federal register

THURSDAY, JUNE 8, 1972
WASHINGTON, D.C.
Volume 37 ■ Number 111
Pages 11449–11548

PART I

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HIGHLIGHTS OF THIS ISSUE

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FEDERAL REGISTER

Area Code 202 Phone 962–8626

Published daily, Tuesday through Saturday (no publication on Sundays, Mondays, or on the day after an official Federal holiday), by the Office of the Federal Register, National Archives and Records Service, General Services Administration, Washington, D.C. 20408, pursuant to the authority contained in the Federal Register Act, approved July 26, 1935 (49 Stat. 500, as amended; 44 U.S.C., Ch. 15), under regulations prescribed by the Administrative Committee of the Federal Register, approved by the President (1 CFR Ch. I). Distribution is made only by the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402.

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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.

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Title 3—The President

EXECUTIVE ORDER 11672

Providing for the Transfer or Furnishing of Property Under the Postal Reorganization Act

By virtue of the authority vested in me by the Postal Reorganization Act (39 U.S.C. 2002(d)) and section 301 of title 3 of the United States Code, and as President of the United States it is hereby ordered as follows:

SECTION 1. The authority conferred upon the President by section 2002(d) of title 39 of the United States Code is hereby delegated to the Administrator of General Services subject to the provisions of this order.

SEC. 2. Property transferred to the Postal Service under this order shall be subject to reimbursement at fair market value, as agreed to by the Administrator of General Services and the Postmaster General, unless the Director of the Office of Management and Budget finds that a different basis of valuation, or transfer without reimbursement, is more equitable or better serves the public interest.

SEC. 3. Reimbursement of fair market value required for property transfers to the Postal Service under this order may consist of cash payments or, subject to approval by the Director of the Office of Management and Budget, property transferred from the Postal Service to other departments, agencies, or independent establishments of the Government of the United States, or both cash and approved properties.

SEC. 4. Heads of agencies furnishing property to the Postal Service under section 411 of title 39 of the United States Code shall require reimbursement at fair market value of such property or at a rate based on appropriate commercial charges for comparable property, as agreed to by the agency head and the Postmaster General, unless the Director of the Office of Management and Budget finds that a different basis of valuation is more equitable or better serves the public interest.

SEC. 5. Delegations of authority made in this order may be redelegated.

Richard Nixon

THE WHITE HOUSE,
June 6, 1972.

[FR Doc.72-8733 Filed 6-6-72;2:55 pm]

EXECUTIVE ORDER 11673

Amending Executive Order No. 8684 To Redefine the Culebra Island Naval Defensive Sea Area

By virtue of the authority vested in me by section 2152 of title 18, United States Code, the Culebra Island Naval Defensive Sea Area, as defined in Executive Order No. 8684,[1] of February 14, 1941, is hereby redefined as the territorial waters between the extreme high-water mark and the three-mile marine boundary adjacent to that portion of the island of Culebra which is described as follows:

All that area lying northwesterly of line (1) described as beginning at a point on the west coast of the island of Culebra (latitude 18°18′57″ North, longitude 65°19′02″ West), approximately one quarter mile north of Punta Tamarindo Chico, and extending through a point at the northern tip of Cayo Matojo (latitude 18°20′24″ North, longitude 65°17′26″ West); and westerly of line (2) described as beginning at the point on the west coast of Culebra above referred to (latitude 18°18′57″ North, longitude 65°19′02″ West), and extending due south to a point (latitude 18°16′40″ North, longitude 65°19′02″ West) from which Punta del Soldado light bears 85°; thence extending southwesterly at a bearing of 220° to the three-mile marine boundary.

Nothing in this Executive Order shall be construed to modify in any way the Culebra Island Naval Airspace Reservation, as defined in Executive Order No. 8684, or to interfere with the authority of the Federal Aviation Administrator, under section 1202 of the Federal Aviation Act of 1958, 72 Stat. 800, as amended (49 U.S.C. 1522), to modify that airspace reservation.

Richard Nixon

THE WHITE HOUSE,
June 6, 1972.

[FR Doc.72-8762 Filed 6-7-72; 8:45 am]

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[1] 6 F.R. 1016; 3 CFR, 1938–1943 Comp., p. 895.

Rules and Regulations

Title 22—FOREIGN RELATIONS

Chapter I—Department of State

SUBCHAPTER C—FEES AND FUNDS

[Dept. Reg. 108.664]

PART 22—FEES AND CHARGES, FOREIGN SERVICE

Issuance of Card of Identity and Registration

Part 22, Chapter 1, Title 22 of the Code of Federal Regulations is amended to authorize the collection of a fee for the issuance of a card of identity and registration. Section 22.1(a), Passport and Citizenship Services,

Item 5, as amended, will read:

§ 22.1 Tariff of fees, Foreign Service of the United States of America.

(a) * * *

PASSPORT AND CITIZENSHIP SERVICES

Item No.					*Fee*
*	*	*	*	*	
5. Issuance of card of identity and registration					$3.00
*	*	*	*	*	

(Secs. 3, 4, 63 Stat. 111, as amended; 22 U.S.C. 811a, 2658, E.O. 10718, 22 F.R. 4632; 3 CFR, 1954–1958 Comp., page 382)

Effective date. This revision shall be effective immediately upon publication in the FEDERAL REGISTER (6–8–72).

Dated: May 22, 1972.

For the Secretary of State.

WILLIAM N. DALE,
Acting Administrator, Bureau of Security and Consular Affairs.

[FR Doc.72–8667 Filed 6–7–72;8:51 am]

SUBCHAPTER F—NATIONALITY AND PASSPORTS

[Dept. Reg. 108.665]

PART 50—NATIONALITY PROCEDURES

Subpart A—Procedures for Determination of U.S. Nationality of a Person Abroad

ISSUANCE OF CARD OF IDENTITY AND REGISTRATION

Part 50, Chapter 1, Title 22, of the Code of Federal Regulations is revised to authorize the issuance of a card of identity and registration instead of a certificate of identity and registration. The title and text of § 50.9 are revised to read as follows:

§ 50.9 Card of identity and registration.

When authorized by the Department, a consular officer may issue a card of identity and registration for travel to the United States to a national of the United States being deported from a foreign country, to nationals involved in a common disaster abroad, or to a returning national whose passport facilities have been denied or withdrawn under the provisions of this Part 50 or Part 51 or 53 of this subchapter.

(Sec. 1, 63 Stat. 111, as amended, secs. 104, 360, 66 Stat. 174, 273; 22 U.S.C. 2658, 8 U.S.C. 1104, 1503)

Effective date. This revision shall be effective immediately upon publication in the FEDERAL REGISTER (6–8–72).

Dated: May 22, 1972.

For the Secretary of State.

WILLIAM N. DALE,
Acting Administrator, Bureau of Security and Consular Affairs.

[FR Doc.72–8668 Filed 6–7–72;8:51 am]

[Dept. Reg. 108.666]

PART 53—TRAVEL CONTROL OF CITIZENS OF UNITED STATES IN TIME OF WAR OR NATIONAL EMERGENCY

Card of Identity and Registration

Part 53, Chapter 1, Title 22, of the Code of Federal Regulations is revised to authorize a U.S. citizen to enter the United States if in possession of a card of identity and registration. Section 53.2 (g) is changed to read as follows:

§ 53.2 Exceptions.

* * * * *

(g) When the citizen entering the United States presents a card of identity and registration issued by a consular office abroad to facilitate travel to the United States; or

* * * * *

(Sec. 215, 66 Stat. 190; 8 U.S.C. 1185. Proc. 3004, 18 F.R. 489; 3 CFR, 1949–1953 Comp.)

Effective date. This revision shall be effective immediately upon publication in the FEDERAL REGISTER (6–8–72).

Dated: May 22, 1972.

For the Secretary of State.

WILLIAM N. DALE,
Acting Administrator, Bureau of Security and Consular Affairs.

[FR Doc.72–8669 Filed 6–7–72;8:51 am]

Title 30—MINERAL RESOURCES

Chapter I—Bureau of Mines, Department of the Interior

SUBCHAPTER O—COAL MINE HEALTH AND SAFETY

PART 100—CIVIL PENALTIES FOR VIOLATIONS OF THE FEDERAL COAL MINE HEALTH AND SAFETY ACT OF 1969

Civil Penalty Assessment Procedures

On March 23, 1972, there was published in the FEDERAL REGISTER a proposed revision of the procedural rules governing hearings applicable to civil penalty cases under section 109(a) of the Federal Coal Mine Health and Safety Act of 1969. These proposed changes primarily affected 43 CFR Part 4. Simultaneous with that publication, proposed amendments were made in Title 30 Part 100 to conform those regulations with the new proposed procedural changes. In addition, notice was given of a proposal to delete § 100.3 Part 100 Title 30 Code of Federal Regulations. Comments have been received concerning the proposed revision to the procedural rules governing hearings under Part 4 of Title 43 Code of Federal Regulations. Those comments are discussed in the preamble to the final regulations published this date in the FEDERAL REGISTER. Accordingly, Title 30 Part 100 is amended to conform to those regulations as published.

Comments were received concerning the proposed deletion of § 100.3. Some commenters agreed that this was a good step and in fact urged the Department to eliminate all guidelines including the appendix schedule to this part. Other commenters felt that the provisions for serious and nonserious violations, as well as the provision for no fault were necessary for proper implementation of the the Act. As was stated in the proposed rule making, the purpose of deleting § 100.3 was to eliminate superfluous language which was possibly confusing to the public. Sections 100.2 and 100.4 clearly provide that all six of the statutory criteria must be considered in making every assessment. Within these criteria themselves, especially those concerning gravity of the violation and negligence of the operator, there is ample provision for the gauging of seriousness and nonseriousness of a violation and the degree of negligence, if any, involved. Indeed the seriousness of a violation and the degree of negligence involved will be governed by surrounding circumstances such as the nature of the

mining. In practice the Department has always considered these factors in making every assessment. To the extent that the now existing § 100.3 attempts to paraphrase section 109(a) of the Act and §§ 100.2 and 100.4 of the regulations, it is superfluous. To the extent that it causes people to believe that groups of violations are classified abstractly as serious or nonserious, it is confusing. To the extent that it causes people to believe the fact of negligence and the degree thereof is not considered in every case, it again is possibly confusing and for these reasons the Department has determined it proper to eliminate § 100.3. As noted in the preamble of the regulations published under Part 4 of Title 43 Code of Federal Regulations these regulations will become effective June 15, 1972. The Department sincerely thanks those who took their time to express their views and suggestions. Those comments not directed specifically toward this particular rule making were forwarded to the appropriate officials for consideration in the administration of their duties.

Dated: June 1, 1972.

RICHARD R. HITE,
Deputy Assistant Secretary of the Interior.

Part 100 of Chapter I of Title 30 of the Code of Federal Regulations is amended and revised as follows:

1. Section 100.3 is deleted in its entirety.

2. Section 100.4 is redesignated § 100.3, paragraph (h) of the redesignated section is revised and paragraph (i) is deleted in its entirety. As revised, paragraph (h) reads as follows:

§ 100.3 Procedures for assessment of civil penalties; protest procedures.

* * * * *

(h) The operator or miner charged shall have 20 days from the date of receipt of an initial, amended, or reissued proposed order to accept the proposed order, or to reject such order in whole or in part and petition for hearing and formal adjudication. Unless the operator or miner charged files either a timely petition for hearing and formal adjudication or, where applicable, a timely protest, the proposed assessment order shall become the final assessment order of the Secretary.

(i) [Deleted]

3. Sections 100.4 and 100.5 are added to read as follows:

§ 100.4 Hearing procedures.

An operator or miner who desires a hearing and formal adjudication shall file a petition for hearing with the Office of Hearings and Appeals in accordance with the procedures set forth in Title 43, Part 4, §§ 4.540 et seq. The address of the Office of Hearings and Appeals is 4015 Wilson Boulevard, Arlington, VA 22203.

§ 100.5 Formal penalty assessment.

(a) In accordance with the procedural rules provided in Part 4, Title 43, Code of Federal Regulations, a hearing examiner or the Board of Mine Operations Appeals (both in the Office of Hearings and Appeals) shall thereafter issue an order based on findings of fact and conclusions of law.

(b) In assessing a civil penalty against an operator or miner, a hearing examiner or the Board of Mine Operations Appeals shall determine de novo the amount of the civil penalty for each violation in any amount not to exceed in the case of an operator, $10,000, and in the case of a miner, $250.

(c) In determining the existence of a violation or assessing a civil penalty thereon, neither the hearing examiner nor the Board is bound by the provisions or guidelines in this part relating to the making of proposed assessments.

APPENDIX A

GUIDELINES FOR ASSESSMENT OF PENALTIES

Type of violations	*Penalty range (in dollars)*
1. Mine operators:	
A. Violations resulting in the issuance of imminent danger withdrawal orders	5,000–10,000
B. Violations resulting in the issuance of other withdrawal orders	1,000–5,000
C. Other violations	25–1,000
2. Miners: Smoking or the carrying of smoking materials, matches, or lighters	25–250

NOTE: Consideration of all revelant circumstances in the case of a particular violation may warrant the Assessment Officer's proposing a civil penalty in an amount more than or less than the range set forth above.

[FR Doc.72-8621 Filed 6-7-72;8:46 am]

Title 41—PUBLIC CONTRACTS AND PROPERTY MANAGEMENT

Chapter 114—Department of the Interior

PART 114-25—GENERAL

Subpart 114-25.3—Use Standards

ELECTRIC TYPEWRITERS

Pursuant to the authority of the Secretary of the Interior contained in 5 U.S.C. 301 and section 205(c), 63 Stat. 390; 40 U.S.C. 486(c), Subpart 114-25.3 of Chapter 114, Title 41 of the Code of Federal Regulations, is amended as set forth below.

This amendment shall become effective on the date of its publication in the FEDERAL REGISTER (6-8-72).

CHARLES EMLEY,
Acting Deputy Assistant Secretary of the Interior.

MAY 26, 1972.

Section 114-25.302 is amended by the addition of the following section:

§ 114-25.302-3 Electric typewriters.

(a) [Reserved]

(b) Electric typewriters meeting the replacement standards prescribed in FPMR 101-25.403 may be assigned to stations not meeting the use standards criteria in FPMR 101-25.302-3. This will permit the use of such typewriters for less demanding work such as draft preparation and informal correspondence and often avoid the cost of purchasing new manual typewriters for such purposes. The overhaul or repair criteria in the replacement standards contemplates restoration to a condition suitable for the rigid work requirements of the use standards. A lesser degree of restoration or none at all will often suffice for less demanding use.

[FR Doc.72-8627 Filed 6-7-72;8:47 am]

Title 43—PUBLIC LANDS: INTERIOR

Subtitle A—Office of the Secretary of the Interior

PART 4—DEPARTMENT HEARINGS AND APPEALS PROCEDURES

Subpart F—Special Rules Applicable to Mine Health and Safety Hearings and Appeals

PROCEDURES IN CIVIL PENALTY HEARINGS

There was published in the FEDERAL REGISTER on March 23, 1972, a proposed revision of procedural rules governing hearings applicable to cases under section 109(a) of the Federal Coal Mine Health and Safety Act of 1969. Interested persons were given 45 days in which to participate in the rule making through submission of written comments, suggestions or objections. Comments have been received and studied and appropriate changes have been made. The Department expresses its sincere appreciation to those who took the time to make suggestions and comments.

Certain of those who commented felt that the initial pleading required of an operator in requesting a hearing was too detailed for preparation within 20 days of receipt of the proposed order of assessment. Another comment expressed the view that it was unfair to have the operator disclose what in effect was his defense before the Bureau expressed its affirmative position on the violations. The Department did not feel it was legally necessary to have the Bureau disclose its case prior to the operator stating his position, nor did the Department feel the requirements for a petition for hearing were undue. Nonetheless, in an effort to accommodate those operators and their associations who expressed this fear, the regulations have been modified to permit: (a) The operator to submit in lieu of a list of the violations in issue, a copy of the proposed order of assessment with those violations which he wishes to contest clearly indicated; (b) the operator need not state his legal position in his petition for hearing, but instead is required to state it in his preliminary statement which is filed simultaneous with the preliminary statement

of the Bureau of Mines. Thus, no unfair advantage can possibly accrue to the Bureau. It is in the interests of justice and due process that the parties identify at a fairly early stage the boundaries of the controversy.

Another comment received expressed the view that the provisions for summary dismissal could be unfairly used. The Department has no intention of denying an operator his opportunity for hearing under section 109(a) of the Act. However, the public expense is such that where an operator has abandoned his request or has taken it for merely dilatory reasons, the Department need not continue with the proceeding but may summarily dismiss it and reinstate the proposed order of assessment for collection. The experience of the Department has been that some operators after requesting a hearing have made no further communication with the Department, and have, in fact, deliberately refused all communications the Department attempts with them to the extent that certified mail notifying an operator of the date, place, and time for hearing has been refused. In such cases, the Department feels the actions dictated in § 4.544 are justified. Moreover, § 4.544 does not call for the outright dismissal of a case where an operator has failed to file a prehearing response but instead requires an order of show cause to be issued which permits the operator a chance to rectify his failure to file the appropriate papers and satisfy the order of show cause thus avoiding summary dismissal. It should be noted that in addition to the preliminary statement the hearing examiner may require an additional submission and the regulation has been amended to provide that the parties may amend the preliminary statement to include new matter which was not available at the time of the preparation of the preliminary statement.

One final objection to the rules expressed the view that the burden of proof should be upon the Bureau in all proceedings under the Act. This comment was somewhat confusing to the Department in that the regulation provides both as previously existing and as now amended, that the burden of proof in establishing the fact of violation is always upon the Bureau, and the burden of proof in a penalty case is entirely upon the Bureau. Of course, the Act provides other legal remedies to parties including section 301(c) petitions to modify the application of a mandatory safety standard and section 110, compensation and discrimination cases. In such cases, the burden is not upon the Bureau to establish the validity of the application, but rather upon the moving party. Thus, the reason for the wording of the regulation.

The Department was very pleased that its proposals for regional hearing sites were unanimously accepted and applauded by all commenters. The use of these hearing sites will be very convenient to the Government and the parties. With the petition for hearing filed directly with the hearing office, the site of hearing established and with sufficient preliminary information to gauge the length and content of these hearings, the Department will be better able to serve due process and the public interest by providing efficient enforcement, with full opportunity to be heard. The Department emphasizes that in philosophy and principle, its procedural rules under the Federal Coal Mine Health and Safety Act, as is true with all departmental procedural hearings and appeals rules, are governed by the principles of notice pleading which require simple statements stating a party's position rather than formalistic legal pleadings.

In order to permit all interested parties an opportunity to familiarize themselves with these rules, they will not become effective until June 15, 1972. All petitions filed with the office prior to that time will be accepted under the old rules. However, these cases will be subject to the requirement of a preliminary statement if ordered by the examiner. In these cases operators and counsel are advised to request a hearing site in addition to the other information to be provided in the preliminary statement or other pretrial requirement of an examiner. In any case where an operator has received a proposed order of assessment and filed a request for hearing under the old rules which has not yet been forwarded to the Solicitor for filing, that request will be returned by the assessment office with notification that the party will have 20 days from receipt of that notice to file a petition for hearing in the Office of Hearings and Appeals. This practice will continue for a short time to accommodate any operator who may be temporarily confused by the change in filing requirements.

Dated: June 1, 1972.

RICHARD R. HITE,
Deputy Assistant Secretary of the Interior.

Subpart F of Part 4 of Subtitle A of Title 43 of the Code of Federal Regulations will be amended and revised as follows:

1. Sections 4.540 through 4.543 are revised to read as follows:

§ 4.540 Penalty assessment; how initiated.

(a) A proceeding for the assessment of civil penalty shall be initiated when the operator or miner files a petition for hearing and formal adjudication with the Office of Hearings and Appeals pursuant to § 100.3(h) of Title 30, Code of Federal Regulations.

(b) The petition shall be filed within 20 days of receipt of the proposed order of the Assessment Officer, either initial, amended or reissued, which the operator or miner seeks to have adjudicated and shall operate as a rejection of the proposed order.

(c) A copy of the petition for hearing shall be served upon the Assessment Office, Bureau of Mines, which originated the proposed order of assessment and on the Associate Solicitor—Mine Health and Safety, U.S. Department of the Interior, Washington, D.C. 20240. Service of the petition shall be in accordance with the provision of § 4.509.

§ 4.541 Contents of petition.

(a) A petition for hearing and formal adjudication shall include:

(1) A request for hearing and formal adjudication which shall include the case number assigned by the Bureau of Mines;

(2) A list of the violations in issue which shall include the number and date of the notice or order in issue and the section of the Act or regulation which the Bureau has cited as violated;

(3) A request for hearing site chosen from those listed in § 4.542.

(b) In lieu of the list of violations in issue required by paragraph (a)(2) of this section, an operator may, if he desires, attach a copy of the final proposed order of assessment which clearly indicates the violations at issue.

§ 4.542 Hearing sites.

(a) The Office of Hearings and Appeals has established arrangements for hearings at the following sites:

Morgantown, W. Va.	Knoxville, Tenn.
Evansville, Ind.	Kingsport, Tenn.
Birmingham, Ala.	Pittsburgh, Pa.
Charleston, W. Va.	Harrisburg, Pa.
Pikeville, Ky.	

These sites are in addition to headquarters of the Office of Hearings and Appeals located in Arlington, Va. 22203 (Washington, D.C.).

(b) Where a request is made for a hearing site, the Examiner assigned to the case shall consider the request and any opposition thereto and in his discretion shall set a hearing site which is convenient to the Government and private parties. Where no request for a hearing site is made, the hearing will be held either in Arlington, Va. 22203, or at a site in the discretion of the Examiner. The Department reserves the right to schedule a hearing at an alternate location nearby a requested site.

(c) In cases west of the Mississippi River an operator or miner should list the areas where the hearing site is desired. Such cases will be assigned a hearing site convenient to the parties and witnesses which will be designated by order of the Examiner.

§ 4.543 Administrative record.

Within 30 days of service of the petition for hearing the Bureau shall forward a copy of each notice or order which specifies the violations in issue and the final proposed order of assessment.

2. Section 4.544 is redesignated as § 4.546, and there is added new §§ 4.544 and 4.545 to read as follows:

§ 4.544 Preliminary statement.

(a) Within 30 days of filing of the petition for hearing each party, either jointly or separately, shall file a preliminary statement which shall include the following information:

(1) A short and plain statement of the factual and legal issues each party will present at the hearing; additionally in the case of an operator, the statement should briefly state the operator's position as to the six statutory criteria of section 109(a) of the Act.

(2) A list of the witnesses a party intends to present and a brief statement of their testimony.

(3) Any stipulations which the parties have agreed to.

(4) Copies of exhibits which each party intends to introduce or if it is not practicable to provide copies, a list and brief description of the exhibits to be introduced.

(b) An examiner may require any additional material he considers necessary to hear and decide the matter.

(c) A party may file a supplemental statement at any time up until a week before hearing.

§ 4.545 Failure to respond.

(a) Where an operator or miner fails to file a preliminary statement or a response to a prehearing order, the Examiner may issue an order to show cause why the proceedings should not be summarily dismissed.

(b) Where an operator or miner fails to respond to such an order to show cause or fails to appear at a hearing, the Examiner shall order the proceedings summarily dismissed and remanded to the Assessment Officer, who shall enter the final proposed order of assessment as the final order of the Department and institute collection procedures.

(c) Where the Bureau fails to file a preliminary statement or response to a prehearing order the examiner may issue an order to show cause why the proceedings should not be dismissed for lack of prosecution.

(d) Nothing in this section shall be construed to deprive an operator or a miner of his opportunity to have the Bureau prove the violations charged in open hearing with confrontation and cross-examination of witnesses, except where said operator fails to file a preliminary statement, makes no response to prehearing orders or fails to appear at the hearing.

3. A new § 4.583a is added, to read as follows:

§ 4.583a Discovery.

(a) Any discovery procedure must be initiated within 20 days after the initial pleading has been filed. For good cause shown, an Examiner may permit discovery procedures to be initiated after this date.

(b) Discovery and other prehearing requisites shall be completed 60 days after the initial pleading has been filed. For good cause shown, an Examiner may permit the time for discovery to be extended.

4. Section 4.587 is amended to read:

§ 4.587 Burden of proof.

In proceedings brought under the Act, the applicant, petitioner or other party initiating the proceedings shall have the burden of proving his case by a preponderance of the evidence provided that (a) in a penalty proceeding the Bureau shall have the burden of proving its case by a preponderance of the evidence, and (b) wherever the violation of a mandatory health and safety standard is an issue the Bureau shall have the burden of proving the violation by a preponderance of the evidence.

[FR Doc.72-8622 Filed 6-7-72;8:46 am]

Title 46—SHIPPING

Chapter I—Coast Guard, Department of Transportation

SUBCHAPTER Q—SPECIFICATIONS

[CGD 72-90R]

PART 160—LIFESAVING EQUIPMENT, BUOYANT VESTS, KAPOK OR FIBROUS GLASS, ADULT AND CHILD, FOR MOTORBOATS OF CLASSES A, 1, OR 2 NOT CARRYING PASSENGERS FOR HIRE

Applicable Specifications and Plans

Correction

In F.R. Doc. 72-8061 appearing at page 10835 in the issue for Wednesday, May 31, 1972, the following language should be inserted immediately before § 160.060-8a on page 10839: "20. By adding new §§ 160.060-8a, 160.060-8b, and 160.060-8c to follow § 160.060-8 and to read as follows:".

Title 14—AERONAUTICS AND SPACE

Chapter I—Federal Aviation Administration, Department of Transportation

[Airworthiness Docket No. 72-SW-26, Amdt. 39-1455]

PART 39—AIRWORTHINESS DIRECTIVES

Mooney Model M20 Series

A proposal to amend Part 39 of the Federal Aviation Regulations to include an airworthiness directive requiring lubrication of all flight control system and landing gear system rod end bearings and the addition of specific grease fittings on Mooney Model M20 series airplanes was published in 37 F.R. 7705.

Interested persons have been afforded an opportunity to participate in the making of this amendment. Comments were offered to provide clarification of the corrective action required. These comments have been incorporated into the A.D.

In consideration of the foregoing, and pursuant to the authority delegated to me by the Administrator (31 F.R. 13697), § 39.13 of the Federal Aviation Regulations is amended by adding the following new airworthiness directive:

MOONEY. Applies to Mooney Models M20, M20A, M20B, M20C, M20D, M20E, M20F, and M20G airplanes.

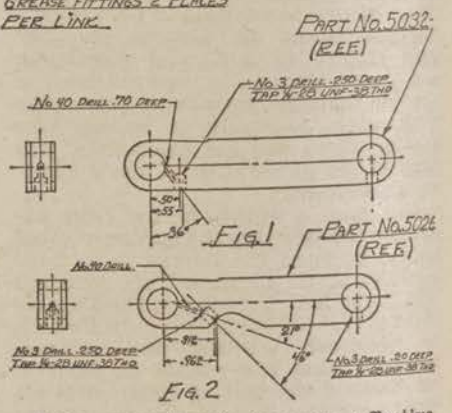
Compliance required as indicated.

To prevent corrosion in the flight control and landing gear systems which may result in binding or seizure of the joints and loss of flight control or collapse of the landing gear, accomplish the following:

(a) Within the next 25 hours time in service after the effective date of this A.D. unless already accomplished within the last 25 hours time in service and thereafter at intervals not to exceed 100 hours time in service or at each annual inspection, whichever comes first, lubricate all flight control system and landing gear system rod end bearings with a silicone spray lubricant or with an FAA approved equivalent lubricant.

(b) Within the next 50 hours time in service after the effective date of this A.D. unless already accomplished, install retracting links P/N 530003-13 (1 each) and 510011-13 (2 each) on all M20B, C, E, F, and G aircraft and M20D models converted to retractable gear or equivalent parts approved by the Chief, Engineering and Manufacturing Branch, Flight Standards Division, Southwest Region, FAA, Fort Worth, Tex. The new links incorporate grease fittings and improved over-center travel resulting in a lower preload rigging. (Reference Mooney Service Bulletin M20-155)

NOTE: For M20 and M20A models the present retract links are to be modified by the addition of grease fittings as shown in figures I and II. Follow procedures in Mooney Service Bulletin M20-155 for removal and replacement of links. M20 and M20A models must be rigged in accordance with Mooney Service Letter M20-35A, as revised July 11, 1960, or an FAA approved equivalent.



This amendment becomes effective June 12, 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 Fort Worth, Tex., on May 24, 1972.

HENRY L. NEWMAN,
Director, Southwest Region.

[FR Doc.72-8527 Filed 6-7-72;8:45 am]

[Docket No. 11954; Amdt. 813]

PART 97—STANDARD INSTRUMENT APPROACH PROCEDURES

Miscellaneous Amendments

This amendment to Part 97 of the Federal Aviation Regulations incorpo-

rates by reference therein changes and additions to the Standard Instrument Approach Procedures (SIAP's) that were recently adopted by the Administrator to promote safety at the airports concerned.

The complete SIAP's for the changes and additions covered by this amendment are described in FAA Forms 3139, 8260-3, 8260-4, or 8260-5 and made a part of the public rule making dockets of the FAA in accordance with the procedures set forth in Amendment No. 97-696 (35 F.R. 5609).

SIAP's are available for examination at the Rules Docket and at the National Flight Data Center, Federal Aviation Administration, 800 Independence Avenue SW., Washington, DC 20591. Copies of SIAP's adopted in a particular region are also available for examination at the headquarters of that region. Individual copies of SIAP's may be purchased from the FAA Public Document Inspection Facility, HQ-405, 800 Independence Avenue SW., Washington, DC 20591, or from the applicable FAA regional office in accordance with the fee schedule prescribed in 49 CFR 7.85. This fee is payable in advance and may be paid by check, draft, or postal money order payable to the Treasurer of the United States. A weekly transmittal of all SIAP changes and additions may be obtained by subscription at an annual rate of $125 per annum from the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402.

Since a situation exists that requires immediate adoption of this amendment, I find that further notice and public procedure hereon is impracticable and good cause exists for making it effective in less than 30 days.

In consideration of the foregoing, Part 97 of the Federal Aviation Regulations is amended as follows, effective on the dates specified:

1. Section 97.23 is amended by establishing, revising, or canceling the following VOR-VOR/DME SIAP's, effective June 22, 1972:

Greenville, Miss.—Greenville Municipal Airport; VOR Runway 17L, Amdt. 3; Revised.

2. Section 97.23 is amended by establishing, revising, or canceling the following VOR-VOR/DME SIAP's effective July 6, 1972:

Alliance, Nebr.—Alliance Municipal Airport; VOR Runway 12, Amdt. 3; Revised.
Alliance, Nebr.—Alliance Municipal Airport; VOR Runway 30, Amdt. 6; Revised.
Auburn, Ala.—Auburn-Opelika Airport; VOR/DME-A, Amdt. 1; Revised.
Bad Axe, Mich.—Huron County Memorial Airport; VOR Runway 3, Amdt. 1; Revised.
Bad Axe, Mich.—Huron County Memorial Airport; VOR Runway 21, Amdt. 1; Revised.
Canton, Ill.—Ingersoll Airport; VOR/DME-A, Amdt. 1; Revised.
Carlsbad, Calif.—Palomar Airport; VOR-1, Amdt. 4; Canceled.
Carlsbad, Calif.—Palomar Airport; VOR-A, Original; Established.
Chicago (Wheeling), Ill.—Pal-Waukee Airport; VOR Runway 16, Amdt. 14; Revised.
Chicago (Wheeling), Ill.—Pal-Waukee Airport; VOR/DME Runway 16, Original; Established.
Cochran, Ga.—Cochran Airport; VOR/DME Runway 4, Amdt. 1; Revised.
Ebensburg, Pa.—Ebensburg Airport; VOR-A, Amdt. 3; Revised.
Elkhart, Ind.—Elkhart Municipal Airport; VOR Runway 9, Original; Established.
Elkhart, Ind.—Elkhart Municipal Airport; VOR Runway 27, Amdt. 6; Revised.
Fremont, Ohio—Progress Field; VOR Runway 9, Amdt. 2; Revised.
Imperial, Calif.—Imperial County Airport; VOR-1, Amdt. 5; Canceled.
Imperial, Calif.—Imperial County Airport; VOR-A, Original; Established.
Imperial, Calif.—Imperial County Airport; VOR Runway 32, Original; Established.
Lansing, Mich.—Capital Region Airport; VOR Runway 6, Amdt. 12; Revised.
Los Angeles, Calif.—Van Nuys Airport; VOR-A, Amdt. 2; Revised.
Moses Lake, Wash.—Grant County Airport; VOR Runway 14L, Admt. 5; Revised.
Moses Lake, Wash.—Grant County Airport; VOR Runway 32R, Amdt. 10; Revised.
Oceanside, Calif.—Oceanside Municipal Airport; VOR-1, Amdt. 1; Canceled.
Oceanside, Calif.—Oceanside Municipal Airport; VOR-A, Original; Established.
Piqua, Ohio—Piqua Airport; VOR-A, Admt. 6; Revised.
Riverside, Calif.—Riverside Municipal Airport; VOR-A, Amdt. 1; Revised.
Riverside, Calif.—Riverside Municipal Airport; VOR Runway 9, Amdt. 4; Revised.
Santa Ana, Calif.—Orange County Airport; VOR Runway 1L, Amdt. 6; Revised.
Toledo, Ohio—Toledo Express Airport; VOR Runway 34, Amdt. 5; Revised.
Toledo, Ohio—Toledo Express Airport; VOR/DME Runway 34, Original; Established.
Toledo, Ohio—Toledo Municipal Airport; VOR Runway 4, Amdt. 5; Revised.

3. Section 97.25 is amended by establishing, revising, or canceling the following SDF-LOC-LDA SIAP's effective June 22, 1972:

Bar Harbor, Maine—Bar Harbor, Airport; LOC Runway 22, Original; Established.

4. Section 97.25 is amended by establishing, revising, or canceling the following SDF-LOC-LDA SIAP's effective June 29, 1972:

Juneau, Alaska—Juneau Municipal Airport; LDA/NDB-1 Runway 8, Amdt. 2; Canceled.
Juneau, Alaska—Juneau Municipal Airport; LDA Runway 8, Original; Established.

5. Section 97.25 is amended by establishing, revising, or canceling the following SDF-LOC-LDA SIAP's effective July 6, 1972:

Lansing, Mich.—Capital Region Airport; LOC (BC) Runway 9, Amdt. 11; Revised.
Los Angeles, Calif.—Van Nuys Airport; LDA-A, Amdt. 1; Revised.
Santa Ana, Calif.—Orange County Airport; LOC (BC) Runway 11, Amdt. 2; Revised.
Santa Ana, Calif.—Orange County Airport; LOC Runway 19R, Amdt. 3; Revised.
Santa Maria, Calif.—Santa Maria Public Airport; LOC (BC)-A, Amdt. 1; Revised.

6. Section 97.27 is amended by establishing, revising, or canceling the following NDB/ADF SIAP's, effective June 22, 1972.

Bar Harbor, Maine—Bar Harbor Airport; NDB-B, Original; Established.
Bar Harbor, Maine—Bar Harbor Airport; NDB-A, Amdt. 6; Canceled.

7. Section 97.27 is amended by establishing, revising, or canceling the following NDB/ADF SIAP's, effective June 29, 1972:

Columbus, Ohio—Bolton Field; NDB Runway 3, Original; Established.
Juneau, Alaska—Juneau Municipal Airport; NDB-A Runway 8, Amdt. 2; Revised.

8. Section 97.27 is amended by establishing, revising, or canceling the following NDB/ADF SIAP's, effective July 6, 1972:

Alliance, Nebr.—Alliance Municipal Airport; NDB Runway 30, Amdt. 4; Revised.
Anniston, Ala.—Anniston-Calhoun County Airport; NDB Runway 5, Amdt 10; Revised.
Moses Lake, Wash.—Grant County Airport; NDB Runway 32R, Amdt. 5; Revised.
Phillipsburg, Kans.—Phillipsburg Municipal Airport; NDB Runway 31, Amdt. 1; Revised.
Olean, N.Y.—Olean Municipal Airport; NDB Runway 22, Amdt. 7; Revised.
Toledo, Ohio—Toledo Express Airport; NDB Runway 7, Amdt. 14; Revised.

9. Section 97.29 is amended by establishing, revising, or canceling the following ILS SIAP's, effective June 22, 1972:

El Paso, Tex.—El Paso International Airport; ILS Runway 22, Amdt. 24; Revised.

10. Section 97.29 is amended by establishing, revising, or canceling the following ILS SIAP's, effective June 29, 1972:

New York, N.Y.—John F. Kennedy International Airport; ILS Runway 31L, Amdt. 1; Revised.

11. Section 97.29 is amended by establishing, revising, or canceling the following ILS SIAP's, effective July 6, 1972:

Atlanta, Ga.—The William B. Hartsfield-Atlanta International Airport; ILS Runway 27R, Amdt 1; Revised.
Moses Lake, Wash.—Grant County Airport; ILS Runway 32R, Amdt. 6; Revised.
Santa Ana, Calif.—Orange County Airport; ILS Runway 19R, Amdt. 2; Revised.
Toledo, Ohio—Toledo Express Airport; ILS Runway 7, Amdt. 14; Revised.

12. Section 97.33 is amended by establishing, revising, or canceling the following RNAV SIAP's, effective July 6, 1972:

Moses Lake, Wash.—Grant County Ariport; RNAV Runway 21, Amdt. 1; Revised.

(Secs. 307, 313, 601, 1110, Federal Aviation Act of 1958; 49 U.S.C. 1438, 1354, 1421, 1510, sec. 6(c), Department of Transportation Act, 49 U.S.C. 1655(c), 5 U.S.C. 552(a)(1))

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

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

NOTE: Incorporation by reference provisions in §§ 97.10 and 97.20 (35 F.R. 5610) approved by the Director of the Federal Register on May 12, 1969.

[FR Doc.72-8529 Filed 6-7-72;8:45 am]

Chapter II—Civil Aeronautics Board

SUBCHAPTER E—ORGANIZATION

[Reg. OR–62, Amdt. 26]

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

Delegations of Authority

Adopted by the Civil Aeronautics Board at its office in Washington, D.C., on the 5th day of June 1972.

Section 385.13(b) of Part 385 of the Board's Organization Regulations (14 CFR Part 385) delegates authority to the Director, Bureau of Operating Rights, to approve filed "nonstop notices." This delegation is hereby being rescinded, since the Board's regulations no longer require such notices to be filed.[1]

Pursuant to § 208.40 of the Economic Regulations, supplemental air carriers are required to provide security protection of customers' deposits made with the air carrier as advance payment for air transportation whenever the gross amount of customers' deposits exceeds 25 percent of the carrier's net worth (computed as of the last day of each month). This financial responsibility requirement may be satisfied either by furnishing a performance bond covering such excess amount or by placing in escrow or trust, with a bank, cash or negotiable securities equal to such excess amount: *Provided,* That the escrow or trust agreement is approved by the Board. Since approval of these escrow and trust agreements can be adequately handled by the staff, we are hereby delegating authority to the Director, Bureau of Operating Rights, to approve or disapprove such agreements.

Section 385.14(a) authorizes the Chief, Passenger and Cargo Rates Division, Bureau of Economics: (1) In the absence of a protest from a person disclosing a substantial interest, to disclaim jurisdiction with respect to IATA agreements which do not affect air transportation and to approve IATA agreements which do not directly apply in air transportation; and (2) to issue orders making final uncontested tentative orders covering specified types of IATA agreements relating to fare and rate matters, other than those establishing rates directly applicable in air transportation as agreed to at regular and special traffic conferences.

Our experience is that the above-mentioned protest provision is not needed since protests are seldom, if ever, filed against the first referenced types of agreements and, therefore, we are deleting said provision. Moreover, the requirement to issue tentative orders with respect to the latter referenced types of agreements before a final order can be issued has entailed needless duplication of effort arising from the fact that only two protests have been lodged against such tentative orders during the past 2 years. Accordingly, we are hereby modifying the delegated authority of the Chief, Passenger and Cargo Rates Division, to permit him to issue orders covering the specific types of IATA agreements without first issuing a tentative order. These orders, as well as the aforementioned disclaimers and approvals, issued under delegated authority are, of course, subject to Board review in accordance with the procedure specified in Subpart C of Part 385 for review of staff action.

Since the amendments contained herein are rules of agency organization and procedure, notice and public procedure hereon are not required and the rule may be made effective immediately.

Accordingly, the Board hereby amends Part 385 of the Organization Regulations (14 CFR Part 385) effective, June 5, 1972, as follows:

1. Amend 385.13 by deleting and reserving paragraph (b) and by adding new paragraph (dd), as follows:

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

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

* * * * *

(b) [Reserved]

* * * * *

(dd) Approve or disapprove escrow and trust agreements filed pursuant to § 208.40 of this chapter by supplemental air carriers as security for customers' deposits made with the carrier as advance payment for air transportation.

* * * * *

2. Amend paragraph (a) of § 385.14, to read as follows:

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

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

(a) With respect to International Air Transport Association (IATA) agreements filed with the Board pursuant to section 412 of the Act or pursuant to Board Order E–9305 of June 15, 1955:

(1) Disclaim jurisdiction with respect to IATA agreements which do not affect air transportation within the policy set forth in Order E–12304, dated March 31, 1958;

(2) Approve agreements which do not directly apply in air transportation;

(3) Issue orders approving, disapproving, or approving subject to conditions, IATA agreements relating to fare and rate matters, other than those establishing fares and rates directly applicable in air transportation as agreed at regular and special traffic conferences, with respect to the following:

(i) Agreements naming additional specific commodity rates (rates below general cargo rates) under new, existing, or amended descriptions; amending descriptions; and/or extending or canceling existing specific commodity rates.

(ii) Agreements reached by unprotested notice pursuant to previously approved resolutions.

(iii) Agreements establishing or amending proportional or constructed fares or rates.

(iv) Agreements naming specified fares or rates to be integrated into previously approved fare or rate structures.

(v) Agreements amending or extending application of construction rules.

(vi) Agreements amending application of special (reduced) fare resolution provisions.

(vii) Agreements providing for delays in inaugurals.

(viii) Agreements establishing, amending, or terminating charges for nontransportation services and other ancillary fare or rate agreements involving administrative, procedural, or technical provisions, not affecting fare or rate levels.

* * * * *

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

By the Civil Aeronautics Board.

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

[FR Doc.72–8671 Filed 6–7–72;8:50 am]

[1] The last requirements to submit such notices to the Board were set forth in former §§ 203.3(b) and 203.4(a)(1), with respect to inauguration of nonstop service to or from a point in South America. These requirements were deleted in 1969. (ER–573, May 23, 1969.)

Title 21—FOOD AND DRUGS

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

SUBCHAPTER E—REGULATIONS UNDER SPECIFIC ACTS OF CONGRESS OTHER THAN THE FEDERAL FOOD, DRUG, AND COSMETIC ACT

PART 281—ENFORCEMENT OF THE TEA IMPORTATION ACT

Tea Standards

Pursuant to the authority vested in the Secretary of Health, Education, and Welfare by the Tea Importation Act (secs. 2, 10, 29 Stat. 607, 41 Stat. 712, 57 Stat. 500; 21 U.S.C. 42, 50) and delegated to the Commissioner of Food and Drugs (21 CFR 2.120), the regulations for the enforcement of the act (21 CFR Part 281) are amended by revising § 281.19(a) to read as follows:

§ 281.19 Tea standards.

(a) Samples for standards of the following teas, prepared, identified, and submitted by the Board of Tea Experts on March 15, 1972, are hereby fixed and established as the standards of purity, quality, and fitness for consumption under the Tea Importation Act for the year beginning May 1, 1972, and ending April 30, 1973:

(1) Formosa Oolong.

(2) Ceylon-India-Indonesia Black (all black teas except Formosa Black, Japan Black, and China Mainland Black).

(3) Formosa Black (Formosa Black, Japan Black, and China Mainland Black).

(4) Green Tea.
(5) Canton Type (all Canton types including Scented Canton and Canton Oolong types).
(6) Scented Black Tea.

These standards apply to tea shipped from abroad on or after May 1, 1972. Tea shipped prior to May 1, 1972, will be governed by the standards that became effective May 1, 1971.

* * * * *

Notice and public procedure are not necessary prerequisites to the promulgation of this order, and I so find, since the amendment is based upon the recommendation of the Board of Tea Experts, which is comprised of tea experts drawn from the Food and Drug Administration and the tea trade to be representative of the trade as a whole.

Effective date. This order became effective May 1, 1972.

(Secs. 2, 10, 29 Stat. 607, 41 Stat. 712, 57 Stat. 500; 21 U.S.C. 42, 50)

Dated: June 1, 1972.

R. E. DUGGAN,
Acting Associate Commissioner for Compliance.

[FR Doc.72-8697 Filed 6-7-72;8:46 am]

Title 15—COMMERCE AND FOREIGN TRADE

Chapter VI—Bureau of Domestic Commerce, Department of Commerce

PART 610—ADJUSTMENT ASSISTANCE FOR FIRMS

Part 610 of Title 15 of the Code of Federal Regulations containing adjustment assistance regulations is hereby revoked. There is published in this issue a new Chapter V of Title 15, Code of Federal Regulations, which replaces Part 610 in its entirety.

Effective date. This amendment is effective as of the date of publication in the FEDERAL REGISTER (6-8-72).

PETER G. PETERSON,
Secretary of Commerce.

MAY 5, 1972.

[FR Doc.72-8660 Filed 6-7-72;8:52 am]

Title 7—AGRICULTURE

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

SUBCHAPTER B—FARM MARKETING QUOTAS AND ACREAGE ALLOTMENTS

[Amdt. 2]

PART 711—MARKETING QUOTA REVIEW REGULATIONS

Miscellaneous Amendments

Correction

In F.R. Doc. 72-8006 appearing on page 10656 of the issue for Friday, May 26, 1972, the fourth county in Area I of Alabama, now reading "Hilton", should read "Chilton".

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

[Valencia Orange Reg. 395]

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

Limitation of Handling

§ 908.695 Valencia Orange Regulation 395.

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

(2) It is hereby further found that it is impracticable and contrary to the public interest to give preliminary notice, engage in public rule making procedure, and postpone the effective date of this section until 30 days after publication hereof in the FEDERAL REGISTER (5 U.S.C. 553) because the time intervening between the date when information upon which this section is based became available and the time when this section must become effective in order to effectuate the declared policy of the act is insufficient, and a reasonable time is permitted, under the circumstances, for preparation for such effective time; and good cause exists for making the provisions hereof effective as hereinafter set forth. The committee held an open meeting during the current week, after giving due notice thereof, to consider supply and market conditions for Valencia oranges and the need for regulation; interested persons were afforded an opportunity to submit information and views at this meeting; the recommendation and supporting information for regulation during the period specified herein were promptly submitted to the Department after such meeting was held; the provisions of this section, including its effective time, are identical with the aforesaid recommendation of the Committee, and information concerning such provisions and effective time has been disseminated among handlers of such Valencia oranges; it is necessary, in order to effectuate the declared policy of the act, to make this section effective during the period herein specified; and compliance with this section will not require any special preparation on the part of persons subject hereto which cannot be completed on or before the effective date hereof. Such committee meeting was held on June 6, 1972.

(b) *Order.* (1) The respective quantities of Valencia oranges grown in Arizona and designated part of California which may be handled during the period June 9, 1972, through June 15, 1972, are hereby fixed as follows:

(i) District 1: 253,138 cartons;
(ii) District 2: 283,825 cartons;
(iii) District 3: 160,000 cartons.

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

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

Dated: June 7, 1972.

FLOYD F. HEDLUND,
Director, Fruit and Vegetable Division, Agricultural Marketing Service.

[FR Doc.72-8789 Filed 6-7-72;11:30 am]

[Avocado Reg. 14]

PART 915—AVOCADOS GROWN IN SOUTH FLORIDA

Limitation of Shipments

On May 10, 1972, notice of proposed rule making was published in the FEDERAL REGISTER (37 F.R. 9401), regarding a proposed regulation to be made effective pursuant to the marketing agreement, as amended, and Order No. 915, as amended (7 CFR Part 915; 36 F.R. 14126), regulating the handling of avocados grown in south Florida. The proposed regulation was recommended by the Avocado Administrative 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). No exception to said notice was filed.

After consideration of all relevant matters presented, including the proposal set forth in the aforesaid notice, the recommendation and information submitted by the Avocado Administrative Committee (established pursuant to the marketing agreement and order), 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 amended marketing agreement and order and will tend to effectuate the declared policy of the act.

The recommendation of the Avocado Administrative Committee reflects its appraisal of the avocado crop and current and prospective market conditions. Shipments of avocados are expected to begin on or about June 12, 1972. The committee has considered and recommended the grade, sizes, and maturity standards, including shipping periods, for the various varieties of avocados, and the amendment of the container and pack requirements so as to prevent the handling of immature or other undesirable fruit. Such recommendations are designed to recognize the differences in

consumer demand within and outside the production area and to provide consumers with the quality fruit desired, consistent with the overall quality of the crop, while increasing returns to growers pursuant to 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 of June 12, 1972, was published in the FEDERAL REGISTER (37 F.R. 9401), the aforesaid notice allowed interested persons 20 days in which to submit written data, views, or arguments for consideration in connection with the proposed regulation, and no objection to this regulation or such effective date was received; (2) the recommendation and supporting information for regulation during the period specified herein were submitted to the Department after an open meeting of the Avocado Administrative Committee on April 12, 1972, which was held to consider recommendations for regulation, after giving due notice of such meeting, and interested persons were afforded an opportunity to submit their views at this meeting; (3) the provisions of this regulation, including the effective time hereof, are identical with the aforesaid recommendation of the committee; (4) information concerning such provisions and effective time has been disseminated among handlers of such avocados; (5) compliance with this regulation will not require any special preparation on the part of the persons subject thereto which cannot be completed by the effective time hereof; (6) shipments of the current crop of such avocados 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 avocados in order to effectuate the declared policy of the act.

§ 915.314 Avocado Regulation 14.

(a) Order:

(1) During the period June 12, 1972, through April 30, 1973, no handler shall handle any avocados unless such avocados grade at least U.S. No. 3 grade: *Provided*, That beginning June 12, 1972, avocados which fail to meet the requirements of such grade may be handled within the production area, if such avocados meet all other applicable requirements of this section and are handled in containers other than the containers prescribed in § 915.305 for the handling of avocados on and after June 12, 1972, between the production area and any point outside thereof;

(2) On and after the effective time of this regulation, except as otherwise provided in subparagraphs (9) and (10) of this paragraph, no avocados of the varieties listed in Column 1 of the following Table I shall be handled prior to the date listed for the respective variety in Column 2 of such table, and thereafter each such variety shall be handled only in conformance with subparagraphs (3), (4), (5), and (6) of this paragraph.

TABLE I

Variety	Date	Minimum weight or diameter	Date	Minimum weight or diameter	Date	Minimum weight or diameter	Date
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)
Arue			6-12-72	14 oz. 3⅜6 in.	7-17-72		
Fuchs	6-19-72	14. oz. 3¾6 in.	7- 3-72	12 oz. 3⅜6 in.	7-17-72	10 oz. 2¹⁵⁄16 in.	7-31-72
K-5	6-26-72	16 oz. 3⅝6 in.	7-10-72	14 oz. 3⅝6 in.	7-24-72		
Dr. DuPuis No. 2	6-19-72	16 oz. 3⅜6 in.	7- 3-72	14 oz. 3⅞6 in.	7-17-72		
Hardee	7- 3-72	14 oz. 3¾6 in.	7-10-72	12 oz. 2¹⁵⁄16 in.	7-31-72		
Pollock	7- 3-72	18 oz. 3¹⁵⁄16 in.	7-10-72	16 oz. 3⅞6 in.	7-24-72		
Simmonds	7- 3-72	16 oz. 3⅜6 in.	7-10-72	14 oz. 3⅞6 in.	7-24-72		
Nadir	7- 3-72	14 oz. 3⅜6 in.	7-10-72	12 oz. 3⅛6 in.	7-17-72	10 oz. 2¹⁵⁄16 in.	7-31-72
Katherine	7- 3-72	16 oz.	7-17-72	14 oz.	7-31-72		
Dawn	7-17-72	12 oz. 3¾6 in.	7-31-72	10 oz. 3⅜6 in.	8-14-72		
Peterson	7-24-72	14 oz. 3⅝6 in.	8- 7-72	10 oz. 3⅜6 in.	8-21-72	8 oz. 2¹⁵⁄16 in.	9- 4-72
Trapp	8- 7-72	14 oz. 3¹⁹⁄16 in.	8-21-72	12 oz. 3⅞6 in.	9- 4-72		
Waldin	8-14-72	16 oz. 3⅜6 in.	8-28-72	14 oz. 3⅞6 in.	9-11-72	12 oz. 3⅛6 in.	9-25-72
Ruehle	7-17-72	18 oz. 3¹⁵⁄16 in.	7-31-72	16 oz. 3⅜6 in.	8-14-72	14 oz. 3⅝6 in.	8-28-72
Pinelli	7-31-72	18 oz. 3¹³⁄16 in.	8-14-72	16 oz. 3¹⁹⁄16 in.	8-28-72		
Webb 2	7-17-72	18 oz.	7-31-72	16 oz.	8-14-72		
Nesbitt	8-14-72	18 oz.	8-21-72	16 oz.	9-11-72		
Tonnage	8-28-72	14 oz. 3⅛6 in.	9- 4-72	12 oz. 3⅜6 in.	9-11-72	10 oz. 2¹³⁄16 in.	9-18-72
Booth 8	9-11-72	16 oz. 3⅜6 in.	9-25-72	15 oz. 3⅞6 in.	10- 9-72	13 oz. 3⅛6 in.	10-23-72
Fairchild	8-28-72	16 oz. 3¹⁹⁄16 in.	9-11-72	14 oz. 3⅞6 in.	9-25-72	12 oz. 3⅛6 in.	10- 2-72
Nirody	8-28-72	18 oz. 3¹⁵⁄16 in.	9-11-72	16 oz. 3¹³⁄16 in.	9-25-72		
Black Prince	9-11-72	23 oz.	9-25-72	16 oz.	10-16-72		
Catalina	9-11-72	24 oz.	9-18-72	22 oz.	10- 2-72		
Blair	9-25-72	14 oz. 3⅝6 in.	10-16-72				
Collinson	9-25-72	16 oz. 3¹⁹⁄16 in.	10-23-72				
Chica	9-25-72	12 oz. 3⅞6 in.	10- 9-72	10 oz. 3⅛6 in.	10-23-72		
Rue	9-25-72	30 oz. 4⅜6 in.	10- 2-72	24 oz. 3¹⁵⁄16 in.	10-16-72	18 oz. 3⅝6 in.	10-30-72
Booth 5	10- 2-72	16 oz. 3¹⁵⁄16 in.	10-23-72				
Hickson	10- 2-72	15 oz. 3⅝6 in.	10-16-72	12 oz. 3⅛6 in.	10-23-72		
Simpson	10- 2-72	16 oz. 3⅜6 in.	10-23-72				
Vaca	10- 2-72	16 oz. 3⅜6 in.	10-23-72				
Sherman	10- 2-72	16 oz.	10-16-72	14 oz.	10-30-72	10 oz.	11-20-72
Marcus	10- 2-72	32 oz.	11-13-72				
Booth 10	10- 9-72	16 oz. 3¹⁹⁄16 in.	11- 6-72				
Booth 7	10- 9-72	16 oz. 3¹⁹⁄16 in.	10-23-72	14 oz. 3⅝6 in.	11- 6-72		
Avon	10- 9-72	15 oz. 3¹⁵⁄16 in.	10-30-72				
Booth 11	10- 9-72	16 oz. 3¹³⁄16 in.	10-30-72				
Leona	10- 9-72	14 oz. 3¹⁹⁄16 in.	10-23-72				
Winslowson	10- 9-72	18 oz. 3¹⁵⁄16 in.	10-30-72				
Nelson	10- 9-72	14 oz. 3⅝6 in.	10-23-72	12 oz. 3⅝6 in.	11- 6-72	10 oz. 3⅛6 in.	11-27-72
Hall	10- 9-72	26 oz. 3¹⁵⁄16 in.	10-23-72	20 oz. 3⅜6 in.	11- 6-72		
Lula	10-16-72	18 oz. 3¹⁵⁄16 in.	10-30-72	14 oz. 3⅝6 in.	11-13-72		
Choquette	10-16-72	24 oz. 4¹⁄16 in.	10-30-72	20 oz. 3¹⁵⁄16 in.	11-20-72		
Monroe	10-16-72	24 oz. 4¹⁄16 in.	10-30-72	20 oz. 3¹⁵⁄16 in.	11-20-72		
Herman	10-16-72	16 oz. 3⅜6 in.	10-30-72	14 oz. 3⅝6 in.	11-13-72		
Murphy	10-16-72	16 oz.	10-30-72	14 oz.	11-13-72	11 oz.	12- 4-72
Ajax(B7-B)	10-23-72	18 oz. 3¹⁵⁄16 in.	11-13-72				
Booth 1	10-23-72	16 oz. 3¹³⁄16 in.	11-13-72				
Booth 3	10-23-72	16 oz. 3¹⁹⁄16 in.	11-13-72				
Taylor	10-23-72	14 oz. 3⅝6 in.	11- 6-72	12 oz. 3⅜6 in.	11-20-72		
Dunedin	11- 6-72	16 oz. 3¹⁹⁄16 in.	11-20-72	14 oz. 3⅝6 in.	12- 4-72	10 oz. 3¹⁄16 in.	12-25-72
Byars	11-13-72	16 oz. 3¹⁵⁄16 in.	12- 4-72				
Linda	11-13-72	18 oz. 3¹³⁄16 in.	12- 4-72				
Nabal	11-13-72	14 oz. 3⅜6 in.	12- 4-72				
Wagner	12- 4-72	12 oz. 3⅝6 in.	12-18-72	10 oz. 3⅜6 in.	1- 1-73		
Schmidt	1-15-73						
Itsamna	2-12-73						

(3) From the date listed for the respective variety in column 2 of Table I to the date listed for the respective variety in column 4 of such table, no handler shall handle any avocados of such variety unless the individual fruit weighs at least the ounces specified for the respective variety in column 3 of such table or is of at least the diameter specified for such variety in said column 3;

(4) From the date listed for the respective variety in column 4 of Table I to the date listed for the respective variety in column 6 of such table, no handler shall handle any avocados of such variety unless the individual fruit weighs at least the ounces specified for the respective variety in column 5 of such table or is of at least the diameter specified for such variety in said column 5;

(5) From the date listed for the respective variety in column 6 of Table I to the date listed for the respective variety in column 8 of such table, no handler shall handle any avocados of such variety unless the individual fruit weighs at least the ounces specified for the respective variety in column 7 of such table or is of at least the diameter specified for such variety in said column 7;

(6) From October 23, 1972, through November 5, 1972, no handler shall handle any avocados of the Booth 8 variety unless the individual fruit in each lot of such avocados weighs at least 10 ounces or is at least $3\frac{1}{16}$ inches in diameter, and from November 6, 1972, through November 12, 1972, no handler shall handle any avocados of the Booth 8 variety unless the individual fruit in each lot of such avocados weighs at least 8 ounces or is at least $2\frac{13}{16}$ inches in diameter;

(7) Except as otherwise provided in subparagraphs (9) and (10) of this paragraph, varieties of the West Indian type of avocados not listed in Table I shall not be handled except in accordance with the following terms and conditions:

(i) Such avocados shall not be handled prior to July 3, 1972.

