who apply for payment under the act on their own sugarcane production.

In the interest of obtaining the best possible information, all interested persons are requested to appear at the hearings to express their views and present appropriate data in regard to wages and prices. While testimony on all pertinent points is desired, it is especially requested that witnesses be prepared to offer information and recommendations on the following matters regarding fair wages for fieldworkers and fair prices for sugarcane:

I. LOUISIANA

(a) *Wages.* (1) Need for changes in number of worker classifications and elimination of differential in wage rates for harvest and nonharvest workers.

(2) Wage rate differentials among unskilled, semiskilled, and skilled workers.

(b) *Prices.* (1) Periods to be used to determine the season's average prices of raw sugar and blackstrap molasses.

(2) Recommendations on matters pertaining to other pricing bases, such as the delivered average price.

II. FLORIDA

(a) *Wages.* (1) Need for additional worker classifications, such as workers employed in mechanical harvesting operations.

(2) Wage rate differentials among different classifications of workers.

(3) Statement of total tons of cane cut by hand, total amount of wages paid cane cutters, total hours worked, and average earnings per worker per hour, by months, for the 1971-72 crop.

(b) *Prices.* (1) Methods of determining for each producer the quantity of trash delivered with sugarcane which has been harvested mechanically.

(2) Need for changes in determining the total weight of net sugarcane delivered by each producer, i.e., separate determinations of the net weight of mechanically cut cane and hand cut cane.

All written submissions made pursuant to this notice will be made available for public inspection at such times and places and in a manner convenient to the public business (7 CFR 1.27(b)).

The hearings after being called to order at the times and places mentioned herein may be continued from day to day within the discretion of the presiding officers and may be adjourned to a later day or to a different place without notice other than the announcement thereof at the hearings by the presiding officers.

T. O. Murphy, L. L. Sommerville, C. F. Denny, J. E. Agnew, Jr., and J. L. Coburn are hereby designated as presiding officers to conduct either jointly or severally the foregoing hearings.

Signed at Washington, D.C., on May 26, 1972.

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

[FR Doc.72-8389 Filed 6-2-72;8:49 am]

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Office of the Secretary

OFFICE OF EDUCATION

Statement of Organization, Functions, and Delegations of Authority

Part 2 (Office of Education), section 2-B, Organization and Functions, of the Statement of Organization, Functions, and Delegations of Authority for the Department of Health, Education, and Welfare is hereby amended as follows:

The Office of the Deputy Commissioner for School Systems, Bureau of Elementary and Secondary Education, is amended as follows:

The Division of Plans and Supplementary Centers is amended to read:

Division of Plans and Supplementary Centers. Administers a variety of programs under the Elementary and Secondary Education Act aimed at improving the quality of American education and enriching the educational opportunities and curriculum for all children. Programs include Supplementary Centers and Services; Guidance, Counseling, and Testing, and Dropout Prevention Programs.

A new Division of Bilingual Education is added to read:

Division of Bilingual Education. Responsible for the administration of a program of assistance to local educational agencies to develop and carry out new and imaginative projects designed to meet the special educational needs of students of limited English-speaking ability, i.e., students who come from environments where the dominant language is other than English.

Dated: May 31, 1972.

STEVEN D. KOHLERT,
Deputy Assistant Secretary for Management.

[FR Doc.72-8408 Filed 6-2-72;8:51 am]

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. D-72-182]

DIRECTOR, OFFICE OF LOAN MANAGEMENT

Redelegation of Authority and Assignment of Functions

The redelegation of authority and assignment of functions to the Director, Office of Loan Management, et al., published at 35 F.R. 4019, March 3, 1970, and amended at 36 F.R. 14164, July 30, 1971, and 36 F.R. 17373, August 28, 1971, is hereby amended by adding new paragraphs 13 and 14 to section A as follows:

13. To develop and recommend policies and establish operating plans and procedures for the servicing of all home mortgages subsequent to final insurance endorsement under the National Housing Act, including land development under title X.

14. To review and evaluate home mortgage insurance default experience, and to provide technical advice and guidance to approved mortgagees and field offices on all home mortgage servicing problems.

(Secretary's delegation of authority, 36 F.R. 5005, Mar. 16, 1971)

Effective date. This amendment is effective as of April 30, 1972.

G. RICHARD DUNNELLS,
Acting Assistant Secretary for Housing Management.

[FR Doc.72-8384 Filed 6-2-72;8:45 am]

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

FLIGHT SERVICE STATION AT ANIAK, ALASKA

Notice of Conversion

Notice is given that on or about May 25, 1972, the flight service station at Aniak, Alaska, will convert from a manned station to a remote control outlet. Services to the general aviation public formerly provided by this office will be provided 24 hours per day through remote control by the Bethel, Alaska, Flight Service Station. This information will be reflected in the FAA Field Office Directory the next time it is reissued.

(Sec. 313(a), 72 Stat. 752; 49 U.S.C. 1354)

Issued at Anchorage, Alaska, on May 25, 1972.

JACK G. WEBB,
Director, Alaskan Region.

[FR Doc.72-8380 Filed 6-2-72;8:47 am]

FLIGHT SERVICE STATION AT GALENA, ALASKA

Notice of Conversion

Notice is given that on or about May 25, 1972, the flight service station at Galena, Alaska, will convert from a manned station to a remote control outlet. Services to the general aviation public formerly provided by this office will be provided 24 hours per day through remote control by the Nome, Alaska, Flight Service Station. This information will be reflected in the FAA Field Office Directory the next time it is reissued.

(Sec. 313(a), 72 Stat. 752; 49 U.S.C. 1354)

Issued at Anchorage, Alaska, on May 25, 1972.

JACK G. WEBB,
Director, Alaskan Region.

[FR Doc.72-8382 Filed 6-2-72;8:47 am]

FLIGHT SERVICE STATION AT NENANA, ALASKA

Notice of Conversion

Notice is given that on or about May 25, 1972, the flight service station at Nenana, Alaska, will convert from a manned station to a remote control outlet. Services to the general aviation public formerly provided by this office will be provided 24 hours per day through remote control by the Fairbanks, Alaska, Flight Service Station. This information will be reflected in the FAA Field Office Directory the next time it is reissued.

(Sec. 313(a), 72 Stat. 752; 49 U.S.C. 1354)

Issued at Anchorage, Alaska, on May 25, 1972.

JACK G. WEBB,
Director, Alaskan Region.

[FR Doc.72-8381 Filed 6-2-72;8:47 am]

ATOMIC ENERGY COMMISSION

[Docket No. 50-280]

VIRGINIA ELECTRIC AND POWER CO.

Notice of Issuance of a Facility Operating License

Notice is hereby given that the Atomic Energy Commission (the Commission) has issued Facility Operating License No. DPR-32 to Virginia Electric and Power Co. (the licensee) which authorizes the licensee to operate the Surry Power Station, Unit No. 1, at steady state power levels not in excess of 2,441 megawatts (thermal), in accordance with the provisions of the license and the technical specifications, except that the licensee shall not operate the reactor at power levels in excess of 1,220 megawatts thermal (50 percent of the facility's rated power level of 2,441 MWt) until the results of the environmental qualification tests performed on the recirculation spray pump motors have been evaluated and approved in writing by the Commission. The notice of AEC consideration of issuance of facility operating license, was published in the FEDERAL REGISTER on May 28, 1971 (36 F.R. 9793).

The Surry Power Station Unit No. 1 is a pressurized water nuclear reactor located at the licensee's site in Surry County, Va.

A notice of hearing on a facility operating license for the facility was published by the Commission in the FEDERAL REGISTER (36 F.R. 22328). The notice indicated that an Atomic Safety and Licensing Board (Board) would be designated by the Commission to conduct the hearing, specified the matters to be determined by the Board, provided for intervention by Henry E. Howell, Jr., and provided an opportunity to make limited appearances to other persons who wished to make a statement in the proceeding but who did not wish to intervene. A supplementary notice of hearing was published in the FEDERAL REGISTER on December 30, 1971 (36 F.R. 25245), which provided that pursuant to 10 CFR Part 2, rules of practice, and Appendix D of 10 CFR Part 50, "Licensing of Production and Utilization Facilities," that in the conduct of the proceeding the Board would consider in addition to the matters specified in the notice of hearing and pursuant to the National Environmental Policy Act of 1969, any matter in controversy with respect to whether, in accordance with the requirements of Appendix D of 10 CFR Part 50, the operating license should be issued as proposed. Matters covered by Appendix D of 10 CFR Part 50 were not in controversy in this proceeding.

The Commission's regulatory staff has inspected the facility and has determined that for operation as authorized by this license, the facility has been constructed in accordance with the application, as amended, the provisions of Provisional Construction Permit No. CPPR-43, as amended, the Atomic Energy Act of 1954, as amended, and the Commission's regulations. The licensee has submitted proof of financial protection in satisfaction of the requirements of 10 CFR Part 140.

In accordance with the above-described notices of hearing the presiding Atomic Safety and Licensing Board, by its initial decision dated April 26, 1972, has determined that with respect to the disputed welds and welding practices, there is reasonable assurance that the activities which would be authorized by an operating license can be conducted without endangering the health and safety of the public.

The Director of Regulation has made the findings which are set forth in the license, and has concluded that the application, as amended, complies with the requirements of the Atomic Energy Act of 1954, as amended, and the Commission's regulations in 10 CFR Chapter I, and that the issuance of the license will not be inimical to the common defense and security or to the health and safety of the public.

The Director of Regulation has also concluded that postponement of the issuance of this license until thirty (30) days after the final detailed statement on environmental considerations was made available to the public, is impracticable.

The license is effective as of the date of issuance and shall expire on June 25, 2008, unless extended for good cause shown or upon the earlier issuance of a superseding operating license.

A copy of (1) Facility Operating License No. DPR-32, complete with technical specifications, (2) the applicant's environmental report dated December 1, 1971, and revision 1 to environmental report supplement thereto dated February 29, 1972, (3) the report of the Advisory Committee on Reactor Safeguards, dated December 17, 1971, (4) the "Safety Evaluation by the Division of Reactor Licensing (now DL), U.S. Atomic Energy Commission in the Matter of Virginia Electric and Power Co., Surry Power Station Units 1 and 2," dated February 23, 1971, (5) the "Division of Compliance (now RO), U.S. Atomic Energy Commission, Report in the Matter of Virginia Electric and Power Co., Surry Nuclear Power Station," dated February 23, 1972, (6) the final safety analysis report and amendments thereto, (7) the draft detailed statement on environmental considerations, dated March 1972, and (8) the final detailed statement on environmental considerations, dated May 1972, are available for public inspection at the Commission's Public Document Room at 1717 H Street NW., Washington, DC. Copies of items (1), (4), (5), (7),

and (8) may be obtained upon request addressed to the U.S. Atomic Energy Commission, Washington, D.C. 20545, Attention: Deputy Director for Reactor Projects, Directorate of Licensing.

Dated at Bethesda, Md., this 25th day of May 1972.

For the Atomic Energy Commission.

A. GIAMBUSSO,
Deputy Director for Reactor Projects, Directorate of Licensing.

[FR Doc.72-8409 Filed 6-2-72;8:48 am]

CIVIL AERONAUTICS BOARD

[Docket No. 24419]

SOCIETA AEREA MEDITERRANEA SAM S.p.A.

Notice of Postponement of Prehearing Conference Regarding Foreign Air Carrier Permit Charter Flights—Italy-Intermediate Points-United States

Pursuant to the request of the applicant, the prehearing conference in the above-entitled proceeding, previously scheduled for June 7, 1972 (37 F.R. 9504, May 11, 1972), is hereby postponed until July 10, 1972, at 10 a.m., local time, in Room 503, Universal Building, 1825 Connecticut Avenue NW., Washington, DC, before the undersigned.

The Bureau of Operating Rights circulated its advance material on May 23, 1972. All other parties shall circulate their responses thereto on or before June 30, 1972.

Dated at Washington, D.C., May 30, 1972.

[SEAL] ROBERT L. PARK,
Associate Chief Examiner.

[FR Doc.72-8446 Filed 6-2-72;8:49 am]

[Docket No. 24512; Order 72-5-104]

UNIVERSAL AIRLINES, INC.

Order To Show Cause Regarding Certificates of Public Convenience and Necessity for Supplemental Air Transportation

Adopted by the Civil Aeronautics Board at its office in Washington, D.C., on the 30th day of May 1972.

Universal Airlines, Inc. (Universal), is in a critical financial position and recent efforts to effect a reversal of this condition have been unsuccessful. By letter dated May 5, 1972, the Board was advised that Universal has ceased all operations as of May 4, 1972, and that the carrier would consent to an order suspending its authority until further order of the Board. Universal contends, however, that a suspension is unnecessary, and may be detrimental to Universal's reorganization efforts.

Section 401(n)(4) of the Act imposes on each supplemental air carrier a continuing requirement that it be fit, willing, and able to properly perform the transportation authorized by and furnished pursuant to its certificate of public convenience and necessity and to conform to the provisions of the Act and the rules and regulations thereunder. This same section also requires the Board to modify, suspend, or revoke the certificate of any supplemental air carrier failing to comply with the continuing fitness requirement. Additionally, section 401(n)(5) requires the Board to immediately suspend the carrier's certificate in any case in which the Board determines that the failure of the carrier to comply with the requirements of section 401(n)(4) results in a situation in which a suspension is required in the interest of the rights, welfare, or safety of the public, and to immediately enter upon a hearing to determine whether the certificate should be modified, suspended, or revoked. Where the certificate has been suspended pursuant to section 401(n)(5), the Board is empowered to vacate the suspension and the 401(n) proceeding upon a determination that the carrier has come into compliance with the statutory requirements.[1]

Universal's cessation of operations, coupled with its statement that it does not intend to resume operations without prior Board approval and that it would consent to a temporary suspension of its operating authority, indicates that the carrier may not now meet the continuing requirements imposed by section 401(n). Indeed, any attempt by the carrier to reinstitute service under current conditions would undoubtedly require the Board to invoke its emergency powers under section 401(n)(5). Although we have no occasion to question Universal's statement that it will not resume operations without Board approval, a suspension will furnish additional assurance that service will not be resumed without that approval. Moreover, it will avoid the uncertainty which could arise as to the current effectiveness of the carrier's operating authority.

In these circumstances, the Board tentatively finds and concludes that Universal has failed to satisfy the continuing requirements imposed by section 401(n) of the Act and that it is in the public interest to suspend temporarily the carrier's operating authority. We tentatively view suspension, rather than the institution of an investigation looking toward revocation, as the more appropriate course of action at this time, since the carrier is now endeavoring to stabilize its financial position. If those endeavors are successful, and the carrier is able to bring itself into compliance with the provisions of section 401(n), this could enable the Board to vacate the suspension at an appropriate time.[2]

Interested persons will be given twenty (20) days following service of this order to show cause why the tentative findings and conclusions set forth herein should not be made final. We expect such persons to support such objections, if any, with detailed answers, specifically setting forth the tentative findings and conclusions to which objection is taken. Such objections should be accompanied by arguments of fact or law and should be supported by legal precedent and/or a detailed economic analysis. If an evidentiary hearing is requested, the objectors should state in detail why such a hearing is necessary and what relevant and material facts he would expect to establish through such a hearing. General, vague, or unsupported objections will not be entertained.

Accordingly, it is ordered, That:

1. All interested persons are directed to show cause why the Board should not issue an order making final the tentative findings and conclusions stated herein, suspending indefinitely the certificates of public covenience and necessity for supplemental air transportation held by Universal Airlines, Inc., until further order of the Board;

2. Any interested person having objection to the issuance of an order making final any of the proposed findings, conclusions, or certificate suspensions set forth herein shall, within 20 days after service of this order, file with the Board and serve upon all persons listed in Clause 5, infra, a statement of objections together with a summary of testimony, statistical data, and other evidence expected to be relied upon to support the stated objections;

3. If timely and properly supported objections are filed, full consideration will be accorded the matters and issues raised by the objections before action is taken by the Board;

4. In the event no objections are filed, all further procedural steps will be deemed to have been waived and the Board may proceed to enter an order in accordance with its tentative findings and conclusions set forth herein; and

5. A copy of this order shall be served upon Universal Airlines, which is hereby made a party to this proceeding, and upon Hon. Robert L. Hughes, Referee in Bankruptcy, U.S. District Court for the Northern District of California, Capitol International Airways, Inc., Interstate Airmotive, Inc., Johnson Flying Service, Inc., McCulloch International Airlines, Inc., Modern Air Transport, Inc., Overseas National Airways, Inc., Standard Airways, Inc., Trans International Airlines, Inc., and World Airways, Inc.

This order will be published in the FEDERAL REGISTER.

By the Civil Aeronautics Board.

[SEAL] HARRY J. ZINK,
Secretary.

[FR Doc. 72-8447 Filed 6-2-72; 8:49 am]

[1] See, by way of example, Standard Airways, Inc., Orders E-20468, Feb. 12, 1964, and E-23222, Feb. 11, 1966.

[2] Compare Standard Airways Investigation, Order 70-7-78, July 16, 1970.

DELAWARE RIVER BASIN COMMISSION

[Docket No. D–70–141]

PROPOSED EDDYSTONE GENERATING STATION EXPANSION, EDDYSTONE, PA.

Availability of Environmental Statement

Environmental statement, proposed Eddystone Generating Station Expansion, Units No. 3 and No. 4, Eddystone, Pa. (Docket No. D–70–141).

In accordance with the National Environmental Policy Act of 1969 and the Delaware River Basin Commission's rules of practice and procedure (section 2–3.5.2) notice is hereby given of the availability of draft statement as of June 5, 1972, which discusses the environmental impact of the proposed expansion of the Eddystone Generating Station located in Eddystone, Delaware County, Pa. The draft statement has been prepared by the Commission based upon the Philadelphia Electric Co.'s environmental report and the Commission's staff analysis of the prpoosed action.

The subject project would be located on the present site of the Eddystone Generating Station and is part of the original master plan for the site. The proposed expansion consists of constructing two oil-fired steam-electric generating units (each rated at 400,000 kilowatts) for cycling use, a dock facility capable of handling fuel oil barges with the required river dredging and oil storage facilities.

Copies of the draft and the applicant's environmental report and supplements may be examined in the library at the office of the Delaware River Basin Commission, 25 State Police Drive, Trenton, NJ, and in the library of the Water Resources Association of the Delaware River Basin, 21 South 12th Street in Philadelphia. Copies of the application and draft environment statement are available for distribution to persons or agencies upon request.

Comments on the subject draft environmental statement may be submitted to the Delaware River Basin Commission by public or private agencies or individuals concerned with environmental quality. In order to be considered by the Commission, comments must be submitted no later than July 21, 1972.

W. BRINTON WHITALL,
Secretary.

MAY 26, 1972.

[FR Doc.72–8364 Filed 6–2–72;8:45 am]

ENVIRONMENTAL PROTECTION AGENCY

CHEMAGRO CORP.

Notice of Filing of Petition Regarding Pesticide Chemical

Pursuant to provisions of the Federal Food, Drug, and Cosmetic Act (sec. 408 (d)(1), 68 Stat. 512; 21 U.S.C. 346a(d)(1)), notice is given that a petition (PP 2F1244) has been filed by Chemagro Corp., Post Office Box 4913, Kansas City, MO 64120, proposing establishment of tolerances (40 CFR Part 180) for residues of the insecticide *o*-isopropoxyphenyl methylcarbamate and its carbamate metabolites in or on the raw agricultural commodities alfalfa hay at 100 parts per million; fresh alfalfa at 65 parts per million; pasture grass hay at 55 parts per million; pasture grass at 35 parts per million; oat fodder and forage at 2 parts per million; oat straw at 1 part per million; oat grain and meat, fat, and meat byproducts of cattle, sheep, and goats at 0.1 part per million; and milk at 0.01 part per million.

The analytical method proposed in the petition for determining residues of the insecticide is a procedure in which the parent compound and its *N*-hydroxymethyl metabolite are hydrolyzed and reacted with trichloroacetyl chloride, and the *o*-hydroxy metabolite reacted without prior hydrolysis. The derivatives are analyzed by gas chromatography using an electron capture detector.

Dated: May 31, 1972.

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

[FR Doc.72–8430 Filed 6–2–72;8:53 am]

U.S. BORAX RESEARCH CORP.

Notice of Filing of Petition Regarding Pesticide Chemical

Pursuant to provisions of the Federal Food, Drug, and Cosmetic Act (sec. 408 (d)(1), 68 Stat. 512; 21 U.S.C. 346a(d)(1)), notice is given that a petition (PP 2F1267) has been filed by U.S. Borax Research Corp., 412 Crescent Way, Anaheim, CA 92801, proposing establishment of a tolerance (40 CFR Part 180) for negligible residues of the herbicide N^3,N^3-diethyl 2,4-dinitro-6-trifluoromethyl-*m*-phenylenediamine in or on the raw agricultural commodities cottonseed, cotton forage, soybeans, and soybean forage at 0.05 part per million.

The analytical method proposed in the petition for determining residues of the herbicide is a technique utilizing gas chromatography with electron-capture detection.

Dated: May 31, 1972.

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

[FR Doc.72–8431 Filed 6–2–72;8:53 am]

FEDERAL MARITIME COMMISSION

PORT OF SEATTLE AND FOSS-ALASKA LINE, INC.

Notice of Agreement Filed

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

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

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

Notice of agreement filed by:

Mr. Alvin L. Sklow, Director of Real Estate, Port of Seattle, Post Office Box 1209, Seattle, WA 98111.

Agreement No. T–2489–2–1, between the Port of Seattle (Port) and Foss-Alaska Line, Inc. (Foss), modifies the second amendment to the basic agreement, which added a right of first refusal on an area adjacent to the premises leased to Foss under the basic agreement. The basic agreement provides for the 5-year lease of land and water area for barge loading and unloading, van stuffing and unstuffing, container repair, and general offices. The purpose of the modification contained in Agreement No. T–2489–2–1 is to shorten the first refusal period to 3 years (July 1, 1972, to July 1, 1975) and provide that the square foot rental rates for the first refusal area will be based on the appraised price multiplied by the cost of the average of the 10 outstanding Port bonds plus 2 percent.

Dated: May 30, 1972.

By order of the Federal Maritime Commission.

FRANCIS C. HURNEY,
Secretary.

[FR Doc.72–8426 Filed 6–2–72;8:48 am]

NATIONAL CAPITAL PLANNING COMMISSION

[NCPC File 0735]

PROTECTION AND ENHANCEMENT OF ENVIRONMENTAL QUALITY IN THE NATIONAL CAPITAL REGION

Policies and Procedures

The Commission's policies and procedures for Protection and Enhancement

of Environmental Quality in the National Capital Region, as amended through August 9, 1971, were published by the Council on Environmental Quality on December 11, 1971 (36 F.R. 23706–23709).

On December 2, 1971, and March 2, 1972, the Commission adopted amendments to its policies and procedures which were published by the Commission on February 10, 1972 (37 F.R. 3010), and March 7, 1972 (37 F.R. 4936), respectively. On June 1, 1972, the Commission adopted the following amendment:

Add a new section to read as follows:

4. FEDERALLY ASSISTED URBAN RENEWAL PROJECTS IN THE DISTRICT OF COLUMBIA

With respect to federally assisted urban renewal projects in the District of Columbia for which the Commission has adopted an urban renewal plan, or a modification thereof, the Executive Director shall determine, in consultation with the Department of Housing and Urban Development, whether such urban renewal plan, or modification thereof, is a major action, pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969 and the Council on Environmental Quality's guidelines for statements on major proposed actions affecting the environment, for which an environmental statement is required.