(ii) From July 3, 1972, through July 9, 1972, the individual fruit in each lot of such avocados shall weigh at least 18 ounces.

(iii) From July 10, 1972, through July 30, 1972, the individual fruit in each lot of such avocados shall weigh at least 16 ounces.

(iv) From July 31, 1972 through August 27, 1972, the individual fruit in each lot of such avocados shall weight at least 14 ounces.

(v) From August 28, 1972, through September 17, 1972, the individual fruit in each lot of such avocados shall weigh at least 12 ounces.

(8) Except as otherwise provided in subparagraph (9) and (10) of this paragraph, varieties of avocados not covered by subparagraphs (2) through (7) of this paragraph shall not be handled except in accordance with the following terms and conditions:

(i) Such avocados shall not be handled prior to September 18, 1972.

(ii) From September 18, 1972, through October 15, 1972, the individual fruit in each lot of such avocados shall weigh at least 15 ounces.

(iii) From October 16, 1972, through December 17, 1972, the individual fruit in each lot of such avocados shall weigh at least 13 ounces.

(9) Notwithstanding the provisions of subparagraphs (2) through (8) of this paragraph regarding the minimum weight or diameter for individual fruit, up to 10 percent, by count, of the individual fruit contained in each lot may weigh less than the minimum specified weight and be less than the minimum specified diameter: *Provided*, That such avocados weigh not more than 2 ounces less than the applicable specified weight for the particular variety as prescribed in columns 3, 5, or 7 of Table I or in subparagraphs (6), (7), and (8) of this paragraph. Such tolerances shall be on a lot basis, but not to exceed double such tolerances shall be permitted for an individual container in a lot.

(10) The provisions of subparagraphs (2) through (9) of this paragraph shall not apply to any variety, except the Linda variety, of avocados which, when mature, normally change color to any shade of red or purple and any portion of the skin of the individual fruit has changed to the color for that fruit when mature.

(b) Terms used in the amended marketing agreement and order, when used herein, have the same meaning as is given to the respective term in said marketing agreement and order; the term "diameter" shall mean the greatest dimension measured at right angles to a line from the stem to the blossom end of the fruit; and the term "U.S. No. 3" shall have the same meaning as set forth in the U.S. Standards for Florida Avocados (§§ 1.3050–51.3069 of this title).

(c) The provisions of this regulation shall become effective June 12, 1972.

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

Dated: June 2, 1972.

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

[FR Doc.72-8588 Filed 6-7-72;8:45 am]

[Avocado Reg. 20]

PART 944—FRUITS; IMPORT REGULATIONS

Avocados

On May 10, 1972, notice of proposed rule making was published in the FEDERAL REGISTER (37 F.R. 9403) that consideration was being given to a proposed regulation, which would limit the importation of avocados into the United States, pursuant to Part 944—Fruits; Import Regulations (7 CFR Part 944). This import regulation prescribes, with respect to quality, the same grade requirement for imported avocados as is made applicable, pursuant to Order No. 915 (7 CFR Part 915; 36 F.R. 14126), to avocados grown in south Florida. With respect to size and maturity restrictions for imported avocados, the same size and maturity restrictions imposed upon avocados of the Pollock, Catalina, and Trapp varieties are made applicable to imported avocados of the same varieties. With respect to all other imported avocados, comparable size and maturity restrictions are imposed due to variations in characteristics between domestic avocados and those to be imported. The size, quality, and maturity requirements for domestic avocados, pursuant to Order No. 915, are those that are to become effective June 12, 1972. This import regulation is effective pursuant to section 8e (7 U.S.C. 608e–1) of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674).

The aforesaid notice allowed interested persons 20 days in which to submit written data, views, or arguments for consideration in connection with the proposed import regulation. None were received.

It is hereby found that good cause exists for not postponing the effective time of the regulatory provisions of this regulation, as hereinafter set forth, beyond that hereinafter specified (5 U.S.C. 553) in that (a) the requirements of this import regulation are imposed pursuant to section 8e of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674), which makes such requirements mandatory; (b) such provisions contain, as required, size, quality, and maturity requirements that are the same as or are comparable to the domestic requirements for avocados grown in south Florida under Avocado Regulation 14, which are to become effective June 12, 1972; (c) notice that such action was being considered, was published in the May 10, 1972, issue of the FEDERAL REGISTER (37 F.R. 9403), and no objection to this regulation was received; (d) compliance with this import regulation will not require any special preparation which cannot be completed by the effective time hereof; (e) notice hereof in excess of 3 days, the minimum prescribed by said section 8e, is given with respect to this import regulation by prescribing an effective date of June 12, 1972; and (f) such notice is hereby determined, under the circumstances, to be reasonable.

After consideration of all relevant matters presented, including the proposal set forth in the aforesaid notice, and other available information, it is hereby found that the grade, size, and maturity restrictions that are the same as or are comparable to those to be in effect pursuant to the said amended marketing agreement and order shall apply to avocados to be imported.

§ 944.12 Avocado Regulation 20.

(a) On and after the effective time of this section, the importation into the United States of any avocados is prohibited unless such avocados are inspected and meet the following requirements:

(1) All avocados imported during the period June 12, 1972, through April 30, 1973, shall grade not less than U.S. No. 3.

(2) Avocados of the Pollock variety shall not be imported (i) prior to July 3, 1972; (ii) from July 3, 1972, through July 9, 1972, unless the individual fruit in each lot of such avocados weighs at least 18 ounces or measures at least $3\frac{11}{16}$ inches in diameter; and (iii) from July 10, 1972, through July 23, 1972, unless the individual fruit in each lot of

such avocados weighs at least 16 ounces or measures at least 3 7/16 inches in diameter.

(3) Avocados of the Catalina variety shall not be imported (i) prior to September 11, 1972; (ii) from September 11, 1972, through September 17, 1972, unless the individual fruit in each lot of such avocados weighs at least 24 ounces; and (iii) from September 18, 1972, through October 1, 1972, unless the individual fruit in each lot of such avocados weighs at least 22 ounces.

(4) Avocados of the Trapp variety shall not be imported (i) prior to August 7, 1972; (ii) from August 7, 1972, through August 20, 1972, unless the individual fruit in each lot of such avocados weighs at least 14 ounces or measures at at least 3 10/16 inches in diameter; and (iii) from August 21, 1972, through September 3, 1972, unless the individual fruit in each lot of such avocados weighs at least 12 ounces or measures at least 3 7/16 inches in diameter.

(5) Avocados of any variety other than Pollock, Catalina, and Trapp varieties, of the West Indian type including unidentified West Indian varieties, and West Indian varieties not listed elsewhere in this regulation, shall not be imported (i) prior to July 3, 1972; (ii) from July 3, 1972, through July 9, 1972, unless the individual fruit in each lot of such avocados weighs at least 18 ounces; (iii) from July 10, 1972, through July 30, 1972, unless the individual fruit in each lot of such avocados weighs at least 16 ounces; (iv) from July 31, 1972, through August 27, 1972, unless the individual fruit in each lot of such avocados weighs at least 14 ounces; and (v) from August 28, 1972, through September 17, 1972, unless the individual fruit in each lot of such avocados weighs at least 12 ounces: *Provided,* That any lot of such avocados may be imported without regard to the date or minimum weight requirements of this paragraph if such avocados, when mature, normally change color to any shade of red or purple and any portion of the skin of the individual fruit has changed to the color normal for that fruit when mature.

(6) Avocados of any variety of the Guatemalan type, including hybrid type seedlings, unidentified Guatemalan and hybrid varieties, and Guatemalan and hybrid varieties not listed elsewhere in the regulation shall not be imported (i) prior to September 18, 1972; (ii) from September 18, 1972, through October 15, 1972, unless the individual fruit in each lot of such avocados weighs at least 15 ounces; and (iii) from October 16, 1972, through December 17, 1972, unless the individual fruit in each lot of such avocados weighs at least 13 ounces.

(7) Notwithstanding the provisions of subparagraphs (2) through (6) of this paragraph regarding the minimum weight or diameter for individual fruit, not to exceed 10 percent, by count, of the individual fruit, contained in each lot may weigh less than the minimum specified and be less than the minimum specified diameter: *Provided,* That such avocados weigh not over 2 ounces less than the applicable specified weight for the particular variety specified in such subparagraphs. Such tolerances shall be on a lot basis, but not to exceed double such tolerances shall be permitted for an individual container in a lot.

(b) The Federal or Federal-State Inspection Service, Fruit and Vegetable Division, Agricultural Marketing Service, U.S. Department of Agriculture, is hereby designated as the governmental inspection service for the purpose of certifying the grade, size, quality, and maturity of avocados that are imported into the United States. Inspection by the Federal or Federal-State Inspection Service with appropriate evidence thereof in the form of an official inspection certificate, issued by the respective service, applicable to the particular shipment of avocados, is required on all imports of avocados. Such inspection and certification services will be available upon application in accordance with the rules and regulations governing inspection and certification of fresh fruits, vegetables, and other products (Part 51 of this title) but, since inspectors are not located in the immediate vicinity of some of the small ports of entry, such as those in southern California, importers of avocados should make arrangements for inspection, through the applicable one of the following offices, at least the specified number of days prior to the time when the avocados will be imported:

Ports	Office	Advance Notice
All Texas points.	L. M. Denbo, 506 South Nebraska St., San Juan, TX 78589 (Phone—512-787-4091),	1 day.
	or	
	A. D. Mitchell, Room 516, U.S. Courthouse, El Paso, Tex. 79901 (Phone—915-533-9351, Ex. 5340).	Do.
All New York points.	Edward J. Beller, Room 28A, Hunts Point Market, Bronx, N.Y. 10474 (Phone—212-991-7668 and 7669),	Do.
	or	
	Charles D. Renick, 176 Niagara Frontier Food Terminal, Room 8, Buffalo, N.Y. 14206 (Phone—716-824-1585).	Do.
All Arizona points.	B. O. Morgan, 225 Terrace Ave., Nogales, AZ 85621 (Phone—602-287-2902).	Do.
All Florida points.	Lloyd W. Boney, 1350 Northwest 12th Ave., Room 538, Miami, FL 33136 (Phone—305-371-2571), or	Do.
	Hubert S. Flynt, 775 Warner Lane, Orlando, FL 32812 (Phone—305-841-2141), or	Do.
	Kenneth C. McCourt, Unit 46, 335 Bright Ave., Jacksonville, FL 32205 (Phone—904-354-5983).	Do.
All California points.	Daniel P. Thompson, 784 South Central Ave., Room 294, Los Angeles, CA 90012 (Phone—213-622-8756).	3 days.
All Louisiana points.	Pascal J. Lamarca, 5027 Federal Office Bldg., 701 Loyola Ave., New Orleans, LA 70013 (Phone—504-527-6741 and 6742).	1 day.
All other points.	D. S. Matheson, Fruit and Vegetable Division, Agriculture Marketing Service, U.S. Department of Agriculture, Washington, D.C. 20250 (Phone—202-388-5870).	3 days.

(c) Inspection certificates shall cover only the quantity of avocados that is being imported at a particular port of entry by a particular importer.

(d) The inspection performed, and certificates issued, by the Federal or Federal-State Inspection Service shall be in accordance with the rules and regulations of the Department governing the inspection and certification of fresh fruits, vegetables, and other products (Part 51 of this title). The cost of any inspection and certification shall be borne by the applicant therefor.

(e) Each inspection certificate issued with respect to any avocados to be imported into the United States shall set forth among other things:

(1) The date and place of inspection;

(2) The name of the shipper or applicant;

(3) The commodity inspected;

(4) The quantity of the commodity covered by the certificate;

(5) The principal identifying marks on the container;

(6) The railroad car initials and number, the truck and the trailer license number, the name of the vessel, or other identification of the shipment; and

(7) The following statement, if the facts warrant: Meets U.S. import requirements under section 8e of the Agricultural Marketing Agreement Act of 1937, as amended.

(f) Notwithstanding any other provisions of this regulation, any importation of avocados which, in the aggregate, does not exceed 55 pounds may be imported without regard to the restrictions specified herein.

(g) It is hereby found that the application of the size and maturity restrictions being imposed, pursuant to Order No. 915 (Part 915 of this chapter), upon avocados grown in south Florida to imported avocados, other than of the Pollock, Catalina, and Trapp varieties, is not practicable because of variations in characteristics between the domestic and imported avocados; and the size and maturity restrictions applicable to imported avocados other than of the Pollock, Catalina, and Trapp varieties are comparable to those imposed upon the domestic commodity. The quality restrictions for all imported avocados, and the size and maturity restrictions for imported avocados of the Pollock, Catalina, and Trapp varieties, are the same as those being imposed upon the domestic commodity.

(h) No provisions of this section shall supersede the restrictions or prohibitions on avocados under the Plant Quarantine Act of 1912.

(i) Nothing contained in this section shall be deemed to preclude any importer from reconditioning, prior to importation, any shipment of avocados for the purpose of making it eligible for importation.

(j) The terms relating to grade, as used herein, shall have the same meaning as when used in the U.S. Standards for Florida Avocados, §§ 51.3050–51.3069 of this title. "Diameter" shall mean the greatest dimension measured at right

angles to a line from the stem to the blossom end of the fruit. "Importation" means release from custody of the U.S. Bureau of Customs.

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

Dated June 2, 1972, to become effective June 12, 1972.

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

[FR Doc.72-8589 Filed 6-7-72;8:45 am]

Chapter XIV—Commodity Credit Corporation, Department of Agriculture

SUBCHAPTER B—LOANS, PURCHASES, AND OTHER OPERATIONS

[CCC Grain Price Support Regs., 1972 Crop Wheat Supp.]

PART 1421—GRAINS AND SIMILARLY HANDLED COMMODITIES

Subpart—1972 Crop Wheat Loan and Purchase Program

Correction

In F.R. Doc. 72-7848 appearing at page 10555 of the issue for Thursday, May 25, 1972, the following changes should be made in § 1421.489:

1. The county under Arkansas now reading "Gross" should read "Cross".
2. The county under Minnesota now reading "Anoko" should read "Anoka".
3. The county under Missouri reading "St. Genevieve" should read "Ste. Genevieve".
4. The dollar sign preceding the figure "1.24" opposite Lake County, Oreg. should be deleted.
5. The figure opposite Clark County, S. Dak., should read "1.35".
6. The county under Virginia now reading "Botatourt" should read "Botetourt".

Chapter XVII—Rural Electrification Administration, Department of Agriculture

PART 1701—PUBLIC INFORMATION

REA Bulletins

Part 1701, Title 7, is hereby amended to include additions and revisions to the Appendix A listing and summary descriptions of REA bulletins providing the program policies, procedures, and requirements of the agency. In major part, they reflect new and revised REA bulletins issued after prior publication in the FEDERAL REGISTER to secure public comment and participation under proposed rule making procedures.

The only comments received from the public on the new or revised REA bulletins included in this update of Appendix A involved the proposed revision of REA Bulletin 100–4, Financial Security of REA Distribution Borrowers. Comments were received which questioned whether the provisions of the revised bulletin concerning standards for the financial performance of borrowers would be administered consistent with the objectives of the Rural Electrification Act. A request was also received asking that issuance of the revised bulletin be delayed. While REA believed it essential to effective program administration that the revised bulletin be issued promptly, the proposed revision was modified to make it clear that any requests by REA for corrective action by borrowers to meet the specified financial standards would be made consistent with the objectives of the Rural Electrification Act.

The following new or revised listings and summary descriptions of REA bulletins are additions and replacements, as specified, to the listings in Appendix A to Part 1701 (36 F.R. 19075).

APPENDIX A—REA BULLETINS

JOINT RURAL ELECTRIFICATION AND TELEPHONE PROGRAM BULLETINS

REA bulletin number and date of last issuance	*Description*
20–5:320–2: May 1972 (Replacing August 1969).	Policy and procedures on the repayment of loans principal and interest extended under Section 12 of the Rural Electrification Act and the Disaster Relief Act of 1970.

RURAL ELECTRIFICATION PROGRAM BULLETINS

61–10; March 1972 (New)------	Specifications for the design and modification of power pole structures less likely to cause electrocution of eagles and other large birds.
86–1; May 1972 (Replacing August 1957).	Procedures and final documents required to close out contracts for the construction of building (exclusive of Generation Plants) and Architectural Services Contracts.
86–2; May 1972 (Replacing August 1969).	Requirements for the preparation of plans and specifications, bid documents, and bid releases for headquarters facilities of electric borrowers.
86–3; April 1972 (Replacing September 1969).	The requirements and recommendations of REA with respect to headquarters facilities for electric borrowers.
100–4; April 1972 (Replacing July 1970).	The policy of REA with respect to corrective action to be taken by borrowers where problems may endanger the effective operation of their systems and the security of REA loans.
111–4; March 1972 (New)------	The policy and procedure of REA concerning the electric wholesale rates charged by REA power Supply borrowers.
181–3; February 1972 (Replacing March 1964).	Specific accounting instructions and interpretations amending the REA Uniform System of Accounts for particular situations which are unusual in the construction or operation of rural electric systems.

RURAL TELEPHONE PROGRAM BULLETINS

320–5; May 1972 (Replacing August 1957).	The policy and procedure of REA concerning the headquarters buildings of telephone borrowers and the basis for REA loans covering such facilities.
345–26; April 1972 (Replacing June 1968).	Specifications of REA for galvanized steel buried plant terminal housings on telephone borrowers' systems.
345–64; April 1972 (New)------	Specification of REA for ringers used on borrowers' telephone systems.
409–1; May 1972 (Replacing February 1960).	The policies and recommendations of REA concerning the selection of a manager by telephone borrowers.

Dated: June 1, 1972.

DAVID A. HAMIL,
Administrator.

[FR Doc.72-8626 Filed 6-7-72;8:47 am]

Title 8—ALIENS AND NATIONALITY

Chapter I—Immigration and Naturalization Service, Department of Justice

UNIFORM SERVICE OF PROCESS

Reference is made to the notice of proposed rule making which was published in the FEDERAL REGISTER on April 8, 1972 (37 F.R. 7099) pursuant to section 553 of Title 5 of the United States Code (80 Stat. 383) and in which there were set forth proposed amendments embodying a uniform rule for service of process and other papers in administrative proceedings before Service officers.

The representation which was received concerning the proposed rules of April 8, 1972, has been considered. For the purpose of clarification and simplification, those proposed rules have been editorially amended in the following respects:

In proposed § 103.5a, paragraph (c) has been amended by adding immediately following the paragraph heading *"When personal service required."* a subparagraph (1) heading to read "(1) *Generally.*", by deleting the words "Except where delivery in person is otherwise specifically prescribed,", and by adding a new subparagraph (2) with the heading "(2) *Persons confined, minors, and incompetents.*", consolidating therein proposed

paragraph (e) and § 242.3(a); in proposed § 103.5a, paragraph (e) has been deleted to conform to the amendment to § 103.5a(c); and in proposed § 242.3(a) the first sentence has been revised and the second and third sentences have been deleted to conform to the amendment to § 103.5a(c).

The amendatory regulations as set out below are hereby adopted:

PART 103—POWERS AND DUTIES OF SERVICE OFFICERS; AVAILABILITY OF SERVICE RECORDS

1. In § 103.3, the third sentence of paragraph (a) is revised. As amended, § 103.3(a) reads, in part, as follows:

§ 103.3 Denials, appeals, and precedent decisions.

(a) *Denials and appeals.* Whenever a formal application or petition filed under § 103.2 is denied, the applicant shall be given written notice setting forth the specific reasons for such denial. If the notification is made on Form I–292, the signed duplicate thereof constitutes the order of denial. When the applicant is entitled to appeal to another Service officer, the notice shall advise him that he may appeal from the decision, and that such appeal may be taken within 15 days after the service of the notification of decision, accompanied by a supporting brief if desired and a fee of $25, by filing Notice of Appeal, Form I–290B, which shall be furnished with the written notice. * * *

* * * * *

2. A new § 103.5a is added to read as follows:

§ 103.5a Service of notification, decisions, and other papers by the Service.

This section states authorized means of service by the Service on parties and on attorneys and other interested persons of notices, decisions, and other papers (except warrants and subpoenas) in administrative proceedings before Service officers as provided in this chapter.

(a) *Definitions*—(1) *Routine service.* Routine service consists of mailing a copy by ordinary mail addressed to a person at his last known address.

(2) *Personal service.* Personal service, which shall be performed by a Government employee, consists of any of the following, without priority or preference:

(i) Delivery of a copy personally;

(ii) Delivery of a copy at a person's dwelling house or usual place of abode by leaving it with some person of suitable age and discretion;

(iii) Delivery of a copy at the office of an attorney or other person, including a corporation, by leaving it with a person in charge;

(iv) Mailing a copy by certified or registered mail, return receipt requested, addressed to a person at his last known address.

(b) *Effect of service by mail.* Whenever a person has the right or is required to do some act within a prescribed period after the service of a notice upon him and the notice is served by mail, 3 days shall be added to the prescribed period. Service by mail is complete upon mailing.

(c) *When personal service required*—(1) *Generally.* In any proceeding which is initiated by the Service, with proposed adverse effect, service of the initiating notice and of notice of any decision by a Service officer shall be accomplished by personal service.

(2) *Persons confined, minors, and incompetents*—(i) *Persons confined.* If a person is confined in a penal or mental institution or hospital and is competent to understand the nature of the proceedings initiated against him, service shall be made both upon him and upon the person in charge of the institution or the hospital. If the confined person is not competent to understand, service shall be made only on the person in charge of the institution or hospital in which he is confined, such service being deemed service on the confined person.

(ii) *Incompetents and minors.* In case of mental incompetency, whether or not confined in an institution, and in the case of a minor under 14 years of age, service shall be made upon the person with whom the incompetent or the minor resides; whenever possible, service shall also be made on the near relative, guardian, committee, or friend.

(d) *When personal service not required.* Service of other types of papers in proceedings described in paragraph (c) of this section, and service of any type of papers in any other proceedings, may be accomplished either by routine service or by personal service.

PART 205—REVOCATION OF APPROVAL OF PETITIONS

In § 205.3, the last sentence is amended As amended, § 205.3 reads as follows:

§ 205.3 Procedure.

Revocation of approval of a petition under § 205.2 shall be made only upon notice to the petitioner who shall be given an opportunity to offer evidence in support of the petition and in opposition to the grounds alleged for revocation of the approval. If upon reconsideration the approval previously granted is revoked, the petitioner shall be informed of the decision with the reasons therefor and shall have 15 days after the service of the notification of decision within which to appeal as provided in Part 3 of this chapter, if the petition was filed for a preference under paragraph (1), (2), (4), or (5) of section 203(a) of the Act, or for an immediate relative as defined in section 201(b) of the Act other than a child as defined in section 101(b)(1)(F) of the Act, or as provided in Part 103 of this chapter, if the petition was filed for a preference under paragraph (3) or (6) of section 203(a) of the Act, or for a child as defined in section 101(b)(1)(F) of the Act, and the consular office having jurisdiction over the visa application shall be notified of the revocation.

PART 235—INSPECTION OF PERSONS APPLYING FOR ADMISSION

In § 235.8, the second sentence of paragraph (a) is amended. As amended, § 235.8(a) reads, in part, as follows:

§ 235.8 Temporary exclusion.

(a) *Report.* Any immigration officer who temporarily excludes an alien under the provisions of section 235(c) of the Act shall report such action promptly to the district director having administrative jurisdiction over the port at which such alien arrived. The immigration officer shall, if possible, take a brief sworn question and answer statement from the alien, and the alien shall be notified by personal service of Form I–147 of the action taken and the right to make written representations. * * *

* * * * *

PART 242—PROCEEDINGS TO DETERMINE DEPORTABILITY OF ALIENS IN THE UNITED STATES: APPREHENSION, CUSTODY, HEARING, AND APPEAL

1. Paragraph (c) of § 242.1 is amended to read as follows:

§ 242.1 Order to show cause and notice of hearing.

* * * * *

(c) *Service.* Service of the order to show cause shall be accomplished by personal service. When personal delivery of an order to show cause is made by an immigration officer, the contents of the order to show cause shall be explained and the respondent shall be advised that any statement he makes may be used against him. He shall also be advised of his right to representation by counsel of his own choice at no expense to the Government.

§ 242.2 [Amended]

2. The 10th sentence of paragraph (b) *Authority of special inquiry officers; appeals* of § 242.2 *Apprehension, custody, and detention* is amended to read as follows: "An appeal to the Board shall be taken from a determination by a special inquiry officer or from an appealable determination by a district director, acting district director, or deputy district director by filing a notice of appeal with the district director within 5 days after the date when written notification of the determination is served upon the respondent and the Service."

3. In § 242.3, the heading is revised, and in paragraph (a) the first sentence is revised and the second and third sentences are deleted. As amended, § 242.3(a) reads as follows:

§ 242.3 Confined aliens, incompetents, and minors.

(a) *Service.* If the respondent is confined, or if he is an incompetent, or a minor under the age of 14, the order to show cause, and the warrant of arrest, if issued, shall be served in the manner

prescribed in § 242.1(c) upon the person or persons named in § 103.5a(c) of this chapter.

* * * * *

PART 246—RESCISSION OF ADJUSTMENT OF STATUS

In § 246.1, the first sentence is amended. As amended, § 246.1 reads, in part, as follows:

§ 246.1 Notice.

If it appears to a district director that a person residing in his district was not in fact eligible for the adjustment of status made in his case, a proceeding shall be commenced by the personal service upon such person of a notice of intention to rescind which shall inform him of the allegations upon which it is intended to rescind the adjustment of his status. * * *

PART 247—ADJUSTMENT OF STATUS OF CERTAIN RESIDENT ALIENS

In § 247.11, the first sentence is amended. As amended, § 247.11 reads, in part, as follows:

§ 247.11 Notice.

If it appears to a district director that an alien residing in his district, who was lawfully admitted for permanent residence, has an occupational status described in section 247 of the Act, he shall cause a notice on Form I–509 to be served on such alien by personal service informing him that it is proposed to adjust his status, unless the alien requests that he be permitted to retain his status as a resident alien and executes and files with such district director a Form I–508 (Waiver of Rights, Privileges, Exemptions and Immunities) and, if a French national receiving salary from the French Republic, Form I–508F (election as to tax exemption under the Convention between the United States and the French Republic), within 10 days after service of the notice, or the alien, within such 10-day period, files with the district director a written answer under oath setting forth reasons why his status should not be adjusted. * * *

PART 280—IMPOSITION AND COLLECTION OF FINES

In § 280.11, the third and fourth sentences are amended. As amended, § 280.11 reads, in part, as follows:

§ 280.11 Notice of intention to fine; procedure.

Notice of Intention to Fine, Form I–79, shall be prepared in triplicate, with one additional copy for each additional person on whom the service of such notice is contemplated. The notice shall be addressed to any or all of the available persons subject to fine. A copy of the notice shall be served by personal service on each such person. If the notice is delivered personally, the person upon whom it is served shall be requested to acknowledge such service by signing his name to the duplicate and triplicate copies. * * *

PART 292—REPRESENTATION AND APPEARANCES

In § 292.5, paragraph (a) is revised by deleting the last sentence thereof. As amended, § 292.5(a) reads as follows:

§ 292.5 Service upon and action by attorney or representative of record.

(a) *Representative capacity.* Whenever a person is required by any of the provisions of this chapter to give or be given notice; to serve or be served with any paper other than a warrant of arrest or a subpoena; to make a motion; to file or submit an application or other document; or to perform or waive the performance of any act, such notice, service, motion, filing, submission, performance, or waiver shall be given by or to, served by or upon, made by, or requested of, the attorney or representative of record, or the person himself if unrepresented.

* * * * *

(Sec. 103, 66 Stat. 173; 8 U.S.C. 1103)

The basis and purpose of the above-prescribed regulations are to provide a uniform rule of service by the Service on parties and on attorneys and other interested persons of notices, decisions, and other papers (except warrants and subpoenas) in administrative proceedings before Service officers.

Effective date. In accordance with the provisions of section 553 of Title 5 of the United States Code (80 Stat. 383), this order shall become effective 30 days following the date of publication in the FEDERAL REGISTER.

Dated: June 5, 1972.

RAYMOND F. FARRELL,
Commissioner of Immigration and Naturalization.

[FR Doc.72-8656 Filed 6-7-72;8:51 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 78—BRUCELLOSIS

Subpart D—Designation of Modified Certified Brucellosis Areas, Public Stockyards, Specifically Approved Stockyards, and Slaughtering Establishments

MODIFIED CERTIFIED BRUCELLOSIS AREAS

Pursuant to § 78.16 of the regulations in Part 78, as amended, Title 9, Code of Federal Regulations, containing restrictions on the interstate movement of animals because of brucellosis, under sections 4, 5, and 13 of the Act of May 29, 1884, as amended; sections 1 and 2 of the Act of February 2, 1903, as amended; and section 3 of the Act of March 3, 1905, as amended (21 U.S.C. 111–113, 114a–1, 120, 121, 125), § 78.13 of said regulations designating Modified Certified Brucellosis Areas is hereby amended to read as follows:

§ 78.13 Modified Certified Brucellosis Areas.

The following States, or specified portions thereof, are hereby designated as Modified Certified Brucellosis Areas:

Alabama. The entire State;
Alaska. The entire State;
Arizona. The entire State;
Arkansas. The entire State;
California. The entire State;
Colorado. The entire State;
Connecticut. The entire State;
Delaware. The entire State;
Florida. The entire State;
Georgia. The entire State;
Hawaii. The entire State;
Idaho. The entire State;
Illinois. The entire State;
Indiana. The entire State;
Iowa. The entire State;
Kansas. The entire State;
Kentucky. The entire State;
Louisiana. The entire State;
Maine. The entire State;
Maryland. The entire State;
Massachusetts. The entire State;
Michigan. The entire State;
Minnesota. The entire State;
Mississippi. The entire State;
Missouri. The entire State;
Montana. The entire State;
Nebraska. Adams, Antelope, Arthur, Banner, Boone, Box Butte, Boyd, Brown, Buffalo, Burt, Butler, Cass, Cedar, Chase, Cherry, Cheyenne, Clay, Colfax, Cuming, Custer, Dakota, Dawes, Dawson, Deuel, Dixon, Dodge, Douglas, Dundy, Fillmore, Franklin, Frontier, Furnas, Gage, Garden, Garfield, Gosper, Grant, Greeley, Hall, Hamilton, Harlan, Hayes, Hitchcock, Holt, Hooker, Howard, Jefferson, Johnson, Kearney, Keith, Keya Paha, Kimball, Knox, Lancaster, Lincoln, Logan, Loup, Madison, McPherson, Merrick, Morrill, Nance, Nemaha, Nuckolls, Otoe, Pawnee, Perkins, Phelps, Pierce, Platte, Polk, Red Willow, Richardson, Rock, Saline, Sarpy, Saunders, Scotts Bluff, Seward, Sheridan, Sherman, Sioux, Stanton, Thayer, Thomas, Thurston, Valley, Washington, Wayne, Webster, Wheeler, and York Counties;
Nevada. The entire State;
New Hampshire. The entire State;
New Jersey. The entire State;
New Mexico. The entire State;
New York. The entire State;
North Carolina. The entire State;
North Dakota. The entire State;
Ohio. The entire State;
Oklahoma. The entire State;
Oregon. The entire State;
Pennsylvania. The entire State;
Rhode Island. The entire State;
South Carolina. The entire State;
South Dakota. The entire State;
Tennessee. The entire State;
Texas. Anderson, Andrews, Angelina, Aransas, Archer, Armstrong, Atascosa, Austin, Bailey, Bandera, Bastrop, Baylor, Bee, Bell, Bexar, Blanco, Borden, Bosque, Bowie, Brazoria, Brazos, Brewster, Briscoe, Brooks, Brown, Burleson, Burnet, Caldwell, Calhoun, Callahan, Cameron, Camp, Carson, Cass, Castro, Chambers, Cherokee, Childress, Clay, Cochran, Coke, Coleman, Collin, Collingsworth, Colorado, Comal, Comanche, Concho, Cooke, Coryell, Cottle, Crane, Crockett, Crosby, Culberson, Dallam, Dallas, Dawson, Deaf Smith, Delta, Denton, De Witt, Dickens, Dimmit, Donley, Duval, Eastland, Ector, Edwards, Ellis, El

Paso, Erath, Falls, Fannin, Fayette, Fisher, Floyd, Foard, Ft. Bend, Franklin, Freestone, Frio, Gaines, Galveston, Garza, Gillespie, Glasscock, Goliad, Gonzales, Gray, Grayson, Gregg, Grimes, Guadelupe, Hale, Hall, Hamilton, Hansford, Hardeman, Hardin, Harris, Harrison, Hartley, Haskell, Hays, Hemphill, Henderson, Hidalgo, Hill, Hockley, Hood, Hopkins, Houston, Howard, Hudspeth, Hunt, Hutchinson, Irion, Jack, Jackson, Jasper, Jeff Davis, Jefferson, Jim Hogg, Jim Wells, Johnson, Jones, Karnes, Kaufman, Kendall, Kent, Kerr, Kimble, King, Kinney, Kleberg, Knox, Lamar, Lamb, Lampasas, La Salle, Lavaca, Lee, Leon, Liberty, Limestone, Lipscomb, Live Oak, Llano, Loving, Lubbock, Lynn, McCulloch, McLennan, McMullen, Madison, Marion, Martin, Mason, Matagorda, Maverick, Medina, Menard, Midland, Milam, Mills, Mitchell, Montague, Montgomery, Moore, Morris, Motley, Nacogdoches, Navarro, Newton, Nolan, Ochiltree, Oldham, Orange, Palo Pinto, Panola, Parker, Parmer, Pecos, Polk, Potter, Presidio, Rains, Randall, Reagan, Real, Red River, Reeves, Refugio, Roberts, Robertson, Rockwall, Runnells, Rusk, Sabine, San Augustine, San Jacinto, San Patricio, San Saba, Schleicher, Scurry, Shackelford, Shelby, Sherman, Smith, Somervell, Starr, Stephens, Sterling, Stonewall, Sutton, Swisher, Tarrant, Taylor, Terrell, Terry, Throckmorton, Titus, Tom Green, Travis, Trinity, Tyler, Upshur, Upton, Uvalde, Val Verde, Van Zandt, Victoria, Walker, Waller, Ward, Washington, Webb, Wharton, Wheeler, Wichita, Wilbarger, Williamson, Wilson, Winkler, Wise, Wood, Yoakum, Young, Zapata, and Zavala Counties;

Utah. The entire State;
Vermont. The entire State;
Virginia. The entire State;
Washington. The entire State;
West Virginia. The entire State;
Wisconsin. The entire State;
Wyoming. The entire State;
Puerto Rico. The entire area; and
Virgin Islands of the United States. The entire area.

(Secs. 4, 5, 23 Stat. 32, as amended; secs. 1, 2, 32, Stat. 791–792, as amended; sec. 3, 33 Stat. 1265, as amended; sec. 2, 65 Stat. 693; 21 U.S.C. 111–113, 114e–1, 120, 121, 125; 29 F.R. 16210, as amended, 37 F.R. 6327, 6505, 9 CFR 78.16)

Effective date. The foregoing amendment shall become effective upon publication in the FEDERAL REGISTER (6–8–72).

The amendment deletes the following area from the list of areas designated as Modified Certified Brucellosis Areas because it has been determined that such area no longer comes within the definition of § 78.1(i): Blaine County in Nebraska.

The amendment adds the following additional areas to the list of areas designated as Modified Certified Brucellosis Areas because it has been determined that such areas come within the definition of § 78.1(i): Fort Bend, Harris, Kleberg, and Matagorda Counties in Texas.

On January 3, 1972, the following areas were deleted from the list of Modified Certified Brucellosis Areas: Castro, Deaf Smith, and Terry Counties in Texas; and Boone County in Nebraska. Le Flore County in Mississippi was deleted from the list of Modified Certified Brucellosis Areas on September 7, 1971. Since said dates, it has been determined that each county again comes within the definition of § 78.1(i); and, therefore, they have been redesignated as Modified Certified Brucellosis Areas.

The amendment imposes certain restrictions necessary to prevent the spread of brucellosis in cattle and relieves certain restrictions presently imposed. It should be made effective promptly in order to accomplish its purpose in the public interest and to be of maximum benefit to persons subject to the restrictions which are relieved. Accordingly, under the administrative procedures provisions of 5 U.S.C. 553, it is found upon good cause that notice and other public procedures with respect to the amendment are impracticable, unnecessary, and contrary to the public interest, and good cause is found for making the amendment effective less than 30 days after publication in the FEDERAL REGISTER.

Done at Washington, D.C., this 2d day of June 1972.

J. M. HEJL,
Acting Deputy Administrator, Veterinary Services, Animal and Plant Health Inspection Service.

[FR Doc.72–8680 Filed 6–7–72;8:50 am]

Title 6—ECONOMIC STABILIZATION

Chapter III—Price Commission

PART 300—PRICE STABILIZATION

PART 305—PRICE COMMISSION PROCEDURAL REGULATIONS

Miscellaneous Amendments

The purpose of these amendments to Parts 300 and 305 of the regulations of the Price Commission is to make certain clarificatons and improvements as discussed below.

The definition of the term "Highest price in a substantial number of transactions" in § 300.5 is being deleted. It applies only to § 300.405 (a) and (b) with respect to determining the base price for the sale or lease of personal property or services. The defined term is being spelled out in § 300.405 (a) and (b) in the manner in which it was formerly defined, with editorial revision only.

The definition of the term "Manufacturer" in § 300.5 is revised to make it clear that mining, the production or refining of oil or gas, and ore refining are covered by that term.

In § 300.16(a)(i), the words "the same or" are inserted in subparagraph (5)(i) to correct an inadvertent omission and to conform to similar language in subparagraph (4)(i) thereof.

Section 300.32(b) is restated to delete the words "and the average total capital, respectively" which were inadvertently included in the section, but which have no applicability to the formula used in the section.

A new § 300.59 is inserted to make it clear that the Price Commission may, whenever it considers it necessary for the effective administration of the economic stabilization program, require additional reports from any person.

Section 300.402 is revised to eliminate any possible conflict with § 300.405 with respect to computation of base prices, and to make it clear that a price adjusted under Subpart F of Part 300 becomes the base price.

Sections 305.1 (a)(1) and (b), 305.20 (a), 305.21, and 305.23 are amended to insert a reference to the Chief Counsel's Office for the Internal Revenue Service.

Section 305.22 is amended to make it clear that, along with the copy of an appeal which must be sent to the IRS official who issued the adverse action appealed from, a copy of the briefs or other supporting documents shall be sent to that official.

Because the purpose of these amendments is to provide clarification of existing provisions, it is hereby found that notice and public procedure is unnecessary and that good cause exists for making them effective less than 30 days after publication.

(Economic Stabilization Act of 1970, as amended, Public Law 91–379, 84 Stat. 799; Public Law 91–558, 84 Stat. 1486; 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, Parts 300 and 305 of Title 6 of the Code of Federal Regulations are amended as set forth below, effective June 10, 1972.

Issued in Washington, D.C., on June 7, 1972.

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

a. Part 300 is amended as follows:

1. Section 300.5 is amended by deleting the definition of "Highest price in a substantial number of transactions" and by amending the definition of "Manufacturer" to read as follows:

§ 300.5 Definitions.

* * * * *

"Manufacturer" means a person who carries on the trade or business of making, fabricating, or assembling a product or commodity by manual labor or machinery for sale to another person, and also includes the mining of natural deposits, the production or refining of gas or oil from wells, and the refining of ores, and whenever the Price Commission considers it appropriate, also includes any manufacturing subsidiary, division, affiliate, or similar entity that is a part of, or is directly or indirectly controlled by, another person.

§ 300.16 [Amended]

2. Section 300.16a(i)(5)(i) is amended by inserting the words "the same or" immediately before the words "a lesser amount."

3. Paragraph (b) of § 300.32 is amended to read as follows:

§ 300.32 Low profit firms: certain service organizations.

* * * * *

(b) *Base period low profit-alternative fiscal year.* Any service organization may compute an average fiscal year for use as an alternative fiscal year for the purposes of paragraph (a) of this section by combining and dividing by 2 the net sales for any two of that firm's base period years.

* * * * *

4. The following new section is inserted immediately before § 300.60:

§ 300.59 Additional reports required by Price Commission.

Whenever the Price Commission considers it necessary for the effective administration of the Economic Stabilization Program, the Commission may order any person to file special or separate reports, in addition to any other reports required by this part.

5. § 300.402 is revised to read as follows:

§ 300.402 Adjustments in base price.

If the price of a property or service has been adjusted under this subpart, that adjusted price is the base price.

6. Paragraphs (a) (first sentence) and (b) of § 300.405 are amended to read as follows:

§ 300.405 Sales and leases of personal property and services.

(a) *Sales.* The base price with respect to a sale of a unit of personal property or services to a specific class of purchasers is the highest price, at or above which, at least 10 percent of those units were priced by the seller in transactions with that class of purchasers during the freeze base period. * * *

(b) *Leases.* The base price with respect to a lease of personal property to a specific class of lessees is the highest price, at or above which, at least 10 percent of the leases of the same or substantially identical property were priced by the lessor in transactions with that class of lessees during the freeze base period.

b. Part 305 is amended as follows:

§ 305.1 [Amended]

1. Paragraph (a)(1) of § 305.1 is amended by striking out the words "Internal Revenue Service" and inserting the words "IRS or the Chief Counsel's Office for the IRS" in place thereof.

2. Paragraph (b) of § 305.1 is amended by inserting the words "or the Chief Counsel's Office for the IRS" immediately after the term "IRS."

§ 305.20 [Amended]

3. Paragraph (a) of § 305.20 is amended by inserting the words "or the Chief Counsel's Office for the IRS" immediately after the term "IRS."

§ 305.21 [Amended]

4. Section 305.21 is amended by inserting the words "or the Chief Counsel's Office for the IRS" immediately after the term "IRS" where such term first appears therein.

§ 305.22 [Amended]

5. Section 305.22 is amended by inserting the words "and briefs or other supporting documents" after the words "copy of the appeal."

§ 305.23 [Amended]

6. Section 305.23 is amended by inserting the words "or the Chief Counsel's Office for the IRS" immediately after the term "IRS."

[FR Doc.72-8794 Filed 6-7-72;11:41 am]

Chapter III—Price Commission

PART 301—RENT STABILIZATION

Clarification of 8-Percent Ceiling on Certain Rent Increases

The purpose of this amendment to Part 301 of the Price Commission's regulations is to make certain clarifications to § 301.210 thereof, and to reprint the entire section with certain editorial changes.

A new sentence has been added at the end of paragraph (a) to make it clear, as it had been implicit, that the section does not apply in cases where the current monthly rent, including increases for real estate taxes, allowable muncipal service charges, and capital improvements began before June 1, 1972, is less than 8 percent greater than the rent charged for the most recent rent payment interval before May 15, 1971.

The words "offered under that option" are added for editorial clarity at the end of the second sentence of the last (unnumbered) subparagraph of paragraph (b).

Paragraph (c)(2) of § 301.210 is revised to clarify the effective date options, offered to renewal lessees, under the options specified in § 301.210(b) (1) and (2).

Several editorial changes are made in the form set forth in § 301.210(e). Other editorial changes have been made which do not affect substance.

Because the purpose of this amendment is to provide clarification of the rent stabilization provisions, it is hereby found that notice and public procedure thereon is impracticable and that good cause exists for making it effective less than 30 days after publication.

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

In consideration of the foregoing, § 301.210 of Title 6 of the Code of Federal Regulations is revised to read as set forth below, effective June 1, 1972.

Issued in Washington, D.C., on June 5, 1972.

By direction of the Commission.

W. DAVID SLAWSON,
General Counsel,
Price Commission.

§ 301.210 Residences or other real property which became occupied before May 15, 1971, under a lease of greater than 1 year's duration.

(a) *Applicability.* Notwithstanding any other provision of this part, the base rent (except for the base rent of any unit covered by § 301.106) of the following residences or other real property shall be determined as provided in this section:

(1) Those which became occupied before May 15, 1971, under a lease of greater than 1 year which expired after December 28, 1971 (whether or not that residence or other real property became occupied after December 28, 1971).

(2) Those which became occupied before May 15, 1971, under a lease for a period of greater than 1 year which expired during the period beginning on August 15, 1971, and ending on December 28, 1971, and such residence or other real property became occupied after December 28, 1971, under a lease of lesser duration than the expired lease.

This section does not apply in any case in which the current monthly rent, excluding increases for real estate taxes, allowable municipal service charges, and capital improvements began before June 1, 1972, is less than 8 percent greater than the rent charged for the most recent rent payment interval before May 15, 1971.

(b) *Determination of base rent.* In any case in which a lessor offers to lease, or is leasing, a residence or other real property to which the section applies, he shall offer the following options to the present or a new lessee:

(1) A lease of equal or greater duration than the expiring lease referred to in subparagraphs (1) or (2) of paragraph (a) of this section which provides for a monthly rent not to exceed that allowable by the application of Subparts B and C of this part.

(2) A lease of 1 year or less, as specified by the lessee, which provides for a monthly rent, which, including the amount of the increase resulting from the application of § 301.206, the allowable rent increase provided by § 301.102 (a)(1), and any increase for capital improvements (began after May 31, 1972) under § 301.103, but excluding allowable cost increases provided by § 301.102(a)(2), does not exceed the monthly rent charged for the most recent rent payment interval before May 15, 1971, plus 8 percent.

If the option in subparagraph (1) of this paragraph is elected, the base rent of the residence or other real property shall be the base rent determined under Subpart C of this part. If the option in subparagraph (2) of this paragraph is elected, the base rent shall be the rent specified in the lease offered under that option, less allowable cost increases provided by § 301.102(a)(2), the allowable rent increase provided by § 301.102(a)(1), and any increase for capital improvements under § 301.103.

(c) *Effective date of options*—(1) *New lessees.* The term of the lease offered to a new lessee under the options specified

in paragraphs (b) (1) and (2) of this section shall begin on the date the lessee acquires possession. The rent specified in that lease shall be effective beginning with the first rent payment interval of the lease.

(2) *Renewal lessees.* The term of the lease offered to a renewal lessee under the option specified in paragraph (b) (1) of this section shall begin on the date specified by the lessor. The term of the lease offered to a renewal lessee under the option in paragraph (b)(2) of this section shall begin on July 1, 1972, if that lessee had entered into a transaction on the residence between December 29, 1971, and July 1, 1972. If the renewal lessee had not entered into a transaction on the residence during that period, the term of the lease offered under the option in paragraph (b)(2) of this section shall begin on the date the current lease expires. The rent specified in the lease offered to a renewal lessee under either option shall become effective for the first rent payment interval of the lease.

(d) *Notification.* Before a transaction under this section, the lessor shall notify the lessee of the lessee's options, in writing, in conformance with paragraph (e) of this section. However, after such date as the Price Commission or its authorized representative issues a form to be used for that purpose, the notification may be made on that form. In all cases where a written lease is in effect, the lessor shall prepare a new written lease that conforms to the options chosen by the tenant in the notice under paragraph (e) of this section.

(e) *Lease notification addendum.* The notice required by paragraph (d) of this section shall be as follows:

LEASE NOTIFICATION ADDENDUM

_____
(Date)

To: [Insert tenant's name and address]

Our records show the expiration date of the lease on your rental unit as _____. Your notification of rent increase (attached or furnished to you on _____) is computed under the rent regulations and is more than 8 percent, excluding increases for real estate taxes, allowable municipal service charges, and capital improvements begun before June 1, 1972. Therefore, if you wish to rent this unit, the Federal Rent Stabilization Regulations require us to offer you the following options:

1. You may lease this unit for $_____ a month, for 1 year or less, at your option.

2. You may lease this unit for $_____ a month, according to the calculation furnished to you in the notification of rent increase, but for a term of _____ years which is the same length as (or longer than) the prior lease. The effective date of the lease is _____.

The monthly rent in the first option is calculated as follows:

Monthly rent for most recent rent payment interval before May 15, 1971	$_____
Eight percent of above amount	+_____
Increased property taxes, and allowable municipal service charges (if any)	+_____
Capital improvements begun before June 1, 1972 (if any)	+_____
New rent	=_____

Please advise us of your choice by _____. Check the box below that shows which option you choose, sign in the space provided, and return this notice to us at the address shown.

Sincerely yours,

_____
(Signature and address of lessor)

Please check which option you prefer.

☐ I choose option 1 for a term of _____ months, to begin with the next rent payment interval.

☐ I choose option 2. ☐ I do not want to lease this unit.

_____ _____
(Signature of lessee) (Date)

Special Provisions for Tenants who Executed Leases Between December 29, 1971, and July 1, 1972.

If you choose option 1, the term of the lease will begin July 1, 1972, and the rent specified in that lease becomes effective for the first rent payment interval of the lease. However, under the Federal Rent Stabilization Regulations, you are not entitled to a refund of any previous increase in rent that exceeded the eight percent limitation for any period before July 1, 1972.

If you choose option 2, your monthly rent will remain the same; however, the term of your lease may be for a different length of time.

[FR Doc.72-8675 Filed 6-6-72;8:50 am]

Proposed Rule Making

DEPARTMENT OF THE TREASURY

Bureau of Customs

[19 CFR Part 153]

ANTIDUMPING; FAIR VALUE DETERMINATION

Sales Below Cost of Production; Solicitation of Views; Extension of Time for Comments

On May 5, 1972, a notice soliciting views on a question concerning sales below cost of production was published in the FEDERAL REGISTER (37 F.R. 9125, F.R. Doc. 72-6995), with respect to a review of the extent to which price information relating to sales below cost of production may be used in determining "fair value" within the meaning of section 201(a) of the Antidumping Act, 1921, as amended (19 U.S.C. 160(a)).

The purpose of this amendment is to extend the time period from 30 days to 60 days for the submission in writing of all relevant data, views, or arguments to the Commissioner of Customs with respect to circumstances under which sales below cost of production in the home market or for exportation to countries other than the United States may be disregarded in the ascertainment of "fair value" within the meaning of section 201(a) of the Antidumping Act and whether, if such sales are disregarded, resort to "constructed value" (section 206 of the Antidumping Act) would be appropriate.

Accordingly, the above-cited notice is amended by extending the time period from 30 days to 60 days during which relevant data, views, or arguments may be submitted in writing to the Commissioner of Customs.

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

Approved June 5, 1972.

EUGENE T. ROSSIDES,
Assistant Secretary of the Treasury.

[FR Doc.72-8690 Filed 6-6-72;10:01 am]

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

[7 CFR Parts 54, 55, 56, 70]

DOMESTIC RABBITS, EGG PRODUCTS, SHELL EGGS, AND POULTRY

Proposed Grading and Inspection Standards

Notice is hereby given that the U.S. Department of Agriculture is considering amendments to the Regulations Governing the Grading and Inspection of Domestic Rabbits and Edible Products Thereof (7 CFR Part 54); the Regulations Governing the Voluntary Inspection and Grading of Egg products (7 CFR Part 55); the Regulations Governing the Grading of Shell Eggs and U.S. Standards, Grades, and Weight Classes for Shell Eggs (7 CFR Part 56); and the Regulations Governing the Grading and Inspection of Poultry and Edible Products Thereof (7 CFR Part 70), under authority contained in the Agricultural Marketing Act of 1946, as amended (7 U.S.C. 1621-1627).

Statement of considerations. General schedule or federally classified employees are entitled to a 10 percent night differential pay when their regularly scheduled tour of duty includes hours of work between 6 p.m. and 6 a.m.

Resident poultry and egg graders employed under cooperative agreements have not received such night differential. About half of these graders are stationed in plants with poultry inspectors who are, as classified employees, entitled to night differential. A number of other graders are stationed in plants with egg products inspectors, who are also classified employees entitled to night differential. Obviously, equal treatment is not being given to these cooperative employees. The purpose of the proposed amendments would be to correct this situation in accordance with the Department's policy of providing cooperatively employed resident poultry and egg graders the same benefits as federally classified employees other than for base salary determination. These proposed amendments are in addition to proposed amendments to the affected sections which were published in the FEDERAL REGISTER on Tuesday, May 9, 1972 (37 F.R. 9325).

All persons who desire to submit written data, views, or comments in connection with this proposal shall file the same in duplicate with the Hearing Clerk, U.S. Department of Agriculture, Room 112, Administration Building, Washington, D.C. 20250, no later than June 20, 1972.

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

PART 54—GRADING AND INSPECTION OF DOMESTIC RABBITS AND EDIBLE PRODUCTS THEREOF; AND U.S. SPECIFICATIONS FOR CLASSES, STANDARDS, AND GRADES WITH RESPECT THERETO

As to Part 54:

The following would be added to paragraph (a)(3) of § 54.108:

§ 54.108 Continuous grading performed on a resident basis.