If he determines that the urban renewal plan, or modification thereof, is a major action, the Executive Director shall prepare and circulate a draft environmental statement for such urban renewal plan, or modification thereof, and shall require that comments thereon be transmitted to the Department of Housing and Urban Development, which will prepare and publish the final environmental statement.

DANIEL H. SHEAR,
Secretary to the Commission.

JUNE 1, 1972.

[FR Doc.72-8490 Filed 6-2-72;8:53 am]

FEDERAL COMMUNICATIONS COMMISSION

[Canadian List 291]

CANADIAN STANDARD BROADCAST STATIONS

Notification List

List of new stations, proposed changes in existing stations, deletions, and corrections in assignments of Canadian standard broadcast stations modifying the assignments of Canadian broadcast stations contained in the appendix to the recommendations of the North American Regional Broadcasting Agreement Engineering Meeting January 30, 1941.

MAY 12, 1972.

Call letters	Location	Power kw	Antenna	Schedule	Class	Antenna height (feet)	Ground system: Number of radials	Ground system: Length (feet)	Proposed date of commencement of operation
		630 kHz							
(New)	Lachute, Province of Quebec, N. 45°35'10", W. 74°19'0".	0.5D/1N	DA-2	U	III				E.I.O. 12.5.73
		1150 kHz							
CHIQ (assignment of call letters)	Kelowna, British Columbia, N. 49°50'52", W. 119°27'54".	1	DA-1	U	III				
		1430 kHz							
(New)	Bathurst, New Brunswick, N. 47°39'20", W. 65°40'25".	10	DA-1	U	III				E.I.O. 12.5.73.

[SEAL]

FEDERAL COMMUNICATIONS COMMISSION,
WALLACE E. JOHNSON,
Chief, Broadcast Bureau.

[FR Doc.72-8403 Filed 6-2-72;8:47 am]

[Dockets Nos. 19500–19502; FCC 72-420]

ATS MOBILE TELEPHONE, INC, ET AL.

Memorandum Opinion and Order Designating Applications for Consolidated Hearing on Stated Issues

In regard applications of ATS Mobile Telephone, Inc., Docket No. 19500, File No. 4034-C2-P-70; Paul D. Jones and Jon N. Farrington, doing business as Council Bluffs Mobilephone, Docket No. 19501, File No. 2675-C2-P-70; Curtin Call Communications, Inc., Docket No. 19502, File No. 4032-C2-P-70; for construction permits to establish new facilities in the Domestic Public Land Mobile Service at Council Bluffs, Iowa; and in regard applications of ATS Mobile Telephone, Inc., Files Nos. 4033-C2-P-(4)-70, 7983-C2-P-(3)-70; Paul D. Jones and Jon N. Farrington, doing business as Council Bluffs Mobilephone, File No. 2674-C2-P-70; Curtin Call Communications, Inc., File No. 3743-C2-P-71; for construction permits to establish new facilities in the Domestic Public Land Mobile Service at Omaha, Nebr., and Council Bluffs, Iowa; Paul D. Jones, doing business as Answer All of Grand Island, Assignor, and Charles P. Oden, doing business as Oden Communications Company, Assignee, File No. 2239-C2-AP/AL-(2)-72; for consent to assignment of license of Station KLF552 and Construction Permit of Station KSV931 at Grand Island, Nebr.; in regard petitions for the institution of revocation proceedings against ATS Mobile Telephone, Inc., Permittee of Stations KMB512 and KQZ745, Omaha, Nebr., Files Nos. 7275-C2-ML-70, 5209-L-70; Curtin Call Communications, Inc., Files Nos. 6525-C2-AL-(3)-70, 1713-C2-L-69, 7288-C2-L-70, 751-C2-R-69; Licensee of Stations KLF478, KSD318, and KQZ785, Madison, Wis., File No. 1811-C2-L-71; Licensee of Station KRS630 at LaCrosse, Wis., Permittee of Station KSV988 at Eau Claire, Wis., File No. 6800-C2-P-70; Permittee of Station KSV989 at Fond du Lac, Wis., File No. 6799-C2-P-70; Permittee of Station KSV995 at Janesville, Wis., File No. 7519-C2-P-70; Licensee of Station KFQ940 at Clayton, Mo., File No. 2735-C2-ML-70.

1. In this proceeding the Commission has under consideration the captioned applications for new facilities, and for assignment of license, as well as the captioned petitions to revoke radio station licenses and permits. Petitions to deny all the foregoing applications have been filed, as well as responsive pleadings to those petitions and to the petitions to revoke. In addition, two supplemental petitions to deny applications have also been filed. The applications and petitions are considered together in this memorandum opinion and order, because they are all interrelated. Even though this document is made somewhat complex by treating all these matters together, it would be more cumbersome to consider them in separate documents and then resort to cross-references or repetitive language to resolve the problems presented. For clarity this document is broken down into five parts: I. Omaha-Council Bluffs; II. Grand Island, Nebr.; III. The Wisconsin applications; and IV. The petitions to revoke Curtin Call's licenses and permits. Each part will be treated in order.

I. OMAHA-COUNCIL BLUFFS

2. The Commission has before it for consideration the above-captioned applications, as well as petitions, and supplemental petitions, to deny filed by ATS Mobile Telephone, Inc. (ATS) against

both the applications of Curtin Call Communications, Inc. (Curtin Call) and those of Paul D. Jones and Jon N. Farrington doing business as Council Bluffs Mobilephone (Mobilephone). Cross-petitions to deny were filed by Curtain Call; and Mobilephone filed objections to the ATS applications. The Commission has concluded, based upon consideration of all the pertinent pleadings, that the public interest would best be served by treating the multiple applications filed by ATS as a single application, and granting that application in part; and, also, granting the remaining applications of Curtin Call and Mobilephone as they have been amended by a sharing agreement.

3. The cities of Omaha, Nebr. and Council Bluffs, Iowa, lie opposite one another, across the Missouri River. Omaha is the larger of the two by a considerable margin, having a 1970 population of 347,000, while Council Bluffs had a 1970 population of slightly over 60,000. Despite the fact that the cities of Council Bluffs and Omaha are in separate States, they are considered together as the principal part of a single major trading area.[1]

4. At the present time only one of the three captioned applicants is operating in the Domestic Public Land Mobile Radio Service (DPLMRS) in the Omaha-Council Bluffs area.[2] ATS now operates in Omaha on two two-way radiotelephone channels and one radio paging channel. From its Omaha transmitter site ATS also serves customers in Council Bluffs; and, in fact, ATS has applied for both a two-way channel (152.15 MHz) and the 158.70 MHz radio paging channel there. Curtin Call Communications, Inc. (Curtin Call), and Council Bluffs Mobilephone (Mobilephone) have also applied for that radio paging channel, and have entered into an agreement to share its use; but ATS has refused to share the use of that channel.[3] We have found that ATS has demonstrated a need for one VHF two-way channel, as well as two UHF two-way channels, and that it is financially qualified to construct the facilities to operate on those channels. We have also found that both Curtin Call and Mobilephone have demonstrated a need to provide one-way radio paging service at Council Bluffs on a shared-use basis of the 158.70 MHz channel and that Curtin Call and Mobilephone are each financially qualified, and have shown a need to construct and operate two-way radiotelephone facilities on separate frequencies at Council Bluffs.

A. ATS MOBILE TELEPHONE, INC.

5. ATS Mobile Telephone, Inc. (ATS), is the licensee of two DPLMRS radio stations in Omaha—KBM512 and KQZ745. KBM512 operates on two two-way radiotelephone base station channels: 152.06 and 152.09 MHz; and KQZ745 operates on the 152.24 MHz one-way signaling channel. The base station transmitters for both stations are collocated with the control points at 3555 Farnam Street, Omaha. On January 23, 1970, ATS applied for (1) an additional two-way VHF base station channel on 152.18 MHz for KMB512 as well as two new two-way UHF base station channels to operate on 454.050, and 454.300 MHz (File No. 4033–C2–P–(3)–70); and (2) a new one-way signaling station to operate on the 158.70 MHz paging channel at Council Bluffs, also (File No. 4034–C2–P–70). Separate transmitters and control points were proposed, with the antenna and transmitters for the Omaha facilities to be located at 1700 Farnam Street, Omaha, while the base station and control point of the Iowa operation would be located in the vicinity of Council Bluffs.

6. On May 28, 1970, ATS filed additional applications for a construction permit (CP) for three new UHF two-way channels for KMB512 in Omaha: 454.175, 454.275, and 454.325 MHz (File No. 7983–C2–P–(3)–70). Thus, ATS has filed four CP applications requesting an additional six base station channels for two-way radio-telephone service in Omaha, as well as an additional radio paging channel in Council Bluffs; and, on August 2, 1971, the Commission stated in a public notice that the foregoing applications would be treated as a single amended application (FCC Report No. 555, August 2, 1971). (See FCC rules and regulations, § 21.26; Mobile Radio Communications, Inc., 29 FCC 2d 62, 65 (1971).)

7. Objections to a grant of the ATS applications were filed by Paul D. Jones and Jon N. Farrington on March 3, 1970.[4] Messrs. Jones and Farrington objected to the ATS application filed January 23, 1970 on the ground that ATS had demonstrated no need for the four two-way channels and one one-way channel it was seeking.[5] The Jones and Farrington "Objections" pointed out that in November 1969, ATS had been granted only its second two-way channel in Omaha, and its first radio paging channel, and that the traffic study submitted by ATS pursuant to § 21.516 of the FCC rules and regulations was incomplete because, first, ATS had not shown the number of mobile units for which firm service orders were being held, nor the number of mobile units using the service during each of the days specified in the studies; and, second, the days ATS chose to analyze did not fall within the 30-day period prior to the filing of the applications.

8. In addition to the contention that no need had been shown for a grant of the channels, Jones and Farrington pointed out that the application for the 158.70 MHz radio paging channel was economically and electrically mutually exclusive with their own for the same frequency at Council Bluffs. Messrs. Jones and Farrington also alleged that there had been an unauthorized transfer of de facto control of ATS from Mr. Frank Rizzuto to Mr. William Clark and Electronic Engineering Co., in violation of section 310(b) of the Communications Act (47 U.S.C. section 310(b)), and that this (in turn, raised a serious question regarding the character qualifications of ATS. The gravamen of the Jones and Farrington complaint is that in an ATS petition to deny filed on December 24, 1969 against their captioned application, it is stated (page 5) that Mr. Rizzuto owns 100 percent of the stock of ATS, and is associated "full time" with the ATS Station KMB512 in Omaha, providing "daily attendance to the managerial, dispatching, and operational functions" of the station, whereas, the captioned ATS application (File No. 4034–C2–P–70) states that 65 shares of ATS stock have been issued to Electronic Engineering Co. (EEC) which also has the right of first refusal on the remainder of Mr. Rizzuto's shares; that the president of EEC, Mr. William Clark, is now president of ATS; that EEC will manage ATS pursuant to a management contract; and that Mr. Rizzuto is now listed as a full-time certified public accountant.

9. On March 18, 1970 ATS responded to the objections of Jones and Farrington. Regarding the demonstration of need for the additional channels, ATS maintained that its application for the additional two-way channel on 152.18 MHz is supported by a speed-of-service study which was amended on March 2, 1970, and that it is in compliance with section 21.516 of the Commission rules; but, in any event, if the data provided should prove inadequate ATS stood ready to provide additional information. The two 450 MHz two-way channels also sought in the ATS application were said to be ear-marked for direct-dial interconnected mobile service, while the facilities on the 152.15 MHz (two-way) and the 158.70 MHz (one-way) channels are intended principally to serve Council Bluffs. ATS contended that it had substantially improved its service to the public under Mr. Rizzuto's management and control since September 1969, and the additional requested frequencies would assure that ATS would continue to serve the present and future needs for service in the Omaha-Council Bluffs area.

10. ATS countered the Jones and Farrington claim of mutual exclusivity by

[1] See Commercial Atlas and Marketing Guide, Rand-McNally & Co., 1971, at p. 330.

[2] Northwestern Bell Telephone Co. also provides two-way radiotelephone service (Station KAA812), as well as one-way radio paging (Station KDN402) at Omaha.

[3] ATS in its letter to the Commission Oct. 12, 1971 stated that a three-way sharing of the 158.70 MHz channel would not be feasible in view of the long history of contention between the principals of ATS and Curtin Call.

[4] Messrs. Jones and Farrington, who are parties in Council Bluffs Mobilephone (Mobilephone), are also stockholders in Radio-Fone, Inc., which applied to the Nebraska State Railway Commission (NSRC) for a certificate of public convenience and necessity for authority to operate as a domestic public land radio common carrier interconnected with the landline telephone company offering service within a 35-mile radius of Omaha. The Radio-Fone application was denied by the NSRC on the ground that the applicant had failed to show that the existing service is not adequate and would not be adequate within a reasonable time. (See paragraph 10, infra.)

[5] On July 2, 1970, Mobilephone formally objected to the ATS application filed on May 28, 1970, for the same reasons (which were incorporated by reference) as those set out in the objections filed Mar. 3, 1970.

charging that while Jones and Farrington in their application before this Commission represent that they will seek to serve Council Bluffs customers rather than Omaha, they are, in fact, principals in Radio-Fone, Inc. which had applied to the Nebraska State Railway Commission for a certificate to serve Omaha, where Mr. Jones has a telephone answering service. This application (No. 28072) was denied by the Nebraska State Railway Commission by a 4–1 vote (Commissioner Rasmussen dissenting) on March 20, 1970, after public hearings were held in Omaha on November 13 and 14, 1969 and January 5, 6, and 7, 1970. At the hearings ATS contended that as a common carrier furnishing service in Omaha under a certificate of convenience and necessity issued by the Nebraska Commission that its service was, and would continue to be, adequate. Seven witnesses who appeared at the hearing on behalf of Radio-Fone, either were, or had been, ATS subscribers for either mobile telephone service or paging service. The Nebraska Commission's opinion noted that their testimony was generally to the effect that the channel was overcrowded and that messages were not relayed properly by the operators. All but one, however, indicated that service had improved slightly before the hearing commenced. The Nebraska Commission found, first, that ATS had received a second two-way mobile channel license on November 14, 1969, and had a CP from the FCC for a one-way radio paging channel, and second, that in September 1969 ATS had moved its offices and began dispatching calls with its own operators instead of using the answering service with which it was formerly associated. The Commission stated that at the time of the hearing ATS was serving approximately 60 two-way mobile subscribers and 165 paging subscribers on its two channels; and that it proposed putting all its paging subscribers on one channel and providing a direct-dial capability not only for paging but for its two-way mobile service, as well. ATS represented that it planned to seek additional channels from the FCC for that purpose. Radio-Fone proposed in its application before the Nebraska Commission to offer both two-way and one-way paging service, and testimony was adduced not only regarding Radio-Fone's experience in operating radio common carriers (RCC's) elsewhere, but also whether RCC's should be associated with telephone answering service, and whether competition was desirable in this field. The Nebraska Commission found that when ATS had only one channel it was overcrowded, and service was not good, but after the second two-way channel had been added service improved, and would further improve when the one-way channel came into operation. Since Radio-Fone had failed to show that the existing service of ATS was not adequate and would not be adequate to meet the needs of the public in the future its application was denied.[*] ATS contends that the captioned Jones and Farrington (Mobilphone) applications for new facilities at Council Bluffs, Iowa, are merely an attempt to circumvent the Nebraska Commission, because the State of Iowa does not now assert jurisdiction over radio common carriers.

11. On January 21, 1972, ATS filed a letter with this Commission dated January 18, 1972, together with an amendment to its pending application. The sum and substance of the documents is, first, to apprise the Commission that the Supreme Court of the State of Nebraska had handed down a decision on January 7, 1972, affirming the Nebraska State Railway Commission's denial of a certificate of public convenience and necessity to Radio-Fone, Inc. (Radio-Fone, Inc. v. ATS Mobile Telephone, Inc., —— N.W. 2d —— Case No. 37947, 56 SCJ 631, January 7, 1972); and, second, to request that ATS receive a conditional grant under section 21.31 of the FCC rules. Curtin Call, by letter dated January 26, 1972, has urged that both the January 18, letter and January 21, amendment be stricken, insofar as it includes a copy of the January 18, letter. Curtin Call submits that the January 18, letter is really a re-argument of the merits of its application, and should be barred as repetitious by § 1.45(c) of the FCC rules. We agree. While § 21.23(a) of the Commission's rules permits the amendment of an application as a matter of right prior to its designation for hearing, the amendment must be germane to the application and not be a pleading masquerading as an amendment. Our review of the ATS letter, together with Curtin Call's comments leads us to the conclusion that the ATS "amendment" of January 21, 1972, is principally a re-argument of the merits of its case. Since leave to file was not requested of the Commission it will be stricken as not in compliance with § 1.45(c) of the Commission rules. However, the Commission does take official notice of the decision of the Supreme Court of the State of Nebraska. The Nebraska Supreme Court in affirming the Railway Commission noted that in Nebraska the concept of public utility regulation "now is and always has been one of regulated monopoly" (56 SCJ at 646), and under the pertinent Nebraska statute the necessary certificate of public convenience and necessity "can be granted only (1) if the area is 'not receiving adequate telephone service' and (2) 'will not within a reasonable time receive reasonably adequate telephone service.' Both of the requirements must be met." (Ibid.) The Court held that the Railway Commission was acting reasonably and within its authority when it found that Radio-Fone had not met its burden of proof under the statute.

12. Regarding the alleged unauthorized transfer of control of ATS from Rizzuto to Clark and EEC, ATS maintains that the 65 shares of stock transferred to Clark represent only 8 percent of the outstanding shares, and that FCC Form 401 (the application form for a construction permit) requires the names of all stockholders owning and/or voting 10 percent or more of the applicant's stock. In addition, it is stated that Mr. Rizzuto is, and plans to remain, as the principal stockholder of ATS; that he does provide, and will continue to provide, active and full-time supervision of the radio common carrier operations and KBM512. Mr. Rizzuto's CPA functions are said not to contravene these commitments which include expansion and improvement of ATS service throughout the Omaha-Council Bluffs area. The introduction of the principals of EEC in the limited "advisory, installation, maintenance, and managerial roles" is described as one of the number of recent efforts by Mr. Rizzuto and ATS to improve and expand service, and this technical assistance and consultation will not affect their primary obligations and interests in EEC's Des Moines and other facilities.

13. On April 1, 1970, Messrs. Jones and Farrington submitted "Comments" directed to the ATS "Response" to the original "Objections" of Jones and Farrington. Once again, the need of ATS for

[*] Commissioner Rasmussen was of the view that the population of the Omaha-Council Bluffs areas was ample to support more than one RCC, and he questioned whether ATS ought to have a monopolistic position in such an area. He noted that the FCC had provided the framework for limited competition by providing a number of radio channels for use to nontelephone company carriers, and there was no reason to limit the number of carriers to one, because the number of channels permits use by different companies without interference. Further, Commissioner Rasmussen felt that the competitive factor should be qualified only if there was insufficient business to support more than one carrier. Here, though, he was of the view that the surface had barely been scratched in this business. As far as duplicating facilities is concerned, it would become a significant factor only to the extent that it would raise rates, and here the record seemed clear to him that the cost of the additional services proposed by ATS would be comparable to those provided by a new carrier. The fostering of regulated competition appeared to be a proper function of the Nebraska Commission, in Commissioner Rasmussen's view. Finally, the dissenting opinion felt that there was no justification for treating RCC's like landline telephone companies. In this case Commissioner Rasmussen was of the view that ATS would probably not have up-graded its service to a direct-dial type in the absence of a Radio-Fone proposal to enter the Omaha market offering that type of service. "The role of competition in a rapidly advancing industry such as radio communications cannot be underestimated, and should lead to favorable consideration to applicants seeking to offer it." Commissioner Rasmussen concluded that under Nebraska law the Commission merely had to find that adequate service was not being provided at the time of the hearings in order to justify the grant of a certificate to a new entrant. The evidence, he held, clearly justified a grant of new authority on that basis.

five additional frequencies in the Omaha-Council Bluffs area was questioned; in fact, it was contended that there is no basis for finding that ATS needs a single additional channel. Regarding the alleged transfer of control, Jones and Farrington contend that despite the fact that only 8 percent of the ATS stock was transferred to Clark, a de facto transfer of control to Mr. Clark may have taken place, and that, in any event, there is a conflict between Mr. Rizzuto's representation in an ATS application that he is "a CPA full time", and the statement in the ATS "Response" that he will provide full time supervision to the ATS radio common carrier operations, and this conflict can be resolved only by an evidentiary hearing. On December 21, 1971, however, Mobilephone filed a letter with the Commission withdrawing its allegations concerning the unauthorized transfer of ATS from Mr. Frank Rizzuto to Mr. William Clark. Mobilephone's letter states in pertinent part:

> Mobilephone's allegations were based on matters contained in ATS' application, not facts within the peculiar knowledge of Mobilephone. We are obliged to point out that, in our judgment, the questions raised have been satisfactorily answered. The painful course of the settlement negotiations confirms that control of ATS resides with Mr. Rizzuto, not Mr. Clark, an industry leader of unquestioned integrity (Letter R. A. Beizer to FCC, dated Dec. 21, 1971).

Regarding the economic exclusivity issue, Jones and Farrington maintain that it was first raised by ATS, not them, and that it is a spurious issue, because Mobilephone's operation will not have the slightest adverse impact on the ATS operations in Omaha.

B. THE NEED OF ATS FOR ADDITIONAL CHANNELS

14. We are persuaded that of the three matters raised by Jones and Farrington a substantive issue exists only with respect to one: the need of ATS for five additional two-way channels. We are convinced that no such need has been shown, even considering the showing by ATS in its amended application and traffic load study submitted on September 30, 1971. ATS states that no two-way customers are being denied service as a result of offering one-way service on existing frequencies of Station KBM512. Specifically, ATS states that as of September 30, 1970, 101 pagers were operating on 152.09 MHz, the same channel on which 55 two-way mobile units were operating. On the other two-way channel (152.06 MHz) 60 mobile units are operating with no pagers. No figures are given for the number of pagers operating on 152.24 MHz, which is allocated exclusively for paging. Finally, it is noted that 75 percent of the mobile units served by ATS can operate on both two-way channels while 25 percent can work only 152.09 MHz which is the one that serves 101 pagers.

15. Taking at face value the delay study submitted by ATS (ATS amendment, filed September 30, 1971, pp. 3–4) we note, first, that it is based upon data provided by only 70 of the 115 subscribers to the service (or slightly over 60 percent) so that even if 87 percent of those ATS subscribers who responded experience delays in getting channels, this equates to only slightly over 50 percent of the total number of ATS mobile subscribers. When one considers that ATS has loaded over 100 paging units on to a single two-way channel, as well as about 2 dozen two-way mobile units capable of working that channel only, it is not surprising that some delay might be experienced by some ATS two-way customers. More efficient use of the frequencies assigned to ATS can certainly be achieved by switching as rapidly as feasible all paging units to the 152.24 MHz paging channel and modifying at least some of the single-channel mobile units so that there will be more equalized usage of both two-way channels. If this were done, the result could be 60 mobile units on each two-way channel, and all paging units on the paging channel. While a grant of the five UHF and two VHF two-way channels sought by ATS would be a wasteful use of the radio spectrum, it would appear to be in the public interest to grant one additional two-way VHF channel and two UHF two-way channels to ATS.

16. The conclusion that one VHF channel and two UHF channels will meet the reasonably foreseeable future needs of ATS is based upon data submitted by ATS itself regarding present channel loading, growth rates, and channel capacities. ATS in an amendment to its application filed September 30, 1971, stated that a "single channel may adequately accommodate 50 units, but two channels, under trunking principles, may accommodate up to 150 units." (File No. 4033–C2–P–(4)–70, applic. amend't. filed September 30, 1971.) While ATS has shown steady growth, particularly during 1971 when the number of its mobile units increased from 86 on December 31, 1970,[7] to 115 on September 30—a growth rate of about three mobile units per month—that growth, which will amount to only 36 new units on an annual basis, can be acommodated by a grant of one additional two-way VHF channel to ATS for manual service. As far as the use of UHF channels on a direct-dial trunking basis is concerned, ATS states that in response to two newspaper surveys which were conducted in September 1969 and April 1970 a total of 219 responses were received in which interest was expressed in direct-dial service, but no obligation was incurred by the respondent to take it if it were offered. There are no held orders, nor is there any showing of how many two-way customers receiving manual service would incur the substantial additional expense which would be required to switch to direct-dial service. We conclude, therefore, that a grant of two UHF channels to ATS will provide the basis for good direct-dial service to the public, and would, therefore, be in the public interest. This is, of course, without prejudice to ATS filing an application for additional channels upon an adequate showing of need and financial qualification.

C. THE UNAUTHORIZED TRANSFER OF CONTROL OF ATS

17. We have considered the charge of Messrs. Jones and Farrington that ATS, by conveying 65 shares of the authorized, but not issued, capital stock of ATS to William R. Clark, the President of Electronic Engineering Co. (EEC), of Des Moines, Iowa, and entering into a management contract with Mr. Clark, effectively transferred control of ATS to him.[8] The contract between Messrs. Clark and Rizzuto states clearly Mr. Clark's considerable experience in the radio common carrier business in the Des Moines area both from the engineering and management standpoints. The contract simply provides that Mr. Clark will build, or acquire, and install a new dial-interconnected radio paging terminal for ATS in Omaha, and provide management and engineering consultation at all levels of operation and at such times and places as required by ATS. In consideration of this equipment and service ATS agreed not only to convey 65 shares (8 percent of its capital stock) to Mr. Clark; but also, to give him first call on the sale of any additional ATS stock. The agreement was simply for the purchase of communications equipment and consultation services by ATS; and instead of being paid in cash Mr. Clark agreed to take 65 shares of ATS stock. There is nothing in the agreement or the surrounding circumstances to lead to the conclusion that there was an unauthorized transfer of control of ATS; and, we, therefore, conclude that there is no substantial issue of fact bearing upon the character qualifications of ATS to be an FCC licensee. (See FCC rules and regulations, § 21.27(e).)

D. CURTIN CALL'S OBJECTION TO AN ATS GRANT

18. Curtin Call not only objected to a grant of the ATS applications, but also petitioned this Commission to revoke the ATS licenses on the grounds, first, that ATS had acted inconsistently in filing applications for additional radio channels and at the same time petitioning the Commission to deny the Curtin Call's applications; second, that ATS allegedly violated FCC rules by operating the control point for its Station KBM512 from an unauthorized location in Omaha from September 29, 1969 until November 14, 1969; and, third, that ATS had demonstrated no need for additional channels, because Mr. Rizzuto had not increased the number of subscribers since he had taken control and did not show any interest in Council Bluffs until Curtin Call had filed for the 158.70 MHz channel there. Other charges were made concerning the relationship of the Ciaccios to the Curtins and whether the Curtin

[7] ATS Mobile Telephone, Inc., Annual Report (Form L) for 1970.

[8] As noted above, these charges were withdrawn by Mobilephone by letter filed Dec. 21, 1971, but are being considered here in order to resolve the matter finally on the record.

Call application dilutes the effectiveness of the transfer of control to Mr. Rizzuto.

19. ATS responded to the Curtin Call opposition and revocation petition on May 15, 1970, by noting that there is a difference between a need for additional facilities and a need for additional carriers; and while ATS maintains that there is a need for additional facilities for itself, it opposes the entry of new carriers into the Omaha-Council Bluffs area. ATS acknowledged that it had erred in transferring its control point without prior Commission approval; but asserted that under the circumstances it had acted in good faith, because the control point had been located at the Ciaccio's place of business in Omaha, and at the time it was moved the Nebraska District Court had decided in favor of Mr. Rizzuto.[9] ATS also disputed Curtin Call's allegation that ATS service had not grown since Mr. Rizzuto had assumed control. ATS stated that it had added 58 paging units and 15 mobile units between September 1969 when Mr. Rizzuto assumed control and May 1970 when the pleading was filed. Total growth amounted to 38 percent in the 7-month period. ATS stated that in May 1970 it had 15 paging units on lease to 11 customers in Council Bluffs, compared to only one customer served with four units at the time Mr. Rizzuto took control. The fact that ATS had filed a number of applications with this Commission and had actively participated in proceedings before the Nebraska Commission is added proof, according to ATS, of its dedication to the expansion and development of ATS service throughout the metropolitan Omaha-Council Bluffs area. ATS denied that either the CPA functions of Mr. Rizzuto or the arrangement with Mr. Clark and EEC in any way affected Mr. Rizzuto's "primary and continuing and major interest in operating the ATS radio common carrier facilities." ATS, finally, raised serious questions regarding the motivation of Curtin Call in filing its applications before this Commission, particularly when its proposed transmitter site is only about 3 to 5 miles from the ATS transmitter and in a "non-regulatory" state, and the filing was made just after the Nebraska State Railway Commission denied an emergency grant of a certificate to the principals of Curtin Call to operate in Omaha. ATS maintains that the Curtins and Ciaccios are attempting to reenter the Omaha market, both through a direct request for a certificate from the Nebraska State Railway Commission and by applying to this Commission for a radio station construction permit in Council Bluffs.

E. ATS QUALIFIED FOR PARTIAL GRANT

20. It would appear from a consideration of the relevant pleadings, first, that whatever the underlying reasons for the dispute between Ciaccios and Mr. Rizzuto the matter of control of ATS has been settled by the Nebraska Court; second, that Mr. Rizzuto has made a substantial effort to improve the services offered by ATS; third, his retention of Mr. Clark and the Electronic Engineering Corp. for expert consulting and management advice did not alter his controlling position in ATS. We find that ATS presently has one two-way VHF channel (152.18 MHz), and two UHF two-way channels (454.050 and 454.175 MHz), and we are therefore granting the ATS application in part, and denying it in part, for two reasons: First, assignment of three additional UHF two-way frequencies would be a wasteful use of the spectrum, because ATS has not shown a need for those channels; and, second, ATS does not, at this time, appear financially qualified to construct facilities and to operate three additional UHF channels. (See FCC rules, § 21.29, regarding partial grants.)

21. In its financial statement submitted as an amendment to its application on October 23, 1970, ATS stated that it had total current assets of $10,708.54, with $118,696.36 in long-term debt arising out of Motorola equipment contracts alone. The ATS statement also discloses a retained earnings deficit of $49,825.39. We note that at the time ATS filed its original application (4034–C2–P–70) for the 158.70 MHz paging channel at Council Bluffs on January 23, 1970, its total current assets were stated to be $13,896.89, and its long-term debt due to Motorola was only $51,261.97.[10] Since the cost of constructing facilities to operate on three UHF channels would be an additional $50,000 approximately, we have concluded that in addition to having shown a need for only three of the channels which it seeks, ATS at present is financially qualified to construct facilities and operate on only three additional two-way channels.

F. CURTIN CALL'S APPLICATIONS

22. Curtin Call Communications, Inc. (Curtin Call) is an Iowa corporation in which 50 percent of the stock is owned by William and Eleanor Curtin of Madison, Wis., and 50 percent by Ben and Mary Ciaccio of Omaha, Nebr. William and Eleanor Curtin are also partners in Telephone Answering Service of Madison, Wis. (KLF748), and Telephone Answering Exchange, Rockford, Ill.; Ben and Mary Ciaccio are partners in Telephone Secretaries of Omaha in Omaha, Nebr. (Application of Curtin Call for consent to assignment of radio station license, January 19, 1970, File No. 3939–C2–AL–70).

23. From May 29, 1967, until September 23, 1969, Ben and Mary Ciaccio together owned 50 percent of the stock of ATS and Mr. Rizzuto owned the other 50 percent. It is a well-known fact that there was a falling out between the Ciaccios and Mr. Rizzuto which resulted in extensive litigation in the Nebraska State courts and culminated in a decree of the Douglas County, Nebr., District Court issued on August 4, 1969 (Doc. 603, No. 348) which found, inter alia, that on or about April 18, 1968, the Ciaccios and Mr. Rizzuto exchanged options to purchase one another's stock in ATS for the sum of $50,000; that the option of the Ciaccios was allowed to expire, but that Mr. Rizzuto did exercise his option. The Ciaccios accepted Mr. Rizzuto's check and transferred their stock. However, when the Ciaccios were requested to sign the application to this Commission for a transfer of control of ATS to Mr. Rizzuto they refused, and litigation followed. The Nebraska District Court found that the refusal of the Ciaccios to sign the application for transfer of control was unreasonable and ordered them to execute the transfer application. Commission consent to the transfer of control of Radio Station KBM512 was granted on September 18, 1969, and on September 23, 1969, the transfer of control to Mr. Rizzuto was consummated.[11]

24. Shortly prior to the conclusion of the civil litigation in Nebraska, William and Eleanor Curtin, doing business as Curtin Call Communications, filed an application with this Commission for authority to construct and operate a one-way radio paging station on 158.70 MHz in Omaha. This application was returned by the Commission's Common Carrier Bureau on September 5, 1969, for failure to comply with § 21.15(c)(4) of the Commission's rules which requires that in States like Nebraska which require a franchise to operate a radio common carrier business that a certified copy of the franchise accompany the application (FCC File No. 191–C2–P–70). A petition for reconsideration was denied on December 24, 1969.

25. After Curtin Call's application was returned and reconsideration denied, Curtin Call filed two more applications: One with the Nebraska State Railway Commission to provide one-way paging service in the Omaha area, and the other with this Commission to provide one-way paging service in Council Bluffs. The Omaha application of William J. and Eleanor R. Curtin, doing business as Curtin Call Communications, to provide one-way paging service in the vicinity of Omaha, was filed on September 30, 1969, with the Nebraska Commission, and denied after a hearing on June 1, 1970. The Curtin Call application (No. 28169) had sought either approval of a schedule of charges and an order disclaiming jurisdiction over one-way radio communication services which operate independently of telephone communication

[9] See paragraph 23, infra.

[10] The ATS Annual Report to the Commission for 1970 discloses total assets of $247,987 with an excess of liabilities over assets; that is, a deficit of $51,037. Its net income from the DPLMRS for 1970 is stated to be a deficit of $43,731. (Form L, Stations KMB512 and KQZ745, combined.)

[11] At the time of the transfer ATS also had an authorization for a one-way radio paging station on 35.22 MHz (KBM513). When ATS took over the station in 1967 from ITT Mobile Telephone, Inc., there were no subscribers on that channel, and because of inherent technical problems it decided to apply for a high-band VHF paging channel. This application was granted by the Commission on Nov. 13, 1969 (Station KQZ745, 152.24 MHz), its application for renewal of the license for KMB513 having been dismissed by the Commission on Sept. 18, 1969.

facilities, or appropriate authority to operate as a common carrier offering a one-way radio communication service within a 35-mile radius of Omaha. Public hearings on the application were held on January 12 and 13, 1970. Curtin Call, at the Nebraska hearing, offered four witnesses who were using, or had used, the ATS manual radio paging service; but who stated, with one exception, that a direct-dial paging system, such as that proposed by Curtin Call, would be of advantage to them. The Nebraska Commission by a 5–1 vote (Commissioner Rasmussen dissenting) concluded in an opinion and order entered June 1, 1970, that it had jurisdiction of the matter, and that before granting a certificate of convenience and necessity it was required to find that the existing service provided by ATS is inadequate. Since it was not able to so find, it denied Curtin's application. In support of its conclusion the Nebraska Commission found that ATS was in the process of installing a direct dial access paging system on the one-way radio paging channel which had been granted to ATS by the FCC shortly before the Nebraska hearing. Since ATS was ready, willing, and able to offer the service proposed by Curtain Call, and since Curtin Call failed to show that the existing service of ATS was not adequate and would not be adequate within a reasonable time, the Curtin Call application was denied. (Commissioner Rasmussen's dissenting opinion found an evident need for competition in the radio common carrier field "in order to maintain a service commensurate with technological advances." The duplication of facilities, he maintained, is clearly not as important a factor as it is when parallel telephone lines are being proposed. The principal consideration appeared to him to be the availability of radio channels to permit the functioning of a common carrier.)

26. On January 23, 1970, Curtin Call Communications, Inc. (Curtin Call), filed another application with this Commission seeking a construction permit for a one-way radio paging station to operate on 158.70 MHz at Council Bluffs, Iowa. Its application stated that this would be the first VHF station in Council Bluffs to be devoted exclusively to radio paging; that it had received a number of requests for the proposed service from telephone answering service subscribers in the Council Bluffs area; and that Curtin Call had concluded that in the 60,000-population Council Bluffs area that there is a potential for service to approximately 100 paging units within 1 year of the establishment of the service. Curtin Call appears financially qualified, repsenting in its application that construction costs for the proposed station will be $11,300 which would include the initial purchase of 20 paging units. A financial statement submitted to this Commission on August 26, 1971 by Curtin Call shows total current assets of $79,748.18 and total current liabilities of $9,775. While Curtain Call appears to have some very substantial indebtedness, including $167,695.02 due to Associated Capital Service on equipment purchase contracts, it would appear that current assets will more then adequately cover the purchase of new equipment (even if it is all cash), as well as first year operating costs.

27. On March 4, 1970, ATS petitioned this Commission to deny Curtin Call's one-way paging application for Council Bluffs. ATS alleged that Curtin Call's real intent is to provide service to the entire Omaha-Council Bluffs metropolitan area, rather than just the Council Bluffs area, and that it had shown "no demand or need in excess of existing or immediately potential capacity of area radio common carrier facilities." (ATS petition to deny, filed March 4, 1970, p. 4.) Other allegations related to the role that the Ciaccios would play in the operation of the proposed station, and whether Curtin Call was attempting to circumvent an adverse decision of the Nebraska Commission by proposing an operation in Council Bluffs where no State or local franchise is required.[12]

28. Curtin Call, in its opposition to the ATS petition, pointed out that Council Bluffs is a separate city from Omaha, located in a different State, divided from Omaha by the Missouri River, and governed by different local law. The fact that Curtin Call's principals may have applied for a certificate to operate in Omaha was considered irrelevant; neither was there any obligation, in Curtin Call's view, to disclose to the Nebraska Commission any plans that it may have had to operate in Council Bluffs. As far as diluting the effectiveness of the transfer of control to Mr. Rizzuto, Curtin Call maintained that the agreement contained no convenant not to compete and that the application for Council Bluffs could not be construed as diluting the transfer of control of Rizzuto. The ATS reply to Curtin Call is that Curtin Call's application is in conflict with both the intent and letter of the Nebraska State court's order, and an abuse of the Commission's processes. Curtin Call, in the view of ATS, is attempting by its application to enter (in the case of the Curtins) or reenter (in the case of the Ciaccios) the Omaha market.

29. A new wave of pleadings was generated when Curtin Call applied to this Commission on January 5, 1971, for a construction permit to operate a two-way radio-telephone station at Council Bluffs on a base station frequency of 454.25 MHz. Curtin Call proposes to serve the Council Bluffs area rather than Omaha, and its application (Exhibit 4) states that it has received a number of requests for two-way service from telephone answering service customers in the Council Bluffs area and has concluded, based upon these requests, that there is a need for this service. There are no competing applications for this frequency. The financial qualifications of Curtin Call to construct and operate the proposed station were described in an amendment to its application filed on August 26, 1971 (FCC File No. 3743–C2–P–71) wherein Curtin Call estimated that the total cost of constructing both the two-way and one-way facilities would be $26,800. A review of the statement of financial condition discloses total current assets of $79,748.18 and total current liabilities of $9,775. In the Petition to deny the Curtin Call application which was filed by ATS on February 12, 1971, an allegation had been made that Curtin Call is not financially qualified to construct the proposed facility; but the balance sheet subsequently submitted by Curtin Call on August 26, 1971, does not warrant such a conclusion. While total deferred liabilities amount to $183,902.52, current liabilities were only $9,775, and even if a substantial part of the $67,500 listed as a "Goodwill Asset" were deducted from the asset side of the ledger, there would appear to be sufficient funds to construct the new Council Bluffs facilities, even if no new credit is obtained. Since we are considering the Curtin Call application only for shared use of the one-way facility, the total construction cost to Curtin Call for both facilities will undoubtedly be less than $26,800 and probably not more than $20,000. It is our conclusion, therefore, that Curtin Call has sufficient assets to cover the costs which would be incurred in constructing and operating both the two-way and one-way facility.[13]

30. The other allegation raised by ATS is that Curtin Call has demonstrated no need for the proposed services. The question of need for the services proposed by Curtin Call in Omaha has been determined by the Nebraska State Railway Commission, which has concluded, after a hearing, not to issue a certificate of convenience and necessity to Curtin Call, because it had failed to show that the existing service, which is provided by ATS, was not adequate, and would not be adequate within a reasonable time. We give great weight to that decision, which was arrived at after an evidentiary hearing. However, Curtin Call's application is to serve the Council Bluffs area, and since there is now no local two-way or one-way service for that area of about 70,000 people and to insure a fair and equitable distribution of frequencies we have concluded that the public interest would be served by a grant of Curtin Call's application for a two-way UHF channel to serve Council

[12] That part of Curtin Call's opposition which is directed against ATS (and the response of ATS) are discussed in paragraphs 18 and 19, supra, and no useful purpose would appear to be served by a repetition of the discussion here.

[13] We note that the financial position of Curtin Call seems quite similar to that of ATS, which as of Nov. 30, 1969, had total current assets of $31,896.89, total current liabilities of $3,559.05 with long-term debt of $51,261.97, and a retained earnings deficit of $3,832.77 (see FCC File No. 4034–C2–P–70, ATS applications, Exhibit 2, filed Jan. 23, 1970).

Bluffs.[14] It should be made clear, however, that neither this construction permit, nor the one for one-way service authorizes Curtin Call to serve customers located in the State of Nebraska, unless and until it should receive appropriate authority from that State. While this Commission has jurisdiction relating to the provision of service by MCC's (or RCC's) arising out of its radio licensing authority (United Telephone Co. of Ohio, 26 FCC 2d 417 (1970)) it is well established that this Commission gives great weight to the policies of the individual States regarding such matters as the entry of new common carriers into established markets. Thus, § 21.15(c)(4) of the Commission's rules requires that each application in the DPLMRS be accompanied by a certified copy of any State or local franchise where State or local law requires such a franchise as a prerequisite to operation. If no such State or local requirement exists the rule requires a statement by the applicant to that effect. If a franchise is required and the application is not accompanied by a certified copy of the franchise the application is returned as defective. The net effect, then, is that when someone proposes to offer RCC service in a State which regulates such service he must first obtain permission from the State commission if such is required, prior to filing his application with this Commission. This established practice would provide a complete answer to the concern of ATS, except for the fact that Omaha, where ATS is based, is in a jurisdiction which regulates the entry of new carriers, and Council Bluffs is in another which does not. The intervention of the Nebraska-Iowa State line might be thought to oust the Nebraska Commission of jurisdiction as far as operation of an RCC in Council Bluffs is concerned, because any service from a base station in Iowa to customers in Nebraska would be interstate and therefor subject to this Commission's exclusive jurisdiction.[15] We do not think that we are now required to speculate as to whether a State decision prohibiting members of the public in its own jurisdiction from obtaining service from an RCC based in another State would be upheld. We think that it is sufficient for the purposes of this proceeding to note that both Curtin Call and Mobilephone have stated an intent to serve Iowa customers, and that the licenses and permits issued to Curtin Call and Mobilephone will neither authorize nor prohibit service to Nebraska customers. If, in the future, either Curtin Call or Mobilephone should seek to serve Nebraska customers from Iowa such a matter should be considered in the first instance by the Nebraska State Railway Commission.

31. As far as the application of Curtin Call for the one-way paging facilities is concerned, we note that Curtin Call has entered into a sharing agreement with Mobilephone, another applicant for the one-way channel in Council Bluffs. This agreement which was filed on November 22, 1971, reflects mutual promises to waive any Ashbacker rights that the applicants might have and to share operating time equally on the frequency. We have already found such sharing agreements to be in the public interest and we so find with respect to this one. (Mobile Radio System of Ventura, Inc., 30 FCC 2d 660, 666–667 (1971).)

32. On December 22, 1971, ATS filed requests to supplement their petitions to deny the captioned applications of Curtin Call and Mobilephone, alleging that contrary to the assertion of Curtin Call and Mobilephone, ATS had not been offered an opportunity to participate in the sharing agreement. The ATS supplement essentially makes the point that the sharing agreement is a nullity because ATS has applied for the channel to be shared, and any decision by the Commission to grant the channel to Curtin Call and Mobilephone without first affording ATS the opportunity of an evidentiary hearing would be a violation of the Ashbacker rights of ATS.[16] In addition, ATS asserts that it has a fast growing one-way paging service, serving the entire Omaha-Council Bluffs area and could utilize the 158.70 paging channel more effectively than would be obtained by shared use of that channel by Curtin Call and Mobilephone. Finally, ATS asserts that even though the Commission has found shared use of paging channels to be more in the public interest than operation by a single entity in those instances all of the applicants concerned were existing licensees, unlike here where neither Curtin Call nor Mobilephone is an existing licensee. The ATS supplemental petition to deny offers nothing essentially new to this proceeding. ATS is not aggrieved or adversely affected by the amendments to the Curtin Call and Mobilephone applications to permit sharing of the 158.70 MHz channel in Council Bluffs, and it therefore has no standing to file the supplemental petitions to deny (47 U.S.C. 309(d)(1)). In its letter of October 12, 1971, to the Commission, ATS stated that any shared operation of the 158.70 MHz channel with Curtin Call and Mobilephone would be unrealistic. "Chronic disputes by the parties would inevitably entail enormous time, effort, and expense, and the proposal is not, in ATS' judgment, feasible." (ATS letter to FCC, October 12, 1971, File No. 4032–C2–P–70, et al.) ATS can hardly be aggrieved by an arrangement which it has voluntarily chosen not to enter. The substantive point raised that the Commission has never approved a sharing agreement among mere applicants carries no weight, either. In our two recent decisions involving shared use of paging channels no significance was attached to the fact that all the applicants involved were existing licensees, since the merits of sharing from a public interest point of view do not depend upon such a consideration. (See Mobile Radio System of Ventura, Inc., et al., 30 FCC 2d 660 (1971); Mobile Radio Communications, Inc., 29 FCC 2d 62 (1971).) ATS is already authorized to provide one-way paging service on an exclusive basis on one of the two radio paging channels in the area.