* * * * *

(a) * * *

(3) * * * Night differential charges will be made for regular, overtime, and holiday hours worked during an approved night differential period. Charges will be at the rates established plus 10 percent of the base rate. For the purpose of this section, the night differential period shall consist of hours worked from 6 p.m. to 6 a.m.

* * * * *

PART 55—VOLUNTARY INSPECTION AND GRADING OF EGG PRODUCTS

As to Part 55:

The following would be added to paragraph (a)(3) of § 55.560:

§ 55.560 Charges for continuous inspection and grading service on a resident basis.

* * * * *

(a) * * *

(3) * * * Night differential charges will be made for regular, overtime, and holiday hours worked during an approved night differential period. Charges will be at the rates established plus 10 percent of the base rate. For the purpose of this section, the night differential period shall consist of hours worked from 6 p.m. to 6 a.m.

* * * * *

PART 56—GRADING OF SHELL EGGS AND U.S. STANDARDS, GRADES, AND WEIGHT CLASSES FOR SHELL EGGS

As to Part 56:

1. The following would be added to paragraph (a)(3) of § 56.52:

§ 56.52 Continuous grading performed on a resident basis.

* * * * *

(a) * * *

(3) * * * Night differential charges will be made for regular, overtime, and holiday hours worked during an approved night differential period. Charges will be at the rates established plus 10 percent of the base rate. For the purpose of this section, the night differential period shall consist of hours worked from 6 p.m. to 6 a.m.

* * * * *

2. The following would be added to paragraph (a)(2) of § 56.54:

§ 56.54 Charges for continuous grading performed on a nonresident basis.

* * * * *

(a) * * *

(2) * * * Night differential charges will be made for regular, overtime, and

holiday hours worked during an approved night differential period. Charges will be at the rates established plus 10 percent of the base rate. For the purpose of this section, the night differential period shall consist of hours worked from 6 p.m. to 6 a.m.

* * * * *

PART 70—GRADING AND INSPECTION OF POULTRY AND EDIBLE PRODUCTS THEREOF; AND UNITED STATES CLASSES, STANDARDS, AND GRADES WITH RESPECT THERETO

As to Part 70:

1. The following would be added to paragraph (a)(2) of § 70.137:

§ 70.137 Charges for continuous grading performed on a nonresident basis.

* * * * *

(a) * * *

(2) * * * Night differential charges will be made for regular, overtime, and holiday hours worked during an approved night differential period. Charges will be at the rates established plus 10 percent of the base rate. For the purpose of this section, the night differential period shall consist of hours worked from 6 p.m. to 6 a.m.

* * * * *

2. The following would be added to paragraph (a)(3) of § 70.138:

§ 70.138 Continuous grading performed on a resident basis.

* * * * *

(a) * * *

(3) * * * Night differential charges will be made for regular, overtime, and holiday hours worked during an approved night differential period. Charges will be at the rates established plus 10 percent of the base rate. For the purpose of this section, the night differential period shall consist of hours worked from 6 p.m. to 6 a.m.

* * * * *

Done at Washington, D.C., this 2d day of June 1972.

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

[FR Doc.72-8625 Filed 6-7-72;8:46 am]

[7 CFR Part 58]

DAIRY PRODUCTS

Proposed Inspection and Grading Services

Notice is hereby given that the U.S. Department of Agriculture is considering revising the "Regulations Governing the Inspection and Grading Services of Manufactured or Processed Dairy Products," Part 58, Subpart A, §§ 58.1 through 58.63, as presented below pursuant to the Agricultural Marketing Act of 1946 (60 Stat. 1087, as amended; 7 U.S.C. 1621-1627).

Statement of consideration. The Agricultural Marketing Act of 1946 under which inspection and grading services are conducted provides for appeal inspection or grading and reinspection or regrading in § 58.22. This revision will limit appeal inspection or grading when the official sample is found to contain filth or a deleterious substance. This limitation is based on the fact that filth and other deleterious substances are not evenly distributed throughout a given lot of product.

Other changes are as follows:

1. The meaning of the word "Secretary" is deleted from § 58.1.

2. The words "inspection of dairy processing plants and the" are added to § 58.2(a).

3. The words "by the Secretary" on lines 5 and 6 and on line 8 in § 58.33 are deleted. The word "Countersigned" is revised to read "signed." These revisions reflect current licensing procedures.

4. The first sentence of § 58.34 was modified to eliminate the reference to the Secretary so as to show the Administrator as the official having authority to revoke or suspend any license. The word "Secretary" is further deleted from this section.

5. Figures 2 and 3 in § 58.50(b) are deleted because they are obsolete. Figure 4 is now designated as Figure 3. A new Figure 2 is added to cover graded products processed and packed under USDA inspection.

6. Section 58.51 is revised to abbreviate the present wording. The revision treats all packaging material as one item rather than treating packaging material for butter and for other dairy products on a separate basis.

7. Section 58.58 is revised to show that the rules of practice governing withdrawal of inspection and grading services set forth in Part 50 of this chapter shall be applicable to debarment action.

8. Wherever the name "Consumer and Marketing Service" appeared, it is changed to "Agricultural Marketing Service."

All persons who desire to submit written data, views, or arguments for consideration in connection with the proposed revisions should file the same in duplicate not later than 30 days following the date of publication of this notice in the FEDERAL REGISTER, with the Hearing Clerk, U.S. Department of Agriculture, Room 112, Administration Building, Washington, D.C. 20250, where they will be available for public inspection during official hours of business.

The revised regulations are as follows:

Subpart A—Regulations Governing the Inspection and Grading Services of Manufactured or Processed Dairy Products

DEFINITIONS

Sec.
58.1 Meaning of words.
58.2 Designation of official certificates, memoranda, marks, identifications, and devices for purpose of the Agricultural Marketing Act.

ADMINISTRATION

58.3 Authority.

INSPECTION OR GRADING SERVICE

58.4 Basis of service.
58.5 Where service is offered.
58.6 Supervision of service.
58.7 Who may obtain service.
58.8 How to make application.
58.9 Form of application.
58.10 Filing of application.
58.11 Approval of application.
58.12 When application may be rejected.
58.13 When application may be withdrawn.
58.14 Authority of applicant.
58.15 Accessibility and condition of product.
58.16 Disposition of samples.
58.17 Order of service.
58.18 Inspection or grading certificates, memoranda, or reports.
58.19 Issuance of inspection or grading certificates.
58.20 Disposition of inspection or grading certificates or reports.
58.21 Advance information.

APPEAL INSPECTION OR GRADING AND REINSPECTION OR REGRADING

58.22 When appeal inspection or grading may be requested.
58.23 How to obtain appeal inspection or grading.
58.24 Record of filing time.
58.25 When an application for an appeal inspection or grading may be refused.
58.26 When an application for an appeal inspection or grading may be withdrawn.
58.27 Order in which appeal inspections or gradings are performed.
58.28 Who shall make appeal inspections or gradings.
58.29 Appeal inspection or grading certificate or report.
58.30 Application for reinspection or regrading.
58.31 Reinspection or regrading certificate or report.
58.32 Superseded certificates or reports.

LICENSING OF INSPECTORS OR GRADERS

58.33 Who may be licensed.
58.34 Suspension or revocation of license.
58.35 Surrender of license.
58.36 Identification.
58.37 Financial interest of licensees.

FEES AND CHARGES

58.38 Payment of fees and charges.
58.39 Fees for holiday or other nonworktime.
58.40 Fees for appeal inspection or grading.
58.41 Fees for additional copies of certificates.
58.42 Traveling expenses and other charges.
58.43 Fees for inspection, grading, and sampling.
58.44 Fees for laboratory analysis.
58.45 Charges for continuous inspection or grading service.
58.46 Fees for service performed under cooperative agreement.

MARKING, BRANDING, AND IDENTIFYING PRODUCT

58.49 Authority to use official identification.
58.50 Approval and form of official identification.
58.51 Information required on official identification.
58.52 Time limit for packaging inspected or graded products with official identification.

PREREQUISITES TO PACKAGING PRODUCTS WITH OFFICIAL IDENTIFICATION

58.53 Supervisor of packaging required.
58.54 Packing and packaging room and equipment.

AUTHORITY: The provisions of this Subpart A issued under Agricultural Marketing Act of 1946 (60 Stat. 1087, as amended; 7 U.S.C. 1621–1627).

Subpart A—Regulations Governing the Inspection and Grading Services of Manufactured or Processed Dairy Products

DEFINITIONS

§ 58.1 Meaning of words.

For the purpose of the regulations in this subpart, words in the singular form shall be deemed to import the plural and vice versa, as the case may demand. Unless the context otherwise requires, the following terms shall have the following meaning:

"Act" means the applicable provisions of the Agricultural Marketing Act of 1946 (60 Stat. 1087, as amended; 7 U.S.C. 1621–1627) or any other act of Congress conferring like authority.

"Administrator" means the Administrator of the Agricultural Marketing Service or any other officer or employee of the Agricultural Marketing Service to whom authority has heretofore been delegated, or to whom authority may hereafter be delegated, to act in his stead.

"Applicant" means any interested party who has applied for inspection or grading service.

"Approved laboratory" means a laboratory in which the facilities and equipment used for official testing have been approved by the Administrator as being adequate to perform the necessary official tests in accordance with this part.

"Approved plant" means one or more adjacent buildings, or parts thereof, comprising a single plant at one location in which the facilities and methods of operation therein have been surveyed and approved by the Administrator as suitable and adequate for inspection or grading service in accordance with this part.

"Area Supervisor" means any employee of the Branch in charge of dairy inspection or grading service in a designated geographical area.

"Branch" means the Inspection and Grading Branch of the Division.

"Chief" means the Chief of the Branch, or any officer or employee of the Branch to whom authority has been heretofore delegated, or to whom authority may hereafter be delegated, to act in his stead.

"Class" means any subdivision of a product based on essential physical characteristics that differentiate between major groups of the same kind or method of processing.

"Condition of container" means the degree of acceptability of the container with respect to freedom from defects which affect its serviceability, including appearance as well as usability, of the container for its intended purpose.

"Condition of product" or "condition" is an expression of the extent to which a product is free from defects which affect its usability, including but not limited to, the state of preservation, cleanliness, soundness, wholesomeness, or fitness for human food.

"Agricultural Marketing Service" or "AMS" means the Agricultural Marketing Service of the Department.

"Continuous resident service" or "resident service" is inspection or grading service performed at a dairy manufacturing plant or grading station by an inspector or grader assigned to the plant or station on a continuous, year-around, resident basis.

"Continuous nonresident service" is inspection or grading service performed by an inspector or grader temporarily assigned to a plant on a continuous, short-term, nonresident basis to perform service such as supervision of packaging or processing products for contract delivery.

"Department" or "USDA" means the U.S. Department of Agriculture.

"Director" means the Director of the Dairy Division or any officer or employee of the Division to whom authority has heretofore been delegated, or to whom authority may hereafter be delegated, to act in his stead.

"Division" means the Dairy Division of the Agricultural Marketing Service.

"Inspection or grading service" or "service" means in accordance with this part, the act of (a) drawing samples of any product; (b) determining the class, grade, quality, composition, size, quantity, or condition of any product by examining each unit or representative samples; (c) determining condition of product containers; (d) identifying any product or packaging material by means of official identification; (e) regrading or appeal grading of a previously graded product; (f) inspecting dairy plant facilities, equipment, and operations; such as, processing, manufacturing, packaging, repackaging, and quality control; (g) supervision of packaging inspected or graded product; (h) reinspection or appeal inspection; and (i) issuing an inspection or grading certificate or sampling, inspection, or other report related to any of the foregoing.

"Inspector or grader" means any Federal or State employee to whom a license has been issued by the Administrator to perform one or more types of inspection or grading services.

"Inspection or grading office" means the office of any inspector or grader.

"Interested party" means any person financially interested in a transaction involving any inspection or grading service.

"Licensed plant employee" means an employee of an approved plant to whom a license is issued by the Administrator to supervise packaging of officially inspected or graded product, perform laboratory tests, or perform other duties as assigned by the Administrator. A licensed plant employee is not authorized to issue any inspection or grading certificate.

"Product" means butter, cheese (whether natural or processed), milk, cream, milk products (whether dried, frozen, evaporated, stabilized, or condensed), ice cream, dry whey, dry buttermilk, and any other food product, which is prepared or manufactured in whole or in part from any of the aforesaid products, as the Administrator may hereafter designate.

"Person" means any individual, partnership, association, business, trust, corporation, or any organized group of persons whether incorporated or not.

"Plant survey" means an appraisal of the plant to determine extent to which facilities, equipment, method of operation, and raw material being received are in accordance with the provisions of this part. The survey shall be used to determine suitability of the plant for inspection or grading service.

"Quality" means the inherent properties of any product which determine its relative degree of excellence.

"Regulations" means the provisions of this subpart.

"Sampling report" means a statement issued by an inspector or grader identifying samples taken by him for inspection or grading service.

"Supervisor of packaging" means an employee of the Department or other person licensed by the Administrator to supervise the packaging and official identification of product or any repackaging of bulk product.

§ 58.2 Designation of official certificates, memoranda, marks, identifications, and devices for purpose of the Agricultural Marketing Act.

Subsection 203(h) of the Agricultural Marketing Act of 1946, as amended by Public Law 272, 84th Congress, provides criminal penalties for various specified offenses relating to official certificates, memoranda, marks, or identifications, and devices for making such marks or identifications, issued or authorized under section 203 of said act, and certain misrepresentations concerning the inspection or grading of agricultural products under said section. For the purposes of said subsection and the provisions in this part, the terms listed below shall have the respective meanings specified:

(a) "Official certificate" means any form of certification, either written or printed (including that prescribed in § 58.18), used under the regulations in this subpart to certify with respect to the inspection of dairy processing plants and the inspection, class, grade, quality, size, quantity, or condition of products (including the compliance of products and packaging material with applicable specifications).

(b) "Official memorandum" means any initial record of findings made by an authorized person in the process of inspecting, grading, determining compliance, or sampling pursuant to the regulations in this subpart, any processing or plant-operation report made by an authorized person in connection with inspecting, grading, determining compli-

ance, or sampling under the regulations in this subpart, and any report made by an authorized person of services performed pursuant to the regulations in this subpart.

(c) "Official identification" or "other official marks" means any form of identification or mark (including, but not limited to, those in §§ 58.49 through 58.51) approved by the Administrator and authorized to be affixed to any product, or affixed to or printed on the packaging material of any product certifying the inspection, class, grade, quality, size, quantity, or condition of the products (including the compliance of products with applicable specifications) or to maintain the identify of the product for which service is provided under the regulations in this subpart.

(d) "Official device" means a stamping appliance, branding device, stencil, printed label, or any other mechanically or manually operated tool that is approved by the Administrator for the purpose of applying any official mark or other identification to any product or the packaging material thereof.

ADMINISTRATION

§ 58.3 Authority.

The Administrator shall perform such duties as may be required in the enforcement and administration of the provisions of the Act and this part.

INSPECTION OR GRADING SERVICE

§ 58.4 Basis of service.

Inspection or grading service shall be performed in accordance with the provisions of this part, the instructions and procedures issued or approved by the Administrator, U.S. standards for grades, Federal specifications, and specifications as defined in a specific purchase contract.

§ 58.5 Where service is offered.

Subject to the provisions of this part, inspection or grading service may be performed when a qualified inspector or grader is available, and when the facilities and conditions are satisfactory for the conduct of the service.

§ 58.6 Supervision of service.

All inspection or grading service shall be subject to supervision by a supervisory inspector or grader, Area Supervisor, or by the Chief, or such other person of the Branch as may be designated by the Chief. Whenever there is evidence that inspection or grading service has been incorrectly performed, a supervisor shall immediately make a reinspection or regrading, and he shall supersede the previous inspection or grading certificate or report with a new certificate or report showing the corrected information.

§ 58.7 Who may obtain service.

An application for inspection or grading service may be made by any interested person, including, but not limited to, the United States, any State, county, municipality, or common carrier, or any authorized agent of the foregoing.

§ 58.8 How to make application.

(a) *On a fee basis.* An application for inspection or grading service may be made in any inspection or grading office or with any inspector or grader. Such application may be made orally (in person or by telephone), in writing, or by telegraph. If made orally, written confirmation may be required.

(b) *On a continuous basis.* Application for inspection or grading service on a continuous basis as provided in § 58.45 shall be made in writing on application forms as approved by the Administrator and filed with the Administrator.

§ 58.9 Form of application.

Each application for inspection or grading service shall include such information as may be required by the Administrator in regard to the type of service; kind of products and place of manufacture, processing, or packaging; and location where service is desired.

§ 58.10 Filing of application.

An application for inspection or grading service shall be regarded as filed only when made pursuant to this subpart.

§ 58.11 Approval of application.

An application for inspection or grading service may be approved when (a) a qualified inspector or grader is available, (b) facilities and conditions are satisfactory for the conduct of the service, and (c) the product has been manufactured or processed in a plant approved for inspection or grading service in accordance with the provisions of this part and instructions issued thereunder.

§ 58.12 When application may be rejected.

An application for inspection or grading service may be rejected by the Administrator (a) when the applicant fails to meet the requirements of the regulations in this subpart prescribing the conditions under which the service is made available; (b) when the product is owned by, or located on the premises of, a person currently denied the benefits of the Act; (c) when an individual holding office or a responsible position with or having a substantial financial interest or share with the applicant is currently denied the benefits of the Act or was responsible in whole or in part for the current denial of the benefits of the Act to any person; (d) when the application is an attempt on the part of a person currently denied the benefits of the Act to obtain inspection or grading service; (e) when the product was produced from unwholesome raw material or was produced under insanitary or otherwise unsatisfactory conditions; (f) when the product is of illegal composition or is lacking satisfactory keeping quality; (g) when the product has been produced in a plant which has not been surveyed and approved for inspection or grading service; (h) when payment of fees is delinquent over 60 days; or (i) when there is noncompliance with the Act or this part or instructions issued hereunder. When an application is rejected, the applicant shall be notified in writing by the Area Supervisor or his designated representative, the reason or reasons for the rejection.

§ 58.13 When application may be withdrawn.

An application for inspection or grading service may be withdrawn by the applicant at any time before the service is performed upon payment, by the applicant, of all expenses incurred by AMS in connection with such application.

§ 58.14 Authority of applicant.

Proof of the authority of any person applying for any inspection or grading service may be required in the discretion of the Administrator.

§ 58.15 Accessibility and condition of product.

Each lot of product for which inspection or grading service is requested shall be so conditioned and placed as to permit selection of representative samples and proper determination of the class, grade, quality, quantity, or condition of such product. In addition, if sample packages are furnished by the applicant, such samples shall be representative of the lot to be inspected or graded and additional samples shall be made available for verification. The room or area where the service is to be performed shall be clean and sanitary, free from foreign odors, and shall be provided with adequate lighting, ventilation, and temperature control.

§ 58.16 Disposition of samples.

Any sample of product used for inspection or grading may be returned to the applicant at his request and at his expense if such request was made at the time of the application for the service. In the event the aforesaid request was not made at the time of application for the service, the sample of product may be destroyed, disposed of to a charitable organization, or disposed of by any other method prescribed by the Administrator.

§ 58.17 Order of service.

Inspection or grading service shall be performed, insofar as practicable and subject to the availability of qualified inspectors or graders, in the order in which applications are made except that precedence may be given to any application for an appeal inspection or grading.

§ 58.18 Inspection or grading certificates, memoranda, or reports.

Inspection or grading certificates and sampling, plant survey, and other memoranda or reports shall be issued on forms approved by the Administrator.

§ 58.19 Issuance of inspection or grading certificates.

An inspection or grading certificate shall be issued to cover a product inspected or graded in accordance with instructions issued by the Administrator and shall be signed by an inspector or grader. This does not preclude an inspector or grader from granting a power of attorney to another person to sign in his stead, if such grant of power of attorney

has been approved by the Administrator: *Provided,* That in all cases any such certificate shall be prepared in accordance with the facts set forth in the official memorandum defined in § 58.2(b): *And provided further,* that whenever a certificate is signed by a person under a power of attorney the certificate should so indicate. The signature of the holder of the power shall appear under the name of the grader or inspector who personally graded or inspected the product.

§ 58.20 Disposition of inspection or grading certificates or reports.

The original of any inspection or grading certificate or report issued pursuant to § 58.19, and not to exceed four copies thereof, shall immediately upon issuance be delivered or mailed to the applicant or person designated by him. One copy shall be filed in the inspection and grading office serving the area in which the service was performed and all other copies shall be filed in such manner as the Administrator may approve. Additional copies of any such certificate or report may be supplied to any interested party as provided in § 58.41.

§ 58.21 Advance information.

Upon request of an applicant, all or part of the contents of any inspection or grading certificate or report issued to such applicant may be telephoned or telegraphed to him, or to any person designated by him, at applicant's expense.

APPEAL INSPECTION OR GRADING AND REINSPECTION OR REGRADING

§ 58.22 When appeal inspection or grading may be requested.

(a) An application for an appeal inspection or grading may be made by any interested party who is dissatisfied with any determination stated in any inspection or grading certificate or report if the identity of the samples or the product has not been lost; or the conditions under which inspection service was performed have not changed. Such application for appeal inspection or grading shall be made within 2 days following the day on which the service was performed. Upon approval by the Administrator, the time within which an application for an appeal grading may be made may be extended.

(b) An appeal inspection shall be limited to a review of the sampling procedure and an analysis of the official sample used, when, as a result of the original inspection, the commodity was found to be contaminated with filth or to contain a deleterious substance. If it is determined that the sampling procedures were improper, a new sample shall be obtained.

§ 58.23 How to obtain appeal inspection or grading.

Appeal inspection or grading may be obtained by filing a request therefore: (a) with the Administrator, (b) with the inspector or grader who issued the inspection or grading certificate or report with respect to which the appeal service is requested, or (c) with the supervisor of such inspector or grader. The application for appeal inspection or grading shall state the reasons therefore, and may be accompanied by a copy of the aforesaid inspection or grading certificate or report or any other information the applicant may have secured regarding the product or the service from which the appeal is requested. Such application may be made orally (in person or by telephone), in writing, or by telegraph. If made orally, written confirmation may be required.

§ 58.24 Record of filing time.

A record showing the date and hour when each such application for appeal inspection or grading is received shall be maintained in such manner as the Administrator may prescribe.

§ 58.25 When an application for appeal inspection or grading may be refused.

The Administrator may refuse an application for an appeal inspection or grading when (a) the quality or condition of the products has undergone a material change since the time of original service, (b) the identical products inspected or graded cannot be made accessible for reinspection or regarding, (c) the conditions under which inspection service was performed have changed, (d) it appears that the reasons for an appeal inspection or grading are frivolous or not substantial, or (e) the Act or this part have not been complied with. The applicant shall be promptly notified of the reason for such refusal.

§ 58.26 When an application for an appeal inspection or grading may be withdrawn.

An application for appeal inspection or grading may be withdrawn by the applicant at any time before the appeal inspection or grading is made upon payment, by the applicant, of all expenses incurred by AMS in connection with such application.

§ 58.27 Order in which appeal inspections or gradings are performed.

Appeal inspections or gradings shall be performed, insofar as practicable, in the order in which applications therefore are received; and any such application may be given precedence pursuant to § 58.17.

§ 58.28 Who shall make appeal inspections or gradings.

An appeal inspection or grading of any product or service shall be made by any inspector or grader (other than the one from whose service the appeal is made) designated for this purpose by the Administrator; and, whenever practical, such appeal inspection or grading shall be conducted jointly by two such inspectors or graders.

§ 58.29 Appeal inspection or grading certificate or report.

Immediately after an appeal inspection or grading has been completed, an appeal inspection or grading certificate or report shall be issued showing the results of the inspection or grading. Such certificate or report shall thereupon supersede the previous certificate or report and will be effective retroactive to the date of the previous certificate or report. Each appeal certificate or report shall clearly set forth the number and the date of the previous certificate or report which it supersedes. The provisions of §§ 58.18 through 58.21 shall, whenever applicable, also apply to appeal certificates or reports except that copies shall be furnished each interested party of record.

§ 58.30 Application for reinspection or regrading.

An application for the reinspection or regrading of any previously inspected or graded product may be made at any time by any interested party; and such application shall clearly indicate the reasons for requesting the reinspection or regrading. The provisions of the regulations in this subpart relative to inspection or grading service, shall apply to reinspection or regrading service.

§ 58.31 Reinspection or regrading certificate or report.

Immediately after a reinspection or regrading has been completed, a reinspection or a regrading certificate or report shall be issued showing the results of such reinspection or regrading; and such certificate or report shall thereupon supersede, as of the time of issuance, the inspection or grading certificate or report previously issued. Each reinspection or regrading certificate or report shall clearly set forth the number and date of the inspection or grading certificate or report that it supersedes. The provisions of §§ 58.18 through 58.21 shall, whenever applicable, also apply to reinspection or regrading certificates or reports except that copies shall be furnished each interesed party of record.

§ 58.32 Superseded certificates or reports.

When any inspection or grading certificate or report is superseded in accordance with this part, such certificate or report shall become null and void and, after the effective time of the supersedure, shall no longer represent the class, grade, quality, quantity, or condition described therein. If the original and all copies of such superseded certificate or report are not returned to the inspector or grader issuing the reinspection or regrading or appeal inspection or grading certificate or report, the inspector or grader shall notify such persons as he considers necessary to prevent fraudulent use of the superseded certificate or report.

LICENSING OF INSPECTORS OR GRADERS

§ 58.33 Who may be licensed.

Any person possessing proper qualifications, as determined by an examination for competency, held at such time and in such manner as may be prescribed by the Administrator, may be licensed to perform specified inspection or grading service. Each license issued shall be signed by the Administrator. Each prospective licensee, other than a Federal or State employee, who is not under immediate supervision of a USDA

licensed Federal or State employee located at the same manufacturing plant or grading station, shall, prior to the issuance of the license, procure and deliver to AMS a surety bond, issued by such surety as may be approved by the Administrator, in the amount of $1,000 for the proper performance of the duties of such person as a licensee under the regulations in this subpart.

§ 58.34 Suspension or revocation of license.

For good cause and in instances of willful wrongdoing, the Administrator may suspend any license issued under the regulations in this subpart by giving notice of such suspension to the respective individual involved, accompanied by a statement of reasons therefore. Within 10 days after receipt of the aforesaid notice and statement of reasons by such individual, he may file an appeal in writing with the Administrator supported by any argument or evidence that he may wish to offer as 'o why his license should not be suspended or revoked. In conjunction therewith, he may request and, in such event, shall be accorded an oral hearing. After consideration of such argument and evidence, the Administrator will take such action as warranted with respect to such suspension or revocation. When no appeal is filed within the prescribed 10 days, the license is revoked.

§ 58.35 Surrender of license.

Each license which is suspended or revoked shall be surrendered promptly by the licensee to his supervisor. Upon termination of the services of a licensee, the license shall be surrendered promptly by the licensee to his supervisor.

§ 58.36 Identification.

Each licensee shall have his license card in his possession at all times while performing any function under the regulations in this subpart and shall identify himself by such card upon request.

§ 58.37 Financial interest of licensees.

No licensee shall render service on any product in which he is financially interested.

FEES AND CHARGES

§ 58.38 Payment of fees and charges.

(a) Fees and charges for any inspection or grading service shall be paid by the interested party, making the application for such service, in accordance with the applicable provisions of this section and §§ 58.39 through 58.46 and, if so required by the inspector or grader, such fees and charges shall be paid in advance.

(b) Fees and charges for any inspection or grading service performed by any inspector or grader who is a salaried employee of the Department shall, unless otherwise required pursuant to paragraph (c) of this section, be paid by the interested party making application for such inspection or grading service by check, draft, or money order payable to the Agricultural Marketing Service and remitted promptly to the office indicated on the bill.

(c) Fees and charges for any inspection or grading service under a cooperative agreement with any State or person shall be paid in accordance with the terms of the cooperative agreement by the interested party making application for the service.

§ 58.39 Fees for holiday or other nonworktime.

If an applicant requests that inspection or grading service be performed on a holiday, Saturday, or Sunday or in excess of each 8-hour shift Monday through Friday, he shall be charged for such service at a rate of 1½ times the rate which would be applicable for such service if performed during normal working hours.

§ 58.40 Fees for appeal inspection or grading.

The fees to be charged for any appeal inspection or grading shall be double the fees specified on the inspection or grading certificate from which the appeal is taken: *Provided,* That the fee for any appeal grading requested by any agency of the U.S. Government shall be the same as set forth in the certificate from which the appeal is taken. If the result of any appeal inspection or grading discloses that a material error was made in the inspection or grading appealed from, no fee shall be required.

§ 58.41 Fees for additional copies of certificates.

Additional copies of any inspection or grading certificates (including takeoff certificates), other than those provided for in § 58.20, may be supplied to any interested party upon payment of a fee based on time required to prepare such copies at the hourly rate specified in § 58.43 or § 58.44.

§ 58.42 Travel expenses and other charges.

Charges shall be made to cover the cost of travel and other expenses incurred by AMS in connection with the performance of any inspection or grading service. Such charges shall include the costs of travel, per diem, and other expenses, plus a charge of 10 percent of the amount charged for said travel, per diem, and other expenses to cover administrative costs of AMS. When the administrator determines it feasible, he may set a minimum average charge for specific locations or markets.

§ 58.43 Fees for inspection, grading, and sampling.

Except as otherwise provided in this section and §§ 58.39, 58.44, 58.45, and 58.46, charges shall be made for inspection, grading and sampling service at the hourly rate of $10.60 for service performed between 6 a.m. and 6 p.m., and $11.60 for service performed between 6 p.m. and 6 a.m., for the time required to perform the service calculated to the nearest 15-minute period, including the time required for preparation of certificates and reports, and travel of the inspector or grader in connection with the performance of the service. When the Administrator determines it feasible, he may set a minimum charge based on average time for specific types of service. A minimum charge of one-half hour shall be made for service pursuant to each request or certificate issued.

§ 58.44 Fees for laboratory analysis.

Except as otherwise provided in this section and §§ 58.45 and 58.46, charges shall be made for laboratory analysis at the hourly rate of $11.60 for the time required to perform the service. A minimum charge for one-half hour shall be made for service pursuant to each request or certificate issued. The following minimum rates based on average time required to perform the test specified shall apply unless the actual time required to perform the test is greater than the minimum set forth:

(a) Dry milk and related products:

Total fat (ether extractions)	$2.10
Moisture	1.60
Titratable acidity	.80
Solubility index	1.05
Scorched particles	1.05
Bacterial plate count	2.10
Bacterial direct microscopic count	3.15
Flavor	.55
Whey protein nitrogen	5.25
Vitamin A	10.50
Alkalinity of Ash	11.60
Dispersibility	5.25
Coliform (solid media)	2.10
Salmonella	8.40
Phosphatase	11.60
Oxygen	6.30
Density	.80

(b) Condensed milk and related products:

Fat (ether extraction)	$3.15
Total solids	2.10
Sugar (sucrose)	11.60
Net weight (per can)	11.30
Flavor, color, body, texture	.80

(c) Cheese and related products:

Moisture	$2.10
Moisture in duplicate	3.15
Total fat (ether extraction)	3.70
Moisture and fat (dry basis) complete	5.80

(d) Butter and related products:

Moisture	$2.10
Fat	4.20
Salt	2.10
Complete Kohman analysis	6.30
Fat and moisture (same sample)	5.25
Flavor, odor, body, texture	1.05
Peroxide value	11.60
Free fatty acid	5.25
Yeast and mold	2.65
Proteolytic count	2.65

(e) Corn soya milk:

Sieve test	$2.10
Density	.80
Bostwick—uncooked	2.65
Bostwick—cooked	5.25
Protein (Kjeldahl)	5.25
Fat (Soxhlet)	3.70
Moisture	1.60
Crude fiber	7.35
Flavor	.55

§ 58.45 Charges for continuous inspection or grading service.

Irrespective of fees and charges provided in §§ 58.38 through 58.44, the Administrator may approve applications for continuous resident or continuous nonresident inspection or grading service. Charges for this service shall be as provided in the application and shall be on such basis as will reimburse AMS for the cost of performing the respective service.

§ 58.46 Fees for service performed under cooperative agreement.

The fees to be charged and collected for any service performed under cooperative agreement shall be those provided for by such agreement.

MARKING, BRANDING, AND IDENTIFYING PRODUCT

§ 58.49 Authority to use official identification.

Whenever the Administrator determines that the granting of authority to any person to package any product, inspected or graded pursuant to this part, and to use official identification, pursuant to §§ 58.49 through 58.57, will not be inconsistent with the Act and this part, he may authorize such use of official identification. Any application for such authority shall be submitted to the Administrator in such form as he may require.

§ 58.50 Approval and form of official identification.

(a) Any package label or packaging material which bears any official identification shall be used only in such manner as the Administrator may prescribe, and such official identification shall be of such form and contain such information as the Administrator may require. No label or packaging material bearing official identification shall be used unless finished copies or samples thereof have been approved by the Administrator.

(b) Inspection or grade mark permitted to be used to officially identify packages containing dairy products which are inspected or graded pursuant to this part shall be contained in a shield in the form and design indicated in Figures 1, 2, and 3 of this section or such other form, design, or wording as may be approved by the Administrator.

FIGURE 1

FIGURE 2

FIGURE 3

The official identification illustrated in Figure 1 is designed for use on graded product packed under USDA inspection. Figure 2 is designed for graded product processed and packed under USDA inspection. Figure 3 is designed for inspected product (when U.S. standards for grades are not established) processed and packed under USDA quality control service. The official identification shall be printed on the package label, on the carton or on the wrapper and, preferably, on one of the main panels of the carton or wrapper. The shield identification shall be not less than ¾ inch by ¾ inch in size, and preferably 1 inch by 1 inch on 1-pound cartons or wrappers. Consideration will be given by the Administrator of a smaller shield on special packages where the size of the label does not permit use of the ¾ inch by ¾ inch shield.

(c) Official identification under this subpart shall be limited to U.S. Grade B or higher or to an equivalent standard of quality for U.S. name grades or numerical score grades of a product which have not been established.

(d) A sketch, proof, or photocopy of each proposed label or packaging material bearing official identification shall be submitted to the Chief of the Inspection and Grading Branch, Dairy Division, Agricultural Marketing Service, U.S. Department of Agriculture, Washington, D.C. 20250, for review and tentative approval prior to acquisition of a supply of material.

(e) The firm packaging the product shall furnish to the Chief four copies of the printed labels and packaging materials bearing official identification for final approval prior to use.

§ 58.51 Information required on official identification.

Each official identification shall conspicuously indicate the U.S. grade of the product it identifies, if there be a grade, or such other appropriate terminology as may be approved by the Administrator. Also, it shall include the appropriate phrase: "Officially graded," "Officially Inspected," or "Federal-State graded." When required by the Administrator, the package label, carton, or wrapper bearing official identification for dairy products shall be stamped or perforated with the date packed and the certificate number or a code number to indicate lot and date packed. Such coding shall be made available to and approved by the Administrator.

§ 58.52 Time limit for packaging inspected or graded products with official identification.

Any lot of butter which is graded for packaging with official grade identification shall be packaged within 10 days immediately following the date of grading, and any lot of natural cheese or dry milk shall be packaged within 30 days immediately following date of grading provided the product is properly stored during the 10- or 30-day period. Time limit for packaging other inspected or graded products shall be as approved by the Administrator. If inspected or graded product is moved to another location, a reinspection or regrading shall be required.

PREREQUISITES TO PACKAGING PRODUCTS WITH OFFICIAL IDENTIFICATION

§ 58.53 Supervisor of packaging required.

The official identification of any inspected or graded product, as provided in §§ 58.50 through 58.52, this section, and §§ 58.54 through 58.57, shall be done only under the supervision of a supervisor of packaging. The authority to use official identification may be granted by the Administrator only to applicants who utilize the services of a supervisor of packaging in accordance with this subpart. The supervisor of packaging shall have jurisdiction over the use and handling of all packaging material bearing any official identification.

§ 58.54 Packing and packaging room and equipment.

Each applicant who is granted authority to package any product with official identification and who operates, for such purpose, a packaging room shall maintain the room and the equipment therein in accordance with this part.

§ 58.55 Facilities for keeping quality samples.

Each applicant granted authority, as aforesaid, to package product with official identification shall provide and maintain suitable equipment for the purpose of incubating samples of product.

§ 58.56 Incubation of product samples.

(a) Samples of product may be taken from any lot of product which is submitted for inspection or grading and packaging with official identification, or sample may be taken after packaging for the purpose of determining in accordance with provisions of this part if such product possesses satisfactory keeping quality.

(b) Samples of product may be taken for keeping quality tests in accordance with provisions of this part from any lot of product submitted for inspection or grading. Issuance of the inspection or grading certificate may be withheld pending completion of the tests.

§ 58.57 Product not eligible for packaging with official identification.

(a) When a lot of inspected or graded product shows unsatisfactory keeping quality, other lots from the same manufacturing plant shall not be packaged with official identification. Packaging with official identification may be resumed only when it is determined that product from such plant possesses satisfactory keeping quality.

(b) Any manufacturing or processing plant supplying product, directly or indirectly, for packaging with official identification shall be surveyed and approved for inspection or grading service.

VIOLATIONS

§ 58.58 Debarment of service.

The following acts or practices, or the causing thereof, may be deemed suffi-

cient cause for the debarment, by the Administrator, of any person, including any agents, officers, subsidiaries, or affiliates of such person, from any or all benefits of the act for a specified period. The rules of practice governing withdrawal of inspection and grading services set forth in Part 50 of this chapter shall be applicable to such debarment action.

(1) *Fraud or misrepresentation.* Any willful misrepresentation or deceptive or fraudulent practice or act found to be made or committed by any person in connection with:

(i) The making or filing of any application for any inspection or grading service, appeal reinspection, or regrading service;

(ii) The making of the product accessible for inspection or grading service;

(iii) The making, issuing, or using or attempting to issue or use any inspection or grading certificate issued pursuant to the regulations in this subpart or the use of any official stamp, label, or identification;

(iv) The use of the terms, "United States," "U.S.," "Officially graded," "Officially Inspected," "Federal-State graded," or "Government graded," or terms of similar import in the labeling or advertising of any product without stating in conjunction therewith the official U.S. grade of the product; or

(v) The use of any of the aforesaid terms or an official stamp, label, or identification in the labeling or advertising of any product that has not been inspected or graded pursuant to this part.

(2) *Use of facsimile form.* Using or attempting to use a form which simulates in whole or in part any official identification for the purpose of purporting to evidence the U.S. grade of any product; or the unauthorized use of a facsimile form which simulates in whole or in part any official inspection or grading certificate, stamp, label, or other official inspection mark; and

(3) *Mislabeling.* The use of any words, numerals, letters, or facsimile form which simulates in whole or in part any identification purporting to be a grade when such product does not comply with any recognized standards in general use for such grade, and such activity may be deemed sufficient cause for debarring such person from any or all benefits of the Act.

(4) *Willful violation of the regulations in this subpart.* Willful violation of the provisions in this part of the Act, or the instructions or specifications issued thereunder.

(5) *Interfering with an inspector or grader.* Any interference with or obstruction or any attempted interference or obstruction of any inspector or grader in the performance of his duties by intimidation, threat, bribery, assault, or other improper means.

MISCELLANEOUS

§ 58.61 Political activity.

All inspectors or graders are forbidden during the period of their respective appointments or licenses to take an active part in political management or in political campaigns. Political activities in city, county, State, or national elections, whether primary or regular, or in behalf of any party or candidate, or any measure to be voted upon, is prohibited. This applies to all appointees, including, but not being limited to, temporary and cooperative employees and employees on leave of absence with or without pay. Willful violation of this section will constitute grounds for dismissal in the case of appointees and revocation of licenses in the case of licensees.

§ 58.62 Report of violations.

Each inspector, grader, and supervisor of packaging shall report, in the manner prescribed by the Administrator, all violations and noncompliances under the Act and this part of which such inspector, grader, or supervisor of packaging has knowledge.

§ 58.63 Other applicable regulations.

Compliance with the provisions in this part shall not excuse failure to comply with any other Federal, or any State, or municipal applicable laws or regulations.

Dated: May 31, 1972.

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

[FR Doc.72-8487 Filed 6-7-72;8:45 am]

[7 CFR Part 1065]

[Docket No. AO-86-A27]

MILK IN NEBRASKA-WESTERN IOWA MARKETING AREA

Decision on Proposed Amendments to Marketing Agreement and to Order

A public hearing was held upon proposed amendments to the marketing agreement and the order regulating the handling of milk in the Nebraska-Western Iowa marketing area. The hearing was held, pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601 et seq.), and the applicable rules of practice (7 CFR Parts 900), at Omaha, Nebr., on March 21 and 22, 1972, pursuant to notice thereof issued on February 28, 1972 (37 F.R. 4352).

This decision treats only issue No. 1 as listed below. With respect to issues Nos. 2 and 3, concerning deletion of the takeout-payback seasonal incentive plan and emergency action thereon, official notice is taken of a suspension order issued March 24, 1972 (37 F.R. 6491), effective April 1, 1972, which makes inoperative the seasonal incentive plan for the year 1972. Completion of action with respect to all issues other than issue No. 1 is reserved for a further decision on the record.

Upon the basis of the evidence introduced at the hearing and the record thereof, the Deputy Administrator, Regulatory Programs, on May 9, 1972 (37 F.R. 9634) filed with the Hearing Clerk, U.S. Department of Agriculture, his partial recommended decision containing notice of the opportunity to file written exceptions, thereto.

The material issues, findings and conclusions, rulings, and general findings of the partial recommended decision are hereby approved and adopted and are set forth in full herein.

The material issues on the record of the hearing relate to:

1. Diversion of producer milk.
2. Deletion of takeout-payback (Louisville) seasonal incentive plan.
3. Need for emergency action with respect to issue No. 2.
4. Adoption of a Class I base plan.
5. Optional handler status for a cooperative on its deliveries of member milk to pool plants.
6. Defining milk received at a pool plant from a cooperative bulk tank handler as "producer milk" for which the plant operator would be obligated at the uniform price.
7. Miscellaneous:

(a) Adoption of more specific terminology in referring to health authorities and Grade A product.

(b) Redefining "route disposition."

(c) Computation of uniform price: Handlers' reports to be included.

(d) Adoption of appropriate terminology for partial payments, and conforming changes where necessary.

FINDINGS AND CONCLUSIONS

The following findings and conclusions on the material issues are based on evidence presented at the hearing and the record thereof:

1. *Diversion of producer milk.* The provisions with respect to diversion of producer milk to nonpool plants should be modified. A cooperative association should be permitted to divert as producer milk in each of the months April through August and December up to 40 percent of the quantity of member producer milk received at all pool plants during such month, and up to 30 percent of such plant receipts in any other month. The same percentage limitations should apply to diversions by a handler who is a pool plant operator, based on the quantity of milk of producers not members of a cooperative association received at his pool plants.

The order now provides that the total quantity of milk a cooperative or pool plant operator may divert in any month shall not exceed 15 percent of the producer milk deliveries to pool plants as described above. The order further provides that a producer's milk is eligible for diversion only if milk of such producer has been received at a pool plant(s) for at least 3 days during the same month. The dairy farmer whose milk is diverted retains producer status while his milk is delivered to a nonpool plant provided the total quantity of milk the cooperative or other handler diverts does not exceed the stated limit.

A cooperative association proposed that the quantity of milk a cooperative or pool plant operator may divert as pooled milk be increased over the present allowance specified in the order. Such proposal, as published in the hearing notice, would allow a cooperative to divert

in each month of the July–November period a quantity up to 30 percent of member-producer milk delivered to pool plants in such month, and would allow diversions up to 100 percent of such deliveries to pool plants in any other month. A similar provision would apply to milk diverted by pool plant operators. Proponent requested also that the quantity allowed to be diverted be based on deliveries to pool plants in either the preceding or current month, the larger quantity so determined to be the effective limit.

At the hearing the proposed percentage limitations were modified by proponent to 60 percent in April, May, June, July, August, and December and 30 percent in other months.

In support if its request for an increased diversion allowance, proponent testified that significant changes in marketing conditions have taken place since the existing order provisions were made effective. In particular: (1) Milk production for the market has increased substantially in proportion to the volume of Class I disposition; and (2) the daily and seasonal variations in handlers' receipts at processing plants require greater use of diversion to handle the reserve milk supplies on which such plants depend for peak demands.

The 15-percent diversion limitation now specified in the order was adopted May 1, 1968, on the basis of the record of a hearing held in April 1967. Such diversion limit was sufficient to allow economic handling of then existing reserve milk supplies. While the lower level of milk production at that time required a moderate use of diversion, there also were periods when producers' milk was not sufficient for peak needs of distributing plants, e.g., in the fall months of 1969 it was necessary to obtain supplemental supplies from outside sources.

Since adoption of the provision in 1968, production of milk for the market has increased about 18 percent while the volume of producer milk disposed of as Class I has increased only 2 percent (1969 to 1971).[1] In 1971 Class I disposition of producer milk was 61.4 percent of the total supply compared to 71 percent utilization in 1969.

The larger local supply now on the market has required greater diversion of producer milk to manufacturing plants on those days when the needs of fluid processing plants are at the lowest level. Daily variations in receipts at fluid processing plants reflect the workweek of the plant and the daily buying pattern of consumers. Most plants in the market now process milk for packaging either 4 or 5 days per week. Plant receipts are substantially greater on Thursdays and Fridays in preparation for the weekend store trade. On other days the reduced level of receipts at such plants requires greater disposition for manufacturing.

Also during the year, market declines in demand because of the school summer vacation and the December holiday season similarly result in need to move producer milk to manufacturing plants. In addition, when production by dairy farmers is highest in April, May, and June, disposition for manufacturing must be increased.

Inasmuch as proponent cooperative's membership comprises a large majority of the producers on the market it carries the burden for disposition of most of the reserve milk supply for the market. The reserve is that part of the milk supply that is not immediately needed by distributing plants but is maintained to assure an adequate and reliable year-round supply that will meet peak needs of such plants.

Reserve milk of this market generally must be disposed of to nonpool plants for manufacturing, although some of the reserve supply is received at the cooperative's pool plant at Norfolk, Nebr., which has manufacturing facilities. Other reserve milk is received first at the cooperative's Grand Island, Nebr., pool supply plant. However, since the latter has no facilities for manufacturing, the milk must be reshipped to nonpool manufacturing plants.

Extra costs are involved, however, in receiving milk first at a pool plant for reshipment to another plant. This method of handling is particularly uneconomical in those instances where considerably greater hauling is involved than for movement directly to the nonpool plant.

The most economical method of handling reserve milk in this market is delivery directly from farms to manufacturing plants. The existing diversion limitation (15 percent of producer milk received at pool plants), however, does not allow the cooperative to divert as pooled producer milk all of the milk that could be handled in this manner under a more liberal limit.

In recent periods the cooperative has moved from farms to nonpool manufacturing plants quantities of milk in excess of that allowed for pooling under the present diversion provision. During February, March, April, May, and June 1971, milk of member producers delivered to nonpool manufacturing plants was 16, 17, 22, 28, and 30 percent of deliveries to pool plants in the respective months.

Because the proponent cooperative had need to move to nonpool plants reserve supplies in excess of the limit provided, the diversion limitation was suspended for the months of July and August 1971 (36 F.R. 14177). In these months, the quantities diverted by the cooperative were 26 and 24 percent, respectively, of the volumes of member milk received at pool plants in such months. In December 1971, although the diversion limitation was effective, the volume moved to nonpool plants by the cooperative was 19 percent of deliveries to pool plants.

A further suspension action removed the diversion limitation for January through June 1972. During January and February of this period the cooperative diverted 19 and 21 percent, respectively, of the quantity of member milk received at pool plants.

Another cooperative in this market also disposes of reserve milk to nonpool plants as part of its operations in supplying pool distributing plants. A representative of this cooperative testified that it experienced similar uneconomic handling costs in moving reserve milk to manufacturing plants. Such cooperative supported proponent's modified proposal as a means of facilitating the efficient handling of reserve milk supplies, but stressed that the diversion privilege should not be the means of adding new milk to the pool merely for manufacturing use.

No opposition testimony was presented. Handlers, other than cooperative associations, who also would be permitted to divert larger volumes of milk under the proposed provision did not testify.

In view of the foregoing considerations, the order should permit the diversion of somewhat larger quantities of milk than now provided. However, the provision should allow only milk that is regularly associated with the market to be pooled by this means.

The provision adopted herein would enable a cooperative association to divert during any of the months of April, May, June, July, August, or December a quantity of member producer milk up to 40 percent of the quantity of member-producer milk received at pool plants during the month. In other months, diversion up to 30 percent of receipts of member-producer milk at pool plants would be allowed. The same percentage limitations would apply to diversions by a pool plant operator, based on the quantity of milk of producers not members of a cooperative association received at pool plants.

The maximum quantities allowed to be diverted under the adopted provision will enable cooperatives and other handlers to dispose of by diversion those market reserve supplies of producer milk that may be handled most economically in this manner. Proponent cooperative testified that the maximum percentage of milk moved from member's farms to nonpool plants (including excess diversions) in relation to deliveries to pool plants was 30 percent in June 1971. The applicable percentage adopted herein for such month, 40 percent of receipts at pool plants, thus should enable a cooperative to divert not only the quantities previously moved from farms to nonpool plants, but also will provide a margin to cover those quantities that were handled in a less economical manner, being delivered first to a pool plant and then reshipped to a manufacturing plant.

It is concluded also that average daily deliveries to pool plants in the preceding month multiplied by the number of days in the current month should be made an alternative basis for determining the quantity of milk that may be diverted. By this means a cooperative or other handler will know at the beginning of a month an approximate quantity that may be diverted during the month. Such foreknowledge is advantageous in planning for the efficient handling of reserve milk and will assist in avoiding a situation in which the quantity that may be

[1] The year 1969 is the first full year after merger with Sioux City order that allows a comparison based on the same marketing area as at present.

diverted will be reduced by some unexpected occurrence during the month such as a sudden loss of outlets, causing an overdiversion.

Under the existing producer milk definition, the milk of a producer may be diverted only if the milk of such producer has been received at pool plants "for at least 3 days during the month." In this hearing, proponent requested that one receipt of a producer's milk during the month should qualify such producer's milk for diversion. This arrangement would allow the maximum use of diversion for producers nearest to nonpool plants thus achieving economy in handling.

The delivery of some portion of a producer's milk to a pool plant during the month assures that the producer continues his regular association with the market and that his milk is available for fluid use. For this purpose, production of the producer for 2 days should be the minimum delivered to a pool plant during the month. Such requirement ordinarily could be met by one delivery per month to a pool plant since each delivery normally includes 2 days' production. Assuming normal marketing practices, delivery of 2 days' production during the month would serve to identify the producer with the market. If dairy farmers not genuinely a part of the market supply become pooled on the basis of a single delivery, there would be basis for reexamination of the provision.

Although the changes adopted will increase the quantities that may be diverted by a handler as producer milk, there still may be instances in which a handler or cooperative will divert milk in excess of the specified limit. The portion of the diverted milk that is in excess of the limit will not qualify as producer milk. As at present, it will be necessary in this circumstance that the diverting handler specify the particular producers whose diverted milk is not to be considered producer milk. The handler may designate a portion of the milk of each producer as ineligible for producer milk status, or specify in any manner the ineligible quantities, as long as the total equals the quantity of excess diversions. If the handler fails to specify the milk not eligible for producer milk status, no milk diverted by him shall be producer milk for such month.

The information provided by the diverting handler should show the quantities of eligible milk received at various nonpool plants in order that the value of diverted producer milk as affected by plant location adjustments may be determined.

While the Nebraska-Western Iowa order makes provision for diversion of producer milk to a nonpool plant, the order does not now specify diversion to a nonpool plant that is an other order plant. Testimony in the record did not describe any circumstances in which diversion to an other order plant would be needed. The provision adopted relates only to diversion to unregulated plants.

Rulings on Proposed Findings and Conclusions

Briefs and proposed findings and conclusions were filed on behalf of certain interested parties. These briefs, proposed findings and conclusions and the evidence in the record were considered in making the findings and conclusions set forth above. To the extent that the suggested findings and conclusions filed by interested parties are inconsistent with the findings and conclusions set forth herein, the requests to make such findings or reach such conclusions are denied for the reasons previously stated in this decision.

General Findings

The findings and determinations hereinafter set forth are supplementary and in addition to the findings and determinations previously made in connection with the issuance of the aforesaid order and of the previously issued amendments thereto; and all of said previous findings and determinations are hereby ratified and affirmed, except insofar as such findings and determinations may be in conflict with the findings and determinations set forth herein.

(a) The tentative marketing agreement and the order, as hereby proposed to be amended, and all of the terms and conditions thereof, will tend to effectuate the declared policy of the Act;

(b) The parity prices of milk as determined pursuant to section 2 of the Act are not reasonable in view of the price of feeds, available supplies of feeds, and other economic conditions which affect market supply and demand for milk in the marketing area, and the minimum prices specified in the tentative marketing agreement and the order, as hereby proposed to be amended, are such prices as will reflect the aforesaid factors, insure a sufficient quantity of pure and wholesome milk, and be in the public interest; and

(c) The tentative marketing agreement and the order, as hereby proposed to be amended, will regulate the handling of milk in the same manner as, and will be applicable only to persons in the respective classes of industrial and commercial activity specified in, a marketing agreement upon which a hearing has been held.

Determination of Producer Approval and Representative Period

April 1972, is hereby determined to be the representative period for the purpose of ascertaining whether the issuance of the order, as amended and as hereby proposed to be amended, regulating the handling of milk in the Nebraska-Western Iowa marketing area is approved or favored by producers, as defined under the terms of the order, as amended and as hereby proposed to be amended, and who, during such representative period, were engaged in the production of milk for sale within the aforesaid marketing area.

Signed at Washington, D.C., on June 5, 1972.

Richard E. Lyng,
Assistant Secretary.

Order[1] *amending the order, regulating the handling of milk in the Nebraska-Western Iowa marketing area*

Findings and Determinations

The findings and determinations hereinafter set forth are supplementary and in addition to the findings and determinations previously made in connection with the issuance of the aforesaid order and of the previously issued amendments thereto; and all of said previous findings and determinations are hereby ratified and affirmed, except insofar as such findings and determinations may be in conflict with the findings and determinations set forth herein.

(a) *Findings.* A public hearing was held upon certain proposed amendments to the tentative marketing agreement and to the order regulating the handling of milk in the Nebraska-Western Iowa marketing area. The hearing was held pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601 et seq.), and the applicable rules of practice and procedure (7 CFR Part 900).

Upon the basis of the evidence introduced at such hearing and the record thereof, it is found that:

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

(2) The parity prices of milk, as determined pursuant to section 2 of the Act, are not reasonable in view of the price of feeds, available supplies of feeds, and other economic conditions which affect market supply and demand for milk in the said marketing area, and the minimum prices specified in the order as hereby amended, are such prices as will reflect the aforesaid factors, insure a sufficient quantity of pure and wholesome milk, and be in the public interest; and

(3) The said order as hereby amended regulates the handling of milk in the same manner as, and is applicable only to persons in the respective classes of industrial or commercial activity specified in, a marketing agreement upon which a hearing has been held.

Order relative to handling. It is therefore ordered that on and after the effective date hereof the handling of milk in the Nebraska-Western Iowa marketing area shall be in conformity to and in compliance with the terms and conditions of the order, as amended, and as hereby amended, as follows:

The provisions of the proposed marketing agreement and order amending the order contained in the recommended decision issued by the Deputy Administrator, Regulatory Programs, on May 9, 1972, and published in the Federal Register on May 13, 1972, shall be and are the terms and provisions of this order, amending the order, and are set forth in full herein:

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

1. In § 1065.14, paragraphs (c)(1), (2), and (3) are revised. Section 1065.14 as amended reads:

§ 1065.14 **Producer milk.**

"Producer milk" of each handler means all skim milk and butterfat contained in milk from producers that is:

(a) Received from producers at a pool plant;

(b) Received from producers by a cooperative association that is a handler described in § 1065.8(d);

(c) Diverted from a pool plant to a nonpool plant (other than a plant of a producer-handler or an other order plant) pursuant to subparagraph (1) or (2) of this paragraph, subject to the conditions set forth in subparagraphs (3) and (4) of this paragraph:

(1) A cooperative association handler described in § 1065.8(c) of this part may divert for its account the milk of any member-producer if at least 2 days' production of such producer is received at a pool plant(s) during the month. The total quantity of milk so diverted by the cooperative association shall not exceed, in each of the months of January, February, March, September, October, and November, 30 percent, and in any other month 40 percent, of the larger of:

(i) The total quantity of milk of member-producers received at all pool plants during the current month; or

(ii) The average daily quantity of milk of member-producers received at all pool plants during the immediately preceding month, multiplied by the number of days in the current month.