33. In view of the foregoing, we are faced with a difficult problem. We think that there are strong and compelling reasons favoring the commencement of service on this second one-way signaling channel without further delay, but at the same time we wish to insure that the Ashbacker rights of all parties to a comparative hearing are fully protected. We are convinced that both objectives can be achieved by permitting Curtin Call and Mobilephone to commence operation on the 158.70 MHz channel on a conditional basis immediately. (See FCC rules, § 21.31(b).) In reaching this conclusion, we have taken into account the position of ATS toward shared use of the 158.70 MHz channel (paragraph 32, supra), and it may understandably prefer not to share the use of the channel during the pendency of the comparative hearing. However, if it should wish to share the use of the 158.70 MHz channel pending the outcome of the comparative hearing it should notify the Commission within 15 days of the date of release of this order. If necessary, the Commission by subsequent order will prescribe the conditions under which there will be shared use of the channel pending the outcome of the comparative hearing. (See FCC rules, § 21.100(a).) If ATS should choose not to share, it can still provide one-way paging service in both Omaha and Council Bluffs on an exclusive basis on the 152.24 MHz channel, for which it is already licensed. A conditional grant will be made upon the express condition that it is only for the duration of the comparative hearing. Since ATS will carry the principal burden in that hearing, we consider it of the utmost importance that the conditional grant not prejudice the right of ATS to fair comparative consideration. The principal manner in which ATS can be prejudiced is by either a substantial outlay of money by Curtin Call or Mobilephone, or an offering of service to the public which could not easily be withdrawn without public inconvenience. We are persuaded that neither of those results will occur here by virtue of the conditional grant, for even if we were not to make a conditional grant Curtin Call and Mobilephone would still be able to offer one-way signaling service on a secondary basis on

[14] On Jan. 3, 1972, Curtin Call amended its application in response to a Commission request of Nov. 12, 1971, for more specific information concerning the need for the service it proposes to provide in Council Bluffs. Curtin Call states that it is presently holding orders from 20 potential subscribers for 24 or 25, two-way mobile units, and also orders from 20 potential subscribers for service to be provided, secondarily, to 30 paging units. Curtin Call has offered to provide the names of the prospective customers to the Commission on a confidential basis.

[15] Wireline companies providing public mobile radio service in local exchange areas which cross State boundaries are exempt from our jurisdiction in the provision of such service, if such service is regulated at the State or local level. (Communications Act, section 221(b).)

[16] Ashbacker Radio Corp. v. FCC, 326 U.S. 327 (1945).

the two-way channels we are granting to each of them in this proceeding. The additional cost to be incurred by each of them in operating jointly on the one-way signaling channel will be no more than the cost of a one-way signaling station. We are convinced that if Mobilephone and Curtin Call should lose in the comparative hearing and be left with no choice but to dispose of their one-way signaling equipment, a ready market will exist for such equipment in light of the rapid growth of this type of service. We are of the view that not only would there be no detriment suffered by ATS by conditionally granting the Curtin Call and Mobilephone applications if ATS should decline to join in such a conditional use of the channel, but that there would be a benefit to the public in Council Bluffs in having this one-way signaling service available on the one-way channel without further delay.[17] While ATS will have an adequate opportunity to show at the hearing how its proposed operation to serve the entire Omaha-Council Bluffs area may be more in the public interest than the shared use of the 158.70 MHz channel by Curtin Call and Mobilephone serving the Council Bluffs area, we are of the view that the public in the Council Bluffs area has been deprived of this service long enough without being required to await the outcome of what may be a lengthy comparative hearing. If we were not to make a conditional grant to Curtin Call and Mobilephone, they could still provide one-way signaling service on a secondary basis on the two-way channel which each is being granted on this proceeding. However, the limited service which they would be required to offer would, in our view, put them at a substantial disadvantage in competing with ATS in the Council Bluffs area, simply because the relatively limited channel capacity can adversely affect the quality of the two-way, as well as the one-way, service which they can provide. Since ATS would be able to provide a better service during the entire period that the matter is in a hearing status—a period of many months—ATS could very well capture a substantial part of the Council Bluffs market, and thus deprive the public in Council Bluffs of a meaningful choice in the selection of service. To sum up then, we believe that the public interest would be served by permitting Curtin Call and Mobilephone to commence, immediately and conditionally, one-way signaling operations on the 158.70 MHz channel; and thus, bring the Council Bluffs area its first local one-way signaling service. The issues designated for hearing will be essentially the same as those designated in the Ventura matter, supra, with the exception that the Hearing Examiner will not be directed to seek a sharing agreement among all three applicants for the 158.70 MHz channel. The comparative hearing will be conducted in light of the Commission's policy, established in Ventura, that time sharing agreements of the type proposed here by Curtin Call and Mobilphone are in the public interest (30 FCC 2d at 666–667). As we stated there, not only do such agreements generally entail a more efficient use of the radio spectrum than that which can be achieved by individual licensees operating on an exclusive basis, but they can also eliminate multiparty comparative hearings, and permit service to be instituted without the delay inherent in a comparative hearing. The result is that the public benefits by having an efficient service available without undue delay. For the foregoing reasons, and for the reasons stated in the following paragraphs regarding Mobilephone's qualifications, we are, therefore, dismissing the ATS supplemental petitions, but are designating the applications of ATS, Curtin Call, Mobilephone for a comparative hearing.

[17] Both Curtin Call and Mobilephone propose the first local service in Council Bluffs, and their one-way applications have been pending since Jan. 23, 1970 and Nov. 12, 1969, respectively—well over 2 years. (See paragraphs 5 and 34.)

G. MOBILEPHONE'S APPLICATIONS

34. The third applicant for facilities in the Omaha-Council Bluffs area is Paul D. Jones and Jon N. Farrington, doing business as Council Bluffs Mobilephone of Council Bluffs, Iowa (Mobilephone). Mobilephone filed two applications on November 12, 1969; the first for a two-way radiotelephone channel to operate on a base station frequency of 152.03 MHz (File No. 2674–C2–P–70) and the second for a one-way paging station on 158.70 MHz (File No. 2675–C2–P–70). As noted in paragraph 31 above, Mobilephone has entered into an agreement with Curtin Call to share the channel.

35. Mobilephone is qualified to be a licensee. According to its application Mobilephone is a partnership of Messrs. Jones and Farrington (File No. 2674–C2–P–70, Exhibit 4). In addition, Mr. Jones who is the sole proprietor of Answer Council Bluffs, a public telephone answering service, states that the proposed facility will be operated in conjunction with that service, which has eight employees who will be under the personal supervision of Mr. Jones. Mr. Farrington is a licensed radio engineer who will supervise the installation, and maintenance will be performed by the local Motorola service station. Unaudited statements of net worth, dated October 21 and 30, 1969, and filed by Messrs. Jones and Farrington, respectively, disclose a total partnership net worth of $140,325 which is unquestionably adequate to construct and operate the proposed facilities for a year.

36. Mobilephone also maintains (Exhibit 11) that there is a well-defined demand for the services proposed, and submits a list of some 84 persons in the Council Bluffs area who furnished signed statements attesting to the "severe need" of the business and professional community in Council Bluffs for additional two-way and one-way services to be furnished by a carrier based in Council Bluffs which will render primary attention to the service needs of Council Bluffs residents. (File No. 2674–C2–P–70, amendment filed January 22, 1970.)

37. ATS on December 29, 1969, filed a petition to deny the Mobilephone applications on the ground that Mobilephone proposes to serve the Omaha Council Bluffs area; and there is no need for such service, because ATS provides good service to Council Bluffs, contrary to Mobilephone's assertions. ATS maintains further that additional competition at this time would adversely affect the ability of ATS to serve the public. This is principally because of the rather lengthy and debilitating dispute between the Ciaccios and Mr. Rizzuto over control of ATS. ATS suggests that the Commission either designate the Mobilephone application for hearing on the issue of need, or dismiss it outright on the ground that there has been no showing that ATS cannot meet the needs of the area. Finally, ATS maintains that Mobilephone's two partners, Jones and Farrington, were the "key principals" in Radio-Fone, Inc., which had filed an application before the Nebraska State Railway Commission, proposing radio common carrier services at Omaha; that that application was denied; and that the application before this Commission purportedly to serve Council Bluffs, Iowa, is merely an attempt to achieve indirectly what it might not be able to achieve directly.[18] In its opposition to the petition to deny, filed January 23, 1970, Mobilephone restated its intention to serve Council Bluffs, Iowa; that no radio common carrier is presently licensed to that community; and that Council Bluffs residents must rely for service on carriers in Omaha—a city almost six times the size of Council Bluffs. In addition, it was pointed out that terrain irregularities limit the eastward range of the Omaha stations with the result that signal reception is impeded not only in Council Bluffs, but also in other western Iowa communities, such as Glenwood, Iowa, where a State hospital is located and many Council Bluffs physicians spend substantial amounts of time.

38. The ATS reply to Mobilephone's opposition, filed February 18, 1970, agrees with Mobilephone that there is a need for additional service in Council Bluffs, but it argues that the need can best be served by ATS, which has located its transmitters (for KMB512) in Omaha, just 3 miles from Council Bluffs. ATS denies that terrain irregularities limit its signal, as alleged by Mobilephone. On the contrary, ATS maintains that it is ready, willing, and able to provide the same type service not only to Council Bluffs, but the

[18] As noted above, paragraph 30, the State of Iowa has not asserted jurisdiction over radio common carriers; but the State of Nebraska does assert jurisdiction and requires that all radio common carriers proposing to provide services within that State obtain, first, a certificate of convenience and necessity from the Nebraska State Railway Commission. Before issuing a certificate, however, that Commission is required to find that the existing service is not adequate and that reasonably adequate service will not be provided within a reasonable time.

entire Omaha-Council Bluffs area; and a grant of Mobilephone's applications would involve a wasteful duplication of facilities. Finally, ATS raises the point that Messrs. Jones and Farrington have not fully disclosed to this Commission their close relationship to Radio-Fone, Inc., in Omaha, and its motivation in filing an application to provide radio common carrier service in Nebraska.

39. As we noted above in our discussion of the Curtin Call applications, whatever motivations that Messrs. Jones and Farrington had in applying to the Nebraska State Railway Commission for a certificate to serve the Omaha-Council Bluffs area, that matter has been mooted by the action of the Nebraska Commission which denied the Radio-Fone application. We believe that no useful purpose would be solved by delving deeply into the matter in this proceeding particularly since the Mobilephone application presently before us proposes service to Council Bluffs, a well-defined need for the service was shown, and the applicant appears to be well qualified in all respects to commence this undertaking. We will stress again here as we did with respect to the grant of authority to Curtin Call (paragraph 30, supra) that neither the construction permit for two-way service not the one for one-way service granted to Mobilephone authorizes it to serve customers in the State of Nebraska, unless and until it should receive appropriate authority from that State. Since we have concluded that the Mobilephone-Curtin Call agreement to share use of the 158.70 MHz channel is in the public interest (see paragraph 32, supra) no useful purpose would appear to be served by reciting the specific reasons again here.

40. In consideration of all the foregoing, we have concluded that the public interest, convenience, and necessity would best be served by a partial grant of the ATS application which would permit ATS Mobile Telephone, Inc., to operate on an additional VHF two-way channel as well as on two two-way UHF channels. Its request for three UHF channels will be denied without prejudice to a later filing for those channels based upon a showing of need and financial qualification. The applications of Curtin Call Communications, Inc., and Council Bluffs Mobilephone, as amended by the sharing agreement filed November 22, 1971, will be granted conditionally, and their individual applications for two-way stations will be granted on a regular basis.

II. GRAND ISLAND, NEBR.

41. The above-captioned application (File No. 2239-C2-AP/AL-(2)-72) for consent to the assignment of a radio station license and construction permit belonging to Paul D. Jones, doing business as Answer-All of Grand Island (Answer-All) was filed on October 19, 1971; and a petition to deny was filed by ATS Mobile Telephone, Inc. (ATS), on November 26, 1971. The ATS petition seeks either an outright denial of the application, or its designation for consolidated hearing with the pending applications of (1) ATS for new facilities at Omaha, Nebr., and Council Bluffs, Iowa (Files Nos. 4033-C2-P-(4)-70, 4034-C2-P-70, and 7983-C2-P-(3)-70); (2) Paul D. Jones & Jon N. Farrington, doing business as Council Bluffs Mobilephone (Mobilephone) for new facilities at Council Bluffs, Iowa (Files Nos. 2674-C2-P-70 and 2675-C2-P-70); and (3) Curtin Call Communications, Inc., for new facilities at Council Bluffs, Iowa (Files Nos. 3743-C2-P-71 and 4032-C2-P-70). An opposition to the ATS petition was filed by Answer-All on December 21, 1971, and a reply to the opposition was filed by ATS on January 5, 1972.

42. The Answer-All application is for an assignment of license from Answer-All to Charles P. Oden doing business as Oden Communications Co. (Oden). No question has been raised concerning Oden's qualifications to be an FCC licensee; but ATS has challenged the application on the ground that the assignor's principal, Jones, does not have the requisite character qualifications to be an FCC licensee. According to the ATS petition Jones has filed the Mobilephone application (see paragraphs 34-40, supra) purportedly to serve Council Bluffs, but his real aim is to serve the much larger Omaha area where Jones has a telephone answering service. ATS maintains that Jones had an interest (albeit less than 15 percent) in Radio-Fone, Inc., which applied to the Nebraska State Railway Commission for a certificate to serve Omaha; but since that application was denied,[19] the reason for the Council Bluffs application is to circumvent the decision of the Nebraska Commission by establishing facilities outside of Nebraska, but close enough to Omaha to serve Omaha customers. As far as the Grand Island application itself is concerned, ATS argues that the consideration to be received by Jones (about $18,000) is excessive and amounts to trafficking—the acquisition of FCC licenses and/or permits for the purposes of making a profit rather than for performing a service under the authority of the permit and/or license.

43. The ATS claim of standing to challenge the assignment is based on the consideration to be received by Jones from the assignment. ATS argues that this $18,000 "would afford the financial means by which Jones may enhance his competition and opposition to ATS in (the Omaha-Council Bluffs) area" (ATS petition to deny, p. 5). We find the ATS claim to standing to be deficient. Since Omoha is over 100 miles from Grand Island, the interest of ATS in the assignment of the Grand Island permit and license can only be derived through Jones minority interest in an application for facilities in Council Bluffs. The aggrievement to ATS which would be caused by a grant of the Answer-All application would be, at most, speculative and remote. Even if we were to take "a rather generous attitude toward standing" in this case, it would still be most difficult to find that ATS would be aggrieved or adversely affected by the grant of the assignment. Assuming that the entire $18,000 would flow to Mobilephone's operation in Council Bluffs (and this, of course assumes that there are no expenses attributable to the assignment—a most unlikely contingency) it is difficult to see how this would enhance Mobilephone's posture at the expense of ATS. Mobilephone's application is already on file, and its grant does not hinge on whether Mobilephone receives the $18,000. Since ATS is already well established in Omaha—a city with nearly six times the population of Council Bluffs where Mobilephone intends to operate—and since Mobilephone will be competing with Curtin Call for business in that smaller market while ATS may have the Omaha market reserved largely to itself, we cannot find that ATS will be adversely affected by a grant of the assignment application and so we conclude that ATS does not have standing to file its petition to deny. (See Broadcast Enterprises, Inc. v. FCC, 390 F. 2d 483 (D.C. Cir. 1968).) Even though we conclude that ATS has no standing to challenge this assignment, we have considered the merits of the trafficking argument made by ATS, and conclude that no showing has been made that Jones is trafficking in licenses. Trafficking occurs when a licensee acquires and/or operates a radio station for the primary purpose of selling or otherwise disposing of it for a profit rather than for the primary purpose of serving the public interest. (Crowder v. FCC, 399 F. 2d 569, 130 U.S. App. D.C. 198 (1968); cert. denied, 393 U.S. 962 (1968).) We cannot conclude that Jones acquired the Grand Island license and permit for the primary purpose of selling it for a profit. Commission records show that Jones in March 1969 agreed to purchase the Answer-All telephone answering service and acquire the construction permit for Station KLF552 for 7,500 shares of the common stock of Answer Iowa, Inc. According to the Answer Iowa, Inc., statement of financial condition submitted a year earlier, the book value of that stock was about $11,100.[20] The instant agreement provides for a payment of $10,000 to Jones plus an amount equal to his equity in certain radio equipment associated with the station ($4,374.79 as of January 31, 1971 plus $310.65 per month representing Jones' time payments for the equipment). The $310.65 increment will continue up to the time of the date of final closing. (File No. 2239-C2-AP/AL-(2)-72, Exh. B). Also, on September 29, 1971, the agreement was amended by adding an amount of $564.85 to the consideration, representing the out-of-pocket expenses of Jones in obtaining the authorization for Station KSV931. We have also considered, not only the original CP application in the station

[19] As we have already noted, that decision was upheld by the Nebraska in its decision of Jan. 7, 1972. (See paragraphs 10-11, supra).

[20] This is based upon 268,625 shares outstanding with a net book value of $398,325.91. (Exhibit 7 to application of Answer Iowa, Inc., for CP, filed Apr. 30, 1968 (File No. 5567-(2)-P-68).

file which states the cost of radio equipment (base station plus 10 mobile units) to be $17,675 (File 5567–C2–P–68, KLF-552), but also that the Nebraska State Railway Commission (NSRC) on May 24, 1971, approved the application of Oden to acquire the authority which that Commission had issued to Jones. This approval was granted after a hearing on April 31, 1971, and the Nebraska Commission's opinion and order states that even though notice of the filing of the application was published pursuant to that Commission's rules and regulations, no protest to the application was filed. (In the matter of the application of Charles P. Oden, application No. 28860, NSRC, May 24, 1971).

44. Considering all the foregoing, we have concluded that the price to be paid by Oden for the Grand Island facilities is not patently excessive; but, on the contrary, probably returns Jones very little more, if anything, than what he invested in the Grand Island enterprise. On the facts before us, we find no basis for concluding that Jones is trafficking in licenses.

45. We have also examined into the qualifications of Oden to be a licensee in the Domestic Public Land Mobile Radio Service, and find him to be financially, legally, and otherwise qualified to be a licensee. His net worth of $86,355, as of July 31, 1971, appears to be more than adequate to meet the financial terms of the agreement of sale. In addition, we have considered that his employees will be under the supervision of a second class radiotelephone operator, and that Oden plans to visit the station at least once a week. Oden's qualifications as an operator of radio common carrier stations are also a matter of record in connection with the operation of MCC stations in Norfolk and O'Neill, Nebr.

III. The Wisconsin Application

46. The third group of applications against which ATS has filed petitions to deny involves Curtin Call facilities in Eau Claire and Wausau, Wis. Since the petition to deny is both substantively and procedurally deficient we are denying it, and granting the applications.

47. The first Curtin Call application for a CP to serve the Wausau area was filed on April 9, 1970. That application (File No. 6063–C2–P–70) proposed a two-way system (with one-way service provided on a secondary basis) to serve the Wausau, Wis., area with a population of approximately 31,500. Curtin Call's application also stated (Exhibit 5) that this would be the first RCC [21] service offered in the Wausau area which has 79 manufacturing establishments employing 10,000 people. There are, in addition, 415 retail outlets and 86 wholesale businesses in the city, and also one newspaper, four radio stations, and two TV stations. The application reflects Curtin Call's net worth at $25,000 (Exhibit 6), with the estimated cost to establish the proposed facilities to be $6,350. In response to a Commission letter of July 29, 1971, Curtin Call stated that it was then holding signed orders from 12 potential customers for service to 17 mobile units (Curtin Call letter to FCC, Aug. 27, 1971). Curtin Call's second application for Wausau was filed on April 27, 1970 (File No. 6975–C2–P–70), and proposed the first 150 MHz station in the Wausau area devoted exclusively to one-way paying service. A separate one-way paging channel was deemed necessary to preclude "the operational incompatibility which might result from serving a substantial number of one-way subscribers on a channel allocated primarily for two-way service." (Curtin Call application, Exhibit 4.) A letter filed by Curtin Call on September 9, 1970, states that it has signed orders from 14 potential subscribers for one-way paging service to 17 receivers. In addition, a line of credit in the amount of $75,000 being extended by the General Electric Co. and Industrial Leasing Corp. will allow purchases on credit up to $30,000. We think that this funding and showing of need is adequate to authorize construction of both the proposed facilities.

48. Curtin Call's application for a one-way station to serve the Eau Claire, Wis., area was filed on April 17, 1970. The application proposes to provide the first one-way paging service in the 150 MHz band (File No. 6801–C2–P–70). On December 29, 1971, Curtin Call filed a letter with the Commission challenging the grant of Curtin Call's application for a two-way channel without simultaneously granting its application for the one-way channel.[22] The letter states that it would be burdensome on Curtin Call to purchase paging receivers and a transmitter to operate on the two-way channel, and then later be required to purchase a new transmitter and paging receivers to operate on the one-way paging channel. Curtin Call asserts that such a grant would not be inconsistent with the Commission's recent Long Island Paging decision.

49. Eau Claire is about 100 miles from Wausau, so that there is no possibility of serving Eau Claire from Wausau. Eau Claire has a slightly greater population (about 42,500 people), and Curtin Call states in its application (Exhibit 4) that it would not be feasible to provide one-way service on a shared basis on its two-way channel for the same reasons that it gave in the Wausau application: It would limit future growth. The Commission has concluded that Curtin Call's showing of need justifies the grant of its one-way application. The Review Board's decision in Long Island Paging, 30 FCC 2d 405; Application for review denied, 32 FCC 2d 235 (1971), holds that an applicant for new facilities in the Domestic Public Land Mobile Radio Service must demonstrate that a need exists for those facilities; it cannot be presumed. Curtin Call's statement of need, together with its representation that a grant of the one-way paging application at this time will preclude the incursion of additional costs and inconvenience in having to switch channels later on, justifies a grant of Curtin Call's Eau Claire application. A petition to deny the three foregoing applications was filed by ATS also December 29, 1971, some 20 months after public notice was given by the Commission of the filing of the Wausau applications.[23] Since the time for filing had long since expired when the instant petition to deny was filed it will be considered only as an informal objection (FCC rules and regulations, § 21.27(c)). Considering the merits of the "petitions" we find nothing in them uniquely directed to the Wausau and Eau Claire applications, rather we have a restatement of the various arguments directed to Curtin Call's qualifications to be a licensee, but arising out of other proceedings, principally those in Omaha and Council Bluffs. Since we have considered Curtin Call's qualifications within the contexts of the specific applications out of which the qualification questions arose, it would serve no useful purpose to go over the same ground again here with the same result. We are therefore dismissing the ATS Petition to Deny and are granting the Curtin Call applications, as described below.[24]

IV. The Petitions to Revoke Curtin Call's Licenses and Permits

50. ATS, in addition to filing multiple petitions to deny a number of Curtin Call applications, has also filed two petitions seeking revocation of Curtin Call Domestic Public Land Mobile Radio Service Licenses captioned above in Clayton, Mo., and Madison, LaCrosse, Eau Claire, Fond du Lac, and Janesville, Wis. Neither revocation petition alleges any facts pertaining to the operation of those stations which could provide a basis for revocation of their licenses; on the contrary, the allegations are directed to pending applications of Curtin Call which have already been considered at length in this memorandum opinion and order. Since we do not find, for the reasons stated above, a basis for denying any of Curtin Call's applications on the ground that Curtin Call is lacking in character qualifications we will deny the captioned ATS petitions seeking revocation of Curtin Call's licenses.