(2) A handler, other than a cooperative association, in his capacity as the operator of a pool plant, may divert for his account the milk of any producer other than a member of a cooperative association, if at least 2 days' production of such producer is received at the handler's pool plant(s) during the month. The total quantity of milk so diverted by the handler shall not exceed, in each of the months of January, February, March, September, October, and November, 30 percent, and in any other month 40 percent, of the larger of:

(i) The total quantity of milk of producers received at his pool plant(s) during the current month exclusive of milk received from producers who are members of a cooperative association; or

(ii) The average daily quantity of milk of producers received at his pool plant(s) during the immediately preceding month, exclusive of milk received from producers who are members of a cooperative association, multiplied by the number of days in the current month.

(3) In the event the quantity of milk diverted is in excess of the applicable quantity specified in subparagraphs (1) and (2) of this paragraph, the diverting handler shall designate the dairy farmers whose milk was overdiverted. If the handler fails to make such designation, no milk diverted by him shall be producer milk for such month; and

(4) For the purposes of location adjustments pursuant to §§ 1065.53 and 1065.73, milk so diverted shall be priced at the location of the plant to which diverted.

[FR Doc.72-8624 Filed 6-7-72;8:46 am]

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of Assistant Secretary for Housing Production and Mortgage Credit—Federal Housing Commissioner (Federal Housing Administration)

[24 CFR Part 201]

[Docket No. R-72-195]

PROPERTY IMPROVEMENT AND MOBILE HOME LOANS

Notice of Proposed Rule Making

The Department of Housing and Urban Development is considering amending Part 201 of Title 24 of the Code of Federal Regulations, Subpart B, "Mobile Home Loans." The amendment issued in accordance with section 2(a) of the National Housing Act, 12 U.S.C. 1701, would require that manufacturers of mobile homes furnish to mobile home purchasers who obtain FHA insured loans a warranty on a form prescribed by the Commissioner.

All interested persons are invited to submit written comments or suggestions in triplicate with respect to this proposal, on cr before July 12, 1972, addressed to the Rules Docket Clerk, Office of the General Counsel, Room 10256, Department of Housing and Urban Development, 451 Seventh Street SW., Washington, DC 20410. All relevant material will be considered before adoption of a final rule. A copy of each communication will be available for public inspection during regular business hours at the above address.

The proposed rule is issued pursuant to section 7(d) of the Department of Housing and Urban Development Act, 42 U.S.C. 3535(d).

Part 201 is proposed to be amended as follows:

1. Section 201.520(c) is redesignated as paragraph (d) and a new paragraph (c) is added to read:

§ 201.520 **Structural design and standards.**

* * * * *

(c) *Manufacturer's warranty.* When a new mobile home purchased with financing insured under 12 U.S.C. 1703 is delivered to the purchaser, the purchaser shall be supplied a written warranty by the manufacturer on a form prescribed by the Commissioner. Such warranty shall be in addition to, and not in derogation of all other rights and privileges which the purchaser may have under any law or instrument and the warranty instrument shall so provide. A copy of the warranty instrument shall be retained in the loan file.

* * * * *

Issued at Washington, D.C., June 5, 1972.

EUGENE A. GULLEDGE,
Assistant Secretary for Housing Production and Mortgage Credit — Federal Housing Commissioner.

[FR Doc.72-8682 Filed 6-7-72;8:51 am]

CIVIL AERONAUTICS BOARD

[14 CFR Part 302]

[Docket No. 24526; PDR-34]

SERVICE ON ALL-CARGO COMMUTER AIR CARRIERS

Notice of Proposed Rule Making

JUNE 5, 1972.

Notice is hereby given that the Civil Aeronautics Board has under consideration proposed amendments to Part 302 of its procedural regulations (14 CFR Part 302) to require service of applications for exemptions on affected all-cargo commuter air carriers [1] which publish schedules in "Air Cargo Guide."

The principal features of the proposed amendment are described in the attached explanatory statement and the proposed amendment is set forth in the proposed rule. The amendment is proposed under the authority of sections 204 and 1001 of the Federal Aviation Act of 1958, as amended (72 Stat. 743, 788, 49 U.S.C. 1324, 1481).

Interested persons may participate in the proposed rule making through submission of twelve (12) copies of written data, views, or arguments pertaining thereto, addressed to the Docket Section, Civil Aeronautics Board, Washington, D.C. 20428. All relevant material received on or before July 10, 1972, will be considered by the Board before taking final action on the proposed rule. 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.

EXPLANATORY STATEMENT

Section 302.403 of the Board's procedural regulations (14 CFR 302.403), as recently amended, requires that applications for exemption shall be served on affected commuter air carriers [2] which publish schedules in the "Official Airline Guide" (OAG).

It has been brought to our attention by the National Air Transportation Confer-

[1] As defined in Part 298 of the Economic Regulations (14 CFR Part 298).

[2] PR-120, Jul. 19, 1971, 36 F.R. 11643.

ences, Inc. (NATC), that the rule, as amended, is not broad enough to include service upon those of its member commuter air carriers which are engaged in all-cargo operations, since their schedules are not published in the OAG. NATC therefore requests further amendment of the rule so as to require service of exemption applications on affected all-cargo commuter air carriers which publish schedules in "Air Cargo Guide," a carrier trade publication.[3]

Since the interests of all-cargo commuter air carriers may be affected by applications for exemption filed with the Board, we think it clearly desirable that these carriers should be afforded as much notice as practicable of such applications.[4] However, from the standpoint of the applicant, who must effect service under Rule 403, we are not entirely persuaded that the NATC proposal is actually practicable. It may impose a considerable burden on air carriers seeking relief under Part 302 to require them to make service on all-cargo communters which publish schedules in "Air Cargo Guide," a publication which is apparently far less widely distriubted than OAG. On the other hand, our experience is that certificated air carriers have for quite some time used "Air Cargo Guide" to effect interline notice of freight shipments which require advance arrangements, and it may therefore be reasonable to conclude that a substantial number of prospective exemption applicants will have ready access to a copy of this periodical for use in effecting service on all-cargo commuter operators.

In light of the foregoing, we have decided to approach this matter only tentatively and to issue a notice of rule making to solicit views and data which may be helpful to the Board in determining this procedural matter.

Accordingly, it is proposed to amend paragraph (b) of § 302.403 of the procedural regulations (14 CFR 302.403(b)), the paragraph as amended to read as follows:

§ 302.403 Service of application.

* * * * *

(b) *Persons to be served.* Except in the case of an application for an exemption from sections 403 and 404 of the Act or an application for exemption which will permit the applicant to render irregular services only other than between specified points, a copy of an application shall be served on the following parties who shall be presumed to have an interest in the subject matter of the application: (1) Any air carrier which is authorized to render regular service to any point involved in the application; (2) any person whose application for a certificate of public convenience and necessity, or for an exemption, authorizing regular service to or from any such point has been filed with, and which has not been finally disposed of by, the board; (3) the chief executive of any State, territory, or possession of the United States in which any such point is located: *Provided, however,* That if there be a State commission or agency having jurisdiction over transportation by air, service shall be made on such commission or agency, rather than the chief executive of the State; (4) the chief executive of the city, town, or other unit of local government at any such point located in the United States or any territory or possession thereof; (5) the board, commission, manager, or other body or individual having direct supervision over and responsibility for the management of the airport located in the United States and which is being used to serve such point at the time the application is filed; and (6) any commuter air carrier which operates pursuant to Part 298 of this chapter or other exemption authority which provides at least five round trips per week between two or more points, one of which is involved in such application, and which publishes schedules in the "Official Airline Guide," or in the "Air Cargo Guide," which include service to the point involved in the application.

* * * * *

[FR Doc.72-8672 Filed 6-7-72;8:50 am]

[3] Although the NATC request was made by letter, rather than by formal petition for rule making, we have advised NATC that no formal petition need be filed since the amendment requested is purely procedural in nature.

[4] Indeed, as noted in PR-120, supra, it is important for the Board to have the views of interested persons other than the applicant before it in order to consider the public interest criteria of sections 102 and 416(b) of the Act.

SECURITIES AND EXCHANGE COMMISSION

[17 CFR Part 270]

[Release IC-7210]

BONDING OF OFFICERS AND EMPLOYEES OF REGISTERED INVESTMENT COMPANIES

Minimum Requirements for Fidelity Coverage of Registered Management Investment Companies; Extension of Time for Submission of Comments

Notice is hereby given that the Securities and Exchange Commission has extended the period of time within which written comments and views may be submitted on its proposal to amend rule 17g-1 (17 CFR 270.17g-1) under the Investment Company Act of 1940 from May 17, 1972, to June 30, 1972. The proposed revisions include a schedule of minimum required amounts of fidelity coverage for registered management investment companies, restrictions as to those persons which may be included on a joint fidelity bond with a registered management investment company, and certain other requirements. The proposal was published for comment on April 5, 1972, in Investment Company Act Release No. 7107 and in the FEDERAL REGISTER issue of Saturday, April 22, 1972, 37 F.R. 7993.

By the Commission.

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

JUNE 1, 1972.

[FR Doc.72-8628 Filed 6-7-72;8:47 am]

Notices

DEPARTMENT OF THE TREASURY

Bureau of Customs

BASE METAL PARTS FOR INCANDESCENT ILLUMINATING ARTICLES, SUITABLE FOR RESIDENTIAL USE, FROM CANADA

Withholding of Appraisement Notice

Information was received on July 19, 1971, that base metal parts for incandescent illuminating articles, suitable for residential use, from Canada were 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"). This information was the subject of an "Antidumping Proceeding Notice" which specified "Metal Parts for Incandescent Lighting and Lamp Manufacture, other than Industrial", and which was published in the FEDERAL REGISTER of September 17, 1971, on page 18595. The "Antidumping Proceeding Notice" indicated that there was evidence on record concerning injury to or likelihood of injury to or prevention of establishment of an industry in the United States.

Pursuant to section 201(b) of the Act (19 U.S.C. 160(b)), notice is hereby given that there are reasonable grounds to believe or suspect that the purchase price (section 203 of the Act; 19 U.S.C. 162) of base metal parts for incandescent illuminating articles, suitable for residential use, from Canada is less, or likely to be less, than the foreign market value (section 205 of the Act; 19 U.S.C. 164).

Statement of reasons. Information currently before the Bureau tends to indicate that the probable basis of comparison for fair value purposes will be between purchase price and home market price of such or similar merchandise.

Preliminary analysis suggests that purchase price will probably be calculated by deducting from the c. & f., duty-paid price, a freely offered cash discount, U.S. duty, brokerage fees and the included freight charges.

It appears that home market price will be based on the delivered price to distributors. Deductions will probably be made for cash and turnover discounts and the included freight charges. An adjustment will probably be made for differences in the merchandise compared.

Using the above criteria, there are reasonable grounds to believe or suspect that purchase price will be lower than home market price.

Customs officers are being directed to withhold appraisement of base metal parts for incandescent illuminating articles, suitable for residential use, from Canada in accordance with § 153.48, Customs regulations (19 CFR 153.48).

In accordance with §§ 153.32(b) and 153.37, Customs regulations (19 CFR 153.32(b), 153.37), interested parties may present written views or arguments, or request in writing that the Secretary of the Treasury afford an opportunity to present oral views.

Any requests that the Secretary of the Treasury afford an opportunity to present oral views should be addressed to the Commissioner of Customs, 2100 K Street NW., Washington, DC 20226, in time to be received by his office not later than 10 calendar days from the date of publication of this notice in the FEDERAL REGISTER.

Any written views or arguments should likewise be addressed to the Commissioner of Customs in time to be received by his office not later than 30 days from the date of publication of this notice in the FEDERAL REGISTER.

This notice, which is published pursuant to § 153.34(b), Customs regulations, shall become effective upon publication in the FEDERAL REGISTER (6-8-72). It shall cease to be effective at the expiration of 6 months from the date of this publication, unless previously revoked.

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

Approved: June 5, 1972.

EUGENE T. ROSSIDES,
Assistant Secretary of the Treasury.

[FR Doc.72-8687 Filed 6-6-72;10:01 am]

CERTAIN ELECTRONIC PRODUCTS FROM JAPAN

Notice of Countervailing Duty Proceedings

The "Notice of Countervailing Duty Proceedings" with respect to certain electronic products from Japan published in the FEDERAL REGISTER of May 19, 1972 (37 F.R. 10087, F.R. Doc. 72-7714), is amended by inserting the following: "Parts of television receivers: Color television picture tubes, resistors, transformers (deflection components), and tuners for receivers with integrated circuits." after the words "Television Receivers." in Appendix A of the notice. The notice is also amended by extending the time period for the receipt of relevant data, views, or arguments with respect to the existence or nonexistence, and the net amount of a bounty or grant, from 30 days to 60 days from the date of publication of the above-cited notice in the FEDERAL REGISTER.

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

Approved: June 5, 1972.

EUGENE T. ROSSIDES,
Assistant Secretary of the Treasury.

[FR Doc.72-8689 Filed 6-6-72;10:01 am]

PERMANENT MAGNETS OF ALNICO OR CERAMIC MATERIAL FROM JAPAN

Antidumping Proceeding Notice

On May 9, 1972, information was received in proper form pursuant to §§ 153.26 and 153.27, Customs regulations (19 CFR 153.26, 153.27), indicating a possibility that permanent magnets of alnico or ceramic material from Japan are being, or are likely to be, sold at less than fair value within the meaning of the Antidumping Act, 1921, as amended (19 U.S.C. 160 et seq.).

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

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

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

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

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

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

Approved: June 5, 1972.

EUGENE T. ROSSIDES,
Assistant Secretary of the Treasury.

[FR Doc.72-8686 Filed 6-6-72;10:01 am]

SLIDE FASTENERS AND PARTS OF SLIDE FASTENERS FROM JAPAN

Antidumping Proceeding Notice

On May 8, 1972, information was received in proper form pursuant to §§ 153.26 and 153.27, Customs regulations (19 CFR 153.26, 153.27), indicating a possibility that slide fasteners and parts of slide fasteners from Japan are being, or are likely to be, sold at less than fair value within the meaning of the Antidumping Act, 1921, as amended (19 U.S.C. 160 et seq.).

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

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

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

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

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

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

Approved: June 5, 1972.

EUGENE T. ROSSIDES,
Assistant Secretary of the Treasury.

[FR Doc.72-8685 Filed 6-6-72;10:01 am]

X-RADIAL STEEL BELTED TIRES FROM CANADA

Notice of Countervailing Duty Proceedings

On May 12, 1972, a "Notice of Countervailing Duty Proceedings" was published in the FEDERAL REGISTER (37 F.R. 9568, F.R. Doc. 72-7367), with respect to X radial steel belted tires manufactured and exported by the Michelin Tire Manufacturing Co., Ltd., Canada.

That notice is hereby amended by extending the time period from 30 days to 60 days within which written submissions of relevant data, views, or arguments with respect to the existence or nonexistence and the net amount of a bounty or grant must be received by the Commissioner of Customs.

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

Approved: June 5, 1972.

EUGENE T. ROSSIDES,
Assistant Secretary of the Treasury.

[FR Doc.72-8688 Filed 6-6-72;10.01 am]

Office of the Secretary

GUARANTEED FOREIGN MILITARY SALES LOAN AGREEMENT

Notice of Invitation To Bid

I. *Invitation.* The Secretary of the Treasury, acting for the Borrower (The Government of the Republic of China) by this notice and under the terms and conditions hereof invites bids on the interest rate for the loan described in section III hereof. Bidding hereunder shall be subject to the "Regulations Governing the Sale of Treasury Bonds Through Competitive Bidding" (31 CFR Part 340) insofar as applicable. The purpose of the loan is to provide private financing for the purchase by the Borrower of defense articles and services from U.S. sources under the Foreign Military Sales Act, as amended, Public Law 90-626, October 22, 1968, 82 Stat. 1326; 22 U.S.C. 2571-2793 and Executive Order 11501, December 22, 1969, 34 F.R. 20169.

II. *Classes of bidders—notice of intent.* Bids will be received only from incorporated banks, trust companies, recognized dealers in investment securities, and other financial institutions. Bidders must file written notice of intent to bid with the Federal Reserve Bank of New York, Attention: Securities Department, Room 835, 33 Liberty Street, New York, NY 10045, by 12 noon, E.d.s.t., on June 15, 1972. A mailed notice which is received postmarked to show it was mailed prior to that time will be treated as having been timely filed. The notice should be on the letterhead and enclosed in a sealed envelope of the bidder. The filing of the notice will not constitute a commitment to bid.

III. *Description of loan—sale of participations eligible for Treasury tax and loan accounts.* The loan will be in the amount of $25 million with a commitment period of not more than 2 years from the date of the agreement during which drawdowns will be made in increments of not less than $500,000. During the commitment period the Borrower will pay a commitment fee at the rate of one-quarter of 1 percent annually on the unused principal amount, payable semiannually. The principal repayments will be made in 14 equal semiannual installments commencing 6 months after the final disbursement. Interest will be payable with the principal.

The loan agreement authorizes the sale of participations to legal entities doing business in the United States. Such participations will be acceptable from special depositaries of public money at their face amount to secure deposits under Department of the Treasury Circular No. 92, current revision (31 CFR Part 203).

IV. *U.S. Government guaranty of loan.* The obligation of the Lender is to be conditioned upon the issuance of a Guaranty of timely payment of principal and interest by the Borrower. The Guaranty, which is authorized by the Foreign Military Sales Act, will be made by the Government of the United States acting through the Department of Defense. The Act provides that "any guaranties issued hereunder shall be backed by the full faith and credit of the United States." A copy of the Guaranty Agreement is attached.

V. *Submission of bids.* Each bid shall be submitted in triplicate on the appropriate form and shall specify a single annual rate of interest which shall apply on a 365-day basis only to the portion of the loan in use. The rate shall be expressed as a percent per annum not to exceed three decimals, for example, 5.125 percent. Each bidder may submit a bid for the entire amount of the loan or portions thereof in multiples of $5 million. The Federal Reserve Bank will send forms and envelopes to all bidders who have filed notice of intent to bid.

The bids must be enclosed and sealed in the envelopes and must be received in the Securities Department of the Bank not later than 11 a.m., e.d.s.t., on June 22, 1972. By having submitted a bid, any bidder receiving an award will be deemed conclusively to have accepted all the provisions of the Loan Agreement (which is attached hereto), and upon receipt of an award will be required to sign three copies of the agreement. The Borrower will then promptly sign the three copies, one of which will be returned to any such bidder.

VI. *Opening and acceptance of bids.* Bids will be opened in the Northwest Conference Room of the Federal Reserve Bank of New York, 33 Liberty Street, New York, NY 10045, at 11 a.m. e.d.s.t., on June 22, 1972. In determining successful bids, those bids specifying the lowest rate of interest will be accepted to the extent required to attain the aggregate amount of the loan.

Bids at the highest accepted interest rate, or all bids if they are submitted with an identical interest rate, may be prorated in any way deemed necessary or desirable and the bidders will be advised of the division. If there is a division, the bids of the successful bidders will be deemed amended accordingly.

The Secretary of the Treasury, or his representative, will accept (for the Borrower) each successful bid by signing the duplicate copy of the bid form and delivering it to the bidder, or his representative. The right is hereby reserved to reject any or all bids in whole or in part.

[SEAL] CHARLS E. WALKER,
Acting Secretary of the Treasury.

JUNE 5, 1972.

MODEL LOAN AGREEMENT

Loan agreement made and entered into the _____ day of _____, 19__, between the Government of _____ (hereinafter sometimes referred to as the "Borrower") and _____ (hereinafter sometimes referred to as the "Undersigned").

WHEREAS, by public notice (which notice is incorporated in this agreement as if fully set forth herein) the Secretary of the Treasury has invited bids on a loan in the amount of $25 million to the Borrower at the lowest basis cost of money;

WHEREAS, the undersigned has submitted a bid for the hereinafter more fully described loan at an annual rate of _____ percent per annum, payable semiannually;

NOW, THEREFORE, in consideration of the premises and of the mutual covenants hereinafter set forth, the parties hereto agree as follows:

SECTION 1. *Comment.* 1.1 Subject to the terms and conditions of this Loan Agreement the Undersigned agrees to make loans to the Borrower at any time and from time to time from the date of this Loan Agreement to and including _____, in an aggregate principal amount up to the amount of $_____.

1.2 Each borrowing hereunder shall be made on such date (hereinafter referred to as a "Disbursement Date") as may be designated by the Borrower upon three (3) days' concurrent written notice from the Borrower to the Undersigned. Except for the borrowing, each such notice shall request a borrowing aggregating at least _____ (U.S. $_____). Each notice requesting disbursement (a) shall specify the amount of the loan to be made by the Undersigned on the Disbursement Date; (b) shall be delivered to the Undersigned at its address set forth in section 7.3 hereof; (c) shall specify the account of the Borrower at such Bank to which the proceeds of each loan are to be credited; and (d) shall have annexed thereto the documentation set forth in Exhibit A (Disbursement Procedures) annexed hereto.

1.3 The Borrower hereby agrees to pay to the Undersigned a commitment fee computed at the rate of one-quarter of 1 percent (¼%) per annum on the daily average unused amount of the Commitment from _____ to and including _____ (or such earlier date as the entire Commitment of the Undersigned shall have been availed of). Such commitment fee shall be calculated on a 365-day basis and actual days elapsed.

1.4 The Undersigned may sell participations in the loan to legal entities doing business in the United States.

1.5 At the time at which the Borrower shall send the notices required by section 1.2 above to the Undersigned it shall deliver thereto a promissory note (which shall be substantially in the form of Exhibit B annexed hereto (with the blanks appropriately filled in)) evidencing the obligation of the Borrower to repay the amount of the loan from the Undersigned with interest thereon as hereinafter set forth. Upon request by the Undersigned at any time, the Borrower shall deliver to the Undersigned, in place of any such promissory note, two or more separate promissory notes in such amounts, aggregating not more than the amount of the note such notes shall replace, as shall be specified by the Undersigned. The promissory notes hereinabove referred to are hereinafter referred to as the "Notes" and individually as a "Note".

SEC. 2. *Repayment.* 2.1 The Borrower hereby agrees to repay the principal of the loans made under this Loan Agreement in 14 equal semiannual installments commencing 6 months after final disbursement. Interest on the loan shall be repayable with the principal.

2.2 The Undersigned may sell or assign, at any time, in whole or in part, any one or more of the Notes and/or its rights to receive repayments.

2.3 Each Note shall be dated the Disbursement Date of the loan which such Note evidences and shall bear interest at a rate of _____ percent (__ %) per annum on the unpaid principal amount of such Note until such amount shall be paid in full. Such interest on each Note shall be payable with the principal as provided in 2.1.

2.4 The Borrower may, with the prior written consent of the Undersigned, which consent will not be unreasonably withheld, prepay any of the Notes held by the Undersigned, in whole or in part, on any repayment date, with accrued interest to the date of such prepayment on the amount prepaid.

2.5 Whenever any payments hereunder or under any Note shall be due on a Saturday, Sunday, or public holiday under the laws of the District of Columbia, such payment may be made on the next succeeding business day, and such extension of time shall, in such case, be included in computing interest in connection with such payment, but excluded from the next interest period.

2.6 All payments by the Borrower to the Undersigned under this Loan Agreement and on the Notes, including without limitation payments of principal of, and interest on, the Notes and payment of any commitment fees or other fees or expenses hereunder, shall be payable to the Undersigned at the address set forth in section 7.3 hereof in U.S. dollars and in immediately available funds.

SEC. 3. *Representations and warranties.* The Undersigned has entered into this Loan Agreement and will make the loans provided for herein on the basis of the following representations and warranties of the Borrower:

3.1 The Borrower has full power, authority and legal right to incur the indebtedness contemplated in this Loan Agreement on the terms and conditions contained herein, and to execute, deliver and perform this Loan Agreement and the Notes;

3.2 The execution, delivery, and performance of this Loan Agreement and the Notes will not violate and provisions of, and have been duly and validly authorized under, the laws of the Borrower, and all actions necessary to authorize the borrowings hereunder and the execution, delivery and performance of this Loan Agreement and the Notes have been duly taken; and

3.3 This Loan Agreement has been, and each of the Notes when issued will be, duly executed and delivered by persons thereunto duly authorized, and this Loan Agreement constitutes, and each of the Notes when issued will constitute, the valid, legally binding, direct and unconditional general obligation of the Borrower, enforceable in accordance with its respective terms.

SEC. 4. *Conditions of lending.* 4.1 The obligation of the Undersigned to make the initial loan to be made by it hereunder is subject to the condition precedent that, prior to the first Disbursement Date, it shall have received an opinion in the English language of the Attorney General of the Government of _____, dated the date of the initial Disbursement Date, to the same effect as sections 3.1, 3.2, and 3.3 hereof, and to the further effect that specified officials of the Borrower identified by name and title in such opinion are duly authorized to execute and deliver this Loan Agreement, the Notes and such other documents as may be required hereunder on behalf of the Borrower, to establish and draw upon an account of the Borrower at the Bank to which account the Undersigned shall disburse the proceeds of all borrowings hereunder, and to certify to such Bank on behalf of the Borrower the identity, names and titles of any other or additional officials of the Borrower who thereafter may be so authorized.

4.2 The obligation of the Undersigned to make the initial loan to be made by it hereunder is subject to the further conditions precedent that, prior to the first disbursement, it shall have received:

(a) The guaranty of the United States (the "Guaranty"), executed by DOD, guarantying it against all political and credit risks of nonpayment of the obligations of the Borrower to the Undersigned hereunder (including the entire amount of the principal loaned by the Undersigned hereunder and interest thereon at the rate determined as specified herein, but excluding any amounts owing for commitment fees or other fees or expenses), up to a maximum aggregate liability to the Undersigned under the Guaranty on the part of the United States of $_____ dollars (U.S. $_____), pursuant to the Act; and

(b) An opinion of the General Counsel of DOD, to the effect that (i) DOD has full power, authority and legal right to execute, deliver, and perform the Guaranty, (ii) the Guaranty has been executed in accordance with and pursuant to the terms and provisions of the Act and DOD has not, in issuing the Guaranty, exceeded the maximum amount of guaranties authorized to be issued under the Act, (iii) the Guaranty has been duly executed and delivered by a duly authorized representative of DOD, and (iv) the Guaranty constitutes the valid and legally binding obligation of the United States, enforceable in accordance with the terms thereof and backed by the full faith and credit of the United States.

4.3 The obligation of the Undersigned to make any loan to be made by it hereunder, including the initial loan, is subject to the further conditions precedent that:

(a) No event of default within the meaning of section 6 of this Loan Agreement, and no other default with respect to any of the Notes, shall have occurred,

(b) The Undersigned shall have received a Note or Notes payable to its order (or to the order of such other person or persons as the Undersigned may specify) in the amount of the particular loan, executed by the duly authorized representatives of the Borrower;

(c) The Undersigned shall have received the documentation specified in Exhibit A annexed hereto, executed by the duly authorized representatives of the Borrower; and

(d) All legal matters incident to the Guaranty and the transactions contemplated by this Loan Agreement shall be satisfactory to the counsel of the Undersigned.

SEC. 5. *Covenants.* The Borrower covenants and agrees that from and after the date of this Loan Agreement and so long as any amounts remain unpaid on account of the Notes or otherwise under this Loan Agreement:

(a) All payments on account of the principal of, and interest on, the Notes, commitment fees and other fees and expenses shall be made free and clear of, and without deduction for, any and all taxes, levies, imposts, duties, fees, charges, deductions, withholdings, restrictions, or conditions of any nature whatsoever now or hereafter imposed, levied, collected, or assessed with respect thereto by the Borrower of any central or local authority thereof or therein;

(b) Any claim which it may now or hereafter have against any person, corporation, firm, or association or other entity (including without limitation, the United States, DOD, any Bank, any assignee of any Bank, and any supplier of the Defense Items) in connection with any transaction, for any reason whatsoever, shall not affect the obligation of the Borrower to make the payments required to be made to the Undersigned under this Loan Agreement, or under the Notes, and shall not be used or asserted as a defense to the payment of such obligation or as a setoff, counterclaim, or deduction against such payments;

(c) It will pay or reimburse the Undersigned for all expenses incurred by the latter in connection with the preparation, administration, and enforcement of this Loan Agreement and the Notes, including reasonable fees and out-of-pocket expenses of counsel to the Undersigned.

(d) It will pay any and all stamp taxes and other taxes of similar character, if any,

now or hereafter in effect, imposed with respect to this Loan Agreement or the Notes (including, without limitation, any U.S. Interest Equalization Tax or similar future tax), and will save the holder of any Note harmless from any and all losses or liabilities with respect to or resulting from any delay or omission to pay such taxes.

(e) Any legal action or proceeding against it by the Undersigned with respect to this Loan Agreement or the Notes may be brought in the Superior Court of the District of Columbia or in the U.S. District Court for the District of Columbia or in the Courts of the Borrower, as the Undersigned may elect, and by execution and delivery of this Loan Agreement, the Borrower submits to each such jurisdiction. In the case of the Superior Court of the District of Columbia or of the U.S. District Court for the District of Columbia, the Borrower consents to the service of process out of said Courts by mailing copies of such process by registered U.S. mail, postage paid, to it at its address set forth in section 7.3 hereof; and

(f) All loans made hereunder shall be utilized solely for the procurement of the Defense Items pursuant to Purchase Arrangements authorized by DOD.

SEC. 6. *Defaults.* Upon the occurrence of any of the following events or default:

(a) If the Borrower fails for a period of ten (10) days to make any payment of principal of, or interest on, any Note or of any commitment fee hereunder, when due; or

(b) If any representation or warranty made by the Borrower herein or in any certificate furnished by the Borrower pursuant hereto, proves to be at any time incorrect in any material respect; or

(c) If the Borrower defaults in the performance of any other term, covenant or agreement contained in this Loan Agreement, and such default shall continue unremedied for thirty (30) days after written notice thereof shall have been given to the Borrower by the Undersigned;

then, and in any such event, the holder of any Note may declare immediately due and payable the unpaid principal of, and accrued interest on, all Notes held by such holder and such amounts shall become immediately due and payable without protest, presentment, notice, or other demand of any kind, all of which are hereby expressly waived by the Borrower, and the Undersigned may terminate its Commitment hereunder.

SEC. 7. *Miscellaneous.* 7.1 Upon the execution of this loan Agreement, the Borrower shall pay to the Undersigned the aggregate sum of $_____ in payment of the fee charged by DOD with respect to the Guaranty.

7.2 No failure to exercise and no delay in exercising on the part of the Undersigned, any right, power, or privilege hereunder shall operate as a waiver thereof, nor shall any single or partial exercise of any right, power, or privilege preclude any other or further exercise thereof, or the exercise of any other power or right. The rights and remedies herein provided are cumulative and not exclusive of any rights or remedies provided in this Loan Agreement.

7.3 Except as otherwise provided in this Loan Agreement, all notices, requests, or demands hereunder shall be deemed to have been given or made upon the mailing of the same by airmail, postage prepaid, or in the case of telegraphic notice, on delivery to the telegraph company, addressed in the case of the Borrower to the Embassy of the Government of _____, in Washington, D.C., and in the case of the Undersigned to _____ or to such other addresses as any party may from time to time hereafter designate in writing to the other.

7.4 This Loan Agreement and the Notes shall be construed and interpreted in accordance with the laws of the District of Columbia, United States of America, unless prior to the execution of this Loan Agreement and the Notes the parties hereto have by written stipulation agreed that the laws of another jurisdiction of the United States shall be applied.

7.5 This Loan Agreement shall be binding upon and inure to the benefit of the Borrower and the Undersigned and their respective successors and assigns, except that the Borrower may not assign its rights hereunder without the prior written consent of the Undersigned. All agreements, covenants, representations, and warranties made herein shall survive the delivery of the Notes and the making of the loans hereunder.

7.6 This Loan Agreement may be executed in any number of counterparts, each of which when so executed and delivered shall be an original, but all the counterparts shall together constitute a single instrument. Exhibits A and B attached hereto are, by this reference, made a part of this Loan Agreement.

7.7 In case any one or more of the provisions contained in this Loan Agreement or in any of the Notes should be invalid, illegal, or unenforceable in any respect, the validity, legality, and enforceability of the remaining provisions contained herein and therein shall not in any way be affected or impaired thereby.

IN WITNESS WHEREOF, the parties hereto have caused this Loan Agreement to be executed and sealed by their duly authorized officers and representatives on the day and year first above written.

[SEAL] _____

[SEAL] _____

EXHIBIT A

DISBURSEMENT PROCEDURES

The following procedures and conditions shall be complied with prior to each disbursement to be made by the Undersigned to the Borrower:

1. The designated representative of the Government of _____ shall execute and deliver each request for disbursement to the Undersigned at its address set forth in section 7.3 of the foregoing Loan Agreement.

2. Each request shall be accompanied by a copy of the written communication from DOD authorizing the Borrower to enter into the Purchase Arrangement(s) pursuant to which the disbursement is requested.

3. Each request also shall be accompanied by a certification of the Borrower as follows:

"The Government of _____ confirms that the proceeds of this disbursement will be applied entirely to the payment of amounts that have become properly due pursuant to the Purchase Arrangement(s) authorized by the Department of Defense of the United States of America in the attached written communication. This disbursement is requested by the Government of _____ pursuant to the terms of the Loan Agreement of _____ between the Government of _____ and the Undersigned, and confirms that the said Purchase Arrangement(s) (was/were) authorized by the Department of Defense of the United States of American pursuant to the aforesaid Loan Agreement. The Government of _____ further confirms that the Borrower to which this certification is addressed is authorized to make this disbursement by crediting the amount thereof to Account Number _____, at such Bank, and that _____, whose signature appears below, is (and, until further written notice, shall continue to be) authorized to draw upon such account on behalf of the Government of _____.

"Signature of the representative of the Government of _____ who is authorized to draw upon its account:

"_____

"Government of _____

"By _____"

(Name and title typed)

EXHIBIT B

PROMISSORY NOTE

New York, N.Y., _____
(Date)

U.S. $_____

FOR VALUE RECEIVED, the Undersigned, the Government of _____, hereby promises to pay to the order of _____ or its assigns, the principal sum of _____ U.S. dollars (U.S. $_____) as follows:

_____ (Amounts)	_____ (Dates)
_____ (Amounts)	_____ (Dates)
_____ (Amounts)	_____ (Dates)

together with interest on any and all amounts remaining unpaid hereunder from time to time from the date hereof until this Note shall be paid in full, payable semi-annually on _____ and _____ of each year from the date hereof, commencing _____, 197_, at the rate of _____ percent (__%): *Provided, however,* That the rate of interest applicable to this Note shall in no event exceed _____ percent (__%) per annum. Such interest shall be calculated using a 365-day factor, both principal and interest to be payable in immediately available funds in lawful money of the United States of America at the office of the payee at _____, or at the principle place of business of the assignee. All payments made on account of the principal amount hereunder shall be endorsed by the payee, or its assigns, on the reverse side of this Note.

Whenever any payment to be made shall be due on a Saturday, Sunday, or a public holiday under the laws of the District of Columbia, such payment shall be made on the next succeeding business day, and such extension of time shall in such case be included in computing interest in connection with such payment, but excluded from the next interest period.

This Note is one of the Notes referred to in the Loan Agreement dated _____, 197_, between the Government of _____ and _____. It is entitled to the benefits of and may be prepaid on the terms and conditions specified in said Loan Agreement. Prepayments shall be applied to the installments hereof in the inverse order of their maturity.

All payments of principal of, and interest on, this Note are payable free and clear of, and without deduction for, any taxes, levies, imposts, duties, fees, charges, deductions, withholdings, restrictions, or conditions of any nature whatsoever now or hereafter imposed, levied, collected, or assessed with respect thereto by the Government of _____ or any central or local authority thereof or therein.

Upon the occurrence of any event of default specified in said Loan Agreement, the entire unpaid principal hereof and interest hereon to the date of payment may be declared to be forthwith due and payable as provided in said Loan Agreement.

The Government of _____ promises to pay all out-of-pocket costs and expenses (including the reasonable fees and out-of-pocket expenses of counsel) in connection

with collection after default of this Note, as well as all stamp and similar taxes, if any, now or hereafter in effect, and to save the payee, or its assigns, of the Note harmless from any and all losses or liabilities with respect to or resulting from any delay or omission to pay such taxes.

Government of _____

[SEAL] By _____
(Name and title typed)

GUARANTY AGREEMENT

This Guaranty Agreement (hereinafter called the "Guaranty"), made and entered into on the _____ day of _____, 197_, between the _____, doing business under the laws of _____ (hereinafter called the "Lender"), and the Government of the United States of America (hereinafter called the "United States"), acting through the Department of Defense of the United States (hereinafter called "DOD");

WITNESSETH

WHEREAS, the Government of _____ (hereinafter called the "Borrower") desires to purchase certain defense articles and defense services (hereinafter called "Defense Items") from United States sources; and

WHEREAS, the Lender has entered into a Loan Agreement (hereinafter called the "Loan Agreement") with the Borrower to provide for the extension of credit to the Borrower of U.S. $_____; and

WHEREAS, the Lender's obligation under the Loan Agreement to make the initial loan thereunder is to be conditioned upon the issuance of a Guaranty from the United States against all political and credit risks of nonpayment by the Borrower of its obligations under the Loan Agreement to pay the principal of and interest on all extensions of credit by the Lender under the Loan Agreement; and

WHEREAS, it is intended that said loan of $_____ will be repaid by the Borrower in _____ (_____) installments, the first of which shall be due _____, 1972, and the remaining _____ (_____) installments shall be due and payable successively semiannually thereafter on _____ and _____ of each year with interest on each installment payable at the interest rate set forth in the Notes; and

WHEREAS, the aforesaid credit will be available only to finance the purchase of Defense Items from United States sources; and

WHEREAS, the Loan Agreement will provide for the issuance by the Borrower to the Lender of promissory notes evidencing the loans made by the Lender from time to time under the Loan Agreement (hereinafter called the "Notes"); and

WHEREAS, the Loan Agreement by the Lender will facilitate and will be in furtherance of the purposes of the Foreign Military Sales Act, Public Law 90-629, as amended (hereinafter called the "Act").

NOW, THEREFORE, in consideration of the premises and of the mutual covenants hereinafter set forth, the parties hereto agree as follows:

ARTICLE I

The United States, acting through DOD, in consideration of the fee specified in Article IV of this Guaranty, hereby guarantees, under the authority of section 24 of the Act, the due and punctual payment in U.S. dollars of all amounts payable by the Borrower as principal of all loans made by the Lender under the Loan Agreement and as interest at the rate set forth in the Notes whether or not such obligations are evidenced by Notes. Any disbursement by the Lender shall be considered for the purpose of this Guaranty to be a loan made by the Lender under the Loan Agreement if in fact the funds so disbursed are applied to the purchase of articles or services approved in writing by the Department of Defense for purchase by the Borrower under the Loan Agreement, or if such disbursement is made in accordance with the procedures to be specified in the Loan Agreement and the Lender is in receipt of documents that on their face conform to such requirements and indicate that DOD has approved in writing the purchases by the Borrower for which the disbursement is requested.

This Guaranty is a guaranty of payment covering all political and credit risks of nonpayment, including any nonpayments arising out of any claim which the Borrower may now or hereafter have against any person, corporation, firm, or association, or other entity (including, without limitation, the United States, the Lender, and any supplier of Defense Items) in connection with any transaction, for any reason whatsoever. This Guaranty shall inure to the benefit of and shall be enforceable by the Lender, its respective successors by operation of law, or its respective endorsees, assignees or transferees (hereinafter sometimes called the "Beneficiaries"). All provisions of this Guaranty shall be severally applicable to any Beneficiary acting in its own right in connection with the Notes, the Loan Agreement or this Guaranty.

The United States hereby waives diligence, demand, protest, presentment, and any requirement that any Beneficiary of this Guaranty exhaust any right or power to take any action against the Borrower and any notice of any kind whatsoever other than the demand for payment required to be given to DOD hereunder in the event of default on a payment due under the Notes.

The United States further agrees that any claim which it may now or hereafter have against any Beneficiary for any reason whatsoever shall not affect in any way the right of any other Beneficiary to receive full and prompt payment of any amount otherwise due under this Guaranty.

The full faith and credit of the United States is pledged to the performance of this Guaranty.

The United States represents and warrants that (a) it has full power, authority and legal right to execute, deliver and perform this Guaranty, (b) this Guaranty has been executed in accordance with and pursuant to the terms and provisions of the Act and DOD has not, in issuing this Guaranty, exceeded the maximum amount of guarantees authorized to be issued under the Act, (c) this Guaranty has been duly executed and delivered by a duly authorized representative of DOD, and (d) this Guaranty constitutes the valid and legally binding obligation of the United States, enforceable in accordanee with the terms thereof.

ARTICLE II

Notwithstanding the provisions of Article I above, the maximum liability of DOD under this Guaranty shall not exceed $_____.

ARTICLE III

Payment by DOD in the event of a default in the payment of any Note, or any portion thereof, by the Borrower shall be made promptly to the Beneficiary in New York Federal Reserve Funds at the address specified by the Beneficiary (which in the case of the Lender shall be its address set forth opposite its signature below) upon demand to DOD by the Beneficiary after such default has continued for more than 15 days. The amount payable under this Guaranty shall be the amount of any principal and interest then in default, together with interest at the rate then applicable to the defaulted note from the date of default to the date of payment by DOD. No interest shall be payable by DOD for any period following 30 days after default if the Beneficiary fails to make such demand within 30 days after default. DOD reserves the right to make payments due to a Beneficiary from the Borrower whether or not demand to DOD by the Beneficiary therefor has been made. Upon payment by DOD to a Beneficiary, such Beneficiary will assign to the United States, without recourse to or warranty by such Beneficiary, the corresponding amount of such Beneficiary's rights to such payment from the Borrower.

ARTICLE IV

DOD acknowledges receipt from the Lender of payment of a Guaranty fee of $_____.

ARTICLE V

In the event of a default in the payment of any Note, or any portion thereof, by the Borrower—

(a) The Lender shall not accelerate or reschedule payment of the principal amount of or interest on any of the Notes except with the written approval of DOD; and

(b) The Lender shall, if so directed by DOD, invoke the default provisions of the Loan Agreement, and shall suspend any further disbursements to, or on behalf of, the Borrower until the Lender has been directed by DOD to resume payments under its Commitment.

ARTICLE VI

Any Beneficiary's rights under this Guaranty may be assigned to any individual, corporation, partnership, or other association doing business in the United States of America. In the event of such assignment, DOD shall be promptly notified.

ARTICLE VII

Any notice, demand, request, or the like on behalf of the United States hereunder will be effective for the purposes hereof if signed by the Director, or Deputy Director, Defense Security Assistance Agency, or their respective successors in office and delivered to the Lender at its address set forth opposite its signature below. Any notice, demand, request, or the like on behalf of any Beneficiary of this Guaranty will be effective for the purposes hereof if signed by an authorized official of any such Beneficiary and delivered to the Director, Defense Security Assistance Agency.

IN WITNESS WHEREOF, the parties hereto have caused this Guaranty to be duly executed and sealed on the date first mentioned above.

Address:

[SEAL] By _____
GOVERNMENT OF THE UNITED STATES OF AMERICA ACTING THROUGH THE DEPARTMENT OF DEFENSE

[SEAL] By _____

[FR Doc. 72-8670 Filed 6-5-72;4:16 pm]

DEPARTMENT OF THE INTERIOR

Bureau of Indian Affairs

AREA DIRECTORS ET AL.

Delegation of Authority

JUNE 1, 1972.

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

This delegation is issued under the authority delegated to the Commissioner by the Secretary in section 25 of Secretarial Order 2508 (10 BIAM 2.1).

10 BIAM 3.1 was published at page 2676 of the February 27, 1969, FEDERAL REGISTER (34 F.R. 2676). It is being amended to give the Director of Southeastern Agencies similar authorities to those given to Area Directors.

As amended, 10 BIAM 3.1 reads as follows:

3.1 *Authorities from the Commissioner.* The authorities of the Secretary of the Interior delegated to the Commissioner in Secretarial Order 2508 (10 BIAM 2.1), 25 CFR, and 43 CFR 2.6 are hereby redelegated to the Area Directors and the Director of Southeastern Agencies.

This redelegation also includes future authorities of the Secretary of the Interior to the Commissioner which:

A. Do not by their own terms disallow exercise by officials below the Commissioner;

B. Are not within the generally applicable exceptions in section 3.3 below; or

C. Are not expressly excluded, by additional provisions to this chapter, from being exercised by officials below the Commissioner.

JOHN O. CROW,
Deputy Commissioner.

[FR Doc.72-8619 Filed 6-7-72;8:46 am]

Bureau of Land Management

ADMINISTRATIVE OFFICER, FAIRBANKS DISTRICT AND LAND OFFICE, ALASKA

Delegation of Authority Regarding Contracts and Leases

MAY 30, 1972.

State Director, Alaska supplement to Bureau of Land Management Manual 1510.

Subject: Delegation of authority—contracts and leases.

A. Pursuant to delegation of authority contained in Bureau Manual 1510-03B2, the Administrative Officer, Fairbanks District and Land Office is authorized:

1. To enter into contracts with established sources for supplies and services, excluding capitalized equipment, regardless of amount, and

2. To enter into contracts on the open market for supplies and materials, excluding capitalized equipment, not to exceed $2,500 per transaction ($2,000 for construction): *Provided,* That the requirement is not available from established sources. (Section 302(c)(3) of the FPAS Act.)

3. To enter into contracts in an unlimited amount for necessary procurements in the case of emergency fire suppression work for the rental of equipment and aircraft and for supplies and materials, excluding capitalized equipment, required in such operations. (Section 302(c)(2) of the FPAS Act.)

CURTIS V. MCVEE,
State Director.

[FR Doc.72-8657 Filed 6-7-72;8:49 am]

[OR 8969]

OREGON

Classification of Public Lands for Disposal by Exchange

JUNE 2, 1972.

Pursuant to 43 CFR Subpart 2462, the lands described below are classified for disposal through exchange, under section 8 of the Taylor Grazing Act of June 28, 1934 (43 U.S.C. 315g), for lands within the Prineville District. The proposed classification received no protests.

WILLAMETTE MERIDIAN

CROOK COUNTY

T. 15 S., R. 16 E.,
Sec. 18, E½SE¼.
T. 15 S., R. 18 E.,
Sec. 8, W½NW¼.
T. 16 S., R. 15 E.,
Sec. 3, E½SW¼ and SW¼SE¼.
T. 16 S., R. 19 E.,
Sec. 14, N½N½ and E½SE¼;
Sec. 22, S½.
T. 16 S., R. 20 E.,
Sec. 22, N½NW¼.
T. 16 S., R. 25 E.,
Sec. 15, E½SE¼;
Sec. 22, NE¼NE¼;
Sec. 23, NW¼NW¼.

The areas described aggregate approximately 1,080 acres.

In accordance with 43 CFR 2202.1, no application for an exchange will be accepted unless the application is accompanied by a statement from the Prineville District Manager, Bureau of Land Management, that the proposal is feasible.

Information concerning these lands is available at the Prineville District Office, Bureau of Land Management, 185 East Fourth Street, Prineville, OR 97754.

ARTHUR W. ZIMMERMAN,
Associate State Director.

[FR Doc.72-8658 Filed 6-7-72;8:49 am]

[Colorado 16101]

COLORADO

Notice of Proposed Withdrawal and Reservation of Lands

JUNE 2, 1972.

The Forest Service, U.S. Department of Agriculture, has filed an application, Serial No. C-16101, for the withdrawal of the lands described below, from prospecting, location, and entry under the General Mining Laws only, subject to valid existing rights.

The applicant desires the lands for campgrounds, recreation areas, and a cave site.

For a period of 30 days from the date of publication of this notice, all persons who wish to submit comments, suggestions, or objections in connection with the proposed withdrawal may present their views in writing to the undersigned officer of the Bureau of Land Management, Department of the Interior, Colorado State Office, 700 Colorado State Bank Building, 1600 Broadway, Denver, CO 80202.

The Department's regulations (43 CFR 2351.4(c)) provide that the authorized officer of the Bureau of Land Management will undertake such investigations as are necessary to determine the existing and potential demand for the lands and their resources. He will also undertake negotiations with the applicant agency with the view of adjusting the application to reduce the area to the minimum essential to meet the applicant's needs, to provide for the maximum concurrent utilization of the lands for purposes other than the applicant's, to eliminate lands needed for purposes more essential than the applicant's, and to reach agreement on the concurrent management of the lands and their resources.

The authorized officer will also prepare a report for consideration by the Secretary of the Interior who will determine whether or not the lands will be withdrawn as requested by the applicant agency.

The determinaion of the Secretary on the application will be published in the FEDERAL REGISTER. A separate notice will be sent to each interesed party of record.

If circumstances warrant, a public hearing will be held at a convenient time and place, which will be announced.

The lands involved in the application are:

SAN ISABEL NATIONAL FOREST

SIXTH PRINCIPAL MERIDIAN

Potato Patch Campground

T. 32 S., R. 69 W. (Protraction No. 22, dated May 5, 1965)
Sec. 16 (Unsurveyed):
A parcel of land described as follows: Beginning at a point marked by a ½-inch pipe in the ground, said point being 10 feet west of Station 205+48.6 of the North Fork Road Design Contract dated June 27, 1966, thence due North 10 chains, thence due West 5 chains, thence due North 5 chains, thence due West 20 chains, thence due South 10 chains, thence due East 5 chains, thence due South 5 chains, thence due East 20 chains to the point of beginning.

Grape Creek Campground

T. 24 S., R. 72 W.,
Sec. 28, S½NW¼SW¼, W½SW¼SW¼;
Sec. 32, NE¼NE¼;
Sec. 33, NW¼NW¼NW¼; and
Sec. 29, SE¼NE¼SE¼, E½SE¼SE¼.

Muddy Creek Campground

T. 25 S., R. 72 W.,
Sec. 14, NE¼NE¼SW¼SE¼, S½N½SW¼SE¼, S½SW¼SE¼, NW¼NW¼SE¼SE¼;
Sec. 23, S½SW¼NW¼NE¼, NW¼SW¼NE¼, N½SW¼SW¼NE¼, S½SE¼NE¼NW¼; and N½NE¼SE¼NW¼, SE¼NE¼SE¼NW¼.

Lower Dry Creek Campground

T. 23 S., R. 73 W.,
Sec. 15, SE¼NW¼, N½N½NE¼SW¼.

North Colony Lakes

T. 24 S., R. 73 W. (Protraction No. 21, dated April 26, 1965)
Sec. 4, S½SE¼, S½S½SW¼;
Sec. 8, NE¼NE¼, N½SE¼NE¼, NE¼SW¼NE¼, W½SW¼NE¼, E½SE¼NW¼; and
Sec. 9, N½NE¼NE¼, NW¼NW¼, NW¼NE¼NW¼.

Marble Caves Area

T. 24 S., R. 73 W. (Protraction Diagram No. 21, dated April 26, 1965):

A parcel of land in Sections 14, 22, 23, 24 located by metes and bounds survey as follows:

Beginning at the summit of Marble Mountain (corner 1), thence N. 77° E. 4,752 ft. to corner 2, thence S. 35° E. 2,640 ft. to corner 3 (cabin), thence S. 43° W. 3,696 ft. to corner 4, thence N. 45° W. 5,280 ft. to the point of beginning.

NEW MEXICO PRINCIPAL MERIDIAN

BANJO LAKE

T. 45 N., R. 11 E.,
Sec. 1, W½NE¼SE¼, NW¼SE¼.

SOUTH BRANCH LAKE

T. 46 N., R. 11 E.,
Sec. 36, W½NW¼NE¼, NW¼SW¼NE¼, NE¼NW¼, N½SE¼NW¼.

GIBSON CREEK CAMPGROUND

T. 45 N., R. 12 E.,
Sec. 24, N½NW¼, N½S½NW¼.

The areas described aggregate approximately 1,185 acres.

J. ELLIOTT HALL,
Chief, Division of Technical Services.

[FR Doc.72-8661 Filed 6-7-72;8:51 am]

Office of the Secretary

[INT FES 72-16]

PUEBLO DAM AND RESERVOIR, FRYINGPAN-ARKANSAS PROJECT, COLO.

Notice of Availability of Final Environmental Statement

Pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969, the Department of the Interior has prepared a final environmental statement for continuing construction of Pueblo Dam and Reservoir, an authorized feature of the Fryingpan-Arkansas Project. This environmental statement concerns construction of the dam and appurtenant facilities. Its principal functions are to provide storage and regulation of municipal, industrial, and agricultural water, flood protection, recreation, fish and wildlife enhancement, and sediment reduction. Copies are available for inspection at the following locations:

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

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

Office of the Regional Director, Bureau of Reclamation, Denver, Colo., Building 20, Denver Federal Center, Denver, Colo. 80225, Telephone (303) 234-441.

Project Manager, Fryingpan-Arkansas Project Office, Post Office Box 515, Pueblo, CO 81002, Telephone (303) 544-5277.

Single copies of the final environmental statement may be obtained on request to the Commission of Reclamation and the Regional Director. In addition copies are available from the National Technical Information Service, Department of Commerce, Springfield, Va. 22151 for $3 each. Please refer to the statement number above.

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

JUNE 2, 1972.

[FR Doc.72-8620 Filed 6-7-72;8:46 am]

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

[Marketing Agreement 146]

PEANUTS

Incoming and Outgoing Quality Regulations and Indemnification; 1972 Crop

Pursuant to the provisions of sections 5, 31, 32, 34, and 36 of the marketing agreement regulating the quality of domestically produced peanuts heretofore entered into between the Secretary of Agriculture and various handlers of peanuts (30 F.R. 9402) and upon recommendation of the Peanut Administrative Committee established pursuant to such agreement and other information it is hereby found that the appended "Incoming Quality Regulation—1972 Crop Peanuts," "Outgoing Quality Regulation—1972 Crop Peanuts," and the "Terms and Conditions of Indemnification—1972 Crop Peanuts," which modify or are in addition to the provisions of sections 5, 31, 32, and 36 of said agreement will tend to effectuate the objectives of the Agricultural Marketing Agreement Act of 1937, as amended, and of such agreement and should be issued.

The Peanut Administrative Committee has recommended that the appended "Incoming Quality Regulation—1972 Crop Peanuts," "Outgoing Quality Regulation—1972 Crop Peanuts," and the "Terms and Conditions of Indemnification—1972 Crop Peanuts," be issued so as to implement and effectuate the provisions of the aforementioned sections of the marketing agreement. The 1972 peanut crop year begins July 1 and procedures and regulations for operations under the agreement should be established thereby affording handlers maximum time to plan their operations accordingly. The handlers of peanuts who will be affected hereby have signed the marketing agreement authorizing the issuance hereof; they are represented on the Committee which has prepared and recommended these quality regulations and terms and conditions of indemnification for approval.

Upon consideration of the Committee recommendation and other available information the appended "Incoming Quality Regulation—1972 Crop Peanuts," "Outgoing Quality Regulation—1972 Crop Peanuts," and the "Terms and Conditions of Indemnification—1972 Crop Peanuts" are hereby approved.

Dated: June 1, 1972.