51. One final word appears in order regarding the mutiplicity of pleadings

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[21] The terms "RCC" (Radio Common Carrier) and "MCC" (Miscellaneous Common Carrier) are used interchangeably in this industry, although the official Commission designation is "Miscellaneous Common Carrier." (FCC rules and regulations, section 21.1.)

[22] A copy of the letter was not served on ATS. Ordinarily we would require such service as a prerequisite to consideration of the merits, but since the ATS petition to deny was untimely, we cannot find any justification for further prolonging this proceeding by offering ATS an opportunity to file an opposition, and thus initiate another round of filings.

[23] Public notice of the filing of the first application for Wausau (File No. 6063–C2–P–70) was given on Apr. 20, 1970; while public notice for the filing of the second application (File No. 6975–C2–P–70) was given on May 4, 1970. Public Notice of the filing of the Eau Claire application was given on Apr. 27, 1970.

[24] Consideration of a petition to deny or revoke a license includes, of course, consideration of all responsive pleadings, including reply pleadings.

which have been filed, especially by ATS, many of which are merely repetitive (such as the petitions for revocation above) but all of which require consideration and consume valuable Commission time. In this proceeding ATS filed six petitions to deny, two supplements to petitions to deny, and two petitions seeking revocation of 11 Curtin Call licenses.[25] In only two of those petitions have we found that ATS has any standing as a competitor. While ATS might understandably be concerned with any new competition it might face in Omaha it is a fact that ATS not only has an exclusive franchise to serve Omaha issued by the Nebraska State Railway Commission, but also presently serves any part of Iowa that it wishes by virtue of the fact that Iowa does not regulate RCCs. In view of these circumstances, we view the massive filings of ATS against its would-be competitors with special concern particularly as the filings may provide the basis for an inference that the motive of ATS might have been, not only to raise legitimate public interest questions before this agency, but also to block access to this agency by potential competitors. While we do not consider the present record to warrant our designating the ATS application for hearing on the issue of abuse of this agency's processes, we consider a matter of this type sufficiently serious to call public attention to it, and to note the Commission's concern with conduct which can be interpreted as having as its primary purpose the harassment or deterrence of others in their exercise of free and unlimited access to this agency. This is not a new matter with this Commission. (See American Television Relay, Inc., 11 FCC 2d 553 (1968).) We mention the matter at some length here because all interested parties should be on notice that the Commission will take appropriate action in future proceedings where the record appears to warrant an inference that a licensee by the filing of a multiplicity of pleadings has done so for the primary purpose of blocking access to this agency by potential competitors.

52. Accordingly, in view of the foregoing: *It is ordered,* That the agreement entered into between Curtin Call Communications, Inc., and Paul D. Jones and Jon N. Farrington doing business as Council Bluffs Mobilephone and filed November 22, 1971, to operate their radio stations on the 158.70 MHz one-way signaling channel at Council Bluffs, Iowa, on a shared-use basis is approved, and it appearing the public interest, convenience, and necessity would be served thereby: *It is further ordered,* (1) That the application of Curtin Call Communications, Inc. (File No. 3743–C2–P–71), for a construction permit for a two-way radiotelephone station on base station frequency 459.25 MHz is granted, and that the petition of ATS Mobile Telephone, Inc., to deny that application is denied: (2) That the application of Paul D. Jones and Jon N. Farrington, doing business as Council Bluffs Mobilephone (File No. 2674–C2–P–70) for a construction permit for a two-way radiotelephone station to operate on the base station frequency 152.03 MHz is granted and that the petition of ATS Mobile Telephone, Inc., to deny that application is denied: (3) That the applications of Curtin Call Communications, Inc. (File No. 4032–C2–P–70), and Paul D. Jones and Jon N. Farrington doing business as Council Bluffs Mobilephone (File No. 2675–C2–P–70), as amended by a sharing agreement dated November 18, 1971, and filed November 22, 1971, for a construction permit to establish a new one-way radio paging station on the base station frequency 158.70 MHz are granted on a conditional basis, and the supplement to petition to deny the Mobilephone application filed by ATS on December 22, 1971, is dismissed: And (4) that the part of the application of ATS Mobile Telephone, Inc. (File No. 4033–C2–P–(4)–70, et al.), for a construction permit for the additional two-way base station frequencies 152.18, 454.050, and 454.175 MHz at Omaha, Nebr., is granted, and the part of the application for construction permits to establish additional two-way base station radio frequencies on 454.275, 454.300, 454.325, and 152.15 MHz is denied.

53. *It is further ordered,* (1) That the grant of the applications of Curtin Call Communications, Inc., and Paul D. Jones and Jon N. Farrington doing business as Council Bluffs Mobilephone for shared use of the 158.70 MHz channel is upon the express condition that it is only for the duration of the consolidated hearing held on those applications as well as that of ATS Mobile Telephone, Inc., and that it will terminate with the issuance of a final Commission decision in that proceeding; and (2) that if ATS Mobile Telephone, Inc., notifies the Commission within 15 days of the date of release of this memorandum opinion and order that it wishes to share the use of that channel with the conditional grantees pending the outcome of the comparative hearing, it will be permitted to so share under such terms and conditions which may be prescribed by this Commission pursuant to § 21.100 of its rules and regulations.

54. *It is further ordered,* Pursuant to sections 309 (d) and (e) of the Communications Act of 1934 (47 U.S.C. 309 (d) and (e)), That the applications of ATS Mobile Telephone, Inc. (File No. 4034–C2–P–70), Curtin Call Communications, Inc. (File No. 4032–C2–P–70), and Paul D. Jones and Jon N. Farrington doing business as Council Bluffs Mobilephone (File No. 2675–C2–P–70) are designated for hearing in a consolidated proceeding, upon the following issues:

1. To determine the nature and extent of services proposed by ATS Mobile Telephone, Inc., including the rates, charges, personnel, practices, classifications, regulations, and facilities pertaining thereto.

2. To determine the nature and extent of services jointly proposed by Curtin Call Communications, Inc., and Paul D. Jones and Jon N. Farrington doing business as Council Bluffs Mobilephone (the "joint applicants"), including the rates, charges, personnel, practices, classifications, regulations, and facilities pertaining thereto.

3. To determine the total area and populations to be served by the joint applicants together within both their respective 43 dbu contours, based upon the standards set forth in § 21.504 of the FCC rules and regulations; and to determine the need for proposed service in said areas.[26]

4. To determine the area and population to be served by ATS Mobile Telephone, Inc., within its 43 dbu contour, based upon the standards set forth in § 21.504 of the FCC rules and regulations; and to determine the need for the proposed service in that area.

5. To determine, in light of the evidence adduced on all the foregoing issues whether the public interest, convenience, and necessity will be best served by a joint grant of the applications of Curtin Call Communications, Inc., and Paul D. Jones and Jon N. Farrington doing business as Council Bluffs Mobilephone, or a grant of the application of ATS Mobile Telephone, Inc.

55. *It is further ordered,* That the burden of proof of Issues 1, 4, and 5 is on ATS Mobile Telephone, Inc.

56. *It is further ordered,* That the burden of proof of Issues 2 and 3 is on the joint applicants.

57. *It is further ordered,* That the Chief, Common Carrier Bureau, is made a party to this proceeding.

58. *It is further ordered,* That the hearing shall be held at the Commission offices in Washington, D.C., at a time and place, and before a Hearing Examiner, to be specified in a subsequent order.

59. *It is further ordered,* That the objections of Paul D. Jones and Jon N. Farrington to a grant of the captioned applications of ATS Mobile Telephone, Inc., filed March 3, 1970, and July 2, 1970, are granted to the extent reflected herein; otherwise they are denied.

60. *It is further ordered,* That the amendment to its application proferred by ATS Mobile Telephone, Inc., on January 21, 1972 (File No. 4033–C2–P–(4)–70) is stricken.

61. *It is further ordered,* That the petitions of ATS Mobile Telephone, Inc., filed December 29, 1971, for the institution of revocation proceedings against Curtin Call Communications, Inc., Files Nos. 6525–C2–AL–(3)–70, 1713–C2–L–69, 7288–C2–L–70, 751–C2–R–69 (KLF478, KSD-318, and KQZ785, 1811–C2–L–71 (KRS-630), 6800–C2–P–70 (KSV988), 6799–C2–P–70 (KSV989), 7519–C2–P–70 (KSV-995), and 2735–C2–ML–70 (KQF940) are denied: and the petition of Curtin Call Communications, Inc., filed April 17,

[25] Curtin Call has filed one petition to deny, combined with a petition to revoked, and Mobilephone has filed one petition to deny.

[26] Section 21.504(a) of the Commission's rules and regulations describes a field strength contour of 43 decibels above 1 microvolt per meter as the limit of reliable service area for base stations engaged in one-way communications service. Propagation data set forth in § 21.504(b) are a proper basis for establishing the location of the service contours (F50,50) for the facilities involved in this proceeding.

1970, to institute revocation proceedings, and for other relief against ATS Mobile Telephone, Inc. (Radio Station Permit KQZ745 and Radio Station License KMB512), is denied.

62. *It is further ordered,* That the application for consent to assignment of Radio Station Construction Permit KSV-931 and Radio Station License KLF552 from Paul D. Jones doing business as Answer-All of Grand Island to Charles P. Oden doing business as Oden Communications Co. (File No. 2239-C2-AP/AL-(2)-72) is granted; and the petition of ATS Mobile Telephone, Inc., to deny that application is dismissed.

63. *It is further ordered,* That the application of Curtin Call Communications, Inc. (File No. 6063-C2-P-70), for a construction permit to establish new facilities on the base station frequency of 152.06 MHz at Wausau, Wis., is granted; and its application for a construction permit to establish new facilities on the base station frequency 152.24 MHz at Wausau, Wis. (File No. 6975-C2-P-70) is granted.

64. *It is further ordered,* That the application of Curtin Call Communications, Inc. (File No. 6801-C2-P-70), for a construction permit to establish new facilities on the base station frequency of 152.24 MHz at Eau Claire, Wis., is granted.

65. *It is further ordered,* That the application of Curtin Call Communications, Inc. (File No. 6801-C2-P-70), for a construction permit to establish new facilities on the base station frequency of 152.24 MHz at Eau Claire, Wis., is granted: and

66. *It is further ordered,* That any points raised in the various pleadings and not explicitly addressed in this memorandum opinion are considered to be lacking in decisional significance, and are, accordingly, denied.

Adopted: May 17, 1972.

Released: June 1, 1972.

FEDERAL COMMUNICATIONS COMMISSION,[27]
[SEAL] BEN F. WAPLE,
Secretary.

[FR Doc.72-8407 Filed 6-2-72;8:51 am]

FEDERAL POWER COMMISSION

TECHNICAL ADVISORY TASK FORCES

Order Establishing and Designating Membership

MAY 25, 1972.

The Federal Power Commission determines that the establishment of respective Task Forces to the Technical Advisory Committee-Distribution is in the public interest and establishes such Task Forces, as identified in the attached Appendix, all in accordance with the provisions of the Commission's orders issued February 23, 1971, 36 F.R. 3851 and April 6, 1971, 36 F.R. 6922.

1. Purpose: The purposes of the Technical Advisory Committee Task Forces are as set forth in the Commission's April 6, 1971, Order Establishing National Gas Survey Technical Advisory Committees and Designating Initial Membership. The Distribution-Technical Advisory Committee Task Forces are organizationally subordinate to the Technical Advisory Committee-Distribution.

The Commission's order issued February 23, 1971, states in part as follows:

To assist the actions of the Commissioners and Commission staff, the Commission will use various advisory committees which shall be conducted under the general direction of the Commission and in accordance with the provisions of Executive Order No. 11007, February 26, 1962 (27 F.R. 1875). * * * All will be conducted pursuant to the general requirements as set forth in this order. The Commission contemplates the issuance of specific order or orders from time-to-time establishing each committee and denominating its membership and chairmanship.

The advice of all committees shall be limited to matters relating solely to the planning and carrying out of the National Gas Survey. The Commission will have complete responsibility for the National Gas Survey with respect to its conduct, scope, the ultimate recommendations and the acceptance of the final report. In discharging these responsibilities, the Commission will approve the Survey's objectives, scope of work, organization and schedule of performance, make any required policy determinations and give its advice directed toward the coordination and cooperation between the Survey and any inter-governmental, State, industry, agency or representative, including any other expertise as required.

2. Membership: With respect to each Task Force, the Task Force Chairman (who shall be designated Director), the Deputy Director, the FPC Survey Coordinating Representative and Secretary, the Alternate FPC Survey Coordinating Representative and Secretary, the FPC Representative and the other Task Force members, shall be selected by the Chairman of the Commission, with the approval of the Commission, and are designated in the Appendix hereto, and any additional persons that may be designated to serve on the Task Forces shall be selected by the Chairman of the Commission, with the approval of the Commission: *Provided, however,* The Chairman of the Commission may select and designate additional persons to serve in the capacity of Alternate FPC Survey Coordinating Representative and Secretary. The person or persons who are designated as the FPC Survey Coordinating Representative and Secretary shall be full-time salaried officers or employees of the Commission. The FPC Survey Coordinating Representative and Secretary, or alternates, shall be designated by the Chairman and serve as Secretary of the Task Force Committee for which selected. The Directors, Deputy Directors, FPC Survey Coordinating Representatives, and Secretaries, and alternates, the FPC Representatives and the other Task Force members, as selected and approved in accordance with this order, are designated below.

3. The following paragraphs of the aforementioned Commission order, issued February 23, 1971, are hereby incorporated by reference:

3. Conduct of Meetings.
4. Minutes.
5. Secretary of the Committee.
6. Location and Time of Meetings.
7. Advice and Recommendations Offered by the Committee.
8. Duration of the Committee.

The Secretary of the Commission shall cause prompt publication of this order to be made in the FEDERAL REGISTER in accordance with the provisions of the Office of Management and Budget Circular No. A-63.

By the Commission.

[SEAL] KENNETH F. PLUMB,
Secretary.

NATIONAL GAS SURVEY DISTRIBUTION—TECHNICAL ADVISORY COMMITTEE

DISTRIBUTION—TECHNICAL ADVISORY TASK FORCE—FINANCE

TF director, Charles G. Freund, vice president, secretary and treasurer, Peoples Gas Co.
TF deputy director, P. W. Frick, vice president—finance and treasurer, Columbia Gas System Service Corp.
TF FPC survey coordinating representative and secretary, Charles A. Gallagher, engineer, National Gas Survey, Federal Power Commission.
Alternate TF FPC survey coordinating representative and secretary, Robert E. Fullen, industry economist, Bureau of Natural Gas, Federal Power Commission.
FPC representatives:
Arthur L. Litke, chief, Office of Accounting and Finance.
John J. McGrath, chief, Division of Finance and Statistics.
Donald A. Murry, chief, Division of Economic Studies (associate professor of economics, University of Missouri), Federal Power Commission.

Task Force Members

W. R. Boris, vice president—finance, Consumers Power Co.
F. C. Eggerstedt, Jr., senior vice president and treasurer, Long Island Lighting Co.
Donald Mishara, first vice president, Eastmon Dillon Union Securities & Co., Inc.
Francis Montelione, senior vice president, the Brooklyn Union Gas Co.

DISTRIBUTION—TECHNICAL ADVISORY TASK FORCE—REGULATION AND LEGISLATION

TF Director, Arthur R. Seder, Jr., general counsel, American Natural Gas System.
TF Deputy Director, Alfred H. Glancy III, treasurer, Michigan Consolidated Gas Co.
TF FPC Survey Coordinating Representative and Secretary, Charles A. Gallagher, engineer, National Gas Survey, Federal Power Commission.
Alternate TF FPC Survey Coordinating Representative and Secretary, Francis C. Allen, attorney, Office of General Counsel, Federal Power Commission.
FPC representative, Allen F. Crabtree, Environmental Assistant to the Advisor on Environmental Quality, Office of the Advisor on Environmental Quality, Federal Power Commission.

Task Force Members

Richard H. Bowerman, president, Southern Connecticut Gas Co.

[27] Commissioners Johnson and Wiley concurring in the result.

L. George Folsom, vice president and secretary, Atlanta Gas Light Co.
Jonel C. Hill, assistant vice president, Pacific Lighting Service Co.
Michael A. James, senior staff attorney, Office of General Counsel, Environmental Protection Agency.
Robert E. Jones, manager—hydrocarbon planning projects and attorney, Dow Chemical Co. (Midland, Mich.).
H. Edward Lordley, director—Department of Public Utilities, city of Richmond, Va.
Edward L. Strohbehn, staff attorney, Natural Resources Defense Council, Inc. (DC).
Joseph P. Thomas, vice present and controller, Peoples Gas Light & Coke Co.
Robert L. Wegerle, vice president, Columbia Gas Service Co.
Theodore E. Wellendorf, treasurer and assistant secretary, Oklahoma Natural Gas Co.
Richard B. Wolfe, deputy director, Institute for Public Interest Information, Georgetown University Law Center (DC).
Francis H. Wright, senior vice president, the East Ohio Gas Co.

DISTRIBUTION—TECHNICAL ADVISORY TASK FORCE—FACILITIES

TF director, M. M. Levy, vice president, engineering and research, Columbia Gas System Service Corp.
TF deputy director, H. E. Quist, Jr., vice president, Minneapolis Gas Co.
TF FPC survey coordinating representative and secretary, Charles A. Gallagher, engineer, National Gas Survey, Federal Power Commission.
Alternate TF FPC survey coordinating representative and secretary, Clement F. Linder, engineer, National Gas Survey, Federal Power Commission.
FPC representatives:
Allen F. Crabtree, Environmental Assistant to the Advisor on Environmental Quality, Office of the Advisor on Environmental Quality.
Kenneth B. Lucas, Assistant to the Chairman.
Louis W. Mendonsa, Special Assistant to Chief, Bureau of Natural Gas, Federal Power Commission.

Task Force Members

Norman B. Belt, chief engineer, District of Columbia Public Service Commission.
George Doulames, vice president, Lowell Gas Co.
Charles B. Gamble, Jr., executive vice president, Alabama Gas Corp.
Dr. Richard L. Gordon, professor of mineral economics, College of Earth and Mineral Sciences, Pennsylvania State University.
George C. Grow, chief geologist, Transcontinental Gas Pipe Line Corp. (Newark, N.J.).
Paul L. Hathaway, vice president—gas, San Diego Gas and Electric Co.
Eugene B. Hedges, executive manager—gas operations, Consumers Power Co.
Edward F. Hubbard, director of operations, Philadelphia Gas Works.
L. B. Hulcy, senior vice president—operations, Lone Star Gas Co.
Gerald S. Keen, manager—storage department, Northern Illinois Gas Co. (Mendota, Ill.).
Phil S. Magruder, Jr., superintendent of transmission storage, Pacific Lighting Service Co. (Los Angeles).
Ray J. Nery, gas and water engineer, North Carolina Utilities Commission.
Joseph E. Padgett, Chief Systems Analyst, Stationery Sources—Control Programs, Office of Air Programs, Environmental Protection Agency.
Robert L. Presley, Chief—Emergency Preparedness, Office of Oil and Gas, Department of the Interior.
Edward F. Sibley, Vice president—Gas operations, Pacific Gas and Electric Co.
Jack T. Skeith, manager—gas supply and reserves, Oklahoma Natural Gas Co.
Elvin A. Skibinski, vice president—gas operations, Rochester Gas & Electric Corp.
Ira C. Stanfill (Municipal), superintendent of gas operations, Memphis Light, Gas and Water Division.
John A. Vary, director—storage planning and development, Michigan Consolidated Gas Co.
Stanley G. Wood, senior vice president, personnel and planning, Washington Natural Gas Co.
Harry K. Wrench, Jr., president, Wisconsin Fuel and Light Co.

[FR Doc.72-8412 Filed 6-2-72;8:47 am]

[Project 1913—New Hampshire]

PUBLIC SERVICE COMPANY OF NEW HAMPSHIRE

Notice of Availability of Environmental Statement for Inspection

MAY 25, 1972.

Notice is hereby given that on June 2, 1972, as required by § 2.81(b) of Commission regulations under Order 415–B (36 F.R. 22738, November 30, 1971) a draft environmental statement containing information comparable to an agency draft statement pursuant to section 7 of the Guidelines of the Council on Environmental Quality (36 F.R. 7724, April 23, 1971) was placed in the public files of the Federal Power Commission. This statement deals with an application filed pursuant to the Federal Power Act by Public Service Company of New Hampshire for relicense for Hooksett Project No. 1913—New Hampshire.

This statement is available for public inspection in the Commission's Office of Public Information, Room 2523, General Accounting Office, 441 G Street NW., Washington, DC. Copies will be available from the National Technical Information Service, Department of Commerce, Springfield, Va. 22151.

The project consists of (1) a dam 590 feet long (topped with 2-foot flashboards), (2) a reservoir with surface area of about 405 acres, and (3) a powerhouse with installed capacity of 1,600 kw.

Any person desiring to present evidence regarding environmental matters in this proceeding must file with the Federal Power Commission a petition to intervene, and also file an explanation of their environmental position, specifying any difference with the environmental statement upon which the intervenor wishes to be heard, including therein a discussion of the factors enumerated in § 2.80 of Order 415–B. Written statement by persons not wishing to intervene may be filed for the Commission's consideration. The petitions to intervene or comments should be filed with the Commission on or before 45 days from June 2, 1972. The Commission will consider all response to the statement.

KENNETH F. PLUMB,
Secretary.

[FR Doc.72-8417 Filed 6-2-72;8:49 am]

[Project 1893]

PUBLIC SERVICE COMPANY OF NEW HAMPSHIRE

Notice of Availability of Environmental Statement for Inspection

MAY 25, 1972.

Notice is hereby given that on June 2, 1972, as required by § 2.81(b) of Commission regulations under Order 415–B (36 F.R. 22738, November 30, 1971) a draft environmental statement containing information comparable to an agency draft statement pursuant to section 7 of the Guidelines of the Council on Environmental Quality (36 F.R. 7724, April 23, 1971) was placed in the public files of the Federal Power Commission. This statement deals with an application for relicense filed pursuant to the Federal Power Act by Public Service Company of New Hampshire for Amoskeag Project No. 1893—New Hampshire.

This statement is available for public inspection in the Commission's Office of Public Information, Room 2523, General Accounting Office, 441 G Street NW., Washington, DC. Copies will be available from the National Technical Information Service, Department of Commerce, Springfield, Va. 22151.

The project consists of (1) a dam 710 feet long and 29 feet high (topped by 5-foot flashboards), (2) a reservoir with surface area of about 478 acres, and (3) a powerhouse with installed capacity of 16,000 kw.

Any person desiring to present evidence regarding environmental matters in this proceeding must file with the Federal Power Commission a petition to intervene, and also file and explanation of their environmental position, specifying any difference with the environmental statement upon which the intervenor wishes to be heard, including therein a discussion of the factors enumerated in § 2.80 of Order 415–B. Written statement by persons not wishing to intervene may be filed for the Commission's consideration. The petitions to intervene or comments should be filed with the Commission on or before 45 days from June 2, 1972. The Commission will consider all response to the statement.