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

INCOMING QUALITY REGULATION—1972 CROP PEANUTS

The following modify section 5 of the peanut marketing agreement and modify or are in addition to the restrictions of section 31 on handler receipts or acquisitions of 1972 crop peanuts:

(a) *Modification of section 5, paragraphs (b), (c), and (d).* Paragraphs (b), (c), and (d) of section 5 of the peanut marketing agreement are modified as to 1972 crop farmers stock peanuts to read respectively as follows:

(b) *Segregation 1.* "Segregation 1 peanuts" means farmers stock peanuts with not more than 2 percent damaged kernels nor more than 1 percent concealed damage caused by rancidity, mold, or decay and which are free from visible *Aspergillus flavus.*

(c) *Segregation 2.* "Segregation 2 peanuts" means farmers stock peanuts with more than 2 percent damage kernels or more than 1 percent concealed damage caused by rancidity, mold, or decay and which are free from visible *Aspergillus flavus.*

(d) *Segregation 3.* "Segregation 3 peanuts" means farmers stock peanuts with visible *Aspergillus flavus.*

(b) *Moisture.* Except as provided under paragraph (e) *Seed peanuts,* no handler shall receive or acquire peanuts containing more than 10-percent moisture: *Provided,* That peanuts of a higher moisture content may be received and dried to not more than 10-percent moisture prior to storing or milling. On farmers stock, such moisture determinations shall be rounded to the nearest whole number; on shelled peanuts, the determinations shall be carried to the hundredths place and shall not be rounded to the nearest whole number.

(c) *Damage.* For the purpose of determining damage, other than concealed damage, on farmers stock peanuts, all percentage determinations shall be rounded to the nearest whole number.

(d) *Loose shelled kernels.* Handlers may separate from the loose shelled kernels received with farmers stock peanuts, those sizes of whole kernels which ride screens with the following slot openings: Runner—$^{18}/_{64}$ x ¾ inch; Spanish and Valencia—$^{15}/_{64}$ x ¾ inch; Virginia—$^{15}/_{64}$ x 1 inch. If so separated, those loose shelled kernels which do not ride such screens, shall be removed from the farmers stock peanuts and shall be held separate and apart from other peanuts and disposed of as oil stock. If the whole kernels are not separated, the entire amount of loose shelled kernels shall be removed from farmers stock peanuts and shall be so held and so delivered or disposed of. The whole kernels which ride the screens may be included with shelled peanuts prepared by the handler for inspection and sale for human consumption. For the purpose of this regulation, the term "loose shelled kernels"

means peanut kernels or portions of kernels completely free of their hulls and found in deliveries of farmers stock peanuts.

(e) *Seed peanuts.* A handler may acquire and deliver for seed purposes farmers stock peanuts which meet the requirements of Segregation 1 peanuts. If the seed peanuts are produced under the auspices of a State agency which regulates or controls the production of seed peanuts, they may contain up to 3 percent damaged kernels and have visible *Aspergillus flavus,* and, in addition, the following moisture content, as applicable:

(1) For seed peanuts produced in the southeastern and Virginia-Carolina areas, they may contain up to 11-percent moisture except Virginia-type peanuts which are not stacked at harvest time may contain up to 12-percent moisture; and

(2) For seed peanuts produced in the southwestern area, they may contain up to 10-percent moisture.

However, any such seed peanuts with visible *Aspergillus flavus* shall be stored and shelled separate from other peanuts, and any residual not used for seed shall not be used or disposed of for human consumption unless it is determined to be wholesome by chemical assay for aflatoxin. A handler whose operations may include custom seed shelling, may receive, custom shell, and deliver for seed purposes farmers stock peanuts and such peanuts shall be exempt from the incoming quality regulation requirements and therefore shall not be required to be inspected and certified as meeting the incoming quality regulation requirements and the handler shall report to the Committee as requested the weight of each lot of farmers stock peanuts received on such basis on a form furnished by the Committee. However, handlers who may acquire seed peanut residuals from their custom seed shelling operation or from another seed sheller or producer who has or has not signed the marketing agreement shall hold and/or mill such residuals separate and apart from other receipts or acquisitions of the handler and such residuals shall be disposed of by sale to the Commodity Credit Corporation, by sale for oil stock or by crushing.

(f) *Oil stock.* Handlers may acquire as oil stock, peanuts of a lower quality than Segregation 1 or grades or sizes of shelled peanuts or cleaned inshell peanuts which fail to meet the requirements for human consumption. The provision of section 31 of the marketing agreement restricting such acquisitions to handlers who are crushers is hereby modified to authorize all handlers to act as accumulators and acquire Segregation 2 or 3 farmers stock peanuts for the sole purpose of delivery to crushers: *Provided,* That all such acquisitions shall be bagged, red tagged, and held separate and apart from Segregation 1 peanuts acquired for milling or from edible grades of shelled or milled peanuts and shall be disposed of only by crushing or by delivery to crushers and the consequent production of oil and meal.

(g) *Segregation 3 control.* To assure the removal from edible outlets of any lot of peanuts determined by the Federal or Federal-State Inspection Service to be Segregation 3, each handler shall inform each employee, country buyer, commission buyer, or like person through whom he receives peanuts, of the need to receive and withhold all lots of Segregation 3 peanuts from milling for edible use. If any lot of Segregation 3 farmers stock peanuts is not withheld but returned to the producer, the handler shall cause the inspection service to forward immediately a copy of the inspection certificate on the lot to the designated office of the handler and a copy to the Committee.

(h) *Warehouse storage facilities.* Handlers shall report to the Committee, on a form furnished by the Committee, all storage facilities or contract storage facilities which they will use to store acquisitions of 1972 crop Segregation 1 farmers stock peanuts and all such storage facilities must be reported prior to storing of any such handler acquisitions. All such storage facilities must be of sound construction, in good repair, built and equipped so as to provide suitable storage and sufficient ventilation to prevent moisture condensation and provide adequate protection for farmers stock peanuts. All breaks or openings in the walls, floors, or roofs of the facilities shall have been repaired so as to keep out moisture. Elevator pits and wells must be kept dry and free of moisture at all times. Insect control procedures must be carried out in such a manner so as to prevent undesirable moisture in the storage facilities. The Committee may make periodic inspections of storage facilities and farmers stock peanuts stored in such facilities to determine if handlers are adhering to these requirements.

Outgoing Quality Regulation—1972 Crop Peanuts

The following modify or are in addition to the peanut marketing agreement restrictions of section 32 on handler disposition of 1972 crop peanuts for human consumption:

(a) *Shelled peanuts.* No handler shall ship or otherwise dispose of shelled peanuts for human consumption or to another handler, except seed residuals as referred to in paragraph (e) of the incoming quality regulation, with respect to which appropriate samples for pretesting have not been drawn in accordance with subparagraph (c) of this regulation, or which if of a category not eligible for indemnification are not certified "negative" as to aflatoxin, or which contain more than (1) a total of 1.25 percent unshelled peanuts and damaged kernels; (2) a total of 2 percent unshelled peanuts and damaged kernels and minor defects; (3) 9 percent moisture in the southeastern and southwestern areas, or 10 percent moisture in the Virginia-Carolina area; or (4) 0.10 percent foreign material in peanuts "with splits" and peanuts of U.S. grade, other than U.S. splits, or 0.20 percent foreign material in U.S. splits and other edible quality peanuts not of U.S. grade. Fall through in such peanuts shall not exceed 4 percent except that fall through consisting of either split and broken kernels or whole kernels shall not exceed 3 percent and fall through of whole kernels in Runners, Spanish, or Virginia "with splits" shall not exceed 2 percent. The term "fall through" as used herein, shall mean sound split and broken kernels and whole kernels which pass through specified screens. Screens used for determining fall through in peanuts covered by this paragraph (a) shall be as follows:

Type	Screen openings	
	Split and broken kernels	Whole kernels
Virginia	17/64 inch round	14/64 x 1 inch slot.
Runners	17/64 inch round	14/64 x 3/4 inch slot.
Spanish and Valencia.	15/64 inch round	13/64 x 3/4 inch slot.

(Runners, Spanish, or Virginia "with splits" means shelled peanuts which do not contain more than (a) 15 percent splits, (b) for Runners or Spanish 2 percent whole kernels which will pass through 15/64 x 3/4 inch slot screen and for Virginias a 15/64 x 1 inch slot screen, and (c) otherwise meet the specifications of U.S. No. 1 grade).

(b) *Cleaned inshell peanuts.* No handler shall ship or otherwise dispose of cleaned inshell peanuts for human consumption: (1) With more than 1 percent kernels with mold present unless a sample of such peanuts, drawn by an inspector of the Federal or Federal-State Inspection Service, was analyzed chemically by laboratories approved by the Committee or by an Agricultural Marketing Service laboratory (hereinafter referred to as AMS laboratory) and found to be wholesome relative to aflatoxin; (2) with more than 2 percent peanuts with damaged kernels; (3) with more than 10 percent moisture; or (4) with more than 0.50 percent foreign material.

(c) *Pretesting shelled peanuts.* Each handler shall cause appropriate samples of each lot of shelled peanuts to be drawn by an inspector of the Federal or Federal-State Inspection Service. The gross amount of peanuts drawn shall be large enough to provide for a grade analysis, for a grading check sample and for one 48-pound sample for aflatoxin assay. The 48-pound sample shall be ground by the Federal or Federal-State inspector, AMS or designated laboratories in a "subsampling mill" approved by Committee. Four subsamples of a size specified by the Committee shall be drawn from the ground portion of the sample diverted by the "subsampling mill" during the grinding process. Two of the resulting subsamples from the 48-pound sample shall be designated as "1–A" and "2–A". The two remaining subsamples shall be designated as "1–B" and "2–B". The subsamples designated "1–A" and "1–B" shall be sent as requested by the handler or buyer, for aflatoxin assay to an AMS laboratory or a laboratory listed on the most recent Committee list of approved laboratories.

The subsamples designated as "2–A" and "2–B" shall be held as aflatoxin check samples by the Federal or Federal-State Inspection Service, AMS or designated laboratories and shall be analyzed only in AMS or designated laboratories.

Subsamples "1–A" and "1–B" shall be accompanied by a notice of sampling, signed by the inspector, containing, at least, identifying information as to the handler (shipper), the buyer (receiver) if known, and the positive lot identification of the shelled peanuts. A copy of such notice on each lot shall be sent to the Committee office. All assay subsamples shall be positive lot identified and subsamples "2–A" and "2–B" held for 30 days, after delivery of subsamples "1–A" and "1–B", and delivered for assay upon call of the laboratory of the Committee and at the Committee's expense. The cost of drawing the 48-pound sample and the preparation of the resultant subsamples and postage for mailing the subsamples "1–A" and "1–B" shall be borne by the handler. When the subsamples "1–A" and "1–B" have not been analyzed within 30 days from date of delivery of the "1–A" and "1–B" subsamples and a second set of "2–A" and "2–B" subsamples must be drawn, the cost of drawing, grinding, preparation, and mailing such subsamples shall be for the account of the holder of the peanuts. Cost of the assay on the "1–A" and "1–B" subsamples shall be for the account of the buyer of the lot and of the "2–A" and "2–B" subsamples for the Committee's account. If the handler elects to pay for the assay of the "1–A" subsample, he shall charge the buyer when he invoices the peanuts, and if more than one buyer, on a pro rata basis. The results of each assay shall be reported to the buyer listed in the notice of sampling and, if the handler desires, to the handler.

If a buyer is not listed in the notice of sampling, the results of the assay shall be reported to the handler who shall promptly cause notice to be given to the buyer of the contents thereof and such handler shall not be required to furnish additional samples for assay.

(d) *Identification.* Each lot of shelled or cleaned inshell peanuts shipped or otherwise disposed of for human consumption shall be identified by positive lot identification procedures. For the purpose of this regulation, "positive lot identification" of a lot of shelled or inshell peanuts is a means of relating the inspection certificate to the lot covered so that there can be no doubt that the peanuts delivered are the same ones described on the inspection certificate. Such procedure on bagged peanuts shall consist of attaching a lot numbered tag bearing the official stamp of the Federal or Federal-State Inspection Service to each filled bag in the lot. The tag shall be sewed (machine sewed if shelled peanuts) into the closure of the bag except that in plastic bags the tag shall be inserted prior to sealing so that the official stamp is visible. Any peanuts moved in bulk or bulk bins shall have their lot identity maintained by sealing the conveyance and if in other containers by other means acceptable to the Federal or Federal-State inspectors and to the Committee. All lots of shelled or cleaned inshell peanuts shall be handled, stored, and shipped under positive lot identification procedures.

(e) *Reinspection.* Whenever the Committee has reason to believe that peanuts may have been damaged or deteriorated while in storage, the Committee may reject the then effective inspection certificate and may require the owner of the peanuts to have a reinspection to establish whether or not such peanuts may be disposed of for human consumption.

(f) *Interplant transfer.* Until such time as procedures permitting all interplant and cold storage movements are established by the Committee, any handler may transfer peanuts from one plant owned by him to another of his plants or to commercial storage, without having such peanuts positive lot identified and certified as meeting quality requirements, but such transfer shall be only to points within the same production area and ownership shall have been retained by the handler. Upon any transferred peanuts being disposed of for human consumption, they shall meet all the requirements applicable to such peanuts.

(g) *Loose shelled kernels, fall through and pickouts.* (1) Loose shelled kernels which do not ride screens with the following slot openings: Runner—$^{16}/_{64}$ x $^{3}/_{4}$ inch; Spanish and Valencia—$^{15}/_{64}$ x $^{3}/_{4}$ inch; Virginia—$^{15}/_{64}$ x 1 inch; shall be disposed of only by sale as domestic oil stock or by crushing. Fall through may be sold, as to qualities acceptable to it, to the Commodity Credit Corporation and the balance shall be sold as domestic oil stock or crushed. Pickouts shall be sold as domestic oil stock or crushed. For the purpose of this regulation, the term "nonedible quality peanuts described in paragraph (g)(1)" means loose shelled kernels, fall through, and pickouts; the term "loose shelled kernels" means peanut kernels or portions of kernels completely free of their hulls, either as found in deliveries of farmers stock peanuts or those which fail to ride the screens (U.S. No. 1 screens) in removing whole kernels; the term "fall through" has the same meaning as in paragraph (a) of this regulation; and the term "pickouts" means those peanuts removed at the picking table, by electronic equipment, or otherwise during the milling process.

(2) All loose shelled kernels, fall through and pickouts shall be kept separate and apart from other milled peanuts that are to be shipped into edible channels or delivered to the Commodity Credit Corporation. Each such category of peanuts shall be bagged separately in suitable new or clean, sound, used bags or placed in bulk containers acceptable to the Committee. Such peanuts shall be inspected by Federal or Federal-State inspectors in lots of not more than 100,000 pounds and a certification made as to moisture and foreign material content.

(3) Each category of nonedible quality peanuts described in paragraph (g)(1) shall be identified by positive lot identification procedures set forth in paragraph (d) but using a red tag. Such peanuts may be disposed of only by crushing into oil and meal or destroyed, unless other disposition is authorized by the Committee and all dispositions shall be reported to the Committee on such forms and at such times as it prescribes. Such peanuts shall be deemed to be "restricted" peanuts and the meal produced therefrom shall be used or disposed of as fertilizer or other nonfeed use. To prevent use of restricted meal for feed, handlers shall either denature it or restrict its sale to licensed or registered U.S. fertilizer manufacturers or firms engaged in exporting who will export such meal for nonfeed use or sell it to the aforesaid fertilizer manufacturers. However, peanuts other than pickouts and meal from peanuts other than pickouts in specifically identified lots of not more than 50 tons each, may be sampled by Federal or Federal-State inspectors, or by the area association if authorized by the Committee, and tested for aflatoxin by laboratories approved by the Committee or operated by the Agricultural Marketing Service, at handler's or crusher's expense, and if such meet Committee standards, the meal may be disposed of for food use.

(4) Notwithstanding any other provision of this regulation or of the incoming quality regulation applicable to 1972 crop peanuts, a handler may transfer such "restricted" peanuts to another plant within his own organization or transfer or sell such peanuts to a crusher for crushing. Sales or transfer of restricted peanuts to persons not handlers under the agreement shall be made only on the condition that they agree to comply with the terms of this paragraph (g) including the reporting requirements.

TERMS AND CONDITIONS OF INDEMNIFICATION—1972 CROP PEANUTS

For the purpose of paying indemnities on a uniform basis pursuant to section 36 of the peanut marketing agreement effective July 12, 1965, each handler shall promptly notify or arrange for the buyer to notify, the Manager, Peanut Administrative Committee, of any lot of cleaned inshell or shelled peanuts, milled to the outgoing quality requirements and into one of the categories listed in the final paragraph of these terms and conditions, on which the handler has withheld shipment or storage or the buyer, including the user division of a handler, has withheld usage due to a finding as to aflatoxin content as shown by the results of chemical assay. To be eligible for indemnification, such a lot of peanuts shall have been inspected and certified as meeting the quality requirements of the agreement, shall have met all other applicable regulations issued pursuant thereto, including the pretesting requirements in (a) and (c) of the "Outgoing Quality Regulation—1972 Crop Peanuts," and the lot identification shall have been maintained. If the Committee concludes, based on assays to date or further assays, that the lot is so high in aflatoxin that it should be handled pursuant to these

terms and conditions and such is concurred in by the Agricultural Marketing Service, the lot shall be accepted for indemnification. If the lot is covered by a sales contract, the lot may be rejected to the handler.

In an effort to make such eligible peanuts suitable for human consumption, and to minimize indemnification costs, the Committee and the Agricultural Marketing Service shall, prior to disposition, by delivery to the CCC for disposal under the 1972 Crop Peanut Price Program, or for crushing cause all suitable lots to be remilled or custom blanched or both.

"Custom blanching" means the process which involves blanching peanuts, and the subsequent removal of damaged peanuts for the purpose of eliminating aflatoxin from the lot. The process may be applied to either an original lot or the new lot which results from remilling. Custom blanching shall be performed only by those firms determined by the Committee to have the capability to remove the aflatoxin and who agree to such terms, conditions, and rates of payment as the Committee may find to be acceptable.

If the Committee and the Agricultural Marketing Service conclude that such lot is not suitable for remilling or custom blanching, the lot shall be declared to crushing and shall be disposed of by delivery to the Committee at such point as it may designate. The indemnification payment for peanuts in such a lot shall be the indemnification value of the peanuts, as hereinafter provided, plus actual costs of any necessary temporary storage and of transportation (excluding demurrage) from the handler's plant or storage to the point within the continental United States where the rejection occurred and from such point to a delivery point specified by the Committee. Payment shall be made to the handler as soon as practicable after delivery of the peanuts to the Committee. The salvage value for peanuts declared for crushing shall be paid to, and retained by, the Committee to offset indemnification expenses.

If it is concluded that the lot should be remilled or custom blanched, expenses shall be paid by the Committee on those lots which, on the basis of the inspection occurring prior to shipment, contained not more than 1 percent damaged kernels other than minor defects. Lots with damage in excess of 1 percent on such inspection shall be remilled without reimbursement from the Committee for milling, freight, or temporary storage and handling but otherwise shall be indemnifiable the same as lots with not more than 1 percent damage.

The indemnification value of peanuts delivered to the Committee for indemnification shall be the sales contract (including transfer) price established to the satisfaction of, and acceptable to, the Committee or if the lot is unsold the applicable market price determined by the Committee based on quotations in the most recent "Peanut Market News" report published by AMS.

The indemnification payment on peanuts declared for remilling, and which contain not more than 1 percent damaged kernels other than minor defects, shall be the indemnification value referable to the weights of peanuts lost in the remilling process and not cleared for human consumption, plus temporary storage and transportation costs from origin to destination and return to point of remilling, except as hereinafter restricted, plus an allowance for remilling of 1 cent per pound on the original weight, less 1½ percent of the foregoing contract or market price multiplied by the original weight. However, the 1½ percent deduction shall not apply to peanuts whose appropriate samples for pretesting, drawn and assayed in accordance with paragraph (c) of the "Outgoing Quality Regulation—1972 Crop Peanuts," were determined to be not indemnifiable as to aflatoxin. On lots on which the remilling is not successful in making the lot wholesome as to aflatoxin, the indemnification payment shall be reduced by an additional 4 percent of the foregoing contract or market price multiplied by the original weight if the lot is declared for custom blanching.

If such unsuccessfully remilled peanuts are not declared for custom blanching, the lot shall be delivered at the direction of the Committee to the Commodity Credit Corporation for disposal under the 1972 crop peanut Price Support Program and the indemnification payment for such peanuts shall be the difference between the CCC price received by the handler for such peanuts and the sales contract (including transfer) price established to the satisfaction of, and acceptable to, the Committee less 1.25 cents per pound on the amount of peanuts delivered to CCC or if the lot is unsold the applicable market price determined by the Committee based on quotations in the most recent "Peanut Market News" report published by AMS less 1.25 cents per pound on the amount of peanuts delivered to CCC. If such peanuts are declared for custom blanching after remilling, the indemnification payment shall be the blanching cost, plus any temporary storage, the transportation costs from origin (whether handler or buyer premises) to point of blanching and on unsold lots from point of blanching to handler's premises and the value of the weight of reject peanuts removed from the lot. On lots which are custom blanched without remilling, the indemnification payment shall be determined in the same manner but it shall be reduced by 1½ percent of the foregoing contract or market price multiplied by the original weight. However, the 1½ percent deduction shall not apply to peanuts whose appropriate samples for pretesting, drawn and assayed in accordance with paragraph (c) of the "Outgoing Quality Regulation—1972 Crop Peanuts," were determined to be not indemnifiable as to aflatoxin. Moreover, no indemnification payments shall be paid on any lot of peanuts where the Committee determines that the custom-blanched peanuts from such a lot has been sold at a price lower than the contract price or the prevailing market price on the original red skin lot at the time the indemnification claim was filed with the Committee.

Claims for indemnification on 1972 crop peanuts may be filed by any handler sustaining a loss as result of a buyer withholding from human consumption a portion or all the product made from a lot of peanuts which has been determined to be unwholesome due to aflatoxin. The Committee shall pay, to the extent of the raw peanut equivalent value of the peanuts used in the product so withheld, such claims as it determines to be valid.

Payment shall be made to the handler claiming indemnification or receiving the rejected lot as soon as practicable after receipt by the Committee of such evidence of remilling or custom blanching and clearance of the lot for human consumption as the Committee may require and the delivery of the peanuts not cleared for human consumption to the delivery point designated by the Committee. If a suitable reduction in the aflatoxin content is not achieved on any lot which is remilled or custom blanched or both, the Committee shall declare the entire lot for indemnification. However, the Committee shall refuse to pay indemnification on any lot(s) where it has reason to believe that the rejection of the peanuts arises from failure of the handler to use reasonable measures to receive and withhold from milling for edible use those Segregation 3 peanuts tendered to him either directly by a producer or by a country buyer, commission buyer, or other like person.

Remilling may occur on the premises of any handler signatory to the marketing agreement or at such other plant as the Committee may determine. However, if the Committee orders remilling of a lot which has been found to contain aflatoxin prior to shipment from the locality of original milling, the Committee shall not pay freight costs should the handler move said lot to another locality for remilling. Where a lot has been shipped and the Committee orders remilling, the Committee will pay actual freight charges to the place of remilling but not in excess of the return freight from destination to the origin of the shipment.

Claims for indemnification on peanuts of the 1972 crop shall be filed with the Committee at least 60 days prior to December 31, 1973.

Each handler shall include, directly or by reference, in his sales contract the following provisions:

Should buyer find peanuts subject to indemnification under this contract to be so high in aflatoxin as to provide possible cause for rejection, he shall promptly notify the seller and the Manager, Peanut Administrative Committee, Atlanta, Ga. Upon a determination of the Peanut Administrative Committee, confirmed by the Agricultural Marketing Service, authorizing rejection, such peanuts, and title thereto, if passed to the buyer, shall be returned to the seller. Seller shall not be precluded from replacing such peanuts if he so elects.

Seller shall, prior to shipment of a lot of shelled peanuts covered by this sales

contract, cause appropriate samples to be drawn by the Federal or Federal-State Inspection Service from such lot, shall cause the sample(s) to be sent to an AMS laboratory or if designated by the buyer, a laboratory listed on the most recent Committee list of approved laboratories to conduct such assay, for an aflatoxin assay and cause the laboratory, if other than the buyer's, to send one copy of the results of the assay to the buyer. The laboratory costs shall be for the account of the buyer and buyer agrees to pay them when invoiced by the laboratory or, in the event the seller has paid them, by the seller.

Any handler who fails to include such provisions in his sales contract shall be ineligible for indemnification payments with respect to any claim filed with the Committee on 1972 crop peanuts covered by the sales contract.

In addition, should any handler enter into any oral or written sales contract which fixes the level of aflatoxin at which rejection may be made and hence conflicts with these terms and conditions, the handler doing so will not be eligible for indemnification payments with respect to any claim filed with the Committee on 1972 crop peanuts on or after the filing date of a claim under such contract, except upon the Committee's finding that acceptance of such contract was inadvertent; and for purposes of this provision a claim shall be deemed to be filed when notice of possible rejection is first given to the Committee.

Any handler who fails to conform to the requirements of paragraph (h) of the "Incoming Quality Regulation—1972 Crop Peanuts" shall be ineligible for any indemnification payments until such condition or conditions are corrected to the satisfaction of the Committee.

Categories eligible for indemnification are the following:

Cleaned inshell peanuts:
(1) U.S. Jumbos.
(2) U.S. Fancy Handpicks.
(3) Valencia—Roasting Stock.[1]
(4) Runner Fancy.[2]
(5) Spanish Fancy.[2]

U.S. Grade shelled peanuts:
(1) U.S. No. 1.
(2) U.S. Splits.
(3) U.S. Virginia Extra-Large.
(4) U.S. Virginia Medium.

Shelled peanuts "with splits":
(1) Runners with splits meeting outgoing quality requirements.
(2) Spanish with splits meeting outgoing quality requirements.
(3) Virginias with splits meeting outgoing quality requirements.

[FR Doc.72-8533 Filed 6-7-72;8:45 am]

[1] Inshell peanuts with not more than 25 percent having shells damaged by discoloration, which are cracked or broken, or both.

[2] Inshell peanuts which except for size, meet the requirements for U.S. Fancy Handpicks as described in the current U.S. Grade Standards for Cleaned Virginia-Type Peanuts in the Shell.

Packers and Stockyards Administration

MAJOR LEWIS LIVESTOCK AUCTION SALES ET AL.

Posted Stockyards

Pursuant to the authority delegated under the Packers and Stockyards Act, 1921, as amended (7 U.S.C. et seq.), it was ascertained that the livestock markets named below were stockyards within the definition of that term contained in section 302 of the Act, as amended (7 U.S.C. 202), and notice was given to the owners and to the public by posting notices at the stockyards as required by said section 302, on the respective dates specified below.

Facility number, name, location of stockyard, and date of posting

ARKANSAS

AR-146 Major Lewis Livestock Auction Sales, Conway, May 10, 1972.

MISSOURI

MO-222 Cassville Livestock Market, Inc., Cassville, May 11, 1972.

OKLAHOMA

OK-187 Midway Sale Barn, Edmond, March 31, 1972.

PENNSYLVANIA

PA-148 Marland C. France, Doylestown, March 30, 1972.

VERMONT

VT-109 Central Vermont Commission Sales, Inc., East Montpelier, May 11, 1972.

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

JOHN R. BRANNIGAN,
Acting Chief, Registrations, Bonds, and Reports Branch, Livestock Marketing Division.

[FR Doc.72-8681 Filed 6-7-72;8:50 am]

DEPARTMENT OF COMMERCE

Office of Import Programs

MASSACHUSETTS INSTITUTE OF TECHNOLOGY ET AL.

Notice of Applications for Duty-Free Entry of Scientific Articles

The following are notices of the receipt of applications for duty-free entry of scientific articles pursuant to section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Public Law 89-651; 80 Stat. 897). Interested persons may present their views with respect to the question of whether an instrument or apparatus of equivalent scientific value for the purposes for which the article is intended to be used is being manufactured in the United States. Such comments must be filed in triplicate with the Director, Special Import Programs Division, Office of Import Programs, Washington, D.C. 20230, within 20 calendar days after the date on which this notice of application is published in the FEDERAL REGISTER

Amended regulations issued under cited Act, as published in the February 24, 1972, issue of the FEDERAL REGISTER, prescribe the requirements applicable to comments.

A copy of each application is on file, and may be examined during ordinary Commerce Department business hours at the Special Import Programs Division, Department of Commerce, Washington, D.C.

Docket No. 72-00476-01-77030. Applicant: Massachusetts Institute of Technology, 77 Massachusetts Avenue, Cambridge, MA 02139. Article; NMR spectrometer, Model R-20. Manufacturer: Hitachi Perkin-Elmer, Japan. Intended use of article: The article is intended to be used to obtain nuclear magnetic reasonance (nmr) spectra of organic, inorganic, and organometallic substances prepared in the chemical research laboratories. The article will also be used in the course, "Advanced Chemical Experimentation" to familiarize students with the advanced techniques commonly used in research. Application received by Commissioner of Customs: April 5, 1972.

Docket No. 72-00501-33-46040. Applicant: University of Virginia School of Medicine, Charlottesville, Va. 22901. Article: Electron microscope, Model EM 801 and HK-6 tilting stage. Manufacturer: AEI Scientific Apparatus, United Kingdom. Intended use of article: The article is intended to be used for ultrastructural studies of the central nervous system. Specifically, examination of the normal ultrastructure of synapses as well as any laminar difference in synaptic type in the visual cortex of the rat. In this study, degenerating boutons will be examined at different survival times to attempt to determine if there is a selective loss of a certain type of synapse on particular areas of the neuron or its process. Another area of study will be concerned with the ultrastructural investigation of the visual system in a number of different species to be carried out in connection with silver impregnation studies. Application received by Commissioner of Customs: April 17, 1972.

Docket No. 72-00507-65-46040. Applicant: The Pennsylvania State University, Engineering Mechanics, 127 Hammond Building, University Park, Pa. 16802. Article: Electron microscope, Model JEM-120U, and goniometer stage. Manufacturer: JEOL, Ltd., Japan. Intended use of article: The article is intended to be used in a wide range of graduate and undergraduate teaching, and research programs in the Department of Engineering Mechanics at the university. The emphasis of the materials program at the university is the relationship between microstructure, processing variables, and mechanical properties. The type of phenomena which are to be studied are:

(1) Effect of microstructural variation toughness and wear of hard metal, tool materials.

(2) Effect of production variables on high temperature properties of dispersion-strengthened composite materials.

(3) Microstructural variations during sintering of powder metal compacts.

(4) Precipitation and phase transformations in metals and alloys.

(5) Deformation substructure studies of materials.

(6) Annealing phenomena in metals and ceramics.

The educational programs in which the article will be used are in conjunction with undergraduate courses and graduate courses in materials science, mechanical properties of materials and fracture mechanics. These courses involve laboratory exercises and demonstrations in microstructures of metal alloys and ceramics, and diffraction methods. Application received by Commissioner of Customs: April 18, 1972.

Docket No. 72–00512–99–46040. Applicant: Colgate University, Hamilton, N.Y. 13346. Article: Electron microscope, Model EM 9S–2. Manufacturer: Carl Zeiss, West Germany. Intended use of article: The article is intended to be used in the course entitled "Ultrastructural Cytology: Principles of Electron Microscopy" to introduce the students to the theory and techniques employed in working with plant and animal tissues at the ultrastructural level. Each student will be trained in how to prepare tissues for sectioning, how to use the ultramicrotome for obtaining sections, how to use the electron microscope to obtain high quality micrographs for interpretation and study, and finally, how to interpret these micrographs. Application received by Commissioner of Customs: April 21, 1972.

Docket No. 72–00513–01–77040. Applicant: University of Minnesota, Department of Chemistry, Minneapolis, Minn. 55455. Article: Mass spectrometer, Model MS–30. Manufacturer: Picker Nuclear, United Kingdom. Intended use of article: The article is intended to be used as a service instrument for low and high resolution spectra of compounds submitted by the faculty members and their students. It will be used as a teaching instrument in a modern analytical course and also will be used by graduate students for special long-term studies in organic and biological chemistry. Some of the specific applications of the article as a general service instrument for use in long-term studies are as follows:

(1) Investigation into the spatial relationship of the active sites of enzymes using ESR.

(2) Elucidation of the structures of compounds produced by the reaction of the diradical species SO with an unconjugated olefin.

(3) Studies of alkaloids, *Cinchona, gramine, sparteine, N-methyl cystine* and *Nicotine.*

(4) Investigations in heterocyclic chemistry.

(5) Biosynthetic studies and identification of mycotoxins.

Graduate and undergraduate students will also be taught to operate the article. Application received by Commissioner of Customs: April 24, 1972.

Docket No. 72–00515–00–46040. Applicant: Pritzker School of Medicine, the University of Chicago, 950 East 59th Street, Chicago, IL 60637. Article: Shutter/exposure meter. Manufacturer: Siemens AG, West Germany. Intended use of article: The article is intended to be used as an accessory to an Elmiskop 1A electron microscope to study the ultrastructure of mammalian heart muscle, with particular emphasis on changes in structure which occur in heart disease. The article will also be used to teach medical students as part of the course Medical Biology 310. Application received by Commissioner of Customs: April 24, 1972.

Docket No. 72–00516–00–46040. Applicant: The Pritzker School of Medicine, the University of Chicago, 950 East 59th Street, Chicago, IL 60637. Article: Universal camera. Manufacturer: Siemens AG, West Germany. Intended use of article: The article will be used as an accessory to an Elmiskop 1A electron microscope to study the ultrastructure of mammalian heart muscle, with particular emphasis on changes in structure which occur in heart disease. The article will also be used in the teaching of electron microscope techniques to medical students and the teaching of quantitative electron microscopic techniques to graduate students. Application received by Commissioner of Customs: April 24, 1972.

Docket No. 72–00517–33–46040. Applicant: University of Illinois, Eye and Ear Infirmary, 1855 West Taylor Street, Chicago, IL 60612. Article: Electron microscope, Model JEM 100B. Manufacturer: JEOL, Ltd., Japan. Intended use of article: The article is intended to be used in the investigation of ocular, ocular adnexal, and brain tissues obtained both from enucleated human eyes and experimental animals. Current projects include: (1) A study of argon laser photocoagulation on the cornea iris, anterior chamber angle, retina and choroid of the human eye; (2) a study of the vascular changes of Coats' disease, a pediatric ocular disease; (3) a study of the optic nerve changes associated with hereditary-primary tapetal-retinal degeneration of canines; and (4) studies related to retinal degeneration following experimental retinal detachment in monkeys. Application received by Commissioner of Customs: April 24, 1972.

Docket No. 72–00518–99–61800. Applicant: University of Colorado, Purchasing Services Department, Regent Box 8, Boulder, CO 80302. Article: Planetarium projection instrument, Model VI. Manufacturer: Carl Zeiss AG, West Germany. Intended use of article: The article is intended to be used primarily for university classes in astronomy and related sciences, in other fields that touch on astronomy or astronomical lore, and in teacher training. The article will also be used for a variety of public events: Lectures, films, theatrical and dance productions, and concerts. Application received by Commissioner of Customs: April 24, 1972.

Docket No. 72–00519–33–46040. Applicant: St. Paul-Ramsey Hospital and Medical Center, 640 Jackson Street, St. Paul, MN 55101. Article: Electron microscope, Model JEM 100B and goniometer stage. Manufacturer: JEOL Ltd., Japan. Intended use of article: The article is intended to be used in the investigation of the structural alterations of different membranes (i.e., glomerular basement membrane, cell membranes, endoplasmic reticulum, mitochondrial membrane, etc.) in health and in disease, as well as the recognition, structure, and role of "virus-like particles" in different human diseases, i.e., certain collagen diseases, tumors skin diseases). The article will also serve an important role in the postgraduate educational program of the St. Paul-Ramsey Hospital and Medical Center. Application received by Commissioner of Customs: April 24, 1972.

Docket No. 72–00522–01–77030. Applicant: The City College of the City University of New York, Department of Chemistry, Convent Avenue and 138th Street, New York, N.Y. 10031. Article: NMR spectrometer, Model JNM–MH–100. Manufacturer: JEOL Ltd., Japan. Intended use of article: The article is intended to be used for instruction and training of undergraduate and graduate students in the performance of N.M.R. experiments in conjunction with undergraduate and graduate courses in spectroscopy or organic chemistry or in conjunction with undergraduate and graduate student research. In addition the article is intended to be used for the following:

(1) Routine monitoring of crude reaction mixtures by examination principally of proton resonances as reaction proceeds; examination of crude and purified products in routine synthesis;

(2) Precision N.M.R. spectroscopy of organic and organometallic compounds such as organosilicon substituted fulvenes to determine chemical shifts and coupling constants with high accuracy;

(3) Double resonance spin decoupling experiments in conjunction with abovementioned projects;

(4) Signal coalescence experiments over a wide temperature range associated with studies of energy barriers for rotation of compounds possessing e.g. N–N bonds.

The article will also be used in the courses: Chemistry 11—Advanced Laboratory methods and techniques and Chemistry 99—(Research) Introduction to methods and techniques of chemical research utilizing nuclear magnetic resonance and other instrumentation techniques. Application received by Commissioner of Customs: April 26, 1972.

Docket No. 72–00523–33–10550. Applicant: University of Michigan, 162 Research Administration Building, Ann Arbor, Mich. 48105. Article: Small animal radiochromatogram scanner. Manufacturer: Vertriebs-G.m.b.H. Fur Messtechnik, West Germany. Intended use of article: The article is intended to be

used in research dealing with the synthesis of radiopharmaceuticals for diagnosis and treatment of cancer. Application received by Commissioner of Customs: April 26, 1972.

Docket No. 72-00524-65-46040. Applicant: University of Illinois at Urbana-Champaign, Purchasing Division, 223 Administration Building, Urbana, Ill. 61801. Article: Electron microscope, Model HU-200F. Manufacturer: Hitachi, Ltd., Japan. Intended use of article: The article is intended to be used in studies of refractory metals, steels, concrete, bcc. metals, copper alloys, aluminum alloys, composites, bone, and strong ceramic and other compounds to determine the pertinent aspects of the structure of a material, and how these aspects are influenced by material processing or treatment. In addition the article will be used in the course 499, Thesis Research by students in the Departments of Metallurgy and Mining, Physics, Civil Engineering Ceramics, Theoretical and Applied Mechanics, and Mechanical Engineering. Application received by Commissioner of Customs: April 28, 1972.

Docket No. 72-00525-33-46040. Applicant: Merck Institute for Therapeutic Research, West Point, Pa. 19486. Article: Electron microscope, Model EM 300. Manufacturer: Philips electronic instruments NVD, The Netherlands. Intended use of article: The article is intended to be used to study structures near the resolution limit, specifically, changes in cellular subunits, membranes, etc., that are induced in transformed cells and viruses of known or suspected oncogenicity. Application received by Commissioner of Customs: April 28, 1972.

Docket No. 72-00526-33-46040. Applicant: Children's Hospital Medical Center, 300 Longwood Avenue, Boston, MA 02115. Article: Electron microscope, Model EM 300. Manufacturer: Philips electronic instruments NVD, The Netherlands. Intended use of article: The article is intended to be used in the investigation of the ultrastructural basis for altered renal function in immunological disease of childhood. The investigation involves the study of ultrathin sections of kidneys from animals in which a variety of immune complex diseases have been induced, as well as renal biopsies from selected patients suffering immunological renal disease. In addition, the article is intended to be used for the training of selected graduate and postdoctoral students in the application of electron microscopy to the study of human disease. Application received by Commissioner of Customs: April 28, 1972.

Docket No. 72-00527-01-77030. Applicant: University of Michigan, Ann Arbor, Mich. 48104. Article: NMR spectrometer, Model JNM-PS/PFT 100. Manufacturer: JEOL Ltd., Japan. Intended use of article: The article is intended to be used in studies which include:

(1) Chemical and structural analyses of organic and inorganic compounds by means of ^{1}H and ^{13}C magnetic resonance.

(2) Structural and dynamical studies of natural products and biologically interesting molecules.

(3) Observation of the ^{205}Tl and ^{119}Sn resonances in physical and dynamical studies on electrolyte solutions, as well as in structural studies of organometallic compounds.

The article is also intended to be used to train students to use the instrument in C. W. and F. T. mode. Students will operate the instrument routinely in the course of dissertation and predoctoral research. Application received by Commissioner of Customs: May 2, 1972.

Docket No. 72-00528-01-77030. Applicant: Virginia Polytechnic Institute and State University, Blacksburg, Va. 24061. Article: NMR spectrometer, Model JNM-PS-100. Manufacturer: JEOL Ltd., Japan. Intended use of article: The article is intended to be used to carry out the following research objectives:

(1) Measurement of electron-exchange rates between nitrogen-containing organometallic complexes in various stages of oxidation.

(2) Determination of ^{13}C and ^{1}H spectra of the colored modifications of photochromic and thermochromic organic compounds.

(3) Determination of ^{13}C, ^{1}H, and ^{19}F spectra, for use in ascertaining structures of newly-synthesized compounds and in testing theoretical calculations of electronic structure.

(4) Determination relaxation times (T_1 and T_2) in a wide variety of systems ranging from highly crystalline polymers to gases at a variety of temperatures.

(5) Determination of magnetic susceptibility of inorganic compounds as a function of temperature.

(6) Study of association phenomena as a function of temperature.

(7) Study of broadline NMR spectra of solids over a wide temperature range.

The article will also be used for instructing undergraduate and graduate students in the methods and uses of both continuous-wave and Fourier-transform NMR spectroscopy. Application received by Commissioner of Customs: May 2, 1972.

Docket No. 72-00514-33-46070. Applicant: Iowa State University of Science and Technology, Iowa State University, Department of Zoology and Entomology, Ames, Iowa 50010. Article: Scanning electron microscope, Model JSM-S1. Manufacturer: JEOL Ltd., Japan. Intended use of article: The article is intended to be used in the investigations of problems relating to biological surface structures. In particular, the application of scanning electron microscopy to insect surface structures is useful in the identification and classification of characters used in the study of insect morphology and physiology. The instrumentation requirements involve simple imaging of secondary electrons from insect surfaces coated with a conductive metal film. The article will also be employed as a direct teaching tool in the courses: Zoology 572—Insect Morphology, Zoology 574—Medical Entomology and Zoology 576, 577—Systematic Entomology. In addition the article will be used as a training tool in the courses Botany 680—Laboratory in Electron Microscopy and Biochemistry 574, 576—Microscopy, Laboratory in Microscopy to train students in the technique of scanning electron microscopy and associated specimen preparation techniques. Application received by Commissioner of Customs: April 24, 1972.

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

[FR Doc.72-8643 Filed 6-7-72;8:48 am]

REED COLLEGE ET AL.

Notice of Consolidated Decision on Applications for Duty-Free Entry of Scientific Articles

The following is a consolidated decision on applications for duty-free entry of scientific articles pursuant to section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Public Law 89-651, 80 Stat. 897) and the regulations issued thereunder as amended (37 F.R. 3892 et seq.).

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

Decision: Applications denied. Applicants have failed to establish that instruments or apparatus of equivalent scientific value to the foreign articles, for such purposes as the foreign articles are intended to be used, are not being manufactured in the United States.

Reasons: Section 701.8 of the regulations provides in pertinent part:

> The applicant shall on or before the 20th day following the date of such notice, inform the Deputy Assistant Secretary whether it intends to resubmit another application for the same article for the same intended purposes to which the denied application relates. The applicant shall then resubmit the new application on or before the 90th day following the date of the notice of denial without prejudice to resubmission, unless an extension of time is granted by the Deputy Assistant Secretary in writing prior to the expiration of the 90-day period. * * * If the applicant fails, within the applicable time periods specified above, to either (a) inform the Deputy Assistant Secretary whether it intends to resubmit another application for the same article to which the denial without prejudice to resubmission relates, or (b) resubmit the new application, the prior denial without prejudice to resubmission shall have the effect of a final decision by the Deputy Assistant Secretary on the application within the context of § 701.11.

The meaning of the section is that should an applicant either fail to notify the Deputy Assistant Secretary of its intent to resubmit another application for the same article to which the denial without prejudice relates within the 20-day period, or fails to resubmit a new application within the 90-day period, the prior denial without prejudice to resubmission will have the effect of a final denial of the application.

None of the applicants to which this consolidated decision relates has satisfied the requirements set forth above, therefore, the prior denials without prejudice have the effect of a final decision denying their respective applications.

Section 701.8 further provides:

> * * * the Deputy Assistant Secretary shall transmit a summary of the prior denial without prejudice to resubmission to the FEDERAL REGISTER for publication, to the Commissioner of Customs, and to the applicant.

Each of the prior denials without prejudice to resubmission to which this consolidated decision relates was based on the failure of the respective applicants to submit the required documentation, including a completely executed application form, in sufficient detail to allow the issue of "scientific equivalency" to be determined by the Deputy Assistant Secretary.

Docket No. 71-00321-01-77030. Applicant: Reed College, Department of Chemistry, 3203 Southeast Woodstock Boulevard, Portland, OR 97202. Article: NMR spectrometer, Model R-20B. Date of denial without prejudice to resubmission: February 18, 1972.

Docket No. 71-00463-00-00500. Applicant: University of South Carolina, Purchasing Department, Columbia, S.C. 29208. Article: Step motor controller, 95/2224-1/6. Date of denial without prejudice to resubmission: February 18, 1972.

Docket No. 71-00475-00-42900. Applicant: Yale University, Purchasing Department, 260 Whitney Avenue, New Haven, CT 06520. Article: Two cobalt steel pole piece tips and two coils for magnet. Date of denial without prejudice to resubmission: February 18, 1972.

Docket No. 71-00483-33-46040. Applicant: The Johns Hopkins University, Charles and 34[illegible]n Streets, Baltimore, MD 21218. Article: Electron microscope, Model JEM T-8. Date of denial without prejudice to resubmission: January 17, 1972.

Docket No. 72-00269-99-03400. Applicant: Catholic University of Puerto Rico, U.S. Peace Corps, Audio-Visual Aids Development Coordinator, 32 Cristina Street, Ponce, PR 00731. Article: 24 crusader projectors. Date of denial without prejudice to resubmission: February 14, 1972.

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

[FR Doc.72-8642 Filed 6-7-72;8:48 am]

UNIVERSITY OF ALASKA

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

The following is a decision on an application for duty-free entry of a scientific article pursuant to section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Public Law 89-651, 80 Stat. 897) and the regulations issued thereunder as amended (37 F.R. 3892 et seq.).

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

Docket No. 71-00469-89-44630. Applicant: University of Alaska, Geophysical Institute, College, Alaska 99701. Article: One weather station consisting of RIMCO "Summer" Mk II long period recorder types 2/W-D, Type 2/T2, and Type 2RA/R, and two containers Type CO/S. Manufacturer: Rauchfuss Instruments & Staff PTY, Ltd., Australia. Intended use of article: The article will be used for unattended operation in a project to record meteorological parameters.

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

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

Reasons: The applicant claims a requirement for meteorological recorders capable of unattended operation in polar regions of northern Alaska for up to 12 months, due to unaccessibility of these regions except for limited periods during the summer. The National Bureau of Standards (NBS) advises in its memorandum dated April 12, 1972, that it finds the stated requirement for unattended operation for up to 12 months to be pertinent. NBS also adivses that the foreign article satisfies this pertinent specification and that it knows of no domestic manufacturer of an item scientifically equivalent to the foreign article for the applicant's intended use.

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

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

[FR Doc.72-8644 Filed 6-7-72;8:48 am]

UNIVERSITY OF ARKANSAS

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

The following is a decision on an application for duty-free entry of a scientific article pursuant to section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Public Law 89-651, 80 Stat. 897) and the regulations issued thereunder as amended (37 F.R. 3892 et seq.).

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

Docket No. 71-00404-01-77030. Applicant: University of Arkansas, Fayetteville, Ark. 72701. Article: NMR Spectrometer, Model HFX-90/7-18. Manufacturer: Bruker Scientific, Inc., West Germany.

Intended use of article: The article will be used for research on the elucidation of molecular structure of organic and inorganic compounds; studies of chemically induced dynamic nuclear polarization; reaction rate and mechanism studies; identification of unknown compounds; quantitative analysis of mixtures and determination of sample purity; the study of solvent effects and the state of aggregation of organometallic reagents; and to train graduate students in the use of nuclear magnetic resonance spectroscopy for the above purposes.

Comments: Comments have been received from Varian Associates (Varian) which allege, inter alia, that the applicant would have had an operating system more quickly if he would have purchased the Varian XL-100-15. Varian also commented that to consider duty-free entry on the basis of delivery time would seem to be completely inappropriate.

Decision: Application approved. No instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, could have been made available to the applicant without excessive delay in the delivery time at the time the foreign article was ordered (June 25, 1970).

Reasons: The foreign article is an instrument that is customarily produced on order. Section 701.2(j) of the above-cited regulations provides:

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

Availability without unreasonable delay is associated with excessive delivery time which is explained in § 701.11(c) of the regulations as follows:

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

In its invitation to bid the applicant specified delivery and installation of all items to be complete within 150 days of purchase order date. The manufacturer of the foreign article offered delivery and installation of all items comprising the order to be complete within 150 days after receipt of order (ARO). Varian quoted a delivery and installation time of

250 days ARO for the basic XL–100–15 and 310 days for undefined remaining accessories. Varian commented that "the applicant has state(d) (sic) that shortest delivery time obtainable from Varian was 310 days. Varian's quotation in fact state(d) (sic) delivery to be 210–240 days (7–8 months), not 310 days." Although Varian did give a general delivery date of "7–8 months ARO" on the reply to the applicant's invitation to bid, Varian's June 17, 1970, letter to the applicant wherein it quoted the XL–100–15 stated in part that "the following comments and clarifications are to be considered a part of the Varian response to RFQ No. 6906." These comments and clarifications contained the following statement, "Delivery and installation of the basic system is to be complete within 250 days of purchase order. Delivery of remaining accessories to be complete within 310 days of purchase order." Even if delivery of the unnamed "remaining accessories" did not render the article unusable for the applicant's intended purposes, the difference in quoted delivery times represented at least 100 days or nearly an entire semester. Varian also commented that the "delivery of the HFX 10 from date of order, June 8, did not enter the United States until November 23 a 6-month period. * * * the applicant would have had operating system more quickly if he would have purchased the Varian XL–100–15." In fact, the actual date of order was June 25, 1970. Thus the period between order and entry was slightly under 5 months. Even if delivery and installation of the foreign article were to slightly exceed the quoted 150 days, a situation over which the applicant had no knowledge of or control over at the time of order, neither Varian's bid response to the applicant nor its comments provide evidence that the article could be fully installed and operational "more quickly if he would have purchased the Varian XL–100–15."

In reply to question 14 of the application, the applicant stated that (1) the foreign article would be delivered at the beginning of the academic year for use within the Chemistry Department on a research grant that required the foreign article; and (2) the difference in delivery times between the domestic and foreign articles would delay (i) obtaining graduate degrees by 1 year for two students whose research depended on such instrumentation, and (ii) work on a research grant by a Chemistry Department faculty member. The applicant also indicates that there are other professors (5) and graduate students whose research efforts will be slowed if there is an undue delay in receiving the instrument. The National Bureau of Standards advises in its memorandum dated October 20, 1972, that the 150-day delivery and installation time bid by the foreign manufacturer is a pertinent factor for the applicant's intended use. Accordingly, we find the difference in delivery times contracted by the foreign manufacturer and quoted by the domestic manufacturer to be excessive within the meaning of § 701.11(c) in that the differences would seriously impair the accomplishment of the purposes described by the applicant in response to question 7.

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

[FR Doc.72–8645 Filed 6–7–72;8:48 am]

UNIVERSITY OF CALIFORNIA

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

The following is a decision on an application for duty-free entry of a scientific article pursuant to section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Public Law 89–651, 80 Stat. 897) and the regulations issued thereunder as amended (37 F.R. 3892 et. seq.).

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

Docket No. 72–00160–00–14200. Applicant: University of California, Los Alamos Scientific Laboratory, Post Office Box 990, Los Alamos, NM 87544. Article: Accessories for analyzing TV computer. Manufacturer: Metals Research Limited, United Kingdom. Intended use of article: The articles are accessories for an existing computer.

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

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

Reasons: The foreign articles are compatible accessories for an IMANCO image analyzing computer. The article will extend present capabilities of the existing instrument in studies of various microstructural properties and parameters of materials and their relationship to such factors as temperature, mechanical stress and radiation effects. The National Bureau of Standards (NBS) advises in its memorandum dated April 20, 1972, that the foreign article (consisting of program boards, size distributer module, epidioscope, vidicon scanning head, lenses and power supply) are pertinent to the applicant's intended uses in conjunction with the image analyzing computer. NBS also advises that it knows of no domestically manufactured items scientifically equivalent to the foreign articles for the applicants intended use with an IMANCO image analyzing computer.

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

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

[FR Doc.72–8646 Filed 6–7–72;8:48 am]

UNIVERSITY OF CINCINNATI

Notice of Application for Duty-Free Entry of Scientific Article and Decision Thereon

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

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

Docket No.: 72–00461–99–90500. Applicant: University of Cincinnati, Clifton Avenue, Cincinnati, Ohio 45221. Article: One (1) Casavant Organ. Manufacturer: Casavant-Freres Pipe Organ Builders, Canada. Intended use of article: The article is intended to be used for educational use at College, Conservatory of Music, at the University. Application received by Commissioner of Customs: March 28, 1972. Decision: The determination required of the Secretary of Commerce by the Act cannot be made with respect to this application. Reasons: Public Law 89–651 provides, inter alia, for duty-free treatment with respect to

> Articles entered for use of any nonprofit institution, whether public or private, established for educational or scientific purposes * * * if no instrument or apparatus of equivalent scientfic value for the purposes for which the instrument or apparatus is intended to be used is being manufactured in the United States. (Section 6(c)(1))

Under the Act, the only function of the Secretary of Commerce is to determine "whether an instrument or apparatus of equivalent scientific value to such [the foreign] article, for the purposes for which the instrument or apparatus is intended to be used, is being manufactured in the United States." (Section 6(c)(3), headnote 6(c)). In order for the Secretary to make this determination of domestic availability (i.e., "being manufactured in the United States"), it is clear that some scientific use for the foreign article, whether educational or research, must be intended. The article which is the subject of this application is a Casavant Organ with Bombard Stop. The article is intended for an educational use not associated with science in the University of Cincinnati Conservatory of Music.

It is clear that the foreign article does not possess any scientific value for the purposes for which it is intended to be used. Therefore, it is not possible to make the determination of equivalency of scientific value required by the previously quoted headnote 6(c) of section 6(c)(3) of the Act. (See Dockets Nos. 67–00014–00–00000 and 68–00676–99–69900

for two prior applications involving similar circumstances in which foreign articles were determined not to possess scientific value in connection with intended uses.)

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

[FR Doc.72-8647 Filed 6-7-72;8:49 am]

UNIVERSITY OF NORTH CAROLINA

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

The following is a decision on an application for duty-free entry of a scientific article pursuant to section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Public Law 89-651, 80 Stat. 897) and the regulations issued thereunder as amended (37 F.R. 3892 et seq.).

A copy of the record pertaining to this decision is available for public review during ordinary business hours of the Department of Commerce, at the Office of Import Programs, Department of Commerce, Washington, D.C. Docket No. 71-00384-33-46040. Applicant: University of North Carolina, Dental Research Center, Chapel Hill, N.C. 27514. Article: Electron microscope, Model EM-801. Manufacturer: Associated Electrical Industries, Ltd., United Kingdom. Intended use of article: The article will be used in several fine structural studies of orofacial growth and development in tissues taken mainly from experimental animals. Particular studies to be carried out include: Investigations of the relationship between satellite cells and nerve cells in the trigeminal ganglion, the development of the myelin sheaths in the peripheral branches of the trigeminal nerve, and studies of palatal development and closure.

Comments: Comments have been received from one domestic manufacturer, Forgflo Corp. (Forgflo), which alleges, inter alia, that its "Model Paragon electron microscope exceeds the AEI EM801 [foreign article] in every area specified by the applicant."