KENNETH F. PLUMB,
Secretary.

[FR Doc.72-8418 Filed 6-2-72;8:49 am]

[Docket No. RP72-117]

ALGONQUIN GAS TRANSMISSION CO.

Order Accepting Tracking Increase for Filing, Permitting Interventions, Allowing Proposed Revised Tariff Sheets To Become Effective

MAY 26, 1972.

On April 20, 1972, Algonquin Gas Transmission Co. (Algonquin) filed an increase in its charges for jurisdictional sales and services of $186,735 annually. The filing tracks the increase filed by

Algonquin's sole supplier, Texas Eastern Transmission Corp. (Texas Eastern), on April 14, 1972. Algonquin proposes the revised tariff sheets [1] become effective on June 1, 1972, or such other date as the underlying rates proposed by Texas Eastern become effective.

In support of its filing, Algonquin refers to the data which it submitted in support of its rate increase filing in Docket No. RP72–110, and states that there has been no material change in facilities, sales volumes, or cost of service other than cost of gas since its filing in Docket No. RP72–110.

Boston Gas et al., timely filed a joint petition to intervene in opposition to the proposed increase on May 8, 1972.

In view of the fact that the purpose of Algonquin's filing is to track its supplier's rate increase we will accept Algonquin's revised traiff sheets for filing to become effective on June 1, 1972, or such later date as the proposed underlying increased rates tendered by Texas Eastern on April 14, 1972, become effective.

The Commission finds:

(1) It is necessary and proper in the public interest to permit Algonquin to track the filed increase in its cost of purchased gas.

(2) The participation in these proceedings of the above-named petitioners may be in the public interest.

The Commission orders:

(A) Algonquin is permitted to place into effect the above revised tariff sheets on June 1, 1972, or such other date as the underlying increased rates proposed by Texas Eastern become effective, subject to revision to reflect flow-through of its supplier's refunds and rate reductions.

(B) The above-named petitioners are hereby permitted to intervene in these proceedings, subject to the rules and regulations of the Commission: *Provided, however,* That the participation of such intervenors shall be limited to matters affecting rights and interests specifically set forth in the respective petitions to intervene: *And provided, further,* That the admission of such intervenors shall not be construed as recognition by the Commission that they, or any of them, might be aggrieved because of any order or orders issued by the Commission in this proceeding.

(C) Pursuant to § 2.59(c) of the Commission's rules of practice and procedure, Algonquin shall promptly serve copies of its filings upon all intervenors listed above, unless such service has already been effected pursuant to Part 154 of the regulations under the Natural Gas Act.

The rate increases allowed to become effective by this order merely passes on increases from Algonquin's gas supplier and are incremental increases over and above the level of rates of which the justness and reasonableness has not yet been determined by the Commission. Therefore the Commission at this time is unable to make the appropriate certification with regard to this increase under § 300.16(e) of the Price Commission's regulations.

By the Commission.

[SEAL] KENNETH F. PLUMB,
Secretary.

[FR Doc.72–8413 Filed 6–2–72;8:48 am]

[1] Volume No. 1: Fifth Substitute 27th Revised Sheets Nos. 5, 10, and 14; Fifth Substitute 28th Revised Sheets Nos. 11–A and 12. Third Substitute 23d Revised Sheet No. 15–J.
Volume No. 2: Fifth Substitute 25th Revised Sheet No. 57.

[Docket No. E–7687]

DETROIT EDISON CO.

Notice of Filing of Stipulations of Settlement Agreement

MAY 26, 1972.

Take notice that on May 9, 1972, The Detroit Edison Co. (Detroit Edison), Thumb Electric Cooperative, Southeastern Michigan Cooperative, the Village of Clinton, and city of Croswell, Mich., filed a joint petition for approval of settlement in Docket No. E–7687, together with proposed Stipulations of Settlement Agreement; and that on May 12, 1972, Detroit Edison and Consumers Power Co. (Consumers) filed a request for approval of an additional proposed Stipulation of Settlement Agreement. The Stipulations of Settlement Agreement would resolve all issues in this proceeding insofar as Detroit Edison's five above-named customers are concerned, and generally provide for a reduction in the rate increases proposed by Detroit Edison in Docket No. E–7687.

The Stipulations of Settlement Agreement with the two cooperatives and Consumers provide for a reduction in the magnitude of the rate increase to them filed by Detroit Edison which was suspended and made subject to refund by Commission order issued January 21, 1972, as well as an amendment of the fuel adjustment clauses governing service to the cooperatives and Consumers. The Stipulations of Settlement Agreement with the municipal customers amend the contract terms governing service to define the term during which the rates established in the tariffs will remain in effect, and amend the terms of the fuel adjustment clauses applicable to such service.

Copies of the Stipulations of Settlement Agreement were served on all parties of record in this proceeding. Comments relating to the proposed settlement agreements may be filed with the Federal Power Commission, Washington, D.C. 20426, on or before June 16, 1972.

KENNETH F. PLUMB,
Secretary.

[FR Doc.72–8360 Filed 6–2–72;8:45 am]

[Docket No. RP72–123]

FLORIDA GAS TRANSMISSION CO.

Notice of Proposed Changes in Rates and Charges

MAY 26, 1972.

Take notice that on May 12, 1972, Florida Gas Transmission Co. (Florida Gas) filed changes in its FPC Gas Tariff, Original Volume No. 1 to become effective July 1, 1972. The proposed rate changes would increase charges for jurisidictional sales by 0.5 cents per MMB.t.u. or $323,717 annually, based on volumes for the 12-month period ended December 31, 1969, as adjusted. The proposed increase would be applicable to Florida Gas' jurisdictional rate schedules G and I.

Florida Gas states that the reason for the proposed rate increase is an increase in its cost of purchased gas as a result of the rate increase filing of Southern Natural Gas Co. in Docket No. RP72–91 and contract rate increases of small producer suppliers, all of which have a July 1, 1972, effective date.

Florida Gas says it is actively engaged in the preparation of a purchased gas adjustment clause in accordance with Commission Order No. 452 but that this tracking filing is necessitated by the magnitude of the increased costs which it faces as of July 1, 1972, and which it might be required to bear before its purchased gas adjustment clause can be made effective.

Copies of the proposed tariff changes were served on Florida Gas' jurisdictional customers and the Florida Public Service Commission.

Any person desiring to be heard or to make any protest with reference to said application should on or before June 12, 1972, file with the Federal Power Commission, Washington, D.C. 20426, petitions to intervene or protests in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Persons wishing to become parties to a proceeding or to participate as a party in any hearing therein must file petitions to intervene in accordance with the Commission's rules. The application is on file with the Commission and available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc.72–8361 Filed 6–2–72;8:45 am]

[Docket No. RP72–127]

NORTHERN NATURAL GAS CO.

Notice of Proposed Changes in Rates and Charges

MAY 25, 1972.

Take notice that Northern Natural Gas Co. (Northern Natural) on May 19, 1972, tendered for filing proposed changes in its FPC Gas Tariff.

The proposed changes would increase revenues from jurisdictional sales and service by $36,296,680 based on the 12-month period ending February 29, 1972. Northern Natural is also proposing tariff revisions which it submits will "clarify its existing authority to conserve available sources of gas supply" for the present and the future. The proposed effective

date of the proposed changes is July 3, 1972.

Northern Natural states that the principal reasons for the increase in rate levels are:

a. Increased revenues needed to provide a return of 9⅛ percent on the Test Period rate base for the reasons summarized in Statement F(1).

b. Increased cost of obtaining new gas supplies and increases in prices for present gas supplies.

c. Advance payments and other costs of acquiring and holding new sources of gas supply from Montana, Canada, Alaska, and the Arctic Islands and the related cost of attaching the recently authorized Montana gas to Northern's system.

d. Additional construction and increases in wages and supplies and expenses.

e. Increased income, property and payroll taxes.

f. The need to conserve available sources of gas supply to assure deliveries of gas to residential, small volume commercial and small volume industrial customers.

Any power desiring to be heard or to protest said application should file a petition to intervene or protest with the Federal Power Commission, 441 G Street NW., Washington, DC 20426, in accordance with §§ 1.8 and 1.10 of the Commission's rules of practice and procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before June 16, 1972. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene.

KENNETH F. PLUMB,
Secretary.

[FR Doc.72-8414 Filed 6-2-72;8:48 am]

[Docket No. CI72-732]

PHILLIPS PETROLEUM CO.

Notice of Application

MAY 26, 1972.

Take notice that on May 12, 1972, Phillips Petroleum Co. (applicant), Bartlesville, Okla. 74004, filed in Docket No. CI72-732 an application pursuant to section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the sale for resale of natural gas in interstate commerce to El Paso Natural Gas Co. from its Lusk gasoline plant in Lea County, N. Mex., all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicant proposes to sell and deliver to El Paso residue natural gas remaining at its Lusk gasoline plant after processing raw gas, which will be purchased from Read & Stevens, Inc., a small producer certificate holder, from acreage in Chaves County, N. Mex.

Section 157.40(f) of the regulations under the Natural Gas Act permits a large producer to sell natural gas, which it purchases from a small producer for resale in interstate commerce, at its contract price, providing the price differential between the purchase and resale prices does not exceed the prevailing price differential in the area and further if the small producer prices for new gas are not unreasonably high, considering appropriate comparisons with highest contract prices for sales by large producers or the prevailing market price for intrastate sales in the same producing area.

Applicant proposes to charge El Paso, pursuant to § 157.40(f) of the Commission's regulations, 33.3125 cents per Mcf at 14.65 p.s.i.a. subject to B.t.u. adjustment, which represents a 30-cent-per-Mcf cost of purchased gas from Read & Stevens, Inc., and a 3.3125-cent-per-Mcf pervailing price differential that presently exists between its raw gas purchase price and its residue resale rate under its Rate Schedule No. 485 for sales at the Lusk plant. Applicant states that it receives 26.5 cents per Mcf for gas sold under said rate schedule, and that 87.5 percent of such rate represents payment to producers for such raw gas, thus establishing a 3.3125-cent-per-Mcf differential between its gas purchase cost and its residue resale rate. Applicant further states that its 30-cent-purchased-gas cost from Read & Stevens, Inc., does not exceed prices presently being offered to large producers in the area by pipeline companies under contracts or the prevailing market price for intrastate sales in the area.

Applicant estimates natural gas sales volume for the first month of service at 300,000 Mcf.

Any person desiring to be heard or to make any protest with reference to said application should on or before June 19, 1972, file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Power Commission by sections 7 and 15 of the Natural Gas Act and the Commission's rules of practice and procedure, a hearing will be held without further notice before the Commission on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for applicant to appear or be represented at the hearing.

KENNETH F. PLUMB,
Secretary.

[FR Doc.72-8362 Filed 6-2-72;8:45 am]

[Docket No. E-7711]

SOUTHWESTERN ELECTRIC POWER CO.

Order Accepting Rate Schedule for Filing, Providing for Hearing, Permitting Interventions, and Denying Petition To Set Aside

MAY 26, 1972.

On December 27, 1971, Southwestern Electric Power Co. tendered for filing in Docket No. E-7711 a proposed initial rate schedule designated REA. Southwestern proposed to make such rate schedule available to its wholesale electric service to rural electric cooperatives in Texas and Louisiana.[1] Supplemental data required by the Commission's regulations in order to complete the filing of rate schedule REA was submitted by the company on March 30, 1972. Rate schedule REA has therefore been assigned a filing date of March 30, 1972. On February 7, 1972, Southwestern filed in this docket a notice of cancellation of its FPC rate schedule No. 56 under which Southwestern sells electric power to Tex-La Electric Cooperative, Inc. of Quitman, Tex., for resale to Tex-La's distribution cooperative members. Southwestern proposed an effective date of February 29, 1972, for the cancellation of rate schedule No. 56 and proposed to make rate schedule REA available for service on the same date.

Section 35.15 of the Commission's regulations under the Federal Power Act requires that notice of cancellation or termination of a rate schedule be given at least 30 days prior to the date such cancellation or termination is proposed to take effect. Since Southwestern's notice of cancellation was filed on February 7, 1972, it could not become effective prior to March 9, 1972. On March 8, 1972, the Commission issued an order suspending cancellation of rate schedule No. 56 until further order, provided that the suspension shall not extend beyond the maximum 5-month-suspension period ending on August 9, 1972.

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[1] Bossier Rural Electric Membership Corp., Bossier City, La.; Bowie-Cass Electric Cooperative, Inc., Douglasville, Tex.; Deep East Texas Electric Cooperative, Inc., San Augustine, Tex.; Panola-Harrison Electric Cooperative, Inc., Marshall, Tex.; Rusk County Electric Cooperative, Inc., Henderson, Tex.; Upshur-Rural Electric Cooperative, Inc., Gilmer, Tex.; Valley Electric Membership Corp., Natchitoches, La.; Wood County Electric Cooperative, Inc., Quitman, Tex.

Notice of the tender for filing by Southwestern of its proposed rate schedule REA and the filing of its notice of cancellation of rate schedule No. 56 was issued on February 28, 1972. In response thereto on March 21, 1972, Tex-La and its member cooperatives petitioned to intervene in the proceeding in opposition to the proposed cancellation of rate schedule No. 56 and in opposition to the proposed new rate schedule REA. Tex-La contends the company has no contractual right to cancel its contract with Tex-La.

In light of the contentions of the parties and the complexity of the issues involved, this proceeding should be set for immediate hearing in order that the issues, both of law and of fact, may be fully developed, and in order that the Commission may have the benefit of a complete record in determining what action should be taken. We will order that such hearing be held on an expedited basis in view of the fact that suspension of the cancellation of rate schedule No. 56 extends only until August 9, 1972. We deem it necessary that a final order be issued herein prior to that date. Pending that determination, Southwestern's proposed rate schedule REA will be accepted for filing, but shall not become effective prior to August 9, 1972.

On April 14, 1972, Southwestern filed a petition requesting the Commission to set aside its order of March 8, 1972, suspending the proposed cancellation of rate schedule No. 56. Tex-La answered in opposition to the petition on March 11, 1972. The company argues the Commission is without authority and jurisdiction to suspend the effectiveness of the company's proposed cancellation of rate schedule No. 56. Section 205(d) of the Federal Power Act provides that no change shall be made by any public utility in any service except "by filing with the Commission * * * new schedules stating plainly the change or changes to be made in the schedule or schedules then in force * * *". Section 205(e) of the Act provides that the Commission may suspend the operation of such schedules for a period not to exceed 5 months. The company's notice of cancellation of rate schedule No. 56 represents a proposed change in service by Southwestern within the meaning of section 205(d) of the Act and § 35.1(c) of the Commission's regulations under the Act. The notice of cancellation is a supplement to rate schedule No. 56 and constitutes a new schedule within the meaning of section 205(d) of the Act, and is subject to suspension pursuant to section 205(e) of the Act and § 2.4(c)(4) of the rules. Suspension of the proposed cancellation is required by the public interest to insure the continuation of existing utility service to the affected cooperatives pending final determination by the Commission.

In the event the Commission's March 8, 1972, order is not set aside as requested, Southwestern requests an expedited hearing and the convening of a prehearing conference. These requests appear reasonable and should be granted.

The Commission finds:

(1) It is necessary and proper in the public interest and in carrying out the provisions of the Federal Power Act that the Commission enter upon a hearing in this proceeding, as hereinafter ordered.

(2) Southwestern's proposed rate schedule REA should be accepted for filing to become effective not earlier than August 9, 1972.

(3) Southwestern's petition to set aside the Commission's order of March 8, 1972, should be denied.

(4) Tex-La's petition to intervene in this proceeding should be granted.

The Commission orders:

(A) Pursuant to the authority of the Federal Power Act, particularly sections 202, 205, 206, 301, 306, 307, 308, and 309 thereof, and the Commission's rules and regulations, a public hearing shall be held concerning the lawfulness of the actions proposed to be taken by Southwestern Electric Power Co. in this docket and concerning proposed alternatives thereto, commencing with a prehearing conference to be held on June 13, 1972.

(B) The hearing in this proceeding shall be conducted on an expedited basis. At the prehearing conference on June 13, 1972, a schedule shall be adopted for the submission of evidence, if any, by the parties, and for the conduct of hearing. The hearing shall be concluded on or before July 21, 1972, and the record shall be certified forthwith to the Commission for decision.

(C) Southwestern's proposed rate schedule REA is hereby accepted for filing as of March 30, 1972, to become effective not earlier than August 9, 1972.

(D) Southwestern's petition filed on April 14, 1972, to set aside the Commission's order of March 8, 1972, is denied.

(E) Tex-La Electric Cooperative, Inc., Bossier Rural Electric Membership Corp., Bowie-Cass Electric Cooperative, Inc., Deep East Texas Electric Cooperative, Inc., Panola-Harrison Electric Cooperative, Inc., Rusk County Electric Cooperative, Inc., Upshur-Rural Electric Cooperative, Inc., Valley Electric Membership Corp., and Wood County Electric Cooperative, Inc., are thereby permitted to intervene in this proceeding, subject to the rules and regulations of the Commission.

(F) A presiding examiner to be designated by the Chief Examiner for that purpose shall preside at the hearing initiated by this order, and shall conduct such hearing in accordance with the terms of this order, the Commission's rules and regulations, and the Federal Power Act.

By the Commission.

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

[FR Doc.72-8415 Filed 6-2-72;8:49 am]

[Docket No. CP69-227]

TEXAS GAS TRANSMISSION CO.

Notice of Petition To Amend

MAY 25, 1972.

Take notice that on May 15, 1972, Texas Gas Transmission Co. (petitioner), 3800 Frederica Street, Owensboro, KY 42301, filed in Docket No. CP69-227 a petition to amend the order of the Commission heretofore issued in said docket on June 23, 1969 (41 FPC 826), pursuant to section 7(c) of the Natural Gas Act by deleting therefrom the limitation on maximum top storage volumes which may be injected, all as more fully set forth in the petition to amend which is on file with the Commission and open to the public inspection.

By the order of June 23, 1969, the petitioner is authorized to construct and operate a gas storage field in the Midland Gas Field in Muhlenburg County, Ky. This authorization provides that the maximum stabilized shut-in reservoir pressure of the Bethel Sand in the Midland Storage Field shall not exceed 961 p.s.i.a. without prior authorization of the Commission and that the maximum top storage volume injected shall not exceed 8,812,813 Mcf of gas without prior authorization of the Commission. Petitioner states that the volume limitation represents only a portion of the potential storage capability of the storage field and that the only limitation of significance is that on the shut-in pressure. Petitioner asserts that the volumes of gas available from the Midland storage reservoir as top storage volumes, both daily and seasonal, increase as the total top storage volumes in the reservoir increase and that the maximum daily purchased volume from the field as a producing field does not represent the delivery capacity of the field as a storage field. Petitioner indicates that it is thus possible, within the capacity of the reservoir and the availability of gas for storage injection, to increase the volumes of gas available for withdrawal during the storage withdrawal season. Petitioner states that the removal of the volumetric limitation will provide greater operating flexibility in its system without affecting the integrity of the field since 961 p.s.i.a. represents the approximate original reservoir pressure of the Midland Field.

Any person desiring to be heard or to make any protest with reference to said petition to amend should on or before June 16, 1972, file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10) and the regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's rules.

KENNETH F. PLUMB, *Secretary.*

[FR Doc.72-8416 Filed 6-2-72;8:49 am]

[Dockets Nos. RP72-125, RP72-128]

TRANSWESTERN PIPELINE CO.

Notice of Proposed Changes in Rates and Charges

MAY 30, 1972.

Take notice that on May 11, 1972, Transwestern Pipeline Co. (Transwestern) filed revised tariff sheets to its FPC Gas Tariff, Revised Volume No. 1, to increase the rates and charges in rate schedules Nos. CDQ-1, 2, and 3; and LX, to be effective as of July 1, 1972. The proposed changes are stated to increase jurisdictional revenues by $2,871,149 based on sales for the 12-month period ended February 29, 1972. Transwestern states that the purpose of the filing, which has been designated as Docket No. RP-125, is to track rate increases of its suppliers which will become effective on or prior to July 1, 1972.

Take further notice that on May 18, 1972, Transwestern filed additional proposed changes to said tariff and thereby proposes to incorporate purchased gas adjustment clauses in its rate schedules Nos. CDQ-1, 2, and 3; LX; SG-1; and RW-1. Said tender, designated as Docket No. RP72-128, is also proposed to be effective as of July 1, 1972.

Any person desiring to be heard or to make protest with respect to said filings should on or before June 15, 1972, file with the Federal Power Commission, Washington, D.C. 20426, petitions to intervene or protests in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestant parties to the proceeding. Persons wishing to become parties to a proceeding or to participate as a party in any hearing therein must file petitions to intervene in accordance with the Commission's rules. The filing is available at the Commission's office for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc.72-8363 Filed 6-2-72;8:45 am]

FEDERAL RESERVE SYSTEM

CHASE MANHATTAN CORP.

Acquisition of Bank; Correction

In the notice regarding the application of the Chase Manhattan Corp., New York, N.Y., published in the FEDERAL REGISTER of May 23, 1972 (37 F.R. 10479), the location of the bank proposed to be acquired, Chase Manhattan Bank of Central New York (National Association), was incorrectly shown as New York, N.Y. The correct location of the bank is Syracuse, N.Y.

Board of Governors of the Federal Reserve System, May 30, 1972.

[SEAL] MICHAEL A. GREENSPAN,
Assistant Secretary.

[FR Doc.72-8421 Filed 6-2-72;8:48 am]

WESTERN KANSAS INVESTMENT CORP., INC.

Formation of Bank Holding Company and Proposed Acquisition of Western Kansas Credit Corp.

Western Kansas Investment Corp., Inc., Winona, Kans., has applied for the Board's approval under section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1)) to become a bank holding company through acquisition of 100 percent of the voting shares of Farmers State Bank, Winona, Kans. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

Western Kansas Investment Corp., Inc., has also applied, pursuant to section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and § 225.4(b)(2) of the Board's Regulation Y, for permission to acquire voting shares of Western Kansas Credit Corp., Winona, Kans. Notice of the application was published on April 27, 1972, in The Winona Leader, a newspaper circulated in Logan County, Kans.

Applicant states that the proposed subsidiary would engage in the activities of making, rediscounting, and servicing loans to farmers and ranchers for agricultural purposes. Such activities have been specified by the Board in § 225.4(a) of Regulation Y as permissible for bank holding companies, subject to Board approval of individual proposals in accordance with the procedures of § 225.4(b).

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

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

Any views on these applications or requests for hearing should be submitted in writing and received by the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551, not later than June 30, 1972.

Board of Governors of the Federal Reserve System, May 30, 1972.

[SEAL] MICHAEL A. GREENSPAN,
Assistant Secretary.