Decision: Application approved. No domestic manufacturer was both able and willing to produce an instrument or apparatus within the United States of equivalent scientific value to the foreign article, for such purposes as the article is intended to be used, and have it available without unreasonable delay to the applicant at the time the foreign article was ordered (December 16, 1970).

Reasons: The Department of Health, Education, and Welfare (HEW) advises in its memorandum dated June 18, 1971, that a tilt stage allowing maintenance of 5 angstroms (Å) resolution and a capability for obtaining distortion-free, low- and high-magnification micrographs without movement of the specimen to change a pole piece is necessary to the applicant's study of relationships of membranes of nerve cells in the trigeminal ganglion and branches of the trigeminal nerve. Such a stage and low distortion capability are then pertinent specifications under the meaning of section 701.2(n) of the regulations. The foreign article provides a tilt stage which operates at 5Å resolution as well as high-quality micrographs of a selected site at magnifications (×) of 100 and 1,000 to 160,000× without movement of the specimen to change a pole piece.

Comparable electron microscopes are produced in the United States by only one manufacturer: Forgflo. Forgflo has published specifications for two electron microscopes, i.e., the Model EMU-4C and the Paragon. The EMU-4C can be equipped with a tilt stage but this stage is guaranteed to provide 8Å resolution in operation. As to magnification, the EMU-4C, with its standard pole piece, has a specified magnification of 1,400 to 240,000×. For survey and scanning the lower end of this range can be extended to 200× or less but the continued reduction of magnification induces an increasingly greater distortion. For high quality micrographs between 500 and 70,000×, the standard pole piece on the EMU-4C can be exchanged for a low magnification pole piece. Thus, as in the case of the tilt stage, the EMU-4C does not match the pertinent specifications of the foreign article with respect to magnification. Accordingly, we find that the EMU-4C is not of equivalent scientific value to the foreign article for the purposes that the foreign article is intended to be used.

The "Paragon" is an instrument that is customarily produced on order. Section 701.2(j) of the regulations defines produced on order as follows:

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

Section 701.11(b) of the regulations provides as to availability of such instruments:

> An instrument, apparatus, or accessory shall be considered as being manufactured in the United States if it is customarily produced for stock, produced on order, or custom made within the United States. In determining whether a U.S. manufacturer is able and willing to produce a produced on order, or custom-made instrument, apparatus, or accessory and have it available without unreasonable delay to the applicant the Deputy Assistant Secretary shall take into account the normal commercial practices applicable to the production and delivery of instruments, apparatus, or accessories of the same general category. * * *

As to the Forgflo Model "Paragon," we note that: (1) The Department of Commerce knows of no instance wherein Forgflo demonstrated that it had produced an instrument conforming to the printed specifications of the Paragon. (2) Although the design of the Paragon apparently had been completed as of the date of the comments, the component parts were not. And further, the instrument had not reached, in performance, its design specifications. (3) Forgflo's published material relating to the Paragon did not include information on delivery and Forgflo has never been able to provide the Department of Commerce with a firm delivery date. (4) Although Forgflo has accepted orders for the Paragon, delivery has been set back, and Forgflo has not been able to deliver a single Paragon to this date.

Accordingly, we find that at the time the foreign article was ordered, Forgflo was not both able and willing to make available to the applicant an instrument or apparatus of equivalent scientific value to the foreign article for such purposes as this article is intended to be used, within the meaning of § 701.11(b) of the regulations. (We cite as a precedent our prior decisions relating to Dockets Nos. 71-00414-33-46040, 71-00439-33-46040 and 71-00461-33-46040 which conform in essential particulars to the captioned application.)

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

[FR Doc.72-8648 Filed 6-7-72;8:49 am]

UNIVERSITY OF PITTSBURGH

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

The following is a decision on an application for duty-free entry of a scientific article pursuant to section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Public Law 89-651, 80 Stat. 897) and the regulations issued thereunder as amended (37 F.R. 3892 et seq.).

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

Docket No. 71-00441-65-46040. Applicant: University of Pittsburgh, Oakland Campus, Pittsburgh, Pa. 15213. Article: Electron microscope, Model JEM-120 (JEM-100U). Manufacturer: Japan Electron Optics Laboratory Co., Ltd., Japan.

Intended use of article: The article will be used in studies of precipitation and phase transformations in metals and alloys; precipitation and crystallization in crystalline ceramics and glasses; crystallization and morphology of polymers; deformation substructure studies of single and two-phase materials; annealing phenomena in metals and ceramics; fractography of metallic, ceramic and polymeric materials; and magnetic domain structures.

Comments: Comments have been received from one domestic manufacturer, Forgflo Corp. (Forgflo), which alleges, inter alia, that the Forgflo Model Paragon is of equivalent scientific value to the instrument for which duty-free entry has been requested for the purposes stated in the application for which the instrument is intended to be used.

Decision: Application approved. No domestic manufacturer was both able and willing to produce an instrument or apparatus in the United States of equivalent scientific value to the foreign article, for such purposes as the article is intended to be used, and have it available without unreasonable delay to the applicant at the time the order for the foreign article was placed (February 1, 1971).

Reasons: The National Bureau of Standards (NBS) advises in its memorandum dated January 28, 1972, that (1) a goniometer hot stage is necessary for the applicant's intended use in phase transformation studies; (2) a tensile deformation stage is necessary for the applicant's intended use in deformation of materials studies; and (3) a magnetic domain observation capability is necessary for the applicant's intended use in the study of magnetic domain structures. These characteristics, which are possessed by the foreign article and guaranteed by the foreign manufacturer, are then pertinent specifications within the meaning of section 701.2(n) of the regulations. The Forgflo Model Paragon (Paragon) is an instrument that is customarily produced on order. Section 701.2(j) of the regulations defines produced on order as follows:

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

Section 701.11(b) of the regulations provides as to availability of such instruments:

An instrument, apparatus, or accessory shall be considered as being manufactured in the United States if it is customarily produced for stock, produced on order, or custom-made within the United States. In determining whether a U.S. manufacturer is able and willing to produce a product on order, or custom-made instrument, apparatus, or accessory and have it available without unreasonable delay to the applicant the Deputy Assistant Secretary shall take into account the normal commercial practices applicable to the production and delivery of instruments, apparatus, or accessories of the same general category * * *.

As to the Forgflo Model "Paragon," we note that: (1) The Department of Commerce knows of no instance wherein Forgflo demonstrated that it had produced an instrument conforming to the printed specifications of the Paragon. (2) Although the design of the Paragon apparently had been completed as of the date of the comments, the component parts were not. And further, the instrument had not reached, in performance, its design specifications. (3) Forgflo's published material relating to the Paragon did not include information on delivery and Forgflo has never been able to provide the Department of Commerce with a firm delivery date. (4) Although Forgflo has accepted orders for the Paragon, delivery has been set back, and Forgflo has not been able to deliver a single Paragon to this date.

Accordingly, we find that at the time the application for duty-free entry of the foreign article was received, Forgflo was not both able and willing to make available without unreasonable delay to the applicant an instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, within the meaning of § 701.11(b) of the regulations.

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

[FR Doc.72-8649 Filed 6-7-72;8:49 am]

UNIVERSITY OF TENNESSEE

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

The following is a decision on an application for duty-free entry of a scientific article pursuant to section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Public Law 89-651, 80 Stat. 897) and the regulations issued thereunder as amended (37 F.R. 3892 et seq.).

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

Docket No. 72-00233-33-03400. Applicant: University of Tennessee, Purchasing Department, Knoxville, Tenn. 37916. Article: Audio training unit, Model Suvag 73. Manufacturer: Mecanique Generale France. Intended use of article: The article is intended to be used in a program to habilitate and rehabilitate deaf children and adults.

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

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

Reasons: The foreign article is a part of a system for teaching speech to the deaf. The Department of Health, Education, and Welfare (HEW) advises in its memorandum dated April 21, 1972, that the extended low frequency response and compatibility with other parts of the system provided by the article are pertinent to the applicant's intended purposes. HEW further advises that it knows of no comparable domestic instrument which is scientifically equivalent to the article for its intended purposes.

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

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

[FR Doc.72-8650 Filed 6-7-72;8:49 am]

UNIVERSITY OF WASHINGTON

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

The following is a decision on an application for duty-free entry of a scientific article pursuant to section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Public Law 89-651, 80 Stat. 897) and the regulations issued thereunder as amended (37 F.R. 3892 et seq.).

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

Docket No. 72-00261-87-78700. Applicant: University of Washington, Civil Engineering Department, Room 121, More Hall, Seattle, Wash. 98195. Article: Theodolite. Manufacturer: Kern & Co. Ltd., Switzerland. Intended use of article: The article is intended to be used in civil engineering courses dealing with precision positions where accuracies of reading to 0.7 are needed, such as in error analysis. Research and special student studies will use the article in work such as photo control and glacier movement research.

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

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

Reasons: The applicant states a requirement for a theodolite with a reading accuracy of 0.7 arc seconds for research and teaching involving precision positioning in photo control and glacier movement. The National Bureau of Standards (NBS) advises in its memorandum dated April 20, 1972, that the foreign article satisfies the requirement for high accuracy precision positioning and that this requirement is pertinent to the applicant's intended use. NBS further advises that it knows of no domestically manufactured instrument which is capable of satisfying this pertinent characteristic of the foreign article and, accordingly, that it knows of no domestically manufactured instrument scientifically equivalent to the foreign article for the applicant's intended use.

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

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

[FR Doc.72-8651 Filed 6-7-72;8:49 am]

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Office of the Secretary

DEPUTY ASSISTANT SECRETARY FOR ADMINISTRATION

Statement of Organization, Functions, and Delegations of Authority

Part 1 of the statement of organization, functions, and delegations of authority for the Department of Health, Education, and Welfare, Office of the Secretary, is amended to add new Chapter 1T04, Deputy Assistant Secretary for Administration. The new chapter reads as follows:

SEC. 1T04.00 *Mission.* The Deputy Assistant Secretary for Administration reports directly to the Assistant Secretary for Administration and Management and is principal advisor on matters having to

do with the administration of the functions listed below. These functions include the provision of administrative services to departmental headquarters and the provision of departmentwide leadership in the areas of procurement and materiel management, safety management, defense coordination, internal security, surplus property utilization, physical fitness and sports, printing, telecommunications, minority business assistance, and new careers. For the Office of the Secretary, the Deputy Assistant Secretary for Administration is Equal Employment Opportunity Officer.

SEC. 1T04.10 *Organization.* The Deputy Assistant Secretary for Administration is head of the Office of Administration. He is assisted by a Director for Administration, who acts as overall deputy and has delegated supervisory authority over the organizations in the Office of Administration.

The components of the Office of Administration are as follows:

Office of Administrative Services.
Office of Defense Coordination.
Office of Internal Security.
Office of Minority Business Assistance.
Office of New Careers.
Office of Procurement and Materiel Management.
Office of Safety Management.
Office of Surplus Property Utilization.
President's Council on Physical Fitness and Sports.
Equal Employment Opportunity Staff (Office of the Secretary).

SEC. 1T04.20 *Functions.* The functions of the Deputy Assistant Secretary for Administration are as reflected in the chapters in Part 1T04 of the Department Organization Manual devoted to the organizations listed in section 1T04.10 above. The Director for Administration has full authority to act for the Deputy Assistant Secretary in his absence.

Dated: June 1, 1972.

RODNEY H. BRADY,
Assistant Secretary for Administration and Management.

[FR Doc.72-8654 Filed 6-7-72;8:49 am]

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. D-72-183]

DIRECTOR, DETROIT, MICH., TASK FORCE

Redelegation of Authority

SECTION A. *Authority redelegated.* The Director, Detroit, Mich., Task Force, is authorized to exercise the following power and authority of the Secretary of Housing and Urban Development:

1. With respect to loan and contract servicing, the authority described in section A, paragraph 1, d through k, 35 F.R. 16104, October 14, 1970.

2. With respect to property disposition, the authority described in section A, 35 F.R. 16106, October 14, 1970.

SEC. B. *Additional authority redelegated.* The Director, Detroit, Mich., Task Force, and the Head of the Counseling Staff, are authorized to exercise the power and authority of the Secretary of Housing and Urban Development under sections 101(e) and 106(a) of the Housing and Urban Development Act of 1968 (12 U.S.C. 1701w and 1701x(a)) and section 237(e) of the National Housing Act (12 U.S.C. 1715z-2(e)), to provide, or contract with public or private organizations to provide, information, advice, and technical assistance, including but not limited to counseling on household management, self-help, budgeting, money management, child care, and related counseling services.

SEC. C. *Authority excepted.* There is excepted from the authority redelegated under section B the power to:

1. Exercise the powers under section 402(a) of the Housing Act of 1950 (12 U.S.C. 1749(a)).

2. Sue and be sued.

3. Issue rules and regulations.

(Secretary's delegation of authority to redelegate published at 36 F.R. 5005, Mar. 16, 1971)

Effective date. This redelegation of authority is effective as of May 1, 1972, and shall expire upon termination of the temporary detail to Detroit, Mich., Task Force.

NORMAN V. WATSON,
Assistant Secretary for Housing Management.

[FR Doc.72-8655 Filed 6-7-72;8:49 am]

ATOMIC ENERGY COMMISSION

[Docket No. 50-302]

FLORIDA POWER CORP.

Order Extending Provisional Construction Permit Completion Date

By application dated May 30, 1972, Florida Power Corp. requested an extension of the latest date specified in Provisional Construction Permit No. CPPR-51. The permit authorizes the construction of a pressurized water nuclear reactor designated as the Crystal River Unit 3 Nuclear Generating Plant at the applicant's site on the Gulf of Mexico, about 7 miles northwest of the town of Crystal River, Citrus County, Fla.

Good cause having been shown for this extension pursuant to section 185 of the Atomic Energy Act of 1954, as amended, and § 50.55(b) of 10 CFR Part 50 of the Commission's regulations: *It is hereby ordered,* That the latest completion date specified in Provisional Construction Permit No. CPPR-51 is extended from June 1, 1972, to September 30, 1974.

Date of issuance: June 1, 1972.

For the Atomic Energy Commission.

A. GIAMBUSSO,
Deputy Director for Reactor Projects, Directorate of Licensing.

[FR Doc.72-8617 Filed 6-7-72;8:46 am]

[Dockets Nos. 50-379—50-381]

GENERAL DYNAMICS CORP. AND NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

Notice of Withdrawal of Applications for Facility Licenses

Pursuant to § 2.107 of 10 CFR Part 2 of the Atomic Energy Commission's regulations, notice is hereby given that the General Dynamics Corp., Fort Worth, Tex., and the National Aeronautics and Space Administration, Washington, D.C., by letters dated May 8, 1972, and March 2, 1972, respectively, have withdrawn their applications for facility licenses to acquire, possess, use and operate the three reactors owned by the U.S. Air Force and located at the Nuclear Aerospace Reactor Facility (NARF) in Fort Worth, Tarrant County, Tex. The reactors making up the NARF are referred to as the Ground Test Reactor, Reactivity Test Assembly, and the Aerospace Systems Test Reactor. These reactors were constructed and have been operated by General Dynamics under contract with the Air Force pursuant to section 91b. of the Atomic Energy Act of 1954, as amended.

Notice of receipt of the applications was published in the FEDERAL REGISTER on March 30, 1971 (36 F.R. 5870).

Dated at Bethesda, Md., this 30th day of May 1972.

For the Atomic Energy Commission.

DONALD J. SKOVHOLT,
Assistant Director for Operating Reactors, Directorate of Licensing.

[FR Doc.72-8618 Filed 6-7-72;8:46 am]

CIVIL AERONAUTICS BOARD

[Docket No. 23852]

NORTHWEST-NATIONAL MERGER CASE

Notice of Oral Argument

Notice is hereby given, pursuant to the provisions of the Federal Aviation Act of 1958, as amended, that oral argument in the above-entitled matter is assigned to be held before the Board on July 26, 1972, at 10 a.m., local time, in Room 1027, Universal Building, 1825 Connecticut Avenue NW., Washington, D.C.

Dated at Washington, D.C., June 2, 1972.

[SEAL] RALPH L. WISER,
Chief Examiner.

[FR Doc.72-8674 Filed 6-7-72;8:50 am]

[Docket No. 23348; Order 72-6-8]

PIEDMONT AVIATION, INC., AND EASTERN AIR LINES, INC.

Order Setting Application for Hearing in Accordance With Subpart M Expedited Procedures

Adopted by the Civil Aeronautics Board at its office in Washington, D.C., on the 2d day of June 1972.

By Order 72-3-18, dated March 8, 1972, the Board set for further proceedings, pursuant to Rules 1301-1315 of the Board's procedural regulations, the joint application of Eastern Air Lines, Inc. (Eastern), and Piedmont Aviation, Inc. (Piedmont), for approval of the transfer of Eastern's authority at Charleston, W. Va., and Ashland, Ky./Huntington, W. Va. to Piedmont. Answers in opposition to the joint application were filed by the Louisville and Jefferson County Air Board (Louisville) and Ozark Air Lines, Inc. (Ozark). Both object to the transfer insofar as it would permit Piedmont to operate one-stop service between Louisville and Washington.[1]

Replies supporting the requested transfer of Eastern's authority to Piedmont filed by Louisville and Ozark were submitted by the county of Cabell, the city of Huntington, the Tri-State Airport Authority, and the Greater Huntington Chamber of Commerce (Huntington Parties), the Cincinnati Chamber of Commerce and the Greater Cincinnati Airport (Cincinnati Parties), the Central West Virginia Regional Airport Authority, Charleston Chamber of Commerce, and Committee of 100 (Charleston Parties), and Eastern and Piedmont.

Upon consideration of the pleadings and all the relevant facts, the Board has determined that Eastern's and Piedmont's joint application, Docket 23348, should be set for hearing pursuant to Subpart M procedures.

Accordingly, it is ordered, That:

1. The joint application of Eastern Air Lines, Inc., and Piedmont Aviation, Inc., in Docket 23348, be and it hereby is set for hearing before an examiner of the Board at a time and place to be hereafter designated; and

2. The proceedings in Docket 23348 will be conducted under the procedures of § 302.1312 et seq., of the Board's procedural regulations.

This order will be published in the FEDERAL REGISTER.

By the Civil Aeronautics Board.

[SEAL] HARRY J. ZINK,
Secretary.

[FR Doc.72-8673 Filed 6-7-72;8:50 am]

TARIFF COMMISSION

[TEA-W-144]

RCA CORP.

Workers' Petition for Determination; Notice of Investigation

On the basis of a petition filed under section 301(a)(2) of the Trade Expansion Act of 1962, on behalf of the workers of the Indianapolis, Ind., manufacturing plants of the RCA Corp., the U.S. Tariff Commission, on June 5, 1972, instituted an investigation under section 301(c)(2) of the Act to determine whether, as a result in major part of concessions granted under trade agreements, articles like or directly competitive with television yokes, television tuners and television horizontal output transformers (of the types provided for in item 685.20 of the Tariff Schedules of the United States (TSUS)) and unrecorded magnetic tape (item 724.45 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 petition filed in this case is available 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 a request is filed within 10 days after the notice is published in the FEDERAL REGISTER.

The petition filed in this case is available for inspection at the Office of the Secretary, U.S. Tariff Commission, Eighth and E Streets NW., Washington, DC, and at the New York City office of the Tariff Commission located in room 437*l* of the customhouse.

Issued June 5, 1972.

By order of the Commission.

[SEAL] KENNETH R. MASON,
Secretary.

[FR Doc.72-8659 Filed 6-7-72;8:51 am]

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

CERTAIN MAN-MADE FIBER TEXTILE PRODUCTS PRODUCED OR MANUFACTURED IN HONG KONG

Entry or Withdrawal From Warehouse for Consumption

JUNE 5, 1972.

On May 3, 1972, there was published in the FEDERAL REGISTER (37 F.R. 8961) a letter dated May 2, 1972, from the Chairman, Committee for the Implementation of Textile Agreements to the Commissioner of Customs, prohibiting, effective midnight May 5, 1972, entry into the United States for consumption and withdrawal from warehouse for consumption of man-made fiber textile products in Category 211 produced or manufactured in Hong Kong and exported therefrom during the 12-month period beginning October 1, 1971. It has been determined that the product coverage established in that letter for Category 211 should not have covered 3 T.S.U.S.A. numbers included in the instructions to the Commissioner of Customs.

Accordingly, there is published below a letter of June 5, 1972, from the Chairman of the Committee for the Implementation of Textile Agreements to the Commissioner of Customs amending the letter of May 2, 1972, by limiting the product coverage of Category 211 to a part of Category 211. This letter in no way changes the instructions contained in the letter of May 2, 1972, for the other 29 T.S.U.S.A. numbers included in Category 211.

STANLEY NEHMER,
Chairman, Committee for the Implementation of Textile Agreements, and Deputy Assistant Secretary for Resources.

ASSISTANT SECRETARY OF COMMERCE

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

COMMISSIONER OF CUSTOMS,
Department of the Treasury,
Washington, D.C. 20226.

JUNE 5, 1972.

DEAR MR. COMMISSIONER: This directive amends but does not cancel the directive issued to you on May 2, 1972, from the Chairman, Committee for the Implementation of Textile Agreements, regarding imports into the United States of man-made fiber textile products in Category 211, produced or manufactured in Hong Kong.

Under the provisions of the bilateral Wool and Man-Made Fiber Textile Agreement of January 6, 1972, between the Governments of the United States and Hong Kong, and in accordance with the procedures of Executive Order 11651 of March 3, 1972, you are directed to amend, effective as soon as possible, the product coverage established in the aforesaid directive of May 2, 1971, for Category 211 as set forth below.

CATEGORY

211 (excluding T.S.U.S.A. Nos. 345.1080, 345.3520 and 345.5011).

The actions taken with respect to the Government of Hong Kong and with respect to imports of man-made fiber textile products from Hong Kong have been determined by the Committee for the Implementation of Textile Agreements to involve foreign affairs functions of the United States. Therefore, the directions to the Commissioner of Customs, being necessary to the implementation of such actions, fall within the foreign affairs exception to the rule-making provisions of 5 U.S.C. 553. This letter will be published in the FEDERAL REGISTER.

Sincerely yours,

STANLEY NEHMER,
Chairman, Committee for the Implementation of Textile Agreements, and Deputy Assistant Secretary for Resources.

[FR Doc.72-8641 Filed 6-7-72;8:48 am]

FEDERAL COMMUNICATIONS COMMISSION

[Dockets Nos. 19515, 19516]

CALIFORNIA STEREO, INC., AND INTERCAST, INC.

Order Designating Applications for Consolidated Hearing on Stated Issues

In regard applications of California Stereo, Inc., Sacramento, Calif.; requests: Channel 293; 50 kw. (H and V);

[1] Allegheny also filed an answer indicating that it did not object to the transfer providing that Piedmont be restricted against operating single-plane service between Charleston and New York via Washington (Dulles)—which Allegheny contends, if permitted, could jeopardize the profitability of Allegheny's Charleston-Baltimore-New York operations.

420 feet, Docket No. 19515, File No. BPH–7668; and Intercast, Inc., Sacramento, Calif.; requests: Channel 293; 50 kw. (H and V); 420 feet, Docket No. 19516, File No. BPH–7669; for construction permits.

1. The Commission, by the Chief, Broadcast Bureau, acting pursuant to delegated authority, has for consideration the above-captioned applications which are mutually exclusive in that operation by the applicants as proposed would result in mutually destructive interference.

2. The principals in Intercast, Inc., are part of the black community of Sacramento and are proposing a primarily black-oriented programing format for their service area. California Stereo, Inc., proposes predominantly general market programing. Inasmuch as a full comparison of programing proposals is warranted when one applicant proposes predominantly specialized programing and the other proposes general market programing—Ward L. Jones, 6 FCC 2d 906; FCC 67–82 (1967); Policy Statement on Comparative Broadcast Hearings, 1 FCC 2d 393, footnote 9, at 397 (1965)—the programing proposals of the applicants will be considered under the standard comparative issue.

3. The applicants are qualified to construct and operate as proposed. However, because the proposals are mutually exclusive, they must be designated for hearing in a consolidated proceeding on the issues specified below.

4. *Accordingly, it is ordered,* That pursuant to section 309(e) of the Communications Act of 1934, as amended, the applications are designated for hearing in a consolidated proceeding, at a time and place to be specified in a subsequent order, upon the following issues:

1. To determine which of the proposals would, on a comparative basis, better serve the public interest.

2. To determine, in light of the evidence adduced pursuant to the foregoing issue, which of the applicants for a construction permit should be granted.

5. *It is further ordered,* That the applicants shall file a written appearance stating an intention to appear and present evidence on the specified issues, within the time and in the manner required by section 1.221(c) of the rules.

6. *It is further ordered,* That the applicants shall give notice of the hearing within the time and in the manner specified in § 1.594 of the rules, and shall seasonably file the statement required by § 1.594(g).

Adopted: May 31, 1972.

Released: June 2, 1972.

FEDERAL COMMUNICATIONS COMMISSION,
[SEAL] WALLACE E. JOHNSON,
Chief, Broadcast Bureau.

[FR Doc.72–8666 Filed 6–7–72;8:49 am]

FEDERAL POWER COMMISSION

[Docket No. RP71–5]

KANSAS-NEBRASKA NATURAL GAS CO., INC.

Notice of Settlement Agreement

JUNE 5, 1972.

Take notice that on May 19, 1972, Kansas-Nebraska Natural Gas Co., Inc. (Kansas-Nebraska), filed a motion for approval of agreement among the parties relating to the penalties to be collected for unauthorized takes in excess of billing demand (overrun penalties) under its FPC rate schedules during the period March 16, 1971, through March 19, 1972. This agreement was made between Kansas-Nebraska and interested persons in an informal conference among interested persons on May 9, 1972, to discuss the matters raised by the Northwestern Public Service Co. et al. in a letter to the Commission on February 3, 1972. The letter stated that Kansas-Nebraska should be required to file revised tariff sheets changing the overrun penalties to the level existing prior to the effective date of the tariff sheets filed in this docket on August 31, 1970. Kansas-Nebraska replied by letter dated February 28, 1972. The Nebraska-Colorado Group made a reply to Kansas-Nebraska by letter dated March 8, 1972. The Nebraska-Colorado Group alleged that it was intended by the settlement agreement, which was approved by order issued April 29, 1971, terminating the proceeding, not to change the overrun penalties from the pre-RP71–5 levels. The company and each customer affected agreed to split the difference between the amounts charged at the increased overrun penalty rates and the amounts which would have been charged at the lower penalty rates.

Any person who wishes to comment on the settlement agreement herein may do so by filing comments with the Federal Power Commission, 441 G Street NW., Washington, DC 20426, on or before June 23, 1972.

KENNETH F. PLUMB,
Secretary.

[FR Doc.72–8663 Filed 6–7–72;8:51 am]

[Docket No. RP72–132]

NATURAL GAS PIPELINE COMPANY OF AMERICA

Notice of Proposed Changes in Rates and Charges

JUNE 5, 1972.

Take notice that Natural Gas Pipeline Company of America (Natural) on May 31, 1972, tendered for filing proposed changes in its FPC Gas Tariff, Third Revised Volume No. 1 and Second Revised Volume No. 2.[1] The proposed rate changes would increase Natural's revenues from jurisdictional sales and services by approximately $44 million based on sales volumes for the 12-month period ended February 29, 1972, as adjusted. The proposed effective date for the foregoing tariff sheets is July 1, 1972.

Natural states that the cost of service underlying the proposed rates reflect facility costs and other expenditures relative to Dockets Nos. CP72–216, CP72–217, CP72–233, CP71–274, CP71–280, CP71–297, and CI71–819. Natural further states that such facilities and expenditures are necessary to permit Natural to make the level of sales upon which this rate filing is predicated, inclusive of Natural's existing level of sales during the 1972–73 heating season. As these pending applications and certificates have not been issued, Natural requests that the Commission's Regulations be waived to the extent necessary to permit their inclusion in this filing.

Natural states that the increase in gas sales rates, storage charges and facility charges are necessary to recover the costs which Natural has incurred, above those costs included in Natural's last rate increase filing. Natural further states that approximately $20.3 million of the proposed rate increase would have been billed under the Purchased Gas Cost Adjustment Provision of Natural's Tariff and the tracking provisions of the Docket No. RP71–125 settlement approved by the Commission. Finally, Natural states that it will submit to the Commission a separate filing to conform its PGA clause to the requirements of Order No. 452.

Copies of this filing were served on Natural's jurisdictional customers and interested State commissions.

Any person 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 21, 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.72–8662 Filed 6–7–72;8:51 am]

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[1] Third Revised Volume No. 1: Third Revised Sheet No. 5, First Revised Sheet No. 117.
Second Revised Volume No. 2: Fifth Revised Sheet No. 220.

[Docket No. CP71-308]

PENNZOIL PIPELINE CO.

Notice of Petition To Amend

JUNE 5, 1972.

Take notice that on May 31, 1972, Pennzoil Pipeline Co. (petitioner), 1500 Southwest Tower, Houston, Tex. 77002, filed in Docket No. CP71-308 a petition to amend the order issuing a certificate of public convenience and necessity in said docket on July 30, 1971 (46 FPC ------), pursuant to section 7(c) of the Natural Gas Act and § 2.70 of the Commission's general policy and interpretations (18 CFR 2.70) by extending for 1 year the term of the authorization therein granted, all as more fully set forth in the petition to amend which is on file with the Commission and open to public inspection.

Petitioner is authorized in the subject docket to sell 30,000 Mcf of natural gas per day to United Gas Pipe Line Co. (United) in Bee County, Tex., for 1 year ending June 30, 1972, within the contemplation of § 2.70 of the Commission's general policy and interpretations. Applicant proposes to continue said sale for an additional year ending June 30, 1973, at the rate of 31.17 cents per Mcf at 14.65 p.s.i.a. subject to prospective modification to the same price as that specified in United's then applicable FPC Rate Schedule PLE-C. The rate authorized in the order of July 30, 1971, is 31.75 cents per Mcf, the then applicable rate in United's rate schedule.

It appears reasonable and consistent with the public interest in this case to prescribe a period shorter than 15 days for the filing of protests and petitions to intervene. Therefore, any person desiring to be heard or to make any protest with reference to said petition to amend 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) 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.72-8664 Filed 6-7-72;8:51 am]

[Docket No. CS72-793]

RAGARS OIL & GAS CO.

Notice of Petition for Waiver of Regulations

MAY 31, 1972.

Take notice that by letter filed May 1, 1972, Ragars Oil & Gas Co. (applicant), Post Office Drawer 2030, Alice, TX 78332, small producer applicant in Docket No. CS72-793, requests that the Commission waive in part paragraph (c) of § 157.40 of the regulations under the Natural Gas Act (18 CFR 157.40(c)) so as to permit the sale of natural gas under a small producer certificate from reserves acquired in place from large producers.

Applicant has pending certificate applications in Dockets Nos. CI72-209, CI72-210, CI72-211, CI72-212, and CI72-420 for authorization to continue sales of natural gas in interstate commerce heretofore authorized to be made pursuant to Sun Oil Co. FPC Gas Rate Schedules Nos. 283, 275, 269, and 17 and Humble Oil & Refining FPC Gas Rate Schedule No. 113, respectively. Applicant requests that it be permitted to sell gas under a small producer certificate from the properties acquired from Sun Oil Co. at the area rates. Applicant states that production from properties acquired from Humble would be new gas within the contemplation of the policy enunciated in Commission Opinion No. 567, 42 FPC 426.

Section 157.40(c) provides in part that sales may not be made pursuant to a small producer certificate from reserves acquired by a small producer by purchase of developed reserves in place from a large producer. The subject letter is being construed as a petition for waiver of Commission regulations under paragraph (b) of § 1.7 of the Commission's rules of practice and procedure (18 CFR 1.7(b)). Any interested person may submit to the Federal Power Commission, Washington, D.C. 20426, not later than June 20, 1972, views and comments in writing concerning the petition for waiver. An original and 14 conformed copies should be filed with the Secretary of the Commission. The Commission will consider all such written submittals before acting on the petition.

KENNETH F. PLUMB,
Secretary.

[FR Doc.72-8612 Filed 6-7-72;8:45 am]

[Project 405]

SUSQUEHANNA ELECTRIC CO.

Notice of Application for Amendment of License

MAY 31, 1972.

Public notice is hereby given that application for amendment of license has been filed under the Federal Power Act (16 U.S.C. 791a-825r) by the Susquehanna Electric Co. (correspondence to Mr. Edward G. Bauer, Jr., General Counsel, the Susquehanna Electric Co., 1000 Chesnut Street, Philadelphia 5, PA) for Project No. 405, located on the Susquehanna River, in Harford and Cecil Counties, Md., and York and Lancaster Counties, Pa.

Applicant seeks approval of a leasing arrangement with the city of Havre de Grace, Md., involving 46.9 acres of project land within the city. The land is situated on the western side of the Susquehanna River and begins at the Outlet Lock from the canal and extends northward between the project boundaries to the Baltimore & Ohio Railroad Bridge which crosses the Susquehanna River.

The land is to be used for park and recreational purposes and the applicant proposes to grant authority to the city of Havre de Grace to improve roads, clear areas, prepare beaches, install docks or landing facilities, and other improvements as necessary to carry out the park and recreational purposes, museum, snack and restaurant facilities, picnic areas and other similar activities. However, the applicant reserves the right to itself or successors to use the land for project purposes.

Any person desiring to be heard or to make any protest with reference to said application should on or before July 31, 1972, file with the Federal Power Commission 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 the 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.72-8611 Filed 6-7-72;8:45 am]

[Docket No. 72-6 etc.]

TENNESSEE GAS PIPELINE CO. ET AL.

Order Granting Certificates of Public Convenience and Necessity After Statutory Hearing, Accepting FPC Gas Rate Schedules for Filing, Granting Petitions To Intervene, Consolidating Proceedings for Hearing and Decision and Establishing Procedures

MAY 30, 1972.

	Dockets Nos.
Tennessee Gas Pipeline Co., a Division of Tenneco, Inc	CP72-6
Sea Robin Pipeline Co	CP72-115
Sea Robin Pipeline Co	CP72-119
United Gas Pipe Line Co	CP72-200
Texas Eastern Transmission Corp	CP72-211
Continental Oil Co	CI72-9
Cities Service Oil Co	CI72-19
Midwest Oil Corp	CI72-181
Pennzoil Producing Co	CI72-321
Humble Oil and Refining Co	CI72-392
Humble Oil and Refining Co	CI72-393
Mobil Oil Corp	CI72-530
Mobil Oil Corp	CI72-578

The above proceedings each involve a portion of four transactions by which interstate pipeline companies request authorization from the Commission, inter alia, to transport natural gas from producing wells to various gas consuming plants or facilities of petroleum and chemical companies for their own use. In

each transaction the basic pattern is an agreement by the producers to sell 50 percent of gas production to the pipeline and an agreement by the pipeline to transport the other 50 percent of production for the producers' own use. The instant proceeding also involves the transportation of natural gas from the Federal domain to onshore locations.

Tennessee Gas Pipeline Co., a Division of Tenneco Inc. (Tennessee) on July 9, 1971, filed in Docket No. CP72–6 an application pursuant to section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the construction and operation of certain pipeline and related facilities, offshore Louisiana, and for the transportation of natural gas.

Tennessee proposes to construct and operate approximately 16.5 miles of 16-inch pipeline and related facilities. The line will extend from Tennessee's existing 26-inch line No. 507K–100 located in the West Cameron Area, offshore Louisiana, to a production platform owned by Continental Oil Co. (Continental) and Cities Service Oil Company (Cities Service) located in Block 135 of the Block 110 Field in the West Cameron Area. The estimated cost of the proposed facilities is $3,355,000, which Tennessee will finance by use of general funds or revolving credit.

Tennessee has certified that the construction of the proposed pipeline facilities will be in compliance with applicable DOT pipeline safety regulations. Tennessee estimates third-year operating cost of service for the proposed facilities to be approximately $120,000. Based on the proposed transportation charge of 3.3 cents per Mcf, Tennessee estimates third-year transportation revenues of $280,000. No estimates were submitted for revenues to be realized from the resale of gas purchased by Tennessee from these producers as no additional sales are proposed. Revenue received by Tennessee for the transportation of liquids will be determined by rule making Docket No. R–338.

Pursuant to gas purchase agreements dated June 21, 1971, Tennessee will purchase one-half of the recoverable gas reserves from the respective interests of Continental and Cities Service, in the West Cameron Block 110 Field, offshore Louisiana. Pursuant to identical gas transportation agreements, dated June 21, 1971, with the same parties, Tennessee will transport, for a distance of approximately 113 miles, the remaining one-half of the above gas reserves onshore for redelivery to Continental and Cities Service for feedstock and fuel in their petrochemical and refining operations in the Lake Charles, La., area. Tennessee will also transport for Continental and Cities Service the liquids and liquefiable hydrocarbons a distance of approximately 40 miles, for delivery to a processing plant at Grand Cheniere, Cameron Parish, La. The transportation service to this point will be in multiphase (i.e., gas and liquids combined) and the gas will be separated and transported an additional 73 miles to near Kinder, La. In Docket No. R–338, the Commission issued Order No. 449 on January 31, 1972, which established minimum rates for the transportation of liquids and liquefiable hydrocarbons.

Tennessee estimated that approximately 60 billion cubic feet (14.73 p.s.i.a.) of remaining recoverable reserves are dedicated by the producers to Tennessee under the gas purchase agreements. Tennessee estimates that it will purchase initially 25,000 Mcf per day and transport 12,500 Mcf per day for Continental and 12,500 Mcf per day for Cities Service. The transportation service by Tennessee for the producers will be pursuant to a transportation agreement having a term of 20 years. Balancing of deliveries under the gas purchase and gas transportation agreements will be made at semiannual periods during each year of the term of the transportation agreements with the producers. Approximately 60 Bcf of estimated reserves from Block 135 of the West Cameron Block 110 Field have been reserved by the producers for transportation by Tennessee.

Subsequent to the issuance of a notice of the application on July 9, 1971, 36 F.R. 13862, petitions to intervene and requests for hearing were filed.

Petitioner (Docket No. CP72–6)	*Date of petition*
Public Service Commission of State of New York.	Aug. 6, 1971.
Brooklyn Union Gas Co	Aug. 9, 1971.
Consolidated Edison Co. of New York.	Aug. 11, 1971.
Humble Oil & Refining Co	Nov. 17, 1971.
Texaco, Inc	Jan. 28, 1972.
Mobil Oil Corp	Feb. 17, 1972.

The New York Commission, Brooklyn Union, and Consolidated Edison oppose the application on the grounds that use of the gas as feedstock and boiler fuel would constitute an inefficient use of a valuable fuel resource at a time of a natural gas supply deficiency.

On September 30, 1971, Tennessee filed a supplement to the application by which Continental and Cities Service agreed on September 22, 1971, to sell Tennessee 100 percent of the gas available for delivery during the period between the time when Tennessee may be authorized to purchase the gas from the dedicated reserves (Phase I) and the time when Tennessee may be authorized to transport the reserved gas (Phase II). None of the interveners object to the division of the proceedings into two phases nor do they object to granting a certificate for Phase I construction and operation of facilities, subject to a decision on the merits in Phase II. These considerations permit the issuance of certificates for the construction of facilities by Tennessee and the sale of gas by Continental and Cities Service.

On May 15, 1972, Tennessee advised the Commission of its willingness to accept a condition to its Phase I certificate on rate base inclusion of facilities, dependent on the outcome of Phase II of the proceeding.

On July 2, 1971, Continental filed in Docket No. CI72–9 an application to sell natural gas to Tennessee from Block 135 and on July 9, 1971, Cities Service filed a similar application for its half interest in Block 135, in Docket No. CI72–19. Notices of the applications were issued on July 21, and 29, 1971, 36 F.R. 14077 and 36 F.R. 14710, respectively. No petition to intervene or protests were filed.

On November 4, 1971, Cities Service advised the Commission in Docket No. CI72–19 that it is agreeable to accepting a permanent certificate at an initial price of 26 cents per Mcf (15.025 p.s.i.a.), subject to the ultimate disposition in the rule making Docket No. R–338. The gas purchase contracts provided for an initial price of 28 cents per Mcf with a periodic escalation of 1 cent per Mcf for each 4 years of contract or alternatively to the just and reasonable area rates. The producers have dedicated their interest in the West Cameron Block 135 of the Block 110 Field, offshore Louisiana, limited from the subsea surface down to and including the L–4 Sand at 12,194 feet in the OCS–G–1470 Well No. A–1.

On November 4, 1971, in Docket No. CI72–9, Continental advised that it would accept a permanent certificate at 26 cents per Mcf (15.025 p.s.i.a.), conditioned to the outcome of rule making in Docket No. R–338.

The agreement between Tennessee and producers which permits certificates to be issued in Phase I of the proceeding, stipulates that the gas delivered during the interim period shall be considered to have been delivered under the gas purchase contract and no portion of such deliveries shall be construed to have been produced from Continental's and Cities Service's half of gas reserves retained for delivery under the gas transportation agreement.

Environmental impact. Tennessee proposes to construct and operate approximately sixteen and one-half (16½) miles of sixteen (16) inch O.D. pipeline facilities extending from an existing production platform owned by Continental and Cities Service in Block 135 of the Block 110 Field in the West Cameron Area, offshore southern Louisiana, to an interconnection with Tennessee's Line No. 507K–100 in the same offshore area. Such gathering line will traverse an east-west direction, generally parallel to the Louisiana shore, and will connect with Tennessee's line at a point approximately eighteen (18) miles offshore. Tennessee also proposes to construct gas measuring facilities which will be located on the producers' production platform.

On April 27, 1971, Tennessee filed an application with Corps of Engineers for the permit to construct the pipeline facilities. Copies of this application were received by the Louisiana Wild Life and Fisheries Commission, the Louisiana Stream Control Commission and the Louisiana Department of Public Works. Subsequently, these agencies sent letters of no objection to Tennessee.

The U.S. Environmental Protection Agency, after reviewing the application, made six recommendations for inclusion

within the permit.[1] Tennessee by letter of July 19, 1971, agreed to these recommendations.

Letters from the West Gulf Maritime Association, the New Orleans Steamship Association and the Board of Commissioners of the Lake Charles Harbor and Terminal District were sent to the Corps of Engineers objecting to the fact that the pipeline would be buried only 3 feet under the bottom of the Calcasieu Pass Ship Channel and Safety Fairway. These parties recommended burying the pipe 10 feet below both the Channel and the Fairway in order to insure that a vessel's anchor or hull would not penetrate the cover to the depth of the pipeline.

Tennessee contended that such depth was unnecessary considering the type of clay underlying the channel and fairway but agreed under protest in a letter dated June 28, 1971, to bury the pipeline at a depth of 10 feet in the contested area.

The New Orleans Steamship Association on July 27, 1971, further objected on the grounds that Tennessee still did not intend to cover the 10-foot trench but proposed to allow the natural action of the water currents to fill it.

Tennessee replied that recovering the trench would be an expensive and unnecessary operation since the waves and water currents would restore the bottom to its original condition within 1 year.

After consultation with the Corps of Engineers, Tennessee agreed by letter of August 18, 1971, to survey the ditch line 1 year after construction and if the survey indicated that the ditch had not backfilled by 75 percent to then present a plan within 90 days to the Corps to backfill the trench. After receipt of this letter the Corps issued the permit on August 20, 1971.

On April 28, 1971, Tennessee had filed with the Outer Continental Shelf Land Office, Bureau of Land Management, U.S. Department of the Interior, an application for right-of-way to construct the proposed facilities. On May 25, 1971, the Bureau of Land Management approved the application.

1. *Potential impact of project.* The 16-inch gathering line will be installed and buried beneath the bottom of the Gulf of Mexico and the measuring facilities will be installed on an existing production platform. The facilities will not be constructed in an area reserved for aquatic or wildlife activities, and since the pipeline will be buried 18 miles offshore, no natural, historic or scenic sites will be affected.

The gulf bottom in the area involved is a relatively firm bottom consisting of sandy clays which overlay Beaumont Clay. The depth of such sandy clay in which some shell is present varies from one (1) foot, seven (7) inches, to seven (7) feet, seven (7) inches. Very hard Beaumont Clay underlays nearly all bottom material in this area.

The gathering line will be buried at a depth of 3 feet except for that portion underlying the Calcasieu Pass Ship Channel and Safety Fairway which will be buried to a depth of ten (10) feet.

Tennessee intends to construct and maintain the facilities in accordance with Tennessee's safety codes. In the remote event of a leak, escaping gas would not result in permanent damage to the environment, and even short-term damage would be negligible.

2. *Unavoidable adverse effects of project.* Implementation of the proposed project will cause a slight disturbance to the bottom of the Gulf of Mexico where the gathering line is to be constructed; however, Tennessee maintains that due care will be exercised during the construction period to minimize disturbance to bottom conditions and that such disturbance will be of short duration as offshore tides and currents will quickly restore the right-of-way, which is parallel to the shore line, to its original condition.

The levels at which the pipeline will be buried will prevent intereference with shipping, shrimp traveling operations, commercial and game fishing. The proposed line will not traverse any oyster beds.

3. *Alternatives.* There is no feasible alternative to the proposed construction. Tennessee must continue to buy new natural gas reserves to supplement its additional reserves in order to continue to serve its customers and the proposed gathering line is the most direct route to Tennessee's pipeline system.

4. *Short-term and long-term productivity.* The proposed construction period will be of a relatively short duration. Other than the short term interference during the construction period, the proposed construction will not result in a diminution of the suitability of the area for its current uses.

5. *Irreversible resource commitments.* The proposed construction will involve no irreversible or irretrievable commitments of natural resources.

6. *Conclusion on environmental impact.* In light of the foregoing analysis, the Commission concludes that the facilities proposed in this proceding will have no long-term effects on the environment and only minimal and inconsequential short-term effects. These short-term effects are minor in comparison with environmental and other benefits which will be derived from the increased availability of natural gas made possible by this project.

Sea Robin Pipeline Co. (Sea Robin) in Docket No. CP72–119 filed an application on November 3, 1971, for the construction and operation of facilities and the transportation of gas for Amoco Production Co. (Amoco) from Block 264, East Cameron Area, offshore Louisiana.

Sea Robin entered into the agreement with Amoco on July 21, 1971, to receive from Amoco a volume of gas up to but not in excess of the volume specified in the Sea Robin-Amoco gas purchase contract relating to Block 264. Amoco agreed to pay Sea Robin a monthly charge of 3.98 cents per Mcf for each Mcf of gas delivered. It is anticipated that Sea Robin will transport 21,000 Mcf per day for Amoco. The total estimated cost of proposed facilities to be constructed by Sea Robin is $49,500 to construct valves, metering, and regulating facilities for delivery of gas to or for the account of Amoco at Erath, La. Sea Robin's application in Docket No. CP72–115 directly affects the application in Docket No. CP72–119.

The transportation agreement with Amoco dated July 21, 1971, refers to the gas purchase contract of July 21, 1971, wherein Amoco is selling gas to Sea Robin from Block 264. Amoco is obligated to deliver the transportation gas volumes to Sea Robin at the inlet side of Sea Robin's existing measuring station located on Amoco's pipeline in Block 261, East Cameron Area or at similar facilities on Amoco's platform in Block 264.

Sea Robin and Amoco recognized that the transportation gas volumes will be commingled with Sea Robin's own gas or the gas of other parties, and all or a portion of the gas which Sea Robin shall deliver to Amoco will not be the identical gas which will be delivered for transportation. Notice in the application in CP72–119 was issued on November 23, 1971, 36 F.R. 22868. Petitions to intervene and request for hearing have been filed.

Petitioners (Docket No. CP72–119)	*Date*
Mississippi Valley Gas Co.	Dec. 14, 1971.
Consolidated Gas Supply Corp.	Dec. 13, 1971.
Public Service Commission of New York.	Do.
Associated Gas Distributors.	Do.
South Carolina Electric and Gas Co.	Dec. 14, 1972.
Amoco Production Co.	Dec. 15, 1971.
Consolidated Edison Co. of New York.	Do.
Texaco, Inc.	Jan. 20, 1972.
Mobil Oil Corp.	Dec. 27, 1971.
Columbia Gas Transmission Corp.	Dec. 28, 1971.
Humble Oil & Refining Co.	Jan. 3, 1972.

Amoco on December 15, 1971, was issued a permanent certificate of public convenience and necessity, "3 S&T Oil Company, Inc., et al.," Docket No. CI61–659 et al., Amoco's Docket No. CI72–92.

[1] EPA's recommendations were as follows:

1. The applicant shall contact the Louisiana Stream Control Commission and Louisiana Wild Life and Fisheries Commission for guidance in water pollution control measures to protect the water quality and uses in the waters covered by this permit.

2. The applicant shall perform the pipeline installation operations in a manner that will reduce turbidity and and siltation to the lowest practicable level.

3. Installation of the pipeline shall provide for readily accessible shutoff valves on both sides of the waterway, so that the crossing can be isolated in case of pipeline failure in the crossing.

4. The applicant shall provide and operate sanitation facilities that will adequately treat or dispose of sanitary wastes to conform with Federal health regulations.

5. The applicant shall take precautions in the petroleum products transportation and in the handling or storage of hazardous materials to prevent discharges or spillages that would result in degradation of the water quality.

6. The applicant shall take precautions to prevent the spoil from dredging operations escaping to the adjacent marsh areas or waterways.

Its Rate Schedule No. 570 dedicates 50 percent of Amoco's reserves and production from Block 264 Field, East Cameron Area, offshore Louisiana, to Sea Robin pursuant to a gas sales contract dated July 21, 1971. Amoco estimated the sales volume pursuant to said rate schedule to be 510,000 Mcf per month or 17,000 Mcf/d. Amoco dedicated to Sea Robin 50 percent of the gas reserves in Block 264 down to and including the reservoir identified in sand interval TVD 9,070 feet to 9,348.

Sea Robin Pipeline Co. on November 1, 1971, filed an application in Docket No. CP72–115 for a certificate of public convenience and necessity to construct and operate facilities in the offshore Louisiana area to extend its system into new supply areas in Blocks 231 and 270 in East Cameron Area; Blocks 317 and 334 in East Cameron Area South Addition, Block 225 in Ship Shoal Area; Blocks 295 and 330 in Eugene Island Area, South Addition. Sea Robin in Docket No. CP72–115 requests authority to transport approximately 74,000 Mcf per day for Humble from offshore fields to onshore Louisiana.

Sea Robin proposes to construct an additional 14,000 horsepower compressor station at Block 149, Vermilion Area at a cost of $5,767,100, and additional 26,150 horsepower compressor station at Erath, Louisiana at a cost of $6,267,200, and 10,500 horsepower at Block 149 Vermilion Area (1972 construction) $8,567,200. Sea Robin will also construct 52.5 miles of 24-inch diameter pipeline, 14.6 miles of 20-inch diameter pipeline, 0.7 miles of 16-inch pipeline and 3 miles of 10-inch pipeline.

The installation of facilities for which a certificate is requested by Sea Robin will provide an ultimate maximum capacity of 844,200 Mcf/d for sales. Authorization is also requested by Sea Robin to provide a contract demand of 422,100 Mcf to United Gas Pipe Line and Southern Natural Gas, an increase of 22,100 Mcf per day for each of the pipelines purchasing gas from Sea Robin above their present daily entitlement under rate schedules X–1 and X–2. The facilities requested herein by Sea Robin will provide an increase in a daily deliverability of natural gas by Sea Robin of approximately 400,000 Mcf/d. The estimated total cost of proposed facilities by Sea Robin is $59,108,000, which will be financed with short term bank loans with permanent financing to be arranged at a later date. The proposed construction program is to be undertaken in 1972–73.

Sea Robin has obtained gas purchase contracts and letters of intent to dedicate and sell gas from the following independent producers: Pennzoil Producing Co.; Pennzoil Offshore Gas Operators, Inc.; The Offshore Co.; Humble Oil and Refining Co.; and Midwest Oil Corp.

Sea Robin has entered into letters of intent to purchase all gas produced by Pennzoil Offshore Gas Operators from OCS–G2059 Block 317 and OCS–G2062 Block 334 of the East Cameron Area, South Addition; OCS–G1984 Block 225 Ship Shoal Area; OCS–G2115 Block 330 and OCS–G2104 Block 295, Eugene Island Area, South Addition. A similar agreement has been reached between Sea Robin and Midwest Oil Corp. regarding Block 225 Ship Shoal Area.

Humble Oil and Refining Co. (Humble) and United Gas Pipe Line Co. (United) entered into four gas purchase contracts dated January 29, 1971, providing for the sale by Humble of gas produced in the Eugene Island Area, South Addition Block 330, and 295, and East Cameron Area South Addition Blocks 317 and 334. As part of these four gas purchase agreements, United made a $6 million interest-free loan to Humble for the exploration and development of the leases involved.

The contracts provide for the reservation by Humble for its own use of 50 percent of the first 500 Bcf of total gas reserves and 40 percent of all reserves exceeding 500 Bcf, and for the transportation by United of the reserved gas.

On May 27, 1971, United assigned one-half of its interest in these leases to Southern Natural Gas Co. (Southern), and Southern in turn assumed one-half of United's obligations under the contract. On the same date, Southern assigned all of the rights it had acquired to Sea Robin and Sea Robin assumed all of Southern's obligations.

On June 4, 1971, United assigned the remaining half of its rights to Sea Robin and Sea Robin assumed all of United's obligations. The contracts for the sale and transportation of offshore gas are now in effect between Sea Robin and Humble, for which authorization is sought.

On February 22, 1972, Sea Robin filed its environmental impact statement. Sea Robin filed a supplement to its application on February 11, 1972, to its application in Docket No. CP72–115 responding to the Secretary of the Commission, letter dated January 11, 1972.

Notice of the application in CP72–115 was issued on November 23, 1971, 36 F.R. 22868. Petitions to intervene and requests for hearing were filed.

Petitioners (Docket No. CP72–115)	*Date*
Associated Gas Distributors	Dec. 13, 1971.
Public Service Commission of New York.	Do.
Consolidated Gas Supply Corp.	Do.
Michigan Wisconsin Pipeline Co.	Do.
Mississippi Valley Gas Co	Dec. 14, 1971.
South Carolina Electric and Gas Co.	Do.
Consolidated Edison Co. of New York.	Dec. 15, 1971.
Mobil Oil Corp	Dec. 27, 1971.
Columbia Gas Transmission Corp.	Dec. 28, 1971.
Humble Oil and Refining Co.	Jan. 3, 1972.
Texaco, Inc	Jan. 20, 1972.
Mid Louisiana Gas Co	Mar. 21, 1972.

United Gas Pipe Line Co. (United) filed an application on February 8, 1972, in Docket No. CP72–200 for a certificate to transport the gas from Erath, where it will be delivered by Sea Robin, to Humble at mutually agreeable points on United's pipeline. The United-Humble transportation agreement calls for 52,000 Mcf to be delivered at 4.16 cents per Mcf in or near the city of Baton Rouge; 3,500 Mcf/d at 4.16 cents per Mcf in Weeks Island Field, Iberia Parish, La; 1000 Mcf/d at 7.89 cents per Mcf in Baxterville Field, Lamar County, Miss.; and 500 Mcf daily at 7.89 cents per Mcf in Bryan Field, Jasper County, Miss.

The maximum aggregate quantity of gas United is required to transport for Humble shall not exceed 57,000 Mcf per day. United's only proposed new delivery point to Humble, which requires construction of new facilities, is at the city of Baton Rouge, La.

United proposes to construct and operate a delivery station at Baton Rouge and to replace and rearrange regulation facilities at the Marchant regulator station at an estimated cost of $170,090. United estimates that in the third year of service under the proposed transportation service it will receive revenues of $790,279. The incremental cost-of-service for the new proposed facilities for the third year of service is estimated at $32,020. In the event Humble has available for transportation quantities of gas in excess of 57,000 Mcf per day, United is to proceed with diligence to install additional facilities and to negotiate in good faith with Humble to establish additional delivery point where quantities in excess of 57,000 Mcf per day can be delivered to Humble. It is recognized by United and Humble that the gas delivered shall not be the identical gas received by United at Erath from Sea Robin.

United states in its application that, although a shortage of pipeline capacity could occur on the Marchant-Baton Rouge line, this can be averted by the addition of a small quantity of additional compressor horsepower.

The application of United to transport gas to Humble is interrelated with the offshore gas purchase contracts which have now been assigned to Sea Robin. This fact is of special significance in that United purchases one-half of all of the gas which Sea Robin has for sale. United's application is essentially an extension of Sea Robin's application in Docket No. CP72–115 in that it concerns the continued transportation of natural gas.

Notice of the application in Docket No. CP72–200 was issued on March 2, 1972, 37 F.R. 5083. Petitions to intervene and requests for hearing were filed.

Petitioners (Docket No. CP72–200)	*Date*
Mississippi Valley Gas Co	Mar. 20, 1972.
Mid-Louisiana Gas Co	Mar. 21, 1972.
Humble Oil and Refining Co.	Mar. 22, 1972.
Columbia Gulf Transmission Corp.	Do.
Consolidated Edison Co. of New York.	Mar. 27, 1972.

Humble in Docket No. CI72–392 filed an application to sell gas from Block 330 Field, Eugene Island Area, Offshore Louisiana to United pursuant to a contract dated December 27, 1971. Part of the interest of Humble in Block 330 Field

is reserved for transportation for Humble's own use. Notice of the application was issued on January 20, 1972, 37 F.R. 1504. On February 14, 1972, the Public Service Commission of New York filed a notice of intervention and request for hearing.

Humble in Docket No. CI72–393 filed an application on January 3, 1972, to sell gas to United Gas Pipe Line Co. an estimated 18,000 Mcf/d from Block 295, Eugene Island Area, Offshore Louisiana. Part of the gas covering applicant's interest in Block 295 Field is reserved for transportation for Humble's own use. Notice of the application was issued on January 20, 1972, 37 F.R. 1504. On February 14, 1972, the New York Public Service Commission filed a notice of intervention and request for hearing.

Midwest Oil Corp. in Docket No. CI72–181 filed an application on October 4, 1971, to sell gas to United and Southern from Block 225, Ship Shoal Area, Offshore Louisiana. Estimated sales are 35,000 Mcf/d. Notice of the application was issued on October 15, 1971, 36 F.R. 20628.

Pennzoil Producing Co. in Docket No. CI72–321 filed an application on November 29, 1971, to sell gas to Sea Robin Pipeline Co. from Block 225 Ship Shoal, Area, Offshore Louisiana. Estimated volumes are 23,000 Mcf per day. Pennzoil Producing Co.'s sales are to be pursuant to a contract dated November 11, 1971. Notice of the application was issued on December 9, 1971, 36 F.R. 24132.

Texas Eastern Transmission Corp. (Texas Eastern) filed an application in Docket No. CP72–211 on February 28, 1972, to construct and operate approximately 28.43 miles of 24-inch and 1.55 miles of 16-inch lateral pipeline, together with appurtenant facilities, extending from Block 270 Field to the terminus of its certificated offshore lateral pipeline in Block 245 Field, East Cameron Parish, offshore Louisiana, in order to purchase and transport volumes of gas from lease interests owned or controlled by Mobil in the Block 270 and 286–287 Fields. Texas Eastern also requests authority to transport up to 50 percent of Mobil's interest in gas reserves in Blocks 257, 270, and 286–287 onshore, and to exchange for this gas an equivalent volume to be delivered to Mobil at mutually agreed delivery points along the Texas Eastern's pipeline in Jefferson County, Tex.

Texas Eastern and Mobil entered into three interrelated agreements dated February 18, 1972. One of these agreements is a long-term gas purchase contract under which Mobil has dedicated to Texas Eastern the production from 50 percent of its undivided interest in Blocks 257, 270, and 286–287 Fields down to specified depths for 20 years. The second agreement provides for the transportation of Mobil's gas onshore and the delivery of equal quantities to Mobil in Jefferson County, Tex. The third agreement provides for a limited-term sale by Mobil to Texas Eastern, subject to pregranted abandonment, of the volumes of Mobil's uncommitted gas which Mobil has for sale, but not less than 98 percent during calendar year 1972, 70 percent during 1973, 50 percent during 1974, and 20 percent during 1975.

Initial average day deliveries into Texas Eastern's facilities from Mobil's interests in Blocks 270 and 286–287 Fields are estimated to be 140,000 Mcf and the initial average day deliveries attributable to Mobil's interest in the Block 257 Field are estimated to be 14,000 Mcf. Initial purchases on the long-term gas purchase contract are estimated at 70,000 Mcf/d and 70,000 Mcf/d under the limited term contract with Mobil.

Texas Eastern has made advance payments pursuant to agreements dated June 11, 1971, covering Mobil's undivided interest in Blocks 257, 270, and 286–287 Fields, East Cameron Area and Block 262 Fields in Vermilion Area Offshore Louisiana. Texas Eastern has filed the advance payment agreement as Schedule No. 6 to its tracking filing in Docket No. RP70–29. Texas Eastern states that the estimated cost of facilities to be $13,375,000. Texas Eastern will charge Mobil a transportation and exchange rate based upon its computed unit cost per Mcf of gas transported at full-load utilization from the lease block to the intersection of Texas Eastern's 30-inch offshore lateral with its main pipeline system north of Lake Charles, La. Texas Eastern states that it has a critical shortage of gas supplies on its system and imperatively requires additional gas supplies to fulfill its commitments to its customers. On February 28, 1972, Texas Eastern filed a draft of environmental statement in Docket No. CP72–211.

Notice of the application was issued on March 8, 1972, 37 F.R. 5329. Petitions to intervene and requests for hearing were filed.

Petitioners (Docket No CP72–211)	*Date*
Public Service Commission of New York.	Mar. 14, 1972.
Brooklyn Union Gas Co	Mar. 27, 1972.
Columbia Gas Transmission Corp.	Mar. 28, 1972.
Associated Gas Distributors	Do.
Consolidated Edison Co. of New York.	Do.
Consolidated Gas Supply Corp.	Do.
Public Service Electric and Gas Co.	Mar. 29, 1972.
Long Island Lighting Co	Do.

Mobil Oil Corp. filed an application in Docket No. CI72–530 on March 1, 1972, for a limited term certificate to make sales to Texas Eastern. Notice of the application was issued on March 8, 1972, 37 F.R. 5328. Mobil states its application in Docket No. CI72–530 to sell gas is conditioned upon: (1) Certification and approval of the proposed transportation agreement; (2) authorization to make the limited term sale at 32 cents per Mcf and escalations; (3) Commission waiver of accounting and reporting requirements; and (4) pregranted abandonment authorization on January 1, 1976. Petitions to intervene and requests for hearing were filed.

Petitioners (CI72–530)	*Date*
Brooklyn Union Gas Co	Mar. 29, 1972.
Public Service Commission of New York.	Mar. 14, 1972.
Associated Gas Distributors	Mar. 28, 1972.
Long Island Lighting Co	Mar. 29, 1972.
Public Service Electric & Gas Co.	Do.
Union Oil Co. of California	Mar. 27, 1972.

Mobil Oil Corp. filed an application on March 14, 1972, in Docket No. CI72–578 to sell gas to Texas Eastern pursuant to a gas purchase contract dated February 18, 1972. Mobil reserved one-half of the gas under the specified acreage for its own use and consumption. Notice of the application was issued on March 22, 1972, 37 F.R. 6426.

Petitioners (CI72–578)	*Date*
Consolidated Edison Co. of New York.	Mar. 28, 1972.
Associated Gas Distributors	Do.
Public Service Commission of New York.	Apr. 3, 1972.
Brooklyn Union Gas Co	Apr. 5, 1972.
Public Service Electric & Gas Co.	Apr. 12, 1972.

In "Chandeleur Pipeline Co.," Opinion No. 560, 42 FPC 20 (1969), remanded, "Public Service Commission v. FPC," 436 F. 2d 904 (D.C. Cir. 1970), Opinion No. 560–A, 44 FPC 1747 (1970), affirmed ____ F. 2d ____ (D.C. Cir. 1972), the Commission issued a certificate authorizing the transportation of an additional 85,000 Mcf/d from offshore Louisiana to the gasoline refinery of Standard Oil Company of California of natural gas for its own use. In "Chandeleur," the Commission was concerned with the transportation of natural gas by a producer through its company-owned facilities from gas reserves in the Gulf of Mexico directly to its own refinery. In the instant proceeding, Continental, Cities Service, Humble, Amoco, and Mobil seek to have gas, which they have reserved out of gas purchase contracts, transported through existing or augmented facilities of interstate pipeline companies to their plants for their own consumption or use. The distribution company interveners appear to object to the proposed transportation of natural gas by the interstate pipeline companies for the producers own use on the ground that such direct transportation deprives them of needed gas supplies for retail distribution. It is necessary, therefore, that the applicants and interveners, inter alia, present evidence of the end uses to which the proposed transportation gas will be put and the availability of alternative fuels and alternative means, in order to adequately evaluate, on a current basis, whether the Commission should approve the transportation of gas for the producers own uses. It will also be necessary for the applicants and interveners to present evidence of the current market, gas supply conditions with which they are faced, and address themselves to such other issues as were raised in "Chandeleur."

It appears from an initial review of the applicants' environmental impact statements that approval of the proposed construction of facilities may not involve a

major Federal action, as defined in the National Environmental Policy Act of 1969 and as applied, pursuant to the Commission's Rules §§ 2.80 and 2.82. Any applicant or intervener may, however, present evidence on environmental issues. As stated in the Commission order of March 17, 1972, Docket No. R–398, that while Order No. 415B applies only to the construction of pipeline facilities under section 7(c) of the Natural Gas Act, the Commission did not intend to preclude appropriate consideration of environmental issues in proceedings where alternative markets are proposed in connection with a given sale of gas.

At the hearing held on May 24, 1972, the Commission on its own motion received and made a part of the record in this proceeding all evidence, including the applications in Docket Nos. CP72–6, CI72–9, and CI72–19 and exhibits thereto, submitted in support of the authorizations sought herein, and upon consideration of the record,

The Commission finds:

(1) The proceedings in Docket No. CP72–6 should be divided in two phases and a certificate of public convenience and necessity authorizing the construction and operation of facilities by Tennessee should be issued.

(2) Continental and Cities Service should be granted certificates of public convenience and necessity for the sale of natural gas to Tennessee.

(3) Phase II of Docket No. CP72–6 should be consolidated for hearing and decision with the other proceedings listed at the head of this order as they involve common questions of fact and law.

(4) Applicant, Tennessee Gas Pipeline Co., a Division of Tenneco, Inc., a Delaware corporation having its principal place of business in Houston, Tex., is a "natural gas company" within the meaning of the Natural Gas Act, as heretofore found by the Commission in its orders issued June 8, 1945, in Docket No. G–621 (4 FPC 293).

(5) The facilities of Tennessee hereinbefore described, as more fully described in the application in this proceeding, as supplemented, are to be used in the transportation and sale of natural gas in interstate commerce, subject to the jurisdiction of the Commission, and the construction and operation thereof by applicant is subject to the requirements of subsections (c) and (e) of section 7 of the Natural Gas Act.

(6) Applicants are able and willing properly to do the acts and perform the services proposed and conform to the provisions of the Natural Gas Act and the requirements, rules, and regulations of the Commission thereunder.

(7) The construction and operation of the proposd facilities by the Tennessee Gas Pipeline Co. are required by the public convenience and necessity and a certificate therefor should be issued as hereinafter ordered and conditioned upon applicants' compliance with all applicable Commission regulations under the Natural Gas Act and particularly the general terms and conditions set forth in Part 154 and § 157.20 (a), (b), (c)(3), (c)(4), (e), (f), and (g) of the Commission's regulations.

(8) Cities Service and Continental are "natural gas companies" within the meaning of the Natural Gas Act as heretofore found by the Commission or will be engaged in the sale of natural gas in interstate commerce for resale for ultimate public consumption subject to the jurisdiction of the Commission, and will, therefore, be a "natural gas company" within the meaning of the Natural Gas Act upon the commencement of service under the authorizations hereinafter granted.

(9) The sales of natural gas hereinbefore described, as more fully described in the applications in this proceeding, will be made in interstate commerce subject to the jurisdiction of the Commission; and such sales by Cities Service and Continental, together with the construction and operation of any facilities subject to the jurisdiction of the Commission necessary therefor, are subject to the requirements of subsections (c) and (e) of section 7 of the Natural Gas Act.

(10) The sales of natural gas by Cities Service and Continental together with the construction and operation of any facilities subject to the jurisdiction of the Commission necessary therefor are required by the public convenience and necessity; and certificates therefor should be issued as hereinafter ordered and conditioned.

(11) It is necessary and appropriate in carrying out the provisions of the Natural Gas Act that the FPC gas rate schedules and supplements related to the authorizations hereinafter granted should be accepted for filing.

(12) Petitions to intervene in these proceedings, which were filed after the deadline set forth in the respective notices, are allowed to be filed for good cause stated in each petition.

(13) That the proposed project of Tennessee will involve no long-term environmental impairment and any short-term effects will be minor compared to the environmental and other benefits derived from the increased availability of natural gas made possible by this project.

The Commission orders:

(A) The proceedings in Docket No. CP72–6 should be divided into two phases; Phase I to deal with the construction and operation by Tennessee of pipeline facilities, offshore Louisiana, required for the purchase and receipt of gas from reserves owned by Continental Oil Co. and Cities Service Oil Co. Phase II concerns the transportation of volumes of gas to Cities Service's and Continental's processing plant for use as feedstock and boiler fuel.

(B) A certificate of public convenience and necessity is issued to Tennessee authorizing the construction and operation of facilities required for purchase and receipt of gas from Continental and Cities Service upon the following conditions:

(1) That Tennessee comply with Part 154 and § 157.20 (a), (b), (c)(3), (c)(4), (e), (f), and (g) of the Commission's regulations.

(2) Construction be completed and operations commenced within 12 months from date of this order.

(3) The granting of this certificate is without prejudice to any of the issues to be resolved in Phase II.

(4) An appropriate portion of the proposed facilities will not be included in Tennessee's rate base in any future rate proceeding in the event the facility is not fully used or useful as a result of ultimate determination in Phase II of Docket No. CP72–6, or is not otherwise fully used or useful.

(C) Certificates of public convenience and necessity be issued to Continental in Docket No. CI72–9 and Cities Service in Docket No. CI72–19, on condition that:

(1) The total initial rate be 26 cents as adjusted for quality pursuant to Opinion No. 598 and subject to Opinions Nos. 598 and 598A and any further order issued thereunder.

(2) There be a filing, within 90 days from the dates of initial delivery, of three copies of a rate schedule-quality statement, for each sale, as specified by ordering paragraph (D) of the Commission's Opinion No. 598.

(3) The transportation of liquids and liquefiable hydrocarbons is subject to the rule making proceeding in Docket No. R–338, § 2.71 of the Commission's statements of general policy.

(4) In the event Continental and Cities Service exercise their right to have Tennessee transport gas reserved for their own use, it will be necessary to submit proposed rate schedule supplements, at least 30 days prior to the effective dates, notifying the commission that Continental and Cities Service have exercised such right and setting forth the conditions and details of contemplated action.

(5) The proposed rate schedules of Continental and Cities Service are accepted for filing and will be effective on the date of initial delivery. An appropriate filing by the producers will be made to advise the Commission of initiation of service hereunder.

(6) Continental's rate schedule will be designated as R.S. No. 372 and Supp. No. 1; Cities Service Rate Schedule will be designated as R.S. No. 348 and Supp. No. 1.

(D) The applications listed at the head of this order are hereby consolidated for hearing and decision.

(E) The petitioners named above are hereby permitted to intervene in these proceedings, subject to the rules and regulations of the Commission, provided that the participation of such interveners shall be limited to matters affecting rights and interests specifically set forth in their respective petitions to intervene and that the admission of such interveners 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.

(F) Pursuant to authority conferred on the Federal Power Commission by the Natural Gas Act and the Commission's regulations under the Natural Gas Act, a public hearing will commence on July 18, 1972, at 10 a.m., e.d.t., in a hearing room

of the Federal Power Commission, 441 G Street, NW., Washington, DC 20426, respecting the matters set forth above and more fully set forth in the applications in these dockets and designated as Tennessee Gas Pipeline Co., a Division of Tenneco Inc. et al., Docket No. CP72-6 et al.

(G) Applicants and persons in support of the applications shall serve prepared testimony in support thereof, including prepared testimony of witnesses and exhibits, on the Office of the Hearing Examiners, the Commission's staff, and every party to this proceeding on or before June 22, 1972.

(H) All applicants and interveners herein may serve answering evidence to (G) above, including prepared testimony of witnesses and exhibits, in the same manner as applicants above, not later than June 30, 1972.

(I) A hearing examiner to be hereinafter designated by the Chief Examiner shall preside at the hearing and, in his discretion, shall control the proceedings thereafter.

By the Commission.

[SEAL] KENNETH F. PLUMB,
Secretary.

[FR Doc.72-8610 Filed 6-7-72;8:45 am]

NATURAL GAS SUPPLY PROBLEMS ANTICIPATED DURING 1972-73 HEATING SEASON

Notice of Scheduled Conferences With Staff

JUNE 6, 1972.

The Commission's staff wishes to meet with the senior officials of the major gas pipelines to discuss the capability of these companies to serve their anticipated requirements during the coming year. The pattern will be similar to last year's meetings with groups of companies having some community of interest meeting at the same time. Some companies have operations extending across two or more groups and accordingly are requested to send representatives to more than one meeting.

The purpose of the meetings is to anticipate, if possible, emergency situations in the coming winter and possible problems in filling storage this summer. Although the conferences are not intended to affect the resolutions of issues pending in curtailment, rate or certificate proceedings, we nevertheless will make the conferences public and will encourage the attendance of interested persons and State Commission's. To this end, notice will be placed in the Commission's calendar of events and in the FEDERAL REGISTER.

At these meetings we would like to discuss, both on an individual company and on a regional basis, such subjects as current supply availability, present and projected levels of storage, anticipated supply additions—both of a short term and long term nature, anticipated requirements, and other related matters. Of particular concern will be any indication of curtailment projects by or to a pipeline and other operational adjustments that may become necessary.

We wish to thank all of you who responded to our letter of March 20, 1972, requesting historical and projected supply and requirements for the period April 1971 through March 1973. That information will provide the basis for our discussions.

These meetings will be held in the offices of FPC at 10 a.m. on the days indicated in the attached schedule.

THOMAS J. JOYCE,
Chief, Bureau of Natural Gas.

SCHEDULE OF PIPELINE COMPANY MEETINGS ON 1972-73 OPERATIONS TO BE HELD AT 10 A.M. ON DATE INDICATED

Group 1—June 16, 1972:
- Arkansas Louisiana Gas Co.
- Cities Service Gas Co.
- Lone Star Gas Co.

Group 2—June 19, 1972:
- El Paso Natural Gas Co.
- Colorado Interstate Gas Co.
- Mountain Fuel Supply Co.
- Pacific Gas Transmission Co.
- Transwestern Pipeline Co.

Group 3—June 23, 1972:
- Michigan Wisconsin Pipe Line Co.
- Midwestern Gas Transmission Co.
- Natural Gas Pipeline Company of America.
- Northern Natural Gas Co.
- Panhandle Eastern Pipe Line Co.
- Trunkline Gas Co.

Group 4—June 27, 1972:
- United Gas Pipe Line Co.
- Mississippi River Transmission Corp.
- Natural Gas Pipeline Company of America.
- Southern Natural Gas Co.
- Texas Eastern Transmission Corp.
- Texas Gas Transmission Corp.

Group 5—June 28, 1972:
- Algonquin Gas Transmission Co.
- Columbia Gas Transmission Corp.
- Consolidated Gas Supply Corp.
- Tennessee Gas Pipeline Co.
- Texas Eastern Transmission Corp.
- Texas Gas Transmission Corp.
- Transcontinental Gas Pipe Line Corp.

[FR Doc.72-8761 Filed 6-7-72;9:15 am]

PRICE COMMISSION

ESTABLISHMENT OF RETAIL ADVISORY COMMITTEE

In accordance with the authority vested in me by the Economic Stabilization Act of 1970, as amended and by Executive Order 11640, as amended by Executive Order 11660, and pursuant to Executive Order 11007, I find that it is in the public interest in connection with carrying out my duties under the Economic Stabilization Act that a Retail Advisory Committee be established and there is hereby established a Retail Advisory Committee, with the following duties, obligations, and powers:

(1) There will be one officer or employee of the Government as Committee Chairman.

(2) The members of the Committee will be named in letters from the Commission.

(3) This Committee is authorized to begin functioning upon being named and to continue to serve until April 30, 1973, or until they resign or are removed from membership, if sooner.

(4) No meeting shall be held except at the call, of, or with the advance approval of, the Chairman of the Committee with an agenda formulated or approved by him.

(5) All meetings of the Committee shall be under the chairmanship or conducted in the presence of the Chairman of the Committee, who shall have the authority and is required to adjourn any meeting whenever he considers adjournment to be in the public interest.

(6) Due to the nature of the business to be transacted by this Committee, the making of a verbatim transcript of its meetings would be unduly burdensome and costly and would interfere with its proper functioning, therefore the Committee is authorized to keep minutes in lieu of making a verbatim transcript. At a minimum the minutes shall contain a list of all persons present, the time and place of meeting, a description of matters discussed and conclusions reached, copies of all reports received, issued, or approved by the Committee, and a record of recommendations made. In addition to minutes of meetings, a record should be made of any business transacted by mail, phone, or wire. Records of the Committee are public records, available to inspection by the public. The accuracy of all minutes shall be certified by the Chairman of the Committee.

(7) The Committee is authorized to consult with and discuss with Price Commission analysts, economists, and attorneys the Commission's regulations and rules as they affect the retail industry; to comment on and advise on proposed changes submitted to the Committee; to make recommendations to the Commission for changes, modifications, or revision; to serve as consolidators for industry opinion and reaction to Commission actions, and to perform such other advisory duties as the Commission may request.

(8) The members of the Retail Advisory Committee will not receive remuneration for their services, except that the Commission upon request of a member will pay transportation to and from Washington, D.C., to attend meetings of the Committee and appropriate per diem as authorized by law.

(9) The Retail Advisory Committee shall begin functioning immediately upon the naming of the members thereof.

(10) Meetings generally will be held at the office of the Price Commission, 2000 M Street NW., Washington, DC 20508.

Issued in Washington, D.C., on June 2, 1972.

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

[FR Doc. 72-8676 Filed 6-7-72;8:50 am]

SECURITIES AND EXCHANGE COMMISSION

[70-5029]

AMERICAN ELECTRIC POWER CO., INC.

Notice of Posteffective Amendment Regarding Capital Contributions to Subsidiary Companies

JUNE 2, 1972.

Notice is hereby given that American Electric Power Co., Inc. (AEP), 2 Broadway, New York, NY 10004, a registered holding company, has filed with this Commission a post effective amendment to its application-declaration in this proceeding pursuant to section 12(b) of the Public Utility Holding Company Act of 1935 (Act) and Rule 45 promulgated thereunder regarding the following proposed transactions. All interested persons are referred to the amended application-declaration, which is summarized below, for a complete statement of the proposed transactions.

By order dated June 30, 1971 (Holding Company Act Release No. 17179), the Commission, among other things, authorized AEP to make capital contributions to certain of its subsidiary companies prior to June 30, 1973, to assist them in financing their respective construction programs and for other corporate purposes. It is now proposed that such capital contributions be increased from $50 million to $80 million in the case of Indiana & Michigan Electric Co. (I&M) and from $80 million to $120 million in the case of Ohio Power Co. (Ohio). It is stated that I&M's estimated construction expenditures for 1972 have increased from $175 million to in excess of $200 million and those of Ohio from $245 million to $300 million. In all other respects the transactions as authorized remain unchanged.

Notice is further given that any interested person may, not later than June 23, 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 post effective amendment to the 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 now amended or as it may be further amended, may be granted and permitted to become effective as provided in Rule 23 of the general rules and regulations promulgated under the Act, or the Commission may grant exemption from such rules as provided in Rules 20(a) and 100 thereof or take such other action as it may deem appropriate. Persons who request a hearing or advice as to whether a hearing is ordered will receive notice of further developments in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Corporate Regulation, pursuant to delegated authority.

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

[FR Doc.72-8630 Filed 6-7-72;8:47 am]

[70-5199]

AMERICAN NATURAL GAS CO., AND MICHIGAN CONSOLIDATED GAS CO.

Notice of Proposed Issue and Sale of First Mortgage Bonds at Competitive Bidding and Increase in Authorized Shares of Common Stock and Issue and Sale Thereof to Holding Company

JUNE 2, 1972.

Notice is hereby given that American Natural Gas Co. (American Natural), 30 Rockefeller Plaza, Suite 4950, New York, NY 10020, a registered holding company, and one of its subsidiary companies, Michigan Consolidated Gas Co. (Michigan Consolidated), 1 Woodward Avenue, Detroit, MI 48226, have filed an application-declaration with this Commission pursuant to the Public Utility Holding Company Act of 1935 (Act), designating sections 6(b), 9, 10, and 12 (f) of the Act and rules 43 and 50 thereunder as applicable to the proposed transactions. All interested persons are referred to the application-declaration, which is summarized below, for a complete statement of the proposed transactions.

Michigan Consolidated proposes to issue and sell, subject to the competitive bidding requirements of rule 50 under the Act, $35 million principal amount of first mortgage bonds, _____ percent series, due 1997. The interest rate (which will be a multiple of one-eighth of 1 percent) and the price, exclusive of accrued interest (which will not be less than 98½ percent nor more than 101½ percent of the principal amount) will be determined by the competitive bidding. The bonds will be issued under a mortgage and deed of trust, dated as of March 1, 1944, as heretofore supplemented and as to be further supplemented by a 20th supplemental indenture to be dated as of July 1, 1972, between Michigan Consolidated and First National City Bank (formerly The First National City Bank of New York) and William T. Hayes, as trustees, and including a prohibition until July 1, 1977, against refunding the issue with funds borrowed at a lower cost of money. funds borrowed at a lower cost of money.

Michigan Consolidated also proposes to increase its authorized shares of common stock, par value $14 per share (all of which are owned by American Natural), from 12,351,000 to 13,200,000 shares, and to issue and sell, and American Natural proposes to acquire, 849,000 additional shares of common stock of Michigan Consolidated at a price of $14 per share or for an aggregate price of $11,886,000. Concurrently with the sale of stock, Michigan Consolidated will pay to American Natural a special cash dividend in the amount of $11,886,000, the effect of the two transactions being to convert $11,886,000 of Michigan Consolidated's existing retained earnings into common stock.

It is stated that the net proceeds from the sale of the bonds and common stock will be used to retire all of Michigan Consolidated's then outstanding notes payable to banks due August 31, 1972, and to pay, in part, 1972 construction costs (estimated at $72 million). The amount of notes payable to banks outstanding at the time of execution of the proposed transactions is estimated at $19 million, which amount reflects a prior reduction of such notes from the proceeds of the sale to American Natural of $10,010,000 of Michigan Consolidated's common stock previously authorized by the Commission (Holding Company Act Release No. 17574, May 12, 1972). It is stated that additional funds required to finance Michigan Consolidated's 1972 construction will be obtained from its operations, and from additional borrowings which will be the subject of a future application to the Commission.

The fees and expenses to be paid in connection with the proposed transactions are estimated at $19,000 for the common stock, including counsel fees of $1,000, and $137,000 for the bonds, including counsel fees of $28,500 and accounting fees of $8,500. The fee of counsel for the purchasers of the bonds is estimated at $11,000 and is to be paid by the successful bidders. It is stated that the issuance and sale of the bonds and common stock requires authorization by the Michigan Public Service Commission and that no other State commission and no Federal commission, other than this Commission, has jurisdiction over the proposed transactions.

Notice is further given that any interested person may, not later than June 21, 1972, request in writing that a hearing be held on such matter, stating the nature of his interest, the reasons for such request, and the issues of fact or law raised by said application-declaration which he desires to controvert; or he may request that he be notified if the Commission should order a hearing thereon. Any such request should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request should be served personally or by mail (airmail if the person being served is located more than 500 miles from the point of mailing) upon the applicants-declarants at the above-stated address, and proof of service (by affidavit or, in case of an attorney at law, by certificate) should be filed with the request. At any time after said date, the application-declaration, as filed or as it may be

amended, may be granted and permitted to become effective as provided in rule 23 of the general rules and regulations promulgated under the Act, or the Commission may grant exemption from such rules as provided in rules 20(a) and 100 thereof or take such other action as it may deem appropriate. Persons who request a hearing or advice as to whether a hearing is ordered will receive notice of further developments in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Corporate Regulation, pursuant to delegated authority.

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

[FR Doc.72-8629 Filed 6-7-72;8:47 am]

[File No. 500-1]

CANADIAN JAVELIN, LTD.

Order Suspending Trading

JUNE 1, 1972.

The common stock, no par value, of Canadian Javelin, Ltd., being traded on the American Stock Exchange pursuant to provisions of the Securities Exchange Act of 1934 and all other securities of Canadian Javelin Ltd., being traded otherwise than on a national securities exchange; and

It appearing to the Securities and Exchange Commission that the summary suspension of trading in such security on such exchanges and otherwise than on a national securities exchange is required in the public interest and for the protection of investors:

It is ordered, Pursuant to sections 15(c)(5) and 19(a)(4) of the Securities Exchange Act of 1934, that trading in such securities on the above mentioned exchanges and otherwise than on a national securities exchange be summarily suspended, this order to be effective for the period from June 5, 1972, through June 14, 1972.

By the Commission.

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

[FR Doc.72-8632 Filed 6-7-72;8:47 am]

[File No. 500-1]

CLINTON OIL CO.

Order Suspending Trading

JUNE 1, 1972.

It appearing to the Securities and Exchange Commission that the summary suspension of trading in the common stock, $0.03⅓ par value, and all other securities of Clinton Oil Co., being traded otherwise than on a national securities exchange is required in the public interest and for the protection of investors:

It is ordered, Pursuant to section 15(c)(5) of the Securities Exchange Act of 1934, that trading in such securities otherwise than on a national securities exchange be summarily suspended, this order to be effective for the period from 11 a.m., e.d.t., on June 1, 1972, through June 10, 1972.

By the Commission.

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

[FR Doc.72-8633 Filed 6-7-72;8:47 am]

[File No. 500-1]

COGAR CORP.

Order Suspending Trading

JUNE 2, 1972.

It appearing to the Securities and Exchange Commission that the summary suspension of trading in the common stock, $0.60 par value, of Cogar Corp. being traded otherwise than on a national securities exchange is required in the public interest and for the protection of investors.

It is ordered, Pursuant to section 15(c)(5) of the Securities Exchange Act of 1934, that trading in such securities otherwise than on a national securities exchange be summarily suspended, this order to be effective for the period from June 6, 1972, through June 15, 1972.

By the Commission.

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

[FR Doc.72-8634 Filed 6-7-72;8:47 am]

[File No. 500-1]

CONTINENTAL VENDING MACHINE CORP.

Order Suspending Trading

JUNE 1, 1972.

It appearing to the Securities and Exchange Commission that the summary suspension of trading in the common stock, 10 cents par value, of Continental Vending Machine Corp., and the 6 percent convertible subordinated debentures due September 1, 1976 being traded otherwise than on a national securities exchange is required in the public interest and for the protection of investors.

It is ordered, Pursuant to section 15(c)(5) of the Securities Exchange Act of 1934, that trading in such securities otherwise than on a national securities exchange be summarily suspended, this order to be effective for the period June 4, 1972, through June 13, 1972.

By the Commission.

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

[FR Doc.72-8635 Filed 6-7-72;8:48 am]

[811-1462]

GOLDEN GATE FUND, INC.

Notice of Filing of Application for Order Declaring That Company Has Ceased To Be an Investment Company.

JUNE 2, 1972.

Notice is hereby given that Golden Gate Fund, Inc. (Applicant), c/o Ruffo, Ferrari & McNeil, 675 North First Street, Suite 1200, San Jose, CA 95112, registered under the Investment Company Act of 1940 (Act) as a diversified open-end management investment company has filed an application pursuant to section 8(f) of the Act for an order of the Commission declaring that the Applicant has ceased to be an investment company as defined in the Act. All interested persons are referred to the application on file with the Commission for a statement of the representations set forth therein which are summarized below.

Applicant was organized as a California corporation on December 7, 1966, and on January 6, 1967, registered under the Act pursuant to section 8(a).

Applicant represents, among other things, that on December 23, 1971, its shareholders adopted a plan of complete liquidation. Applicant has ceased making any public offering of its shares and represents that all of its assets have been reduced to cash with the exception of some restricted shares which have no current market value. Since December 30, 1971, Applicant has been exclusively engaged in effecting its complete dissolution and does not hold itself out as being engaged in the business of investing, reinvesting, or trading in securities.

As of December 30, 1971, Applicant had 22 individual shareholders, four of whom own more than 10 percent of its outstanding stock. Section 3(c)(1) of the Act provides that any issuer whose outstanding securities are beneficially owned by not more than 100 persons and which is not making and does not presently propose to make a public offering of its securities is not an investment company.

Section 8(f) of the Act provides, in pertinent part that when the Commission, upon application, finds that a registered investment company has ceased to be an investment company, it shall so declare by order, and upon the taking effect of such order the registration of such company shall cease to be in effect.

Notice is further given that any interested person may, not later than June 26, 1972 at 5:30 p.m., submit to the Commission in writing a request for a hearing on the matter accompanied by a statement as to the nature of his interest, the reason for such request and the issues, if any, of fact or law proposed to be controverted, or he may request he be notified if the Commission should order a hearing thereon. Any such communication should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request shall be served personally or by mail (airmail if the person being served is located more than 500 miles from the point of mailing) upon Applicant at the address stated above. Proof of such service (by affidavit or in case of an attorney at law by certificate) shall be filed contemporaneously with the request. At any time after said date as provided by Rule 0-5 of the rules and regulations promulgated under the Act, an order disposing of the application herein may be issued by the Commission upon the basis of the information stated

in said application, unless an order for hearing upon said application shall be issued upon request or upon the Commission's own motion. Persons who request a hearing or advice as to whether a hearing is ordered will receive notice of further developments in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Corporate Regulation, pursuant to delegated authority.

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

[FR Doc.72-8631 Filed 6-7-72;8:47 am]

[File No. 500-1]

INTER-ISLAND MORTGAGEE CORP.

Order Suspending Trading

JUNE 1, 1972.

It appearing to the Securities and Exchange Commission that the summary suspension of trading in the common stock, $0.10 per value, of Inter-Island Mortgagee Corp. being traded otherwise than on a national securities exchange is required in the public interest and for the protection of investors.

It is ordered, Pursuant to section 15(c)(5) of the Securities Exchange Act of 1934, that trading in such securities otherwise than on a national securities exchange be summarily suspended, this order to be effective for the period from June 4, 1972, through June 13, 1972.

By the Commission.

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

[FR Doc.72-8636 Filed 6-7-72;8:48 am]

[File No. 500-1]

LDS DENTAL SUPPLIES, INC.

Order Suspending Trading

MAY 31, 1972.

It appearing to the Securities and Exchange Commission that the summary suspension of trading in the common stock, $0.01 par value, of LDS Dental Supplies, Inc., being traded otherwise than on a national securities exchange is required in the public interest and for the protection of investors:

It is ordered, Pursuant to Section 15(c)(5) of the Securities Exchange Act of 1934, that trading in such securities otherwise than on a national securities exchange be summarily suspended, this order to be effective for the period from 11:30 a.m., e.d.t., on May 31, 1972, through June 9, 1972.

By the Commission.

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

[FR Doc. 72-8637 Filed 6-7-72;8:48 am]

[File No. 500-1]

MERIDIAN FAST FOOD SERVICES, INC.

Order Suspending Trading

JUNE 1, 1972.

It appearing to the Securities and Exchange Commission that the summary suspension of trading in the common stock, $0.01 par value, of Meridian Fast Food Services, Inc., being traded otherwise than on a national securities exchange is required in the public interest and for the protection of investors:

It is ordered, Pursuant to section 15(c)(5) of the Securities Exchange Act of 1934, that trading in such securities otherwise than on a national securities exchange be summarily suspended, this order to be effective for the period from June 5, 1972, through June 14, 1972.

By the Commission.

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

[FR Doc. 72-8638 Filed 6-7-72;8:48 am]

SMALL BUSINESS ADMINISTRATION

[MESBIC License Application 03/03-5113]

TECH-MOD CAPITAL CORP.

Notice of Application for License as Minority Enterprise Small Business Investment Company

An application for a license to operate as a minority enterprise small business investment company (MESBIC) under the provisions of the Small Business Investment Act of 1958, as amended (15 U.S.C. 661 et seq.), has been filed by Tech-Mod Capital Corp. (applicant) with the Small Business Administration (SBA) pursuant to § 107.102 of the SBA rules and regulations governing small business investment companies (13 CFR 107.102 (1972)).

The officers and directors of the applicant are as follows:

Samuel L. Messina, 2800 North Flagler Drive, La Fontana Apartments, West Palm Beach, FL 33407, President, Director.

Floyd M. Fox, Jr., Halifax Road, Chatham, VA 24531, Vice President, Director.

William E. O'Neal, 113 Dory Road South, North Palm Beach, FL 33403, Secretary, Treasurer, Director.

The applicant, a District of Columbia corporation, with its principal place of business located at 3900 Wisconsin Avenue NW., Washington, DC 20016, will begin operations with $156,000 of paid-in capital, consisting of 1,000 shares of common stock. All of the issued and outstanding stock will be owned by the Tech-Mod Corporation, a private corporation engaged in real estate development, and located at 3900 Wisconsin Avenue NW., Washington, DC 20016.

Applicant will not concentrate its investments in any particular industry. According to the company's stated investment policy, its investments will be made solely in small business concerns which will contribute to a well-balanced national economy by facilitating ownership in such concerns by persons whose participation in the free enterprise system is hampered because of social or economic disadvantages.

Matters involved in SBA's consideration of the applicant include the general business reputation and character of the proposed owner and management, and the probability of successful operation of the applicant under their management, including adequate profitability and financial soundness, in accordance with the Small Business Investment Act and the SBA rules and regulations.

Any interested person may, not later than 15 days from the date of publication of this notice, submit to SBA, in writing, relevant comments on the proposed MESBIC. Any such communication should be addressed to the Associate Administrator for Operations and Investment, Small Business Administration, 1441 L Street NW., Washington, DC 20416.

A copy of this notice shall be published in a newspaper of general circulation in Washington, D.C.

Dated: May 30, 1972.

CLAUDE ALEXANDER, *Associate Administrator for Operations and Investment.*

[FR Doc.72-8614 Filed 6-7-72;8:46 am]

NORTHWEST CAPITAL INVESTMENT CORP.

Notice of Issuance of License To Operate as Small Business Investment Company

On April 13, 1972, a notice was published in the FEDERAL REGISTER (37 F.R. 7367) stating that an application had been filed with the Small Business Administration pursuant to § 107.102 of the regulations governing Small Business Investment Companies (13 CFR 107.102 (1972)) for a license to operate as a small business investment company by Northwest Capital Investment Corp., 415 North Third Street, Post Office Box 526, Yakima, WA 98901.

Interested parties were invited to submit their written comments to SBA. No comments were received.

Notice is hereby given that pursuant to the provisions of the Small Business Investment Act of 1958, as amended (15 U.S.C. 661 et seq.), after having considered the application and all other pertinent information and facts with regard thereto, SBA has issued License No. 10/10-0159 to Northwest Capital Investment Corp. to operate as a small business investment company.

Dated: May 30, 1972.

CLAUDE ALEXANDER, *Associate Administrator for Operations and Investment.*

[FR Doc.72-8615 Filed 6-7-72;8:46 am]

INTERSTATE COMMERCE COMMISSION

[Notice 3]

ASSIGNMENT OF HEARINGS

JUNE 5, 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 107295 Sub 557, Pre-Fab Transit Co., now assigned June 12, 1972, at St. Louis, Mo., canceled and application dismissed.

MC 26825 Sub 12, Andrews Van Lines, Inc., now assigned June 14, 1972, at Omaha, Nebr., postponed indefinitely.

MC-F-11170, Hyman Freightways, Inc.—control—Tri-D Truck Line, Inc., continued July 11, 1972, at Omaha, Nebr., and July 24, 1972, at Kansas City, Mo., in a hearing room to be later designated.

No. 35603, rail passenger fares, between Connecticut and New York, assigned June 26 and 29, at New York, N.Y., will be held in room 2220, 26 Federal Plaza, assigned June 27, 1972, at Stamford, Conn., will be held at the Roger Smith Hotel, Washington Boulevard, and June 28, 1972, at Westport, Conn., will be in courtroom, Police and Court Building, 50 Jessup Road. The June 27th hearing will be at 3 p.m. instead of 1 p.m., and the June 29th hearing will be at 1 p.m. instead of 9:30 a.m.

MC-F-11393, E. L. Murphy Trucking Control and Merger-Dyer Transport, now assigned July 10, 1972, at Minneapolis, Minn., hearing postponed to July 17, 1972, at Minneapolis, Minn., in a hearing room to be later designated.

MC 117574 Sub 213, Daily Express, Inc., now assigned June 15, 1972, at Washington, D.C., hearing postponed to July 19, 1972, at the offices of the Interstate Commerce Commission, Washington, D.C.

MC 134243 Sub 2, Moore Bros. Transportation Co., Inc., now assigned July 6, 1972, at Greensboro, N.C., will be held in Conference Room B-26, U.S. Post Office and Courthouse, 324 West Market Street.

MC 103926 Sub 26, W. T. Mayfield Sons Trucking Co., and MC 113495 Sub 52, Gregory Heavy Haulers, Inc., now assigned July 10, 1972, at Atlanta, Ga., will be held in room 102E, 1776 Peachtree Road NW.

MC 121060 Sub 14, Arrow Truck Lines, Inc., now assigned July 10, 1972, at Atlanta, Ga., will be held in room 305, 1252 West Peachtree Street NW.

MC 107515 Subs 741 and 745, Refrigerated Transport Co., Inc., now assigned July 11, 1972, at Atlanta, Ga., will be held at the Quality Hotel Central, 10th Street and Expressway.

MC 2202 Sub 396, Roadway Express, Inc., now being assigned hearing August 7, 1972, at Baton Rouge, La., hearing room to be later designated.

MC 59150 Sub 64, Ploof Transfer Co., Inc., assigned July 17, 1972, and MC 134426 Sub 1, Robert E. McCort, doing business as McCort Driveaway, assigned July 18, 1972, at Jacksonville, Fla., will be in room 101, Federal Office Building, 400 West Bay Street.

MC 119493 Sub 80, Monkem Co., Inc., now assigned June 12, 1972, at Kansas City, Mo., hearing canceled and application dismissed.

[SEAL] ROBERT L. OSWALD,
Secretary.

[FR Doc.72-8677 Filed 6-7-72;8:50 am]

[Notice 72]

MOTOR CARRIER TRANSFER PROCEEDINGS

JUNE 5, 1972.

Application filed for temporary authority under section 210(a)(b) in connection with transfer application under section 212(b) and transfer rules, 49 CFR Part 1132:

No. MC-FC-73733. By application filed June 1, 1972, ROBERT EUGENE HULSMAN, doing business as HAMILTON WELDING AND REPAIR AND HULSMAN TRUCKING, Route No. 2, Hamilton, MI 49419, seeks temporary authority to lease the operating rights of TIGELAAR AND De WEERD, INC., 5367 South School Street, Hudsonville, MI 49426, under section 210a(b). The transfer to ROBERT EUGENE HULSMAN, doing business as HAMILTON WELDING AND REPAIR AND HULSMAN TRUCKING, of the operating rights of TIGELAAR AND De WEERD, INC., is presently pending.

By the Commission.

[SEAL] ROBERT L. OSWALD,
Secretary.

[FR Doc.72-8679 Filed 6-7-72;8:50 am]

[Rev. S.O. 994; ICC Order 68]

CENTRAL RAILROAD COMPANY OF NEW JERSEY

Rerouting or Diversion of Traffic

In the opinion of R. D. Pfahler, agent, the Central Railroad Company of New Jersey, Robert D. Timpany, trustee (CNJ), is unable to transport traffic over lines in Pennsylvania because of a cessation of operations ordered by the U.S. District Court for the District of New Jersey, the Honorable Anthony T. Augelli in Newark, N.J. In the meantime, the Commission, by order dated May 26, 1972, authorized the Lehigh Valley Railroad Company, John F. Nash and Robert C. Haldeman, trustees (LV), permanently to operate over the lines in Pennsylvania formerly operated by CNJ, but its order has not yet become effective.

It is ordered, That:

(a) *Rerouting traffic.* Because the said court order prohibits the CNJ from transporting traffic over lines in Pennsylvania, and because the said order of the Commission has not yet become effective, authorization is hereby given for traffic routed via CNJ to, from, or through Pennsylvania, to be rerouted or diverted by substituting LV in lieu of CNJ for such movement to, from, or through Pennsylvania; and for LV to interchange such traffic to its connections at any junction, wherever located, as would best facilitate the flow of traffic. No other changes in routing shall be made unless authorized by the shipper; or, if the shipment was originally unrouted, unless authorized by the origin carrier. The billing covering all such cars rerouted shall carry a reference to this order as authority for the rerouting.

(b) *Notification to shippers.* Each carrier rerouting cars in accordance with this order shall notify each shipper at the time each car is rerouted or diverted and shall furnish to such shipper the new routing provided under this order.

(c) Inasmuch as the diversion or rerouting of traffic is deemed to be due to carrier disability, the rates applicable to traffic diverted or rerouted by said agent shall be the rates which were applicable at the time of shipment on the shipments as originally routed.

(d) In executing the directions of the Commission and of such agent provided for in this order, the common carriers involved shall proceed even though no contracts, agreements, or arrangements now exist between them with reference to the divisions of the rates of transportation applicable to said traffic. Divisions shall be, during the time this order remains in force, those voluntarily agreed upon by and between said carriers; or upon failure of the carriers to so agree, said divisions shall be those hereafter fixed by the Commission in accordance with pertinent authority conferred upon it by the Interstate Commerce Act.

(e) *Effective date.* This order shall become effective at 11:59 p.m., May 30, 1972.

(f) *Expiration date.* This order shall expire at 11:59 p.m., July 3, 1972, unless otherwise modified, changed, or suspended.

It is further ordered, That this order shall be served upon the Association of American Railroads, Car Service Division, as agent of all railroads subscribing to the car service and car hire agreement under the terms of that agreement, and upon the American Short Line Railroad Association; and that it be filed with the Director, Office of the Federal Register.

Issued at Washington, D.C., May 30, 1972.

INTERSTATE COMMERCE COMMISSION,
[SEAL] R. D. PFAHLER,
Agent.

[FR Doc.72-8678 Filed 6-7-72;8:50 am]

[Notice 45]

MOTOR CARRIER, BROKER, WATER CARRIER, AND FREIGHT FORWARDER APPLICATIONS

JUNE 2, 1972.

The following applications (except as otherwise specifically noted, each applicant (on applications filed after March 27, 1972) states that there will be no significant effect on the quality of the human environment resulting from approval of its application) are governed by Special Rule 1100.247[1] of the Commission's general rules of practice (49 CFR, as amended), published in the

[1] Copies of Special Rule 247 (as amended) can be obtained by writing to the Secretary, Interstate Commerce Commission, Washington, D.C. 20423.

FEDERAL REGISTER issue of April 20, 1966, effective May 20, 1966. These rules provide, among other things, that a protest to the granting of an application must be filed with the Commission within 30 days after date of notice of filing of the application is published in the FEDERAL REGISTER. Failure seasonably to file a protest will be construed as a waiver of opposition and participation in the proceeding. A protest under these rules should comply with section 247(d)(3) of the rules of practice which requires that it set forth specifically the grounds upon which it is made, contain a detailed statement of protestant's interest in the proceeding (including a copy of the specific portions of its authority which protestant believes to be in conflict with that sought in the application, and describing in detail the method—whether by joinder, interline, or other means—by which protestant would use such authority to provide all or part of the service proposed), and shall specify with particularity the facts, matters, and things relied upon, but shall not include issues or allegations phrased generally. Protests not in reasonable compliance with the requirements of the rules may be rejected. The original and one copy of the protest shall be filed with the Commission, and a copy shall be served concurrently upon applicant's representative, or applicant if no representative is named. If the protest includes a request for oral hearing, such requests shall meet the requirements of section 247(d)(4) of the special rules, and shall include the certification required therein.

Section 247(f) of the Commission's rules of practice further provides that each applicant shall, if protests to its application have been filed, and within 60 days of the date of this publication, notify the Commission in writing (1) that it is ready to proceed and prosecute the application, or (2) that it wishes to withdraw the application, failure in which the application will be dismissed by the Commission.

Further processing steps (whether modified procedure, oral hearing, or other procedures) will be determined generally in accordance with the Commission's general policy statement concerning motor carrier licensing procedures, published in the FEDERAL REGISTER issue of May 3, 1966. This assignment will be by Commission order which will be served on each party of record. Broadening amendments will not be accepted after the date of this publication except for good cause shown, and restrictive amendments will not be entertained following publication in the FEDERAL REGISTER of a notice that the proceeding has been assigned for oral hearing.

No. MC 730 (Sub-No. 338), filed May 11, 1972. Applicant: PACIFIC INTERMOUNTAIN EXPRESS CO., a corporation, 1417 Clay Street, Post Office Box 958, Oakland, CA 94604. Applicant's representative: Earl J. Brooks (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over regular routes, transporting: *General commodities* (except those of unusual value, Classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), between junction of U.S. Highway 61 and U.S. Highway 40 (Interstate Highway 70), located near Wentzville, Mo., and junction U.S. Highway 218 and U.S. Highway 30 at Cedar Rapids, Iowa, as follows: From junction of U.S. Highway 61 and U.S. Highway 40 (Interstate Highway 70) over U.S. Highway 61 to junction with U.S. Highway 218, thence over U.S. Highway 218 to junction U.S. Highway 30 and return over the same route as an alternate route for operating convenience only, serving no termini or intermediate points except for purpose of joinder only. Applicant requests joinder of routes at junction of U.S. Highway 61 and U.S. Highway 40 (Interstate Highway 70); at junction of U.S. Highway 61 and U.S. Highway 54; at junction of U.S. Highway 61 and U.S. Highway 36; at junction of U.S. Highway 218 and U.S. Highway 34; at junction of U.S. Highway 218 and Interstate Highway 80; and at junction of U.S. Highway 218 and U.S. Highway 30. NOTE: Common control may be involved. Applicant states no duplicating authority sought. If a hearing is deemed necessary, applicant requests it be held at St. Louis, Mo., or Des Moines, Iowa.

No. MC 9269 (Sub-No. 15), filed April 20, 1972. Applicant: BESTWAY MOTORFREIGHT, INC., 1765 Sixth Avenue South, Seattle, WA 98134. Applicant's representative: George R. LaBissoniere, 1424 Washington Building, Seattle, Wash. 98101. Authority sought to operate as a *common carrier*, by motor vehicle, over regular routes, transporting: *General commodities* (except household goods as defined by the Commission, Classes A and B explosives, those of unsual value, commodities in bulk, commodities requiring special equipment and those injurious and contaminating to other lading) from Tacoma, Wash., over Interstate Highway 5 to Seattle, Wash., thence over Interstate Highway 90 to Spokane, Wash., and return over the same route, serving the intermediate points of Moses Lake and Seattle, Wash., restricted to traffic moving to, from, or through Moses Lake or Spokane, Wash. NOTE: If a hearing is deemed necessary, applicant requests it be held at Spokane, Wash.

No. MC 20783 (Sub-No. 87), filed April 20, 1972. Applicant: TOMPKINS MOTOR LINES, INC., 638 Langley Place, Decatur, GA 30030. Applicant's representative: Maurice F. Bishop, 327 Frank Nelson Building, Birmingham, Ala. 35203. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Foodstuffs* (except in bulk in vehicles equipped with mechanical refrigeration), from Washington Courthouse, Ohio, to points in Alabama, Florida, Georgia, Kentucky, Mississippi, North Carolina, South Carolina, Tennessee, and Virginia. NOTE: Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Atlanta, Ga., or Washington, D.C.

No. MC 21866 (Sub-No. 75), filed May 12, 1972. Applicant: WEST MOTOR FREIGHT, INC., 740 South Reading Avenue, Boyertown, PA 19512. Applicant's representative: Alan Kahn, 1920 2 Penn Center Plaza, Philadelphia, PA 19102. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Glass and plastic containers and materials* used or useful in the manufacture, sale, and distribution of glass and plastic containers, between the facilities of Drug Plastics & Glass Co., Inc., in the borough of Boyertown and Colebrookdale Township, Pa., on the one hand, and, on the other, points in the United States, east of the western boundaries of Wisconsin, Iowa, Illinois, Kentucky, Tennessee, Mississippi, and Louisiana. NOTE: Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Philadelphia, Pa., or Washington, D.C.

No. MC 29120 (Sub-No. 138) (amendment), filed March 2, 1972, published in the FEDERAL REGISTER issue of March 30, 1972, and republished in part, as amended, this issue. Applicant: ALL-AMERICAN TRANSPORT, INC., 1500 Industrial Avenue, Post Office Box 769, Sioux Falls, SD 57101. Applicant's representative: Mead Bailey (same address as applicant). NOTE: The sole purpose of this partial republication is to reflect that the proposed service is to be restricted to traffic originating at Marshall, Mo., and destined to points in the named States. The rest of the application remains as previously published.

No. MC 29910 (Sub-No. 116), filed May 15, 1972. Applicant: ARKANSAS-BEST FREIGHT SYSTEM, INC., 301 South 11th Street, Fort Smith, AR 72901. Applicant's representative: Don A. Smith, Kelley Building, Post Office Box 43, Fort Smith, AR 72901. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Plastic conduit, and fittings or couplings* for plastic conduit, (1) from the plantsite and warehouse facilities of Genova Products Co., at Davison, Mich., to Malvern, Ark.; and (2) from Malvern, Ark., to points in Alabama, Colorado, Florida, Georgia, Kansas, Kentucky, Louisiana, Mississippi, New Mexico, North Carolina, Oklahoma, South Carolina, Tennessee, and Texas. NOTE: Applicant states that the requested authority can be tacked with its existing authority but indicates that it has no present intention to tack and therefore does not identify the points or territories which can be served through tacking. Persons interested in the tacking

possibilities are cautioned that failure to oppose the application may result in an unrestricted grant of authority. No duplicating authority is sought. If a hearing is deemed necessary, applicant requests it be held at Washington, D.C., or Hot Springs, Ark.

No. MC 30844 (Sub-No. 407), filed May 15, 1972. Applicant: KROBLIN REFRIGERATED XPRESS, INC., 2125 Commercial Street, Waterloo, IA. Applicant's representative: Truman A. Stockton, Jr., 1650 Grant Street Building, Denver, Colo. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Foodstuffs*, canned or preserved, from Neosho, Mo., to points in Arkansas, Colorado, Kansas, Louisiana, Nebraska, Oklahoma, and Texas. NOTE: Common control may be involved. Applicant states that the requested authority can be tacked with its existing authority, but indicates that it has no present intention to tack and therefore, does not identify the points or territories which can be served through tacking. Persons interested in the tacking possibilities are cautioned that failure to oppose the application may result in an unrestricted grant of authority. If a hearing is deemed necessary, applicant requests it be held at Washington, D.C., or St. Louis, Mo.

No. MC 35320 (Sub-No. 134), filed April 19, 1972. Applicant: T.I.M.E.-DC, INC., 2598 74th Street, Post Office Box 2550, Lubbock, TX 79408. Applicant's representative: Frank M. Garrison, Post Office Box 2550, Lubbock, TX 79408. Authority sought to operate as a *common carrier*, by motor vehicle, over regular routes, transporting: *Paper and paper products*, serving the plantsite of ITT Rayonier, Inc., at or near Hoquiam, Wash., as an off-route point in connection with carrier's authority to serve Tacoma, Wash. NOTE: Common control may be involved. If a hearing is deemed necessary, applicant requests it be held at Seattle, Wash., or any place convenient to the Commission.