[FR Doc.72-8422 Filed 6-2-72;8:48 am]

[Reg. Y]

BANK HOLDING COMPANIES

Notice of Oral Presentation Regarding Guidelines Used by Federal Reserve Banks in Approving Formation of One-Bank Holding Companies Under Delegated Authority

On August 20, 1971, effective September 1, 1971, the Board delegated to the individual Federal Reserve Banks certain of its authority to approve the formation of one-bank holding companies pursuant to section 3(a)(1) of the Bank Holding Company Act (12 CFR 265.2(f)(22)). Simultaneously, the Board provided those Banks with certain general guidelines to aid them in the exercise of that delegated authority. Those guidelines provide in pertinent part:

* * * The Board expects that the Reserve Banks will use their influence in exercising their authority to approve the formation of one-bank holding companies to assure that:

(i) If any offer to acquire shares is extended to shareholders of the bank, the offer is extended to all shareholders of the same class on an equal basis;

(ii) The amount borrowed by the holding company to purchase the voting shares of the bank does not exceed either 50 percent of the purchase price of the shares of the bank or 50 percent of the equity capital of the holding company, the loan will be repaid within a reasonable period of time (not to exceed 10 years), the interest rate on the loan is comparable with other stock collateral loans by the lender to persons of comparable credit standing, and the loan is not conditioned upon maintenance of a correspondent bank balance with the lender that exceeds the usual needs of the bank whose shares are being purchased; and

(iii) Interest on and amortization of the holding company's indebtedness will not exceed, in any year, 50 percent of the holding company's proportionate share of the bank's anticipated net income (after taxes) for that year, unless a higher percentage is specifically approved by the Reserve Bank at the time of the formation of the holding company.

The Board has received comments to the effect that these guidelines have been applied in a more restrictive manner than is desirable and that the guidelines result in undue adverse effects upon the transferability of bank stock. One such commenting party has requested the opportunity to present its views to the Board orally.

The Board has decided to explore these questions at an oral presentation before available members of the Board in the Board room of the Federal Reserve Building at 20th Street and Constitution Avenue NW., Washington, D.C., on June 28, 1972, commencing at 10 a.m. Interested persons are invited to participate through presenting material orally at the proceeding or through the submission of written comments.

Persons interested in participating in the proceeding by presenting material orally should inform the Secretary of the Board in writing not later than June 21, 1972. Written material should be submitted by July 12, 1972. All material submitted will be made available for inspection and copying, upon request, except

as provided in § 261.6(a) of the Board's rules regarding availability of information.

By order of the Board of Governors, effective May 26, 1972.

[SEAL] MICHAEL A. GREENSPAN,
Assistant Secretary.

[FR Doc.72-8420 Filed 6-2-72;8:48 am]

SECURITIES AND EXCHANGE COMMISSION

[70-5195]

BROCKTON EDISON CO.

Notice of Proposed Issue and Sale of First Mortgage and Collateral Trust Bonds at Competitive Bidding

MAY 30, 1972.

Notice is hereby given that Brockton Edison Co. (Brockton), 36 Main Street, Brockton, MA 02403, an electric utility subsidiary company of Eastern Utilities Associates (EUA), a registered holding company, has filed an application-declaration with this Commission pursuant to the Public Utility Holding Company Act of 1935 (Act), designating sections 6(b) and 12(c) of the Act and Rules 50 and 42(b)(2) promulgated thereunder as applicable to the proposed transactions. All interested persons are referred to the application, which is summarized below, for a complete statement of the proposed transactions.

Brockton proposes to issue and sell, subject to the competitive bidding requirements of Rule 50, $8 million principal amount of First Mortgage and Collateral Trust Bonds, _____ percent Series due 2002. The interest rate (which shall be a multiple of one-eighth of 1 percent) and the price, exclusive of accrued interest, to be paid to Brockton (which shall be not less than 100 percent nor more than 102.75 percent of the principal amount) will be determined by the competitive bidding. The bonds will be issued under the Indenture of First Mortgage and Deed of Trust dated as of September 1, 1948, between Brockton and State Street Bank and Trust Co., successor Trustee, as heretofore supplemented and amended and as to be further supplemented by an Eighth Supplemental Indenture to be dated as of July 1, 1972.

The net proceeds from the sale of the bonds will be used to repay previously authorized advances on open account from EUA (Holding Company Act Release No. 17415) and to prepay in whole or in part, without premium, Brockton's short-term notes to banks, such borrowings from EUA and from banks having been incurred to provide funds for construction purposes (or to repay borrowings so incurred). The filing states that prepayment of such short-term notes may be temporarily delayed as to that part, if any, of the net proceeds which may be deposited with the Trustee under Brockton's mortgage in compliance with the provisions thereof.

The filing further states that the Massachusetts Department of Public Utilities has jurisdiction over the proposed transactions and that no other State commission and no Federal commission, other than this Commission, has jurisdiction over the proposed transactions. Fees and expenses related to the proposed transactions are estimated at $70,000, including printing expenses of $23,000, counsels' fees of $12,400, Trustee's fees and expenses of $5,650, and accountants' fees of $7,500. The fees and expenses of counsel for the underwriters, estimated to be $7,900, will be paid by the successful bidders.

Notice is further given that any interested person may, not later than June 19, 1972, request in writing that a hearing be held on such matter, stating the nature of his interest, the reasons for such request, and the issues of fact or law raised by said application-declaration which he desires to controvert; or he may request that he be notified if the Commission should order a hearing thereon. Any such request should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request should be served personally or by mail (airmail if the person being served is located more than 500 miles from the point of mailing) upon the applicant-declarant at the above-stated address, and proof of service (by affidavit or, in case of an attorney at law, by certificate) should be filed with the request. At any time after said date, the application-declaration, as filed or as it may be amended, may be granted and permitted to become effective as provided in Rule 23 of the general rules and regulations promulgated under the Act, or the Commission may grant exemption from such rules as provided in Rules 20(a) and 100 thereof or take such other action as it may deem appropriate. Persons who request a hearing or advice as to whether a hearing is ordered will receive notice of further developments in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Corporate Regulations, pursuant to delegated authority.

[SEAL] RONALD F. HUNT,
Secretary.

[FR Doc.72-8423 Filed 6-2-72;8:48 am]

[812-3168]

DAVID L. BABSON INVESTMENT FUND, INC.

Notice of Filing of Application for Order Exempting Proposed Transaction

MAY 30, 1972.

Notice is hereby given that David L. Babson Investment Fund, Inc. (Applicant), 301 West 11th Street, Kansas City, MO 64105, a Delaware corporation registered under the Investment Company Act of 1940 (Act) as an open-end, diversified management investment company, has filed an application pursuant to section 6(c) of the Act for an order exempting from the provisions of section 22(c) and 22(d) of the Act and 22c-1 thereunder a transaction in which Applicant's redeemable securities will be issued at a price other than the current public offering price in exchange for substantially all of the assets of the Reed Associates, Inc. (Reed) and at a price other than the price next determined after the receipt of an order to purchase its shares.

All interested persons are referred to the application on file with the Commission for a statement of Applicant's representations which are summarized below.

Reed was incorporated in 1916 as Reed Small Tool Works and it was later renamed Reed Rolled Thread Die Co., in 1946. Until April 1961, it was a manufacturing company. Thereafter, it became an investment company and concurrently changed its name to Reed Associates, Inc. Reed's principal place of business is East Dennis, Mass. Presently, Reed has 17 shareholders and is for Federal income tax purposes a personal holding company. Reed is exempt from registration under the Act by section 3(c)(1).

Pursuant to the provisions of a proposed Agreement and Plan of Reorganization (Agreement) to be entered into between Applicant and Reed, substantially all of the assets of Reed which had total assets of $2,819,552 as of March 30, 1972, will be transferred to Applicant in exchange for shares of Applicant's capital stock. The number of shares of Applicant to be issued to Reed is to be determined by dividing the aggregate market value (subject to certain adjustments set forth in detail in the application) of the assets of Reed to be transferred to Applicant by the net asset value per share of Applicant, both to be determined as of the close of the New York Stock Exchange on the valuation date, which will be 1 business day prior to the closing date, the date the assets and shares are to be exchanged. If the valuation under the proposed agreement had taken place on March 30, 1972, Reed would have received 259,446 shares of Applicant's stock.

When received by Reed, the shares of Applicant are to be distributed to the Reed shareholders upon surrender of their certificates representing shares of capital stock of Reed as a step in the complete liquidation and dissolution of Reed. Counsel for Reed has advised Applicant that the stockholders of Reed (with the exception of one shareholder who owns approximately 1.20 percent of Reed's outstanding shares and possibly a second shareholder who owns approximately 2.55 percent of Reed's outstanding shares) have no present intention of redeeming any of Applicant's shares following the proposed transaction.

Applicant may sell a portion of the assets received from Reed but it represents that its present intention is to retain not less than 65 percent of the securities acquired based on the dollar value as of March 30, 1972. Applicant

represents that all securities to be acquired are appropriate portfolio investments in view of its investment policies.

The application states that Reed intends to rely on an opinion of Tilton, Erskine & Berkeley, its counsel, that the transaction under the Plan will constitute a tax free reorganization within the meaning of section 368(a)(1)(C) of the Internal Revenue Code of 1954, and as a consequence among other things no gain or loss will be recognized by Applicant as a result of the exchange of its shares for the assets of Reed, and that Applicant has been further advised by its counsel that the basis to Applicant of the assets acquired from Reed will be the same as those assets had in the hands of Reed.

Applicant represents that, but for David L. Babson & Co., a subadviser of Applicant, acting as investment adviser to Reed since April 1961, no affiliation exists between Reed or its officers, directors or shareholders and Applicant, its officers or directors, and that the proposed Agreement was negotiated at arm's length by the two companies. Applicant's Board of Directors approved the proposed Agreement as being beneficial to its shareholders because, among other things, Applicant will be able to acquire at one time substantial additions to its portfolio securities without incurring brokerage commissions.

Section 22(d) of the Act provides, in pertinent part, that a registered investment company may sell redeemable securities issued by it only at the current public offering price described in the prospectus. The current public offering price of the shares of Applicant as described in the prospectus is net asset value. Section 22(d) may be construed to prohibit the proposed transaction in that the proposed sale by Applicant will be made for securities, with certain adjustments based upon the unrealized appreciation of the assets of both Reed and Applicant to be made in the number of shares to be issued; whereas the terms of the offering as described in Applicant's current prospectus contemplate sales for cash without adjustments for unrealized appreciation of assets.

Section 22(c) of the Act and Rule 22c-1 thereunder, taken together, provide, in pertinent part, that a registered investment company may not issue its redeemable securities except at a price based on the current net asset value of such security next determined following receipt of an order to purchase the security and no later than the close of trading on the New York Stock Exchange next following receipt of the order. Because the valuation date will precede the closing date by one business day in the proposed transaction, the provisions of section 22(c) and Rule 22c-1 may be deemed to be contravened.

Section 6(c) of the Act provides, in pertinent part, that the Commission, by order upon application, may conditionally or unconditionally exempt any person from any provision or provisions of the Act or of any rule or regulation thereunder, if and to the extent that such exemption is necessary or appropriate in the public interest and consistent with the protection of investors and the purposes intended by the policy and provisions of the Act.

Notice is further given that any interested person may, not later than June 15, 1972, at 5:30 p.m., submit to the Commission in writing a request for a hearing on the matter accompanied by a statement as to the nature of his interest, the reason for such request and the issues of fact or law proposed to be controverted, or he may request that he be notified if the Commission shall order a hearing thereon. Any such communication should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request shall be served personally or by mail (airmail if the person being served is located more than 500 miles from the point of mailing) upon Applicant at the address stated above. Proof of such service (by affidavit or in case of an attorney at law by certificate) shall be filed contemporaneously with the request. At any time after said date, as provided by Rule 0-5 of the rules and regulations promulgated under the Act, an order disposing of the application herein may be issued by the Commission upon the basis of the information stated in said application, unless an order for a hearing upon said application shall be issued upon request or upon the Commission's own motion. Persons who request a hearing or advice as to whether a hearing is ordered will receive notice of further developments in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Corporate Regulation, pursuant to delegated authority.

[SEAL] RONALD F. HUNT,
Secretary.

[FR Doc.72-8424 Filed 6-2-72;8:48 am]

TARIFF COMMISSION

[TEA-W-143]

COLUMBIAN ROPE CO.

Investigation of Workers Petition for Determination

On the basis of a petition filed under section 301(a)(2) of the Trade Expansion Act of 1962, on behalf of the former workers of the Plymouth Cordage Division of the Columbian Rope Co., Plymouth, Mass., the U.S. Tariff Commission instituted an investigation under section 301(c)(2) of the Act to determine whether, as a result in major part of concessions granted under trade agreements, articles like or directly competitive with cordage of man-made fibers (of the types provided for in item 316.60 of the Tariff Schedules of the United States (TSUS)) and cordage of abaca, of stranded construction, measuring three-sixteenths of an inch or over in diameter (items 315.35 and 315.50 of the TSUS) manufactured by said firm, or an appropriate subdivision thereof, are being imported into the United States in such increased quantities as to cause, or threaten to cause, the unemployment or underemployment of a significant number or proportion of the workers of such company or an appropriate subdivision.

The petitioners have not requested a public hearing. A hearing will be held on request of any other party showing a proper interest in the subject matter of the investigation, provided such request is filed within 10 days after the notice is published in the FEDERAL REGISTER.

The petition filed in this case is available for inspection at the Office of the Secretary, U.S. Tariff Commission, Eighth and E Streets NW., Washington, D.C., and at the New York City office of the Tariff Commission located in Room 437 of the Customhouse.

Issued: May 31, 1972.

By order of the Commission.

[SEAL] KENNETH R. MASON,
Secretary.

[FR Doc.72-8391 Filed 6-2-72;8:49 am]

[TEA-F-40]

V-M CORP.

Notice of Investigation of Petition for Determination

Investigation instituted. Upon petition under section 301(a)(2) of the Trade Expansion Act of 1962, filed on behalf of V-M Corp., Benton Harbor, Mich., the U.S. Tariff Commission, on May 30, 1972, instituted an investigation under section 301(c)(1) of the said Act to determine whether as a result in major part of concessions granted under trade agreements, articles like or directly competitive with record changers, automatic turntables, phonographs, and record players (of the types provided for in item 685.32 of the Tariff Schedules of the United States (TSUS)), solid-state radio receivers (item 685.23 of the TSUS), radio receivers other than solid-state (item 685.25 of the TSUS), loudspeakers and audio-frequency electric amplifiers (item 684.70 of the TSUS), radio-phonographs (item 685.30 of the TSUS), and tape recorders (item 685.40 of the TSUS) produced by the aforementioned firm, are being imported into the United States in such increased quantities as to cause, or threaten to cause, serious injury to such firm.

The petitioner has not requested a public hearing. A hearing will be held on request of any other party showing a proper interest in the subject matter of the investigation, provided such request is filed within 10 days after the notice is published in the FEDERAL REGISTER.

Inspection of petition. The petition filed in this case is available for inspection at the Office of the Secretary, U.S. Tariff Commission, Eighth and E Streets NW., Washington, D.C., and at the New

York City office of the Tariff Commission located in room 437 of the Customhouse.

Issued: May 31, 1972.

By order of the Commission.

[SEAL] KENNETH R. MASON, *Secretary.*

[FR Doc.72-8390 Filed 6-2-72;8:49 am]

DEPARTMENT OF LABOR

Office of the Secretary

C. G. CONN, LTD.

Notice of Certification of Eligibility of Workers To Apply for Adjustment Assistance

Under date of April 28, 1972, the U.S. Tariff Commission made a report of the results of its investigation (TEA-W-133) under section 301(c)(2) of the Trade Expansion Act of 1962 (76 Stat. 884) in response to a petition for determination of eligibility to apply for adjustment assistance submitted on behalf of workers of C. G. Conn, Ltd., Elkhart, Ind., plants. In this report, the Commission found that articles like or directly competitive with the brass wind musical instruments of the types produced by the Elkhart plants of C. G. Conn, Ltd., are, as a result in major part of concessions granted under trade agreements, being imported into the United States in such increased quantities as to cause, or threaten to cause, the unemployment or underemployment of a significant number or proportion of the workers of that company.

Upon receipt of the Tariff Commission's affirmative finding, the Department, through the Acting Director of the Office of Foreign Economic Policy, Bureau of International Labor Affairs, instituted an investigation. Following this, the Acting Director made a recommendation to me relating to the matter of certification (Notice of Delegation of Authority and Notice of Investigation, 34 F.R. 18342; 37 F.R. 2472, 9371; 29 CFR Part 90). In the recommendation, she noted that imports of products like or directly competitive with the brass wind musical instruments of the types produced by the Elkhart plants of C. G. Conn, Ltd., increased substantially. As a result, the company cut back production. Employment levels at Elkhart began to drop in January 1970 and continued as the company took further steps to improve its competitiveness and itself began importing brass wind musical instruments. All production at Elkhart is scheduled to end in June 1972, and the remaining plant is scheduled to close in August 1972. After due consideration, I make the following certification:

All workers of C. G. Conn, Ltd., Elkhart, Ind., plants who became or will become unemployed or underemployed after January 11, 1970, are eligible to apply for adjustment assistance under title III, chapter 3, of the Trade Expansion Act of 1962.

Signed at Washington, D.C., this 25th day of May 1972.

EDWARD B. PERSONS,
Associate Deputy Under Secretary for International Affairs.

[FR Doc.72-8434 Filed 6-2-72;8:51 am]

Wage and Hour Division

CERTIFICATES AUTHORIZING EMPLOYMENT OF FULL-TIME STUDENTS WORKING OUTSIDE OF SCHOOL HOURS AT SPECIAL MINIMUM WAGES IN RETAIL OR SERVICE ESTABLISHMENTS OR IN AGRICULTURE

Notice is hereby given that pursuant to section 14 of the Fair Labor Standards Act of 1938 (52 Stat. 1060, as amended, 29 U.S.C. 201 et seq.), the regulation on employment of full-time students (29 CFR Part 519), and Administrative Order No. 521 (36 F.R. 12819), the establishments listed in this notice have been issued special certificates authorizing the employment of full-time students working outside of school hours at hourly rates lower than the minimum wage rates otherwise applicable under section 6 of the act. While effective and expiration dates are shown for those certificates issued for less than a year, only the expiration dates are shown for certificates issued for a year. The minimum certificate rates are not less than 85 percent of the applicable statutory minimum.

The following certificates provide for an allowance not to exceed the proportion of the total hours worked by full-time students at rates below $1 an hour to the total number of hours worked by all employees in the establishment during the base period in occupations of the same general classes in which the establishment employed full-time students at wages below $1 an hour in the base year; or provide the same standards authorized in certificates previously issued to the establishment.

Ackemann Bros., Inc., variety-department store; 168 East Highland Avenue, Elgin, IL; 2-15-73.

Andy's Red Owl, foodstore; Litchfield, Minn.; 2-25-73.

Angeli's Super Valu, foodstore; 318 West Adams Street, Iron River, MI; 2-2-73.

Art's Super Valu, foodstore; 116 Lindbergh Drive, Little Falls, MN; 1-31-73.

Ashcraft Market, foodstore; 202 East Cedar Street, Gladwin, MI; 2-6-73.

Becker's Super Valu, foodstore; Morgan, Minn.; 2-11-73.

Ben Franklin Store, variety-department stores, 2-9-73, except as otherwise indicated: No. 1025, Chicago, Ill.; No. 0376, Flint, Mich.; 830 East Geneva Street, Delavan, WI (3-7-73); 828 South Main Street, West Bend, WI (3-15-73).

Blooming Prairie Super Valu, foodstore; Blooming Prairie, Minn.; 1-21-73.

Bob's North Side Drugs, Inc., drugstore; 1303 Calumet, Valparaiso, IN; 3-3-73.

Bob's Super Valu, foodstore; Cambridge, Minn.; 3-7-73.

Bryk Walgreen Agency Drugs, Inc., drugstore; Fox Valley Shopping Center, Route 14, Cary, IL; 2-8-73.

Bud & Luke Restaurant, Inc., restaurant; 1919 Madison Avenue, Toledo, OH; 1-31-73.

Burger Chef, restaurants, 3-17-73, except as otherwise indicated: 510 East Wooster Street, Bowling Green, OH; 319 Second Street, Defiance, OH (2-24-73); 1312 Oak Harbor Road, Fremont, OH; 600 East State Street, Fremont, OH; 196 Milan Avenue, Norwalk, OH.

Bus's High Street Market, foodstore; 70 East High Street, London, OH; 2-24-73.

Cambridge Nursing Home, Inc., nursing home; 548 West First Street, Cambridge, MN; 2-28-73.

Carson Pirie Scott and Co., variety-department stores: 124 Southwest Adams, Peoria, IL, 1-31-73; 3232 Lake Avenue, Wilmette, IL, 2-28-73.

Chatfield Super Valu, foodstore; Chatfield, Minn.; 1-21-73.

Country School, restaurant; 4511 First Avenue, Evansville, IN; 1-14-73.

D & L Market, foodstore; 201 Main, Forreston, IL; 2-9-73.

Dad and Lad Tog Shop, apparel store; 41 South La Grange Road, La Grange, IL; 2-28-73.

Dan Purvis Drugs, drugstore; 725 Broadway, New Haven, IN; 2-15-73.

DeMars, Inc., apparel store; 6101 West Cermak Road, Cicero, IL; 3-1-73.

Denny's Department Store, variety-department store; 420-422 Gallatin Street, Vandalia, IL; 2-26-73.

Eastlawn Pharmacy, drugstore; 831 South Saginaw Road, Midland, MI; 2-17-73.

Eikenberry's IGA Foodliners, Inc., foodstores, 1-31-73: 1120 Dayton Road, Greenville, OH; Wagner and Russ Roads, Greenville, Ohio.

Fischer's Colonial Pharmacy, drugstore; Publix Shopping Center, Kendallville, Ind.; 2-5-73.

Fitzgerald's HWI Hardware, Inc., hardware store; 970 West Maple Road, Walled Lake, MI; 3-9-73.

Franz Store, foodstore; Mountain Lake, Minn.; 1-31-73.

Gaylord Super Valu, foodstore; Gaylord, Minn.; 1-21-73.

Geo. Ade Memorial Hospital, hospital; Brook, Ind.; 1-31-73.

Ger's Hamburgers, restaurant; 3509 East State Street, Rockford, IL; 2-9-73.

Glenwood Super Valu, foodstore; Glenwood, Minn.; 1-20-73.

Goldblatt Bros., Inc., variety-department stores, 1-23-73, except as otherwise indicated: 7975 South Cicero Avenue, Chicago, IL (3-17-73); 3149 Lincoln Avenue, Chicago, IL (2-25-73); 1084 Mount Prospect Plaza, Mount Prospect, IL (1-6-73); 645 Broadway, Gary, IN; McKinley and Hickory Road, Mishawaka, Ind; 1889 M-139, Fairplain Plaza, Benton Harbor, MI (3-10-73).

Holprins, Inc., foodstore; Eagle River, Wis.; 3-7-73.

Hoosier Drugs, drugstore; 1301 119th Street, Whiting, IN; 2-8-73.

Howard City Plaza, Inc., foodstore; West M 46, Howard City, Mich.; 1-14-73.

Jim Dandy Drive-In, restaurants, 3-14-73: 802 East Main Street, Greenfield, IN; 2400 East Conner, Noblesville, IN; 203 West Jefferson, Tipton, IN.

John's Market, foodstore; 838 North Fourth, Big Rapids, MI; 2-21-73.

Johnson's Pharmacy, Inc., drugstore; 121 West Washington Street, Marquette, MI; 3-6-73.

Kay Baum, Inc., apparel stores, 2-18-73: Liberty at Thompson, Ann Arbor, Mich.; 166 West Maple, Birmingham, MI; 16822 Kercheval, Detroit, MI; 1550 Woodward Avenue, Detroit, MI.

Kemper Drug, drugstore; 323 Jackson Avenue, Elk River, MN; 1-31-73.

Kewanee Public Hospital, hospital; 719-721 Elliott Street, Kewanee, IL; 2-28-73.

Klaus Department Store, variety-department store; 2865 North Milwaukee Avenue, Chicago, IL; 1–18–73.

S. S. Kresge Co., variety-department stores: No. 4329, Belleville, Ill., 2–14–73; No. 226, Calumet City, Ill., 3–7–73; No. 4324, Downers Grover, Ill., 2–14–73; No. 4636, Jacksonville, Ill., 2–3–73; No. 4568, Niles, Ill., 1–23–73; No. 4587, Hammond, Ind., 1–3–73; No. 4039, South Bend, Ind., 2–6–73; No. 117, Terre Haute, Ind., 2–5–73; No. 560, Detroit, Mich., 1–16–73; No. 4020, Detroit, Mich., 2–26–73; No. 4027, Detroit, Mich., 1–10–73; No. 699, Drayton Plains, Mich., 1–16–73; No. 4040, Flint, Mich., 1–22–73; No. 246, Grand Rapids, Mich., 2–27–73; No. 4066, Jackson, Mich., 1–2–73; No. 4602, Marquette, Mich., 1–21–73; No. 4038, Saginaw, Mich., 2–5–73; No. 4082, Troy, Mich., 3–5–73; No. 4206, Warren, Mich., 2–18–73; No. 4163, Westland, Mich., 3–5–73; No. 4183, Woodhaven, Mich., 3–14–73; No. 4414, Akron, Ohio, 2–28–73; No. 4529, Ashland, Ohio, 1–11–73; No. 4175, Canton, Ohio, 2–23–73; No. 133, Cincinnati, Ohio, 1–13–73; No. 638, Cincinnati, Ohio, 1–19–73; No. 4153, Cincinnati, Ohio, 2–24–73; No. 4165, Cincinnati, Ohio, 1–14–73; No. 4169, Massillon, Ohio, 1–18–73.

Lesman's Market, Inc., foodstore; 119 East Patterson Street, Kalamazoo, MI; 2–5–73.

LeSueur Super Valu, foodstore; LeSueur, Minn.; 1–21–73.

Leys Department Store, variety-department store; Burlington, Wis.; 2–28–73.

Louis Weiner Memorial Hospital & Nursing Home, hospital; Marshall, Minn.; 1–31–73.

Luther Haven Nursing Home, nursing home; East Highway No. 7, Montevideo, Minn.; 2–16–73.

McDonald's Hamburgers, restaurant; 540 Beall Avenue, Wooster, OH; 3–14–73.

McCrory-McLellan-Green Stores, variety-department stores: No. 269, Munster, Ind., 2–28–73; No. 1079, Ashland, Wis., 1–31–73; No. 615, Merrill, Wis., 1–14–73.

Mecca Convalescent Home, nursing home; 916 Southwest U.S. No. 1, Vero Beach, FL; 2–19–73.

Meeker County Memorial Hospital, hospital; 612 South Sibley, Litchfield, MN; 1–28–73.

Micka's Market, Inc., foodstore; 199 Cole Road, Monroe, MI; 2–26–73.

Meyers Department Store, Inc., variety-department store; 4805 South Ashland Avenue, Chicago, IL; 1–10–73.

Miller Drug Stores, Inc., drugstore; 2309 Como Avenue, St. Paul, MN; 2–4–73.

Mr. H's Fine Foods, foodstore; 7635 West Bluemound, Milwaukee, WI; 3–3–73.

Mr. Smorgasbord Restaurant, restaurants, 1–31–73, except as otherwise indicated: 6933 Indianapolis Boulevard, Hammond, IN; 136 East McKinley, Mishawaka, IN; U.S. 6 and McCool Road, Valparaiso, Ind.; 2800 Niles Avenue, St. Joseph, MI (2–1–73).

G. C. Murphy Co., variety-department stores, 2–4–73, except as otherwise indicated: No. 322, Terre Haute, Ind.; No. 69, Lebanon, Ohio (1–31–73); No. 191, Sheboygan, Wis.

Neisner Bros., Inc., variety-department store; No. 77, Cleveland, Ohio; 2–4–73.

The Pantry Market, foodstore; 1120 Washington Street, Grand Haven, MI; 12–10–73.

Parkview Nursing Home, Inc., nursing home; 309 Washington, Ortonville, MN; 1–31–73.

B. Peck Co., variety-department store; 184 Main Street, Lewiston, ME; 3–23–73.

Poquette's Super Market, Inc., foodstore; 20 Hosmer Street, Marinette, WI; 3–7–73.

Quinn Bros., Supermarket, foodstore; 610 Southwest Third Street, Aledo, IL; 1–12–73.

Rockford Dry Goods, apparel store; 6321 North Second Street, Loves Park, IL; 3–14–73.

St. Paul Hermitage, nursing home; 501 North 17th Avenue, Beech Grove, IN; 1–31–73.

Samhat Brothers Food Mart, foodstore; 27222 Grand River, Detroit, MI; 2–17–73.

Sanford Memorial Hospital and Nursing Home, hospital; 913 Main Street, Farmington, MN; 2–23–73.

Sanitary Bakery, foodstore; 121 East Broadway, Little Falls, MN; 1–31–73.

Saxons Sandwich Shoppe, restaurant; 2610 East Belt Line Southeast, Grand Rapids, MI; 1–31–73.

Schensul's Cafeteria, Inc., restaurants, 1–31–73: 3635 28th Street, Grand Rapids, MI; 1036 28th Street Southwest, Wyoming, MI.

Schneider's IGA Market, foodstore; 512 South Blackhoof Street, Wapakoneta, OH; 1–26–73.

Scott Stores Co., variety-department store; 23130 West Outer Drive, Allen Park, MI; 3–14–73.

Shawnee Restaurant, Inc., restaurant; 2808 Scioto Trail, Portsmouth, OH; 2–24–73.

Shines Thriftway, foodstore; 105 South Michigan Avenue, Manton, MI; 1–31–73.

Snyder's, variety-department store; Winslow, Ind.; 2–8–73.

Spurgeon's, variety-department stores, 2–25–73, except as otherwise indicated: 3 East Side Square, Canton, IL; 804 North Side Square, Clinton, IL (1–23–73); 250 East Lincoln Highway, Dekalb, IL (1–24–73); 816 Fifth Avenue, Antigo, WI; 108 West Cook, Portage, WI (3–3–73).

Sullivan's Restaurant, Inc., restaurant; 2510 East Genesee Avenue, Saginaw, MI; 3–10–73.

Taylor Drug Store, drugstore; G–5543 Richfield Road, Flint, MI; 2–27–73.

Top Save Department Store, Inc., variety-department store; Westgate Plaza, Streator, Ill.; 1–21–73.

Washington Nursing Center, Inc., nursing home; 1110 New Castle Road, Washington, IL; 1–31–73.

Wm. A. Lewis Clothing Co., apparel store; 8037–8041 South Cicero Avenue, Chicago, IL; 3–12–73.

Wil Mar Convalescent Home, nursing home; 45305 Cass Avenue, Utica, MI; 2–10–73.

Wilharm Pharmacy, drugstore; 3759 Chicago Avenue, Minneapolis, MN; 1–31–73.

Winnebago Super Valu, foodstore; Winnebago, Minn.; 1–21–73.

Each certificate has been issued upon the representations of the employer which, among other things, were that employment of full-time students at special minimum rates is necessary to prevent curtailment of opportunities for employment, and the hiring of full-time students at special minimum rates will not create a substantial probability of reducing the full-time employment opportunities of persons other than those employed under a certificate. The certificate may be annulled or withdrawn, as indicated therein, in the manner provided in Part 528 of Title 29 of the Code of Federal Regulations. Any person aggrieved by the issuance of any of these certificates may seek a review or reconsideration thereof within 30 days after publication of this notice in the FEDERAL REGISTER pursuant to the provisions of 29 CFR 519.9.

Signed at Washington, D.C., this 26th day of May 1972.

ROBERT G. GRONEWALD,
Authorized Representative of the Administrator.

[FR Doc.72–8435 Filed 6–2–72;8:51 am]

CERTIFICATES AUTHORIZING EMPLOYMENT OF LEARNERS AT SPECIAL MINIMUM WAGES

Notice is hereby given that pursuant to section 14 of the Fair Labor Standards Act of 1938 (52 Stat. 1060, as amended, 29 U.S.C. 201 et seq.) and Administrative Order No. 621 (36 F.R. 12819) the firms listed in this notice have been issued special certificates authorizing the employment of learners at hourly wage rates lower than the minimum wage rates otherwise applicable under section 6 of the act. For each certificate, the effective and expiration dates, number or proportion of learners and the principal product manufactured by the establishment are as indicated. Conditions on occupations, wage rates, and learning periods which are provided in certificates issued under the supplemental industry regulations cited in the captions below are as established in those regulations; such conditions in certificates not issued under the supplemental industry regulations are as listed.

Apparel Industry Regulations (20 CFR 522.1 to 522.9, as amended, and 29 CFR 522.20 to 522.25, as amended).

The following normal labor turnover certificates authorize 10 percent of the total number of factory production workers except as otherwise indicated.

Banj-O Manufacturing, Inc., Scranton, Pa.; 4–19–72 to 4–18–73; 10 learners (men's and boys' jackets).

Bland Sportswear, Inc., Bland, Va.; 4–15–72 to 4–14–73; 10 learners (children's knit tops).

Capitol City Manufacturing Co., Inc., West Columbia, S.C.; 3–29–72 to 3–28–73 (women's dresses).

Charleston Manufacturing Co., Inc., Charleston Heights, S.C.; 4–6–72 to 4–5–73 (ladies' dresses).

College Casuals Co., Sheppton, Pa.; 4–13–72 to 4–12–73; 10 learners (ladies' shorts and slacks).

Custom Sportswear, Inc., Reading, Pa.; 4–7–72 to 4–6–73 (girls' and children's shirts).

Dee-Mure Brassiere Co., Inc., Hamlin, W. Va.; 4–24–72 to 4–23–73 (brassieres).

E & W of Heber Springs, Inc., Heber Springs, Ark.; 4–23–72 to 4–22–73 (men's and boys' knit shirts).

G B Manufacturers, Inc., Oswego, Kans.; 4–15–72 to 4–14–73 (men's Army fatigues and men's, ladies', boys', and girls' jeans).

Granite Dress Corp., Fall River, Mass.; 4–15–72 to 4–14–73; 10 learners (women's and misses' dresses).

Greer Shirt Corp., Greer, S.C.; 4–13–72 to 4–12–73 (men's and boys' shirts).

Jonbil Manufacturing Co., Inc., Chase City, Va.; 3–25–72 to 3–24–73 (men's and boys' jeans).

Juniata Garment Co., Inc., Mifflin, Pa.; 4–5–72 to 4–4–73 (women's dresses).

Kenrose Manufacturing Co., Inc., Buchanan, Va.; 4–3–72 to 4–2–73 (women's dresses).

Kentown Corp., Barnardsville, N.C.; 3–22–72 to 3–21–73 (women's dresses).

Key Manufacturing Co., Inc., Tompkinsville, Ky.; 4–25–72 to 4–24–73 (men's and boys' work clothes).

Levi Strauss & Co., Harrison, Ark.; 3–30–72 to 3–29–73 (men's and boys' pants).

Lowenstein Dress Corp., Fall River, Mass.; 4–2–72 to 4–1–73 (women's dresses).

Madill Manufacturing Co., Inc., Madill, Okla.; 4–7–72 to 4–6–73 (men's slacks).

Michael Berkowitz Co., Inc., Frostburg, Md.; 3-29-72 to 3-28-73 (men's pajamas).

Pass Christian Industries, Inc., Pass Christian, Miss.; 3-22-72 to 3-21-73 (women's shirts and jeans).

Prescott Manufacturing Corp., Prescott, Ark.; 4-24-72 to 4-23-73 (men's and boys' pajamas).

Reidbord Brothers Co., Apollo, Pa.; 3-29-72 to 3-28-73 (men's and boys' pants).

Reidbord Brothers Co., Buckhannon, W. Va.; 4-8-72 to 4-7-73, 10 learners (men's and boys' trousers).

J. H. Rutter Rex Manufacturing Co., Inc., Franklinton, La.; 4-24-72 to 4-23-73 (men's and boys' works pants).

J. H. Rutter Rex Manufacturing Co., Inc., Columbia, Miss.; 3-30-72 to 3-29-73 (men's and boys' shirts and men's pants).

S & S Manufacturing Co., Inc., Spartanburg, S.C.; 4-8-72 to 4-7-73 (ladies' and children's blouses and ladies' dresses).

Salant & Salant, Obion, Tenn.; 3-28-72 to 3-27-73 (men's and boys' pants).

Salant & Salant, Union City, Tenn.; 4-13-72 to 4-12-73 (men's and boys' pants).

Sancar Corp., Harrisonburg, Va.; 3-30-72 to 3-29-73 (ladies' underwear).

Shane Manufacturing Co., Inc., Evansville, Ind.; 4-1-72 to 3-31-73 (men's work clothing).

Sportcraft, Inc., McAdoo, Pa.; 4-21-72 to 4-20-73 (children's shorts).

Sportee Corporation of North Carolina, Clarkton, N.C.; 3-30-72 to 3-29-73 (ladies' blouses, slacks, and shorts).

Tom and Huck Togs, Inc., Columbus, Miss.; 4-2-72 to 4-1-73 (men's, boys' and ladies' slacks).

Whitakers Garment Co., Inc., Whitakers, N.C.; 3-26-72 to 3-25-73 (children's dresses).

The following plant expansion certificates were issued authorizing the number of learners indicated:

Big River Manufacturing Co., Kittanning, Pa.; 4-20-72 to 10-19-72; 25 learners (boys' shirts).

Central Apparel Corp., Danville, Va.; 4-21-72 to 10-20-72; 50 learners (children's pants).

H. B. S. Corp., Asheville, N.C.; 4-24-72 to 10-23-72; 10 learners (women's lingerie).

Monroe Industries, Inc., Tellico Plains, Tenn.; 4-20-72 to 10-19-72; 25 learners (men's and boys' shirts).

Rutledge Sportswear, Inc., Rutledge, Ga.; 4-20-72 to 10-19-72; 10 learners (men's and boys' jackets).

Glove Industry Learner Regulations (29 CFR 522.1 to 522.9, as amended and 29 CFR 522.60 to 522.65, as amended).

Galena Glove and Mitten Co., Dubuque, Iowa; 4-7-72 to 4-6-73; 10 learners for normal labor turnover purposes (work gloves).

Hosiery Industry Learner Regulations (29 CFR 522.1 to 522.9, as amended and 29 CFR 522.40 to 522.43, as amended).

James Knitting Co., Inc., Greeneville, Tenn.; 4-10-72 to 4-9-73; 5 percent of the total number of factory production workers for normal labor turnover purposes (ladies' nylon seamless hosiery).

Knitted Wear Industry Learner Regulations (29 CFR 522.1 to 522.9, as amended and 29 CFR 522.30 to 522.35, as amended).

Ashland Knitting Mills, Inc., Ashland, Pa.; 4-7-72 to 4-6-73; 5 percent of the total number of factory production workers for normal labor turnover purposes (infants', boys', misses', and ladies' knit underwear).

Ellwood Knitting Mills, Inc., Ellwood City, Pa.; 3-31-72 to 3-30-73; 5 percent of the total number of factory production workers for normal labor turnover purposes (men's and boys' knitted sweaters, sweatshirts and swim trunks).

Lady Jane Manufacturing Co., Kulpmont, Pa.; 3-29-72 to 3-28-73; 5 percent of the total number of factory production workers for normal labor turnover purposes (ladies' underwear).

The following learner certificates were issued in Puerto Rico to the companies hereinafter named. The effective and expiration dates, learner rates, occupations, learning periods, and the number of learners authorized to be employed, are indicated.

Ciales Manufacturing Corp., Ciales, P.R.; 4-12-72 to 4-11-73; 16 learners for normal labor turnover purposes in the occupation of sewing machine operating for a learning period of 320 hours at the rate of $1.30 an hour (ladies' panties).

General Cigar de Utuado, S.A., Utuado, P.R.; 4-5-72 to 4-4-73; 51 learners for normal labor turnover purposes in the occupations of cigar machine operating and packing, each for a learning period of 320 hours at the rates of $1.38 an hour for the first 160 hours and $1.48 an hour for the remaining 160 hours (cigars).

J. R. N. Manufacturing Co., Inc., Rio Grande, P.R.; 4-12-72 to 10-11-73; 15 learners for plant expansion purposes in the occupation of sewing machine operating for a learning period of 320 hours at the rate of $1.14 an hour (men's and boys' pajamas).

Phillip Manufacture Corp., Rio Grande, P.R.; 4-12-72 to 10-11-72; 15 learners for plant expansion purposes in the occupation of sewing machine operating for a learning period of 320 hours at the rate of $1.14 an hour (men's and boys' shorts).

Each learner certificate has been issued upon the representations of the employer which, among other things, were that employment of learners at special minimum rates is necessary in order to prevent curtailment of opportunities for employment, and that experienced workers for the learner occupations are not available. Any person aggrieved by the issuance of any of these certificates may seek a review or reconsideration thereof within 15 days after publication of this notice in the FEDERAL REGISTER pursuant to the provisions of 29 CFR 522.9. The certificates may be annulled or withdrawn, as indicated therein, in the manner provided in 29 CFR Part 528.

Signed at Washington, D.C., this 26th day of May 1972.

ROBERT G. GRONEWALD,
Authorized Representative of the Administrator.

[FR Doc.72-8436 Filed 6-2-72;8:51 am]

INTERSTATE COMMERCE COMMISSION

ASSIGNMENT OF HEARINGS

Correction

In F.R. Doc. 72-7860 appearing at page 10536 in the issue for Wednesday, May 24, 1972, the reference to "Sub 583", appearing in the first line of case No. MC 107295, should be corrected to read "Sub 538".

[Notice 1]

ASSIGNMENT OF HEARINGS

MAY 31, 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-C-7743, Garth J. Kirkman and R. M. Kirkman, doing business as Kirkman Brothers Transportation and Sun Valley Stages—investigation and revocation of certificate, now being assigned hearing July 27, 1972, at Boise, Idaho, in a hearing room to be later designated.

MC 113410 Sub 13, Dahlen Transport, Inc., now being assigned hearing July 17, 1972, MC 117940 Sub 71, Nationwide Carriers, Inc., now being assigned hearing July 19, 1972, at St. Paul, Minn., in a hearing room to be later designated.

MC 127877 Sub 4, Ewen Brothers, Inc., now being assigned hearing July 24, 1972, at Billings, Mont., in a hearing room to be later designated.

MC-C-7775, Aero Mayflower Transit Co., Inc.—investigation and revocation of certificates—now being assigned hearing July 24, 1972 (2 weeks), at Chicago, Ill., in a hearing room to be later designated.

MC 1035 Sub 3, John W. Chandley, doing business as Chandley Cartage, now assigned July 10, 1972, at Frankfort, Ky., hearing advanced to July 5, 1972, will be held in the Holiday Inn, U.S. 41N, at Henderson, Ky.

[SEAL] ROBERT L. OSWALD,
Secretary.

[FR Doc.72-8451 Filed 6-2-72;8:50 am]

FOURTH SECTION APPLICATIONS FOR RELIEF

MAY 31, 1972.

Protests to the granting of an application must be prepared in accordance with § 1100.40 of the general rules of practice (49 CFR 1100.40) and filed within 15 days from the date of publication of this notice in the FEDERAL REGISTER.

LONG-AND-SHORT HAUL

FSA No. 42440—*Corn and grain sorghums and related articles from Sioux City, Iowa.* Filed by Southwestern Freight Bureau, agent (No. B-324), for interested rail carriers. Rates on corn and grain sorghums and related articles, in carloads, as described in the application, from Sioux City, Iowa, to points in Arkansas, Louisiana, Oklahoma, and Texas.

Grounds for relief—Market competition and rate relationship.

Tariffs—Supplements 96, 56, 35, and 44, to Southwestern Freight Bureau,

agent, tariffs ICC 4901, 4967, 4968, and 4971, respectively. Rates are published to become effective on June 28, 1972.

FSA No. 42441—*T.O.F.C. rates from, to, or between points in official territory.* Filed by Traffic Executive Association—Eastern Railroads, agent (E.R. No. 3016), for interested rail carriers. Rates on property moving on class rates, loaded in or on trailers, containers, semitrailers, etc., from, to, or between points in official territory, including Northern Illinois, Southern Wisconsin, and Extended Zone "C" territories.

Grounds for relief—Motor-truck competition.

Tariffs—Baltimore & Ohio Railroad Co. tariff ICC 24875 and other tariffs listed in appendix A to the application. Rates are published to become effective on July 1, 1972, and later.

FSA No. 42442—*Salt from points in Louisiana and Texas.* Filed by Southwestern Freight Bureau, agent (No. B-319), for interested rail carriers. Rates on salt, in carloads, as described in the application, from points in Louisiana and Texas, to points in Virginia and West Virginia.

Grounds for relief—Rate relationship and market competition.

Tariff—Supplement 27 to Southwestern Freight Bureau, agent, tariff ICC 4914. Rates are published to become effective on July 5, 1972.

By the Commission.

[SEAL] ROBERT L. OSWALD, *Secretary.*

[FR Doc.72-8452 Filed 6-2-72;8:50 am]

[Notice 69]

MOTOR CARRIER BOARD TRANSFER PROCEEDINGS

Synopses of orders entered by the Motor Carrier Board of the Commission pursuant to sections 212(b), 206(a), 211, 312(b), and 410(g) of the Interstate Commerce Act, and rules and regulations prescribed thereunder (49 CFR Part 1132), appear below:

Each application (except as otherwise specifically noted) filed after March 27, 1972, contains a statement by applicants that there will be no significant effect on the quality of the human environment resulting from approval of the application. As provided in the Commission's special rules of practice any interested person may file a petition seeking reconsideration of the following numbered proceedings within 20 days from the date of publication of this notice. Pursuant to section 17(8) of the Interstate Commerce Act, the filing of such a petition will postpone the effective date of the order in that proceeding pending its disposition. The matters relied upon by petitioners must be specified in their petitions with particularity.

No. MC-FC-73520. By order of May 28, 1972, the Motor Carrier Board on reconsideration, approved the transfer to Thomas C. Doolan & Sons, Inc., Canton, Mass., of the operating rights in certificate No. MC-48555 issued July 8, 1949, to Daly's Express, Inc., Canton, Mass., authorizing the transportation of general commodities, with usual exceptions, between Canton, Mass., and Middleboro and Boston, Mass., over regular routes, and rubber goods and products, materials, supplies, and equipment used in the manufacture of rubber goods, between Canton, Mass., on the one hand, and, on the other, Bristol, Central Falls, Cranston, Newport, Pawtucket, Providence, Warwick, and Woonsocket, R.I. Joseph A. Kline, 31 Milk Street, Boston, MA 02109, attorney for applicants.

[SEAL] ROBERT L. OSWALD, *Secretary.*

[FR Doc.72-8453 Filed 6-2-72;8:50 am]

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