No. MC 37303 (Sub-No. 1), filed May 1, 1972. Applicant: SELOVER TRUCKING CO., INC., 393 Turnpike, South River, NJ 08882. Applicant's representative: Bert Collins, 140 Cedar Street, New York, NY 10006. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *General commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, commodities requiring special equipment, and those injurious or contaminating to other lading), between points in Stroud Township, Stroudsburg and East Stroudsburg, Pa., on the one hand, and, on the other, Hackettstown, N.J. NOTE: Applicant states tacking is intended at Hackettstown, N.J., to permit service in Middlesex, Monmouth, Somerset, Union, Essex, Hudson, Bergen, Passaic, Mercer, Morris, Ocean, Burlington, and Hunterton Counties, N.J., New York and Tarrytown, N.Y. Common control may be involved. If a hearing is deemed necessary, applicant requests it be held at Philadelphia, Pa.

No. MC 43867 (Sub-No. 24), filed May 15, 1972. Applicant: ALTON LEANDER McALISTER (The First-Wichita National Bank of Wichita Falls, Tex., independent executor), Post Office Box 2214, Wichita Falls, TX 76307. Applicant's representative: Bernard H. English, 6270 Firth Road, Fort Worth, TX 76116. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Pipe, tubing, pipe fittings, and pipe accessories*, in straight or mixed truckloads, from Lone Star, Tex., and points within 5 miles thereof, on the one hand, and, on the other, points in Arizona, Colorado, Idaho, Illinois, Indiana, Kansas, Kentucky, Louisiana, Montana, Nevada, New Mexico, Oklahoma, Texas, Utah, Wyoming, and St. Louis, Mo. NOTE: Applicant holds Mercer commodities, earth drilling, water well, and water and sewer pipeline commodities authority in same territory. Applicant seeks no duplicating authority and knows of no tacking possibilities with present authority. This application is accompanied by a motion to dismiss. If a hearing is deemed necessary, applicant requests it be held at Dallas or Fort Worth, Tex.

No. MC 51146 (Sub-No. 270), filed May 8, 1972. Applicant: SCHNEIDER TRANSPORT, INC., 2661 South Broadway, Green Bay, WI 54304. Applicant's representative: Charles Singer, 33 North Dearborn, Chicago, IL 60602. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Such commodities* as are dealt in by wholesale, retail and discount stores (except commodities in bulk), from points in California, Florida, Iowa, Louisiana, Minnesota, Mississippi, Missouri, Nebraska, New Jersey, New York, Pennsylvania, Virginia, and Washington, to Ashwaubenon, Wis. NOTE: Applicant states that the requested authority could be tacked with various subs of MC 51146 and applicant will tack with its MC 51146 where feasible. Applicant has various duplicative items of authority under various subs but does not seek duplicative authority. Common control may be involved. If a hearing is deemed necessary, applicant requests it be held at Milwaukee, Wis.

No. MC 51146 (Sub-No. 271), filed May 9, 1972. Applicant: SCHNEIDER TRANSPORT, INC., 2661 South Broadway, Green Bay, WI 54304. Applicant's representative: Charles Singer, 33 North Dearborn, Chicago, IL 60602. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Paper and paper products, plastic products, and products produced or distributed by manufacturers and converters of paper and paper products and plastic products* (except commodities in bulk), from Houston, Tex., to points in the United States (except Alaska and Hawaii). NOTE: Applicant states that the requested authority could be tacked with various subs of MC 51146 and applicant will tack with its MC 51146 where feasible. Applicant has various duplicative items of authority under various subs but does not seek duplicative authority. Common control may be involved. If a hearing is deemed necessary, applicant requests it be held at St. Louis, Mo.

No. MC 52657 (Sub-No. 692), filed May 15, 1972. Applicant: ARCO AUTO CARRIERS, INC., 2140 West 79th Street, Chicago, IL 60620. Applicant's representative: A. J. Bieberstein, 121 West Doty Street, Madison, WI 53703. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Motor vehicle bodies, bumpers, and tool boxes;* and (2) *materials, supplies, parts, and accessories* (except commodities in bulk) used in the manufacture, assembly and servicing of the commodities named in (1) above, when moving in mixed loads with such commodities, from Hampstead, Md., to points in Connecticut, Delaware, Florida, Georgia, Maine, Maryland, Massachusetts, New Hampshire, New Jersey, New York, North Carolina, Ohio, Pennsylvania, Rhode Island, South Carolina, Vermont, Virginia, West Virginia, and the District of Columbia. NOTE: Applicant states that the requested authority cannot be tacked with its existing authority. Applicant further states no duplicating authority sought. If a hearing is deemed necessary, applicant requests it be held at Washington, D.C., or Cleveland, Ohio.

No. MC 59336 (Sub-No. 25), filed May 16, 1972. Applicant: U.S. TRUCK COMPANY, INC., 2290 24th Street, Detroit, MI 48216. Applicant's representative: Wilber M. Brucker, Jr., 38th Floor Penobscot Building, Detroit, Mich. 48226. Authority sought to operate as a *common carrier*, by motor vehicle, over regular routes, transporting: *General commodities* (except those of unusual value, classes A and B explosives, household goods, as defined by the Commission, commodities in bulk, and those requiring special equipment), serving the plantsite and facilities of the Chrysler Corp. at Lyons, Mich., as an off-route point in connection with its regular route operations. (From Ionia, Mich. over Michigan Highway 66 (formerly Michigan Highway 14) to junction U.S. Highway 16, and return over the same route serving all intermediate points). NOTE: If a hearing is deemed necessary, applicant requests it be held at Detroit or Lansing, Mich.

No. MC 59680 (Sub-No. 200) (clarification), filed April 9, 1972, published in the FEDERAL REGISTER issue of May 11, 1972, and republished, in part, this issue. Applicant: STRICKLAND TRANSPORTATION CO., INC., 3011 Gulden Avenue, Post Office Box 5689, Dallas, TX 75222. Applicant's representative: Oscar P. Peck (same address as applicant). NOTE: The sole purpose of this partial republication is to reflect that the restriction noted in the previous publication was not intended to apply to all of the route description. Therefore, to clarify the scope and application of same, the restriction

should read as follows: Restriction: The service sought under item (4) is restricted to the transportation of traffic moving to or from points east of the Ohio-Pennsylvania State line. The rest of the application remains as previously published.

No. MC 77402 (Sub-No. 4), filed May 12, 1972. Applicant: HOWARD M. HOWES, INC., 108 East Market Street, Baltimore, OH 43105. Applicant's representative: Taylor C. Burneson, 88 East Broad Street, Suite 1680, Columbus, OH 43215. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: (1) *Corrugated paper containers and corrugated paper*, from Baltimore, Ohio, to points in Kentucky on and north of U.S. Highway 60 (except Ashland, Maysville, and Louisville), and (2) *scrap paper*, on return, under a continuing contract with Crown Zellerbach Corp., San Francisco, Calif. NOTE: If a hearing is deemed necessary, applicant requests it be held at Columbus, Ohio.

No. MC 83539 (Sub-No. 341), filed May 15, 1972. Applicant: C & H TRANSPORTATION CO., INC., 1936 2010 West Commerce Street, Post Office Box 5976, Dallas, TX 75222. Applicant's representative: Thomas E. James (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Pipe and tubing*, between points in California, on the one hand, and, on the other, points in the United States (except Arizona, Colorado, Hawaii, and New Mexico). NOTE: Applicant states tacking is possible but intended at present time. Persons interested in the tacking possibilities are cautioned that failure to oppose the application may result in an unrestricted grant of authority. Common control may be involved. If a hearing is deemed necessary, applicant requests it be held at San Francisco, Calif.

No. MC 103051 (Sub-No. 249), filed March 30, 1972. Applicant: FLEET TRANSPORT COMPANY, INC., 934 44th Avenue North, Post Office Box 90408, Nashville, TN 37209. Applicant's representative: Harlan Dodson, 900 Nashville Trust Building, Nashville, Tenn. 37209. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Latex*, in bulk, in tank vehicles, from points in Broward County, Fla., to points in South Carolina and Georgia. NOTE: Applicant states that the requested authority can be tacked with its Subs 137, 213, and 217, wherein applicant is authorized to serve points in Alabama, Arkansas, Florida, Georgia, Indiana, Illinois, Kentucky, Michigan, Mississippi, Missouri, North Carolina, Ohio, Tennessee, South Carolina, and Virginia. Common control may be involved. If a hearing is deemed necessary, applicant requests it be held at Nashville, Tenn., or Atlanta, Ga.

No. MC 106674 (Sub-No. 92), filed May 4, 1972. Applicant: SCHILLI MOTOR LINES, INC., Post Office Box 122, Delphi, IN 46923. Applicant's representative: Carl L. Steiner, 39 South La Salle Street, Chicago, IL 60603. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Building and roofing materials* (except commodities in bulk), from the plantsite of the GAF Corp., Mount Vernon, Ind., to points in Alabama, Arkansas, Illinois, Kentucky, Mississippi, Missouri, North Carolina, Ohio, Tennessee, Virginia, and West Virginia; and (2) *such commodities* used in the manufacture, sale, or distribution of building and roofing materials (except liquid commodities in bulk), from the named destination States in (1) above to the plantsite facilities of GAF Corp., at Mount Vernon, Ind. NOTE: Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Chicago, Ill.

No. MC 107064 (Sub-No. 87), filed May 3, 1972. Applicant: STEERE TANK LINES, INC., Post Office Box 2998, 2808 Fairmount Street, Dallas, TX 75221. Applicant's representative: Hugh T. Matthews, 630 Fidelity Union Tower, Dallas, Tex. 75201. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Feed, feed ingredients, and feed supplements*, between points in Beaver, Texas, and Cimarron Counties, Okla., on the one hand, and, on the other, points in the United States (except Alaska and Hawaii). NOTE: Applicant states it intends to tack its existing authority under MC 107064 (Sub-No. 53), livestock feedstuffs, from Amarillo and Hereford, Tex., with the requested authority, at the above-named Oklahoma origin points. Applicant further states no duplicating authority sought. If a hearing is deemed necesary, applicant requests it be held at Dallas, Tex.

No. MC 108207 (Sub-No. 346), filed April 28, 1972. Applicant: FROZEN FOOD EXPRESS, a corporation, 318 Cadiz Street, Post Office Box 5888, Dallas, TX 75222. Applicant's representative: J. B. Ham (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Meats, meat products, and meat byproducts, and articles distributed by meat packinghouses* as described in sections A and C of appendix I to the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209 and 766 (except hides and commodities in bulk), from Brownsville and Houston, Tex., to Mobile, Ala. NOTE: Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Phoenix, Ariz., or Dallas, Tex.

No. MC 108859 (Sub-No. 59), filed May 1, 1972. Applicant: CLAIRMONT TRANSFER CO., a corporation, 1803 Seventh Avenue, North Escanaba, MI 49829. Applicant's representative: John L. Bruemmer, 121 West Doty Street, Madison, WI 53703. Authority sought to operate as a *common carrier*, by motor vehicle, over regular routes, transporting: (1) *General commodities* (except those of unusual value, Classes A and B explosives, household goods as defined by the Commission, commodities in bulk and those requiring special equipment), (a) between the junction of U.S. Highway 41 and Michigan Highway 35 at Gladstone, Mich., over Michigan Highway 35 to its junction with U.S. Highway 41 at Negaunee, Mich., serving all intermediate points; (b) between the junction of Marquette County Highway 553 and U.S. Highway 41 at Marquette, Mich., over Marquette County Highway 553 to its junction with Michigan Highway 35 near Little Lake, Mich., serving all intermediate points; and (c) serving construction, iron ore mining sites, pelletizing plant sites and warehouse or storage facilities of Tilden Mining Co. located in the townships of Tilden and Richmond, Marquette County, Mich., as off-route points in connection with applicant's authorized regular route operations;

And (2) *general commodities* (except those of unusual value, Classes A and B explosives, household goods as defined by the Commission, commodities in bulk and those requiring special equipment), (a) between Chicago, Ill., and Milwaukee, Wis., over Interstate Highway 94; (b) between junction U.S. Highway 41 and Interstate Highway 94 at Milwaukee, over U.S. Highway 41 to its junction with U.S. Highway 45 near Oshkosh; (c) between the junction of U.S. Highway 45 and U.S. Highway 41 near Oshkosh, over U.S. Highway 45 to its junction with U.S. Highway 10, near Appleton; (d) between the junction of U.S. Highway 45 and U.S. Highway 10 near Appleton, over U.S. Highway 10 to its junction with U.S. Highway 51 near Stevens Point; and (e) between the junction of U.S. Highway 10 and U.S. Highway 51, near Stevens Point, over U.S. Highway 51 to Ironwood, Mich., as alternate routes for operating convenience only, serving no intermediate points other than those already authorized to be served. NOTE: Applicant states that it intends to join the authority sought under part (1)(c) with its regular route operations in Marquette County, Mich., so as to perform a through service to and from facilities of Tilden Mining Co. in the townships of Tilden and Richmond, Marquette County, Mich. Common control may be involved. If a hearing is deemed necessary, applicant requests it be held at Chicago, Ill., or Milwaukee, Wis.

No. MC 109136 (Sub-No. 40), filed May 15, 1972. Applicant: ORIOLE CHEMICAL CARRIERS, INC., Heaver Plaza, 1301 York Road, Suite 306, Lutherville, MD 21093. Applicant's representative: Maxwell A. Howell, 1100 Investment Building, 1511 K Street NW., Washington, DC 20005. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Liquified chlorine*, in containers, from the plantsite of Pioneer Chloramone Corp. at or near Delaware City, Del., to points in Maryland, New Jersey, Pennsylvania, Virginia, and the District of Columbia, and *empty chlorine containers*, from

points in the above-described destination area, to the plantsite of Pioneer Chloramone Corp. at or near Delaware City, Del. Restriction: The operations authorized above are limited to a transportation service to be performed under a continuing contract or contracts, with Pioneer Chloramone Corp., Philadelphia, Pa. NOTE: Common control and dual operations may be involved. If a hearing is deemed necessary, applicant requests it be held at Washington, D.C.

No. MC 109462 (Sub-No. 18), filed May 1, 1972. Applicant: LUMBER TRANSPORT, INC., Post Office Box 6181, South Station also Highway 71S and I-540, Fort Smith, AR 72901. Applicant's representative: Robert G. Russell, Box 6181, South Station, Fort Smith, AR 72901. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Lumber and lumber mill products*, (1) from points in Arizona, Colorado, and New Mexico, to points in Arkansas, Illinois, Indiana, Kansas, Kentucky, Michigan, Mississippi, Missouri, Ohio, Louisiana, Tennessee, Texas, and Wisconsin; and (2) from points in Arizona and Colorado, to points in Oklahoma and New Mexico. NOTE: Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Albuquerque or Santa Fe, N. Mex., or El Paso, Tex.

No. MC 110420 (Sub-No. 657), filed May 12, 1972. Applicant: QUALITY CARRIERS, INC., Post Office Box 186, Pleasant Prairie, WI 53158. Applicant's representative: Fred H. Figge (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Animal fats*, in bulk, in tank vehicles, from Dubuque, Iowa, to points in Illinois, Minnesota, and Wisconsin; and (2) *soybean oil*, in bulk, in tank vehicles, from Belmond, Iowa, to points in Illinois. NOTE: Applicant holds authority that can be tacked, and thus serve other destinations; however, it does not propose tacking with any other authority. Common control may be involved. If a hearing is deemed necessary, applicant requests it be held at Chicago, Ill.

No. MC 111231 (Sub-No. 177), filed May 12, 1972. Applicant: JONES TRUCK LINES, INC., 610 East Emma Avenue, Springdale, AR 72764. Applicant's representative: James B. Blair, 111 Holcomb Street, Springdale, AR 72764. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Such commodities as are dealt in or used by wholesale or retail, discount or variety stores*, between the plant and warehouse site of Wal-Mart, Inc. in Bentonville, Ark., on the one hand, and, on the other, points in Arkansas, Kansas, Louisiana, Missouri, Oklahoma, and Tennessee. NOTE: Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Little Rock, Ark., or Kansas City or St. Louis, Mo.

No. MC 112184 (Sub-No. 35), filed May 12, 1972. Applicant: THE MANFREDI MOTOR TRANSIT COMPANY, a corporation, Route 87, Newbury, OH 44065. Applicant's representative: A. Charles Tell, 100 East Broad Street, Columbus, OH 43215. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Paint and paint products*, in bulk, in tank vehicles, from Cleveland, Ohio to points in Indiana and Michigan, limited to a transportation service to be performed, under a continuing contract or contracts with P.P.G. Industries, Inc. of Pittsburgh, Pa. NOTE: Applicant holds common carrier authority under MC 129302 and subs, therefore dual operations may be involved. If a hearing is deemed necessary, applicant requests it be held at Columbus, Ohio.

No. MC 113267 (Sub-No. 284), filed May 1, 1972. Applicant: CENTRAL & SOUTHERN TRUCK LINES, INC., 312 West Morris Street, Caseyville, IL 62232. Applicant's representative: Lawrence A. Fischer (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Shortening; animal oil, vegetable oils, lard, lard oils, and blends* thereof (except in bulk in tank cars or trucks), from Helena, Ark., to points in Kentucky, West Virginia, Virginia, Tennessee, North Carolina, South Carolina, Mississippi, Alabama, Georgia, Florida, Louisiana, and Texas. NOTE: Applicant states that the requested authority cannot be tacked with its existing authority. Common control may be involved. If a hearing is deemed necessary, applicant requests it be held at Memphis, Tenn.

No. MC 113828 (Sub-No. 201), filed May 15, 1972. Applicant: O'BOYLE TANK LINES, INCORPORATED, Post Office Box 30006, Washington, DC 20014. Applicant's representative: William P. Sullivan, Federal Bar Building West, 1819 H Street NW., Washington, DC 20006. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Sugars, syrups, and blends thereof* (except chocolate and chocolate products), in bulk, from Philadelphia, Pa., to points in New York, Delaware, and Maryland. NOTE: Applicant states that the requested authority can be tacked with its existing authority but indicates that it has no present intention to tack and therefore does not identify the points or territories which can be served through tacking. Persons interested in the tacking possibilities are cautioned that failure to oppose the application may result in an unrestricted grant of authority. If a hearing is deemed necessary, applicant requests it be held at Washington, D.C.

No. MC 114273 (Sub-No. 120), filed May 1, 1972. Applicant CEDAR RAPIDS STEEL TRANSPORTATION, INC., Post Office Box 68, Cedar Rapids, IA 52408. Applicant's representative: Robert E. Konchar, Suite 315, Commerce Exchange Building, 2720 First Avenue NE., Cedar Rapids, IA 52402. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Meats, meat products, and meat by-products, and articles distributed by meat packinghouses*, as described in sections A and C of appendix I to the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209 and 766 (except hides and commodities in bulk), from St. Louis, Mo. and St. Louis, Mo. commercial zone to points in Maine, Massachusetts, New Hampshire, Vermont, New York, Rhode Island, Connecticut, New Jersey, Pennsylvania, Delaware, Maryland, Ohio, Virginia, West Virginia, and the District of Columbia, restricted to shipments of products originating in commercial zone of St. Louis, Mo. NOTE: Applicant states that the requested authority cannot be tacked with its existing authority. Common control may be involved. If a hearing is deemed necessary, applicant requests it be held at Chicago, Ill.

No. MC 114274 (Sub-No. 20), filed May 8, 1972. Applicant: VITALIS TRUCK LINES, INC., 137 Northeast 48th Street Place, Des Moines, IA 50313. Mail: Post Office Box 1703, Des Moines, Iowa 50306. Applicant's representative: William H. Towle, 127 North Dearborn Street, Chicago, IL 60602. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Foodstuffs*, from Iowa City and Muscatine, Iowa, to points in Kansas, Missouri, and Nebraska, restricted to traffic originating at and destined to the named points. NOTE: If a hearing is deemed necessary, applicant requests it be held at Chicago, Ill.

No. MC 114301 (Sub-No. 71), filed May 17, 1971. Applicant: DELAWARE EXPRESS CO., a corporation, Post Office Box 97, Elkton, MD 21921. Applicant's representative: Chester A. Zyblut, 1522 K Street NW., Washington, DC 20005. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Roofing materials and siding*, between Edgemoor, Del., on the one hand, and, on the other, points in Connecticut, Delaware, Maryland, New Jersey, New York, North Carolina, Pennsylvania, Virginia, West Virginia, and the District of Columbia; and (2) *materials and supplies* used in the manufacturing and shipping of roofing materials and siding (except in bulk, in tank vehicles), from points in Connecticut, Delaware, Maryland, New Jersey, North Carolina, New York, Pennsylvania, Virginia, West Virginia, and the District of Columbia, to Edgemoor, Del. NOTE: Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Washington, D.C.

No. MC 114533 (Sub-No. 253), filed May 12, 1972. Applicant: BANKERS DISPATCH CORPORATION, 4970 South Archer Avenue, Chicago, IL 60632. Applicant's representative: Warren W. Wallin, 330 South Jefferson, Chicago, IL 60606. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular

routes, transporting: *Radio-pharmaceuticals, isotopes, and related products,* between Kansas City, Mo., on the one hand, and, on the other, points in Kansas and Missouri, restricted to shipments having a prior or subsequent movement by air. NOTE: Applicant states that the requested authority cannot be tacked with its existing authority. Applicant holds contract carrier authority under MC 128616 and subs, therefore, dual operations may be involved. If a hearing is deemed necessary, applicant requests it be held at Kansas City, Mo., or Chicago, Ill.

No. MC 114533 (Sub-No. 254), filed May 15, 1972. Applicant: BANKERS DISPATCH CORPORATION, 4970 South Archer Avenue, Chicago, IL 60632. Applicant's representative: Warren W. Wallin, 330 South Jefferson Street, Chicago, IL 60606. Authority sought to operate as a *common carrier,* by motor vehicle, over irregular routes, transporting: (1) *Proofs, cuts, copy, and other graphic arts material,* between South Bend, Ind., on the one hand, and, on the other, points in Michigan, Illinois, Ohio, and Wisconsin; (2) *exposed and processed film and prints, complimentary replacement film, and incidental dealer handling supplies* (except motion picture films and materials and supplies used in connection with commercial and television motion pictures), between Racine, Wis., on the one hand, and, on the other, points in Illinois, Wisconsin, Michigan, Indiana, and Missouri; and (3) *audit media and other business records,* (a) between points in Will County, Ill., on the one hand, and, on the other, points in Illinois, Wisconsin, Michigan, Indiana, and Ohio; (b) between Glenview, Ill., on the one hand, and, on the other, points in Indiana, Michigan, Wisconsin, Ohio, and Missouri; (c) between Elk Grove Village, Ill., on the one hand, and, on the other, Milwaukee, Wis.; (d) between Bloomingdale, Ill., on the one hand, and, on the other, Winamac, Ind.; (e) between Aurora, Ill., on the one hand, and, on the other, points in Indiana, Michigan, Wisconsin, Ohio, and Missouri; (f) between Milwaukee, Wis., on the one hand, and, on the other, Carol Stream, Ill.; (g) between Lima, Ohio, on the one hand, and, on the other, points in Indiana, Illinois, Michigan, Wisconsin, Ohio, and Missouri; and (h) between Elmhurst, Ill., on the one hand, and, on the other, points in Indiana, Michigan, and Ohio. NOTE: Applicant states that the requested authority cannot be tacked with its existing authority. Applicant now holds contract carrier authority under MC 128616 and subs, therefore, dual operations may be involved. If a hearing is deemed necessary, applicant requests it be held at Chicago, Ill.

No. MC 115022 (Sub-No. 23), filed May 15, 1972. Applicant: CHAMBERLAIN MOBILEHOME TRANSPORT, INC., 64 East Main Street, Thomaston, CT 06787. Applicant's representative: John E. Fay, 342 North Main Street, West Hartford, CT 06117. Authority sought to operate as a *common carrier,* by motor vehicle, over irregular routes, transporting: *Trailers and semitrailers,* low-bed, equipped with pintle hooks or fifth wheel, from points in Gloucester County, N.J., to points in the United States (including Alaska, but excluding Hawaii). NOTE: Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Hartford, Conn., or New York, N.Y.

No. MC 115162 (Sub-No. 251), filed May 12, 1972. Applicant: POOLE TRUCK LINE, INC., Post Office Drawer 500, Evergreen, AL 36401. Applicant's representative: Robert E. Tate (same address as applicant). Authority sought to operate as a *common carrier,* by motor vehicle, over irregular routes, transporting: *Paper and paper products,* from Rhinelander, Wis., and Troy, Ohio, to points in Alabama, Arkansas, Florida, Georgia, Louisiana, Mississippi, North Carolina, South Carolina, Tennessee, Texas, and Virginia. NOTE: Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Washington, D.C., or New York, N.Y.

No. MC 117004 (Sub-No. 1), filed April 21, 1972. Applicant: S. E. EHRLICK HORSE TRANSPORT (QUEBEC) LTD., 1305 Logan Street, Montreal 133, PQ, Canada. Applicant's representative: William J. Hirsch, Suite 444, 35 Court Street, Buffalo, NY 14202. Authority sought to operate as a *common carrier,* by motor vehicle, over irregular routes, transporting: *Horses, other than ordinary,* and in connection therewith, *personal effects of their attendants, trainers, and exhibitors, and stable supplies, equipment, and mascots* incidental to the care, transportation, and exhibition of such animals, between ports of entry on the international boundary line between the United States and Canada, on the one hand, and, on the other, points in the United States, including Alaska and Hawaii, restricted to traffic originating or destined to points in Province of Quebec, Canada. NOTE: Common control may be involved. Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Rouses Point, N.Y.

No. MC 117366 (Sub-No. 4), filed May 4, 1972. Applicant: TRI-STATE TRANSPORT CORPORATION, 10 Banks Street, Wheeling, WV 26001. Applicant's representative: Maxwell A. Howell, 1511 K Street NW., Washington, DC 20005. Authority sought to operate as a *contract carrier,* by motor vehicle, over irregular routes, transporting: *Steel culvert pipe, corrugated steel pipe and accessories, materials, and supplies* used in the manufacture thereof, between the plantsites of Wheeling Corrugated Co., a division of Wheeling-Pittsburgh Steel Corp., at or near Olean, N.Y.; Jamesburg, N.J.; Jeffersonville, Ind.; and Havana, Ill., on the one hand, and, on the other, points in Indiana, Ohio, Pennsylvania, and West Virginia, and in Maryland on and west of Interstate Highway 81. Restriction: The operations sought herein are limited to a transportation service to be performed under a continuing contract, or contracts, with Wheeling Corrugating Co., a division of Wheeling-Pittsburgh Steel Corp. NOTE: If a hearing is deemed necessary, applicant requests it be held at Washington, D.C.

No. MC 117465 (Sub-No. 20), filed April 28, 1972. Applicant: BEAVER EXPRESS SERVICE, INC., doing business as BEAVER EXPRESS, 1215 Kansas, Post Office Box 151, Woodward, OK 73801. Applicant's representative: Max G. Morgan, 600 Leininger Building, Oklahoma City, Okla. 73112. Authority sought to operate as a *common carrier,* by motor vehicle, over regular routes, transporting: *General commodities* (except classes A and B explosives), moving in express service (1) between Amarillo and Shamrock, Tex.; from Amarillo, Tex., over U.S. Highway 66 and Interstate Highway 40 to Shamrock, Tex., and return over the same route; (2) between Pampa, Tex., and Shamrock, Tex.; from Pampa, Tex., over Texas Highway 152 to Wheeler, Tex., thence over U.S. Highway 83 to Shamrock, Tex., and return over the same route. Restricted to serving no intermediate points and serving Wheeler, Tex., and Shamrock, Tex., for purposes of interline and interchange only. NOTE: If a hearing is deemed necessary, applicant requests it be held at either Amarillo or Dallas, Tex., or Oklahoma City, Okla.

No. MC 119774 (Sub-No. 42), filed April 24, 1972. Applicant: MARY ELLEN STIDHAM, N. M. STIDHAM, A. E. MANKINS (INEZ MANKINS, EXECUTRIX), and JAMES E. MANKINS, SR., a partnership, doing business as EAGLE TRUCKING COMPANY, Post Office Box 471, 301 Main Street, Third Floor, Kilgore, TX 75662. Applicant's representative: Bernard H. English, 6270 Firth Road, Fort Worth, TX 76116. Authority sought to operate as a *common carrier,* by motor vehicle, over irregular routes, transporting: *Petroleum, petroleum products, oils, greases, and lubricants,* except commodities in bulk, in tank vehicles, from Ponca City, Okla., and Wichita, Kans., to points in Alabama, Arkansas, Florida, Georgia, Kentucky, Louisiana, Mississippi, North Carolina, South Carolina, Tennessee, Texas, and Virginia. NOTE: Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Houston or Dallas, Tex.

No. MC 123255 (Sub-No. 20), filed May 5, 1972. Applicant: B & L MOTOR FREIGHT, INC., 140 Everett Avenue, Newark, OH 43055. Applicant's representative: C. F. Schnee, Jr. (same address as applicant). Authority sought to operate as a *common carrier,* by motor vehicle, over irregular routes, transporting: (1) (a) *Foodstuffs,* from Wayland, Mich., to District of Columbia, Illinois, Indiana, Kentucky, Maryland, New

York, Ohio, Pennsylvania, Tennessee, and West Virginia; (b) from St. Joseph and Paw Paw, Mich., to points in Kentucky, Tennessee, and Wisconsin, (2) *Bakery goods*, from Grand Rapids, Mich., to points in Ohio, Pennsylvania, Kentucky, West Virginia, Maryland, New York, Delaware, New Jersey, Illinois, and Indiana. NOTE: Applicant states that the requested authority cannot be tacked with its existing authority. It further states it holds contract carrier authority under MC 81968 and subs, therefore, common control and dual operations may be involved. Any duplications will be eliminated or made subject to conditions that such authority will not be considered duplicative for the purpose of sale or otherwise. If a hearing is deemed necessary, applicant requests it be held at Columbus, Ohio.

No. MC 123383 (Sub-No. 61), filed May 5, 1972. Applicant: BOYLE BROTHERS, INC., 941 South Second Street, Camden, NJ 08103. Applicant's representative: Chester A. Zyblut, 1522 K Street NW., Washington, DC 20005. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Ventilators, ventilator parts, ventilator equipment, ventilator systems, and accessories* used in the installation thereof, and *materials, supplies, and equipment* used in the manufacture and distribution of the above commodities, between Junction City, Ky.; Keyser, W. Va.; and Tabor City, N.C., on the one hand, and, on the other, points in the United States on and east of a line beginning at the mouth of the Mississippi River, and extending along the Mississippi River to its junction with the western boundary of Itasca County, Minn., thence northward along the western boundaries of Itasca and Koochiching Counties, Minn., to the international boundary line between the United States and Canada. NOTE: Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Washington, D.C., or Philadelphia, Pa.

No. MC 124078 (Sub-No. 523), filed May 4, 1972. Applicant: SCHWERMAN TRUCKING CO., a corporation, 611 South 28th Street, Milwaukee, WI 53246. Applicant's representative: Richard H. Prevette (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Fly ash and fly ash products*, from points in Clermont County, Ohio, and Brown County, Ohio, to points in Illinois, Indiana, Kentucky, Pennsylvania, and West Virginia. NOTE: Applicant states tacking is possible but not intended at present. Persons interested in the tacking possibilities are cautioned that failure to oppose the application may result in an unrestricted grant of authority. Common control may be involved. If a hearing is deemed necessary, applicant requests it be held at Columbus or Cincinnati, Ohio.

No. MC 124606 (Sub-No. 3), filed April 5, 1972. Applicant: FORD TRUCK LINE, INC., 1389 South Third Street, Memphis, TN 38106. Applicant's representative: A. Doyle Cloud, Jr., 2008 Clark Tower, 5100 Poplar Avenue, Memphis, TN 38137. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *General commodities* (except classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), (1) between Memphis, Tenn., and Marshall, Tex., from Memphis over U.S. Highway 61 to Leland, Miss., thence over U.S. Highway 82 to junction U.S. Highway 165 at or near Montrose, Ark., thence over U.S. Highway 165 to Monroe, La., thence over U.S. Highway 80 and/or Interstate Highway 20 to Marshall, Tex., and return over the same route, serving to or from Bastrop, La., and all intermediate points between Bastrop, La., and Marshall, Tex., and the off-route point of Hodge, La.; and (2) between Monroe and Lake Charles, La., from Monroe over U.S. Highway 165 to junction Interstate Highway 10 and/or U.S. Highway 90, thence over Interstate Highway 10 and/or U.S. Highway 90 to Lake Charles, and return over the same route, serving the intermediate and off-route points of Alexandria, Elizabeth, and Oakdale, La. NOTE: If a hearing is deemed necessary, applicant requests it be held at Memphis, Tenn.

No. MC 125659 (Sub-No. 3), filed May 9, 1972. Applicant: ACE DRIVEAWAY SYSTEM, INC., 16810 Collins Avenue, Miami Beach, FL 33160. Applicant's representative: James W. Lawson, 1511 K Street NW., Washington, DC 20005. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Used passenger automobiles*, with or without the baggage, personal effects, sporting equipment, and pets for the owner of the passenger automobile, in driveaway service, from points in Broward, Dade, and Palm Beach Counties, Fla., to points in Arizona, California, Colorado, Connecticut, Illinois, Indiana, Iowa, Kansas, Kentucky, Louisiana, Maine, Maryland, Massachusetts, Michigan, Minnesota, Missouri, New York (except points in south and east of Orange and Dutchess Counties), Nevada, Ohio, Pennsylvania (except points in, south, and east of Bucks, Montgomery, and Chester Counties), Rhode Island, Tennessee, Texas, Virginia, Washington, Wisconsin, and the District of Columbia. NOTE: Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Miami Beach, Fla.

No. MC 126904 (Sub-No. 10), filed May 10, 1972. Applicant: H. C. PARRISH TRUCK SERVICE, INC., Route No. 2, Freeburg, IL 62243. Applicant's representative: Brainerd W. La Tourette, Jr., 611 Olive Street, Suite 1850, St. Louis, MO 63101. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Prestressed* and *precast concrete products*, from Centralia, Ill., to points in Indiana, Kentucky, Missouri, Iowa, Kansas, Oklahoma, Nebraska, Ohio, Minnesota, Wisconsin, Michigan, Louisiana, Georgia, Alabama, Arkansas, Tennessee, Mississippi, and Florida. NOTE: Applicant states that the requested authority can be tacked with its existing authority at East St. Louis, Mo. If a hearing is deemed necessary, applicant requests it be held at St. Louis, Mo.

No. MC 128490 (Sub-No. 8), filed May 15, 1972. Applicant: ROBERT J. ERICKSON, doing business as BOB ERICKSON TRUCKING, Route 2, Rush City, Minn. 55069. Applicant's representative: A. R. Fowler, 2288 University Avenue, St. Paul, MN 55114. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Fire protection sprinkler systems, including materials, equipment, and tools used in the installation thereof*, from Rush City, Minn., to points in Alabama, Arizona, Arkansas, Colorado, Florida, Georgia, Illinois, Indiana, Iowa, Kansas, Kentucky, Louisiana, Michigan, Mississippi, Missouri, Montana, Nebraska, New Mexico, North Carolina, North Dakota, Ohio, Oklahoma, Pennsylvania, South Carolina, South Dakota, Tennessee, Texas, Virginia, West Virginia, and Wisconsin, and *returned shipments of the above-described commodities*, from the above-specified destination points to Rush City, Minn., under contract with United Sprinkler. NOTE: If a hearing is deemed necessary, applicant requests it be held at Minneapolis, Minn.

No. MC 128734 (Sub-No. 2), filed May 12, 1972. Applicant: W. B. PRODUCE HAULERS, INC., 326 Pleasant SW., Grand Rapids, MI 49502. Applicant's representative: Robert A. Sullivan, 1800 Buhl Building, Detroit, MI 48226. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Dairy products*, other than in bulk, in vehicles equipped with mechanical refrigeration, and *returned containers and rejected or damaged products*, on return, from the plantsite of Sealtest Division of Kraftco Corp. at Huntington, Ind., to retail stores located in Michigan, under contract with the Sealtest Foods Division of Kraftco Corp. NOTE: If a hearing is deemed necessary, applicant requests it be held at Washington, D.C., or Chicago, Ill.

No. MC 128862 (Sub-No. 13), filed May 5, 1972. Applicant: B. J. CECIL TRUCKING, INC., Box C, Claypool, AZ 85532. Applicant's representative: Earl H. Carroll, 363 North First Avenue, Phoenix, AZ 85003. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Copper cement*, in bulk, (1) from points in Graham County, Ariz., and Grant County, N. Mex., to Houston, Tex.; and (2) from points in Grant County, N. Mex., to McGill, Nev., and points in

Gila and Pinal Counties, Ariz. NOTE: Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Phoenix, Ariz., Silver City, N. Mex., or El Paso, Tex.

No. MC 129645 (Sub-o. 41), filed May 3, 1972. Applicant: BASIL J. SMEESTER AND JOSEPH G. SMEESTER, a partnership, doing business as, SMEESTER BROTHERS TRUCKING, 1330 South Jackson Street, Iron Mountain, MI Applicant's representative: John M. Nader, Post Office Box E, Bowling Green, KY 42101. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Gypsum products, composition boards, insulating materials, roofing and roofing materials, urethane and urethane products, and related materials, supplies and accessories* used in the installation of the aboe described commodities (except commodities in bulk), from the plantsite of The Celotex Corp. located in Paris, Henry County, Tenn., to points in Connecticut, Delaware, Maine, Maryland, Massachusetts, New Hampshire, New Jersey, New York, North Carolina, Pennsylvania, Rhode Island, Vermont, Virginia, West Virginia, South Carolina, and the District of Columbia. NOTE: Applicant states that the requested authority can be tacked with its existing authority but indicated that it has no *present* intention to tack and therefore does not identify the points or territories which can be served through tacking. Persons interested in the tacking possibilities are cautioned that failure to oppose the application may result in an unrestricted grant of authority. If a hearing is deemed necessary, applicant requests it be held at Tampa, Fla., Atlanta, Ga., or Birmingham, Ala.

No. MC 133095 (Sub-No. 28), filed May 12, 1972. Applicant: TEXAS CONTINENTAL EXPRESS, INC., Post Office Box 434, also 2603 W. Euless Boulevard, Euless, TX 76039. Applicant's representative: Hugh T. Matthews, 630 Fidelity Union Tower, Dallas, Tex. 75201. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Meats, meat products, and meat byproducts* as described in sections A, B, and C of Appendix I to the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209 and 766, from points in Arkansas, Delaware, Florida, Massachusetts, New Jersey, New York, Pennsylvania, and Virginia, to points in the United States (except Alaska and Hawaii). NOTE: Applicant states it will tack with its present authority under MC 133095 Sub-2, from Liberal, Kans., and Friona, Tex., at various origin States herein. No duplicate authority is sought. If a hearing is deemed necessary, applicant requests it be held at Dallas, Tex.

No. MC 133095 (Sub-No. 29), filed May 12, 1972. Applicant: TEXAS CONTINENTAL EXPRESS, INC., Post Office Box 434, Euless, TX 76039. Applicant's representative: Hugh T. Matthews, 630 Fidelity Union Tower, Dallas, Tex. 75201. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Workman's rubberized cotton gloves and mittens*, from points in Massachusetts to points in the United States (except Alaska and Hawaii). NOTE: Applicant also holds contract carrier authority under MC 136032, therefore dual operations may be involved. Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Dallas, Tex.

No. MC 133562 (Sub-No. 12), filed April 10, 1972. Applicant: HOLIDAY EXPRESS CORPORATIOII, Post Office Box 204, Estherville, IA 51334. Applicant's representative: Merle Johnson (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Foodstuffs*, from Butterfield, Madelia, and St. James, Minn., and Estherville, Iowa, to points in (1) Connecticut, Delaware, Maine, Maryland, Massachusetts, New Hampshire, New Jersey, New York, Pennsylvania, Rhode Island, Vermont, and the District of Columbia, and (2) from the above named origin points to points in Alabama, Arkansas, Florida, Georgia, Kentucky, Louisiana, Mississippi, and Tennessee. NOTE: Applicant states that the requested authority can be tacked with its existing authority but indicates that it has no *present* intention to tack and therefore does not identify the points or territories which can be served through tacking. Persons interested in the tacking possibilities are cautioned that failure to oppose the application may result in an unrestricted grant of authority. If a hearing is deemed necessary, applicant requests it be held at Minneapolis, Minn., or Omaha, Nebr.

No. MC 133646 (Sub-No. 11), filed May 1, 1972. Applicant: YELLOWSTONE MOLASSES SERVICE, INC., Post Office Box 404, Billings, MT 59103. Applicant's representative: J. F. Meglen, Post Office Box 1581, Billings, MT 59103. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Molasses*, in bulk, in specialized tank vehicles, between Bayard and Mitchell, Nebr., and South Torrington, Wyo. NOTE: Applicant states that the requested authority can be tacked with its existing authority, but indicates that it has no *present* intention to tack and, therefore, does not identify the points and territories which can be served through tacking. Persons interested in the tacking possibilities are cautioned that failure to oppose the application may result in an unrestricted grant of authority. If a hearing is deemed necessary, applicant requests it be held at Billings, Mont.

No. MC 134390 (Sub-No. 1), filed May 1, 1972. Applicant: J. V. HARRISON, doing business as HARRISON WRECKER SERVICE, 1405 Southwest 26th Street, Oklahoma City, OK 73108. Applicant's representative: Wilburn L. Williamson, 280 National Foundation Life Building, 3535 Northwest 58th Street, Oklahoma City, OK 73112. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Wrecked and disabled motor vehicles* (except trailers designed to be drawn by passenger automobiles), from points in Arkansas, Colorado, Kansas, Louisiana, Missouri, Nebraska, New Mexico, and Texas and (2) *replacement vehicles* for wrecked or disabled motor vehicles in (1) above, on return, by use of wrecker equipment only. NOTE: Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Oklahoma City, Okla.

No. MC 134970 (Sub-No. 2), filed May 9, 1972. Applicant: UNZICKER TRUCKING INC., Post Office Box 114, El Paso, IL 61738. Applicant's representative: George S. Mullins, 4704 West Irving Park Road, Chicago, IL 60641. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Building materials* such as *bins, grain, or building or silos*, metal, complete, knocked down or in sections, including all component parts, materials, supplies, and fixtures, when shipped with such building, and are necessary in the erection, construction, and completion of the building; (2) *building construction wall sections*, with or without insulation, without door or window openings or with openings not exceeding 45 percent of surface area of section, metal; and (3) *panels or partitions*, metal or plastic, including accessories or parts necessary in the erection or completion of the panels or partitions, from the plantsite of Marathon Metallic Building Co., at or near El Paso, Ill., to points in Indiana, Iowa, Kansas, Kentucky, Michigan, Minnesota, Missouri, Montana, Nebraska, New York, North Dakota, Ohio, Pennsylvania, South Dakota, and Wisconsin. NOTE: Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Chicago, Ill.

No. MC 135936 (Sub-No. 6), filed May 15, 1972. Applicant: LIEBMANN TRANSPORTATION CO., INC., U.S. Highway 65 North, Iowa Falls, Iowa 50126. Applicant's representative: E. Stephen Heisley, 666 11th Street NW., Washington, DC 20001. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Styropar*, in drums, from Jamesburg, N.J., and Kobuta (Beaver County), Pa., to Nixa, Mo. NOTE: Common control may be involved. If a hearing is deemed necessary, applicant requests it be held at Kansas City, Mo.

No. MC 135936 (Sub-No. 7), filed May 16, 1972. Applicant: LIEBMANN TRANSPORTATION CO., INC., U.S. Highway 65 North, Iowa Falls, Iowa 50126. Applicant's representative: E. Stephen Heisley, 666 11th Street NW., Washington, DC 20001. Authority sought to operate as a *common carrier*, by motor

vehicle, over irregular routes, transporting: *Animal and poultry feed additives,* in containers, from Terre Haute, Ind., to points in Iowa and Minnesota. NOTE: Common control may be involved. If a hearing is deemed necessary, applicant requests it be held at Des Moines, Iowa.

No. MC 136097 (Sub-No. 1), filed April 14, 1972. Applicant: FRANCIS N. WOODMAN, doing business as GLO-WOOD CO., North Road, Yarmouth, Maine 04096. Authority sought to operate as a *contract carrier,* by motor vehicle, over irregular routes, transporting: *Laundry,* consisting of industrial uniforms, towels, rugs, fender covers, dry mops, etc., both soiled and clean, between Yarmouth, Maine, and New Bedford, Mass., under contract with Coyne Industrial Laundry, Inc. NOTE: If a hearing is deemed necessary, applicant requests it be held at Portland or Augusta, Maine.

No. MC 136161 (Sub-No. 1), filed May 15, 1972. Applicant: ORBIT TRANPORT, INC., Post Office Box 163, Spring Valley, IL 61362. Applicant's representative: E. Stephen Heisley, 666 11th Street NW., Washington, DC 20001. Authority sought to operate as a *common carrier,* by motor vehicle, over irregular routes, transporting: *Potassium permanganate,* in bulk, in tank or hopper type vehicles, from La Salle, Ill., to points in Missouri, Ohio, Minnesota, Wisconsin, Iowa, Indiana, Pennsylvania, New Jersey, New York, Michigan, Tennessee, Virginia, and Kansas. NOTE: Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Chicago, Ill.

No. MC 136550 (Sub-No. 1), filed May 16, 1972. Applicant: CRANWOOD TRUCKING CO., INC., 13312 Littleton Avenue, Garfield Heights, OH 44125. Applicant's representative: Keith F. Henley, 88 East Broad Street, Columbus, OH 43215. Authority sought to operate as a *contract carrier,* by motor vehicle, over irregular routes, transporting: *Coke,* (1) from Erie, Pa., to Buffalo, N.Y., and (2) from Buffalo, N.Y., to Ashtabula, Ohio, under a contract or continuing contracts with the Mid-Continental Coal and Coke Co. NOTE: If a hearing is deemed necessary, applicant requests it be held at Columbus, Ohio.

No. MC 136654, filed April 18, 1972. Applicant: PAUL L. NELSON, 3409 Southwest 22d Street, Oklahoma City, OK 73108. Applicant's representative: Woodrow W. Adams, 417 Couch Drive, Oklahoma City, OK 73102. Authority sought to operate as a *contract carrier,* by motor vehicle, over irregular routes, transporting: *Brick and clay products,* between points in Oklahoma, Texas, Arkansas, Louisiana, Missouri, and Kansas, under contract with Oklahoma Brick Corp. NOTE: If a hearing is deemed necessary, applicant requests it be held at Oklahoma City or Tulsa, Okla.; Wichita, Kans., or Fort Worth, Tex.

No. MC 136689, filed May 5, 1972. Applicant: SLAUGHTER TRANSPORTATION CORPORATION, 1806 Holland Avenue, Houston, TX 77029. Applicant's representative: Jo E. Shaw, 816 Houston First Savings Building, Houston, Tex. 77002. Authority sought to operate as a *contract carrier,* by motor vehicle, over irregular routes, transporting: *Animal litter* (chopped alfalfa); *dry laundry bleach; buffing, polishing, cleaning, scouring, and washing compounds; soap; and sodium hypochlorite solution;* in containers and not in bulk, from Houston, Tex., to points in Louisiana and return to Houston, Tex., of empty containers, pallets, and rejected items, under contract with the Clorox Co. NOTE: If a hearing is deemed necessary, applicant requests it be held at Houston, Tex., or New Orleans, La.

No. MC 136707, filed May 4, 1972. Applicant: AIE MOTOR FREIGHT, INC., 600 Washington Street, Wrentham, MA. Applicant's representatives: Morton E. Kiel, 140 Cedar Street, New York, NY 10006 and Douglas Miller, 14 Front Street, Hempstead, NY 11550. Authority sought to operate as a *contract carrier,* by motor vehicle, over irregular routes, transporting: *Such commodities* as are dealt in by a distributor of department store merchandise, between shippers' facilities in New Hyde Park, N.Y., on the one hand, and, on the other, points in the United States (except Alaska and Hawaii), under contract with Interstate Cigar Co., Inc., and L. S. Amster Co., Inc. NOTE: If a hearing is deemed necessary, applicant requests it be held at New York, N.Y.

No. MC 136719, filed May 16, 1972. Applicant: KIRSCHMANN DISTRIBUTING COMPANY, INC., 315 22d Street South, Bismarck, ND 58501. Applicant's representative: Thomas J. Van Osdel, 502 First National Bank Building, Fargo, N. Dak. 58102. Authority sought to operate as a *contract carrier,* by motor vehicle, over irregular routes, transporting: (A) (1) *Agricultural machinery, and implements,* (2) *parts, attachments, and accessories* for the commodities described in (1) above, from Bismarck, N. Dak., to points in the United States (except Alaska and Hawaii); and (B) *materials and supplies* used in the manufacture and distribution of commodities described in (A) above (except commodities in bulk), from points in the United States (except Alaska and Hawaii), to Bismarck, N. Dak., under contract with Kirschmann Manufacturing Co., Inc. NOTE: If a hearing is deemed necessary, applicant requests it be held at Bismarck, N. Dak., or St. Paul, Minn.

By the Commission.

[SEAL] ROBERT L. OSWALD, *Secretary.*

[FR Doc.72-8596 Filed 6-7-72;8:45 am]

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THURSDAY, JUNE 8, 1972
WASHINGTON, D.C.

Volume 37 ■ Number 111

PART II

DEPARTMENT OF COMMERCE

Office of Trade Adjustment Assistance

■

Adjustment Assistance Regulations

Title 15—COMMERCE AND FOREIGN TRADE

Chapter V—Office of Trade Adjustment Assistance, Department of Commerce

PART 500—ADJUSTMENT ASSISTANCE REGULATIONS

On February 18, 1972, a notice of proposed rule making was published in the FEDERAL REGISTER (37 F.R. 3726) to revoke in its entirety present Part 610, Chapter VI, of Title 15, Code of Federal Regulations containing adjustment assistance regulations and to issue revised regulations as a new Chapter V of Title 15, Code of Federal Regulations.

Interested persons were given 30 days in which to submit written comments. No objections having been received, the proposed regulations are hereby adopted with minor editorial changes and are set forth below.

I hereby find that good cause exists for not postponing the effective date of these regulations beyond the date of publication in the FEDERAL REGISTER, in that they establish procedures for obtaining a benefit; and any postponement would not be in the public interest. Accordingly, these regulations shall be effective as of the date of publication in the FEDERAL REGISTER (6-8-72).

PETER G. PETERSON,
Secretary of Commerce.

MAY 5, 1972.

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Sec.

Subpart G—Investigation and Audit; Penalties

AUTHORITY: The provisions of this Part 500 issued under sec. 401, 76 Stat. 902, 19 U.S.C. 1802; E.O. 11075, 28 F.R. 473; and E.O. 11106, 28 F.R. 3911.

Subpart A—General

§ 500.10 Scope and purpose.

This part, which replaces in its entirety Part 610 of Chapter VI, Title 15, Code of Federal Regulations, sets forth regulations implementing responsibilities of the Secretary of Commerce under chapters 1 and 2 of title III, Trade Expansion Act of 1962, and section 7 of Executive Order 11075, as amended by Executive Order 11106, with respect to adjustment assistance for firms.

§ 500.11 Definitions.

(a) "Act" means the Trade Expansion Act of 1962, 76 Stat. 872, 19 U.S.C. 1801 et seq.

(b) "Secretary" means the Secretary of Commerce or his delegate.

(c) "Department" means the Department of Commerce.

(d) "OTAA" means the Office of Trade Adjustment Assistance, Department of Commerce.

(e) "Director" means the Director of OTAA.

(f) "Agency" includes any agency, department, board, wholly or partly owned corporation, instrumentality, commission or establishment of the United States.

(g) "Firm" includes an individual proprietorship, partnership, joint venture, association, corporation (including a development corporation), business trust, cooperative, trustees in bankruptcy, and receivers under decree of any court. Where determined necessary by the Secretary to prevent unjustifiable benefits, a firm, together with any predecessor, successor or affiliated firm controlled or substantially beneficially owned by substantially the same person or persons may be considered a single firm.

(h) "Person" means an individual, firm, trust or estate.

(i) "Adjustment proposal" means a proposal for economic adjustment of a firm filed under Subpart C of this part.

Subpart B—Eligibility of Firms To Apply for Adjustment Assistance

§ 500.20 General.

No firm may apply for adjustment assistance unless first certified by the Director as eligible to apply pursuant to the requirements of section 302(b)(1) or 302(c) of the Act and of this subpart.

§ 500.21 Statutory criteria.

A firm may seek certification of eligibility to apply for adjustment assistance only if:

(a)(1) The Tariff Commission has made an affirmative finding pursuant to section 301(b)(1) of the Act that, as a result in major part of concessions granted under trade agreements, an article is being imported into the United States in such increased quantities as to cause or threaten to cause serious injury to the domestic industry producing an article that is like or directly competitive with the imported article, (2) the President has provided, pursuant to section 302(a) of the Act, that firms in such industry may request the Secretary for such certification of eligibility, and (3) the applicant firm is a part of such industry;

(b) The Tariff Commission has made an affirmative finding pursuant to section 301(c)(1) of the Act that, as a result in major part of concessions granted under trade agreements, an article like or directly competitive with an article produced by the firm is being imported into the United States in such increased quantities as to cause, or threaten to cause, serious injury to such firm; or

(c)(1) One half of the Tariff Commissioners voting in a case under section 301(b)(1) or 301(c)(1) of the Act have made an affirmative finding and (2) the President has decided to accept the finding of those Commissioners voting in the affirmative as the finding of the Commission: *Provided*, That in a case arising under section 301(b)(1) of the Act the President shall also have provided, pursuant to section 302(a) of the Act, that firms in the industry may request the Secretary for certification of eligibility, and the applicant firm is a part of such industry.

§ 500.22 Certification of eligibility to apply under section 302(b)(1) of the Act.

(a) Following an affirmative finding with respect to an industry by the Tariff Commission pursuant to section 301(b)(1) of the Act (or by the President in cases involving an affirmative finding by one half of the Commissioners voting) and provision by the President pursuant to section 302(a) of the Act that firms in such industry may request the Secretary for certification of eligibility to apply for adjustment assistance, any firm in such industry may apply for such assistance by completing and filing an application as specified in paragraph (b) of this section. Such application must be filed within 1 year of the date of the President's action under section 302(a) of the Act, or such other period of time as he President may specify at the time of such action: *Provided*, That the Director may grant an extension of time for filing such application upon a showing to his satisfaction that timely submission of the application could not reasonably have been made: *And provided further*, That any request for extension of time hereunder must be made prior to expiration

of the time within which such application would otherwise be required to be filed.

(b) An application for certification of eligibility to apply for adjustment assistance under this section must be made in accordance with the provisions of the Act, this part and instructions on the appropriate OTAA form (see § 500.60), and must be accurate and complete. In making such applications, a firm should accurately set forth all facts and conditions that are material to its claim for such assistance, including the extent to which the affirmative finding of the Tariff Commission (with respect to the industry of which the firm is a part) applies to the firm and the extent of the firm's injury (or threatened injury) resulting from increased imports of the product that was the subject of the Tariff Commission's investigation. If insufficient or inconsistent information is submitted in support of such application, the firm will be required to provide additional information or otherwise correct its submission. However, every effort will be made by OTAA to proceed with processing of the application to the extent feasible in the interim.

(c) The Secretary will certify a firm that has made a timely application under this section as eligible to apply for adjustment assistance upon a finding that:

(1) The article like or directly competitive with the imported article that was the subject of the Tariff Commission's investigation is or was a significant part of the applicant firm's line of production; and

(2) The serious injury or threat thereof found by the Tariff Commission to exist with respect to the industry in question is likewise applicable to the applicant firm.

(d) In making the finding called for in paragraph (c) of this section the Secretary will, among other pertinent considerations, give due regard to the following factors which applicants should document in detail

(1) *Economic factors.* In determining whether increased imports of the article in question have caused serious injury or threat thereof to such firm, economic factors that are considered relevant include: (i) Idling of the firm's productive facilities capable of producing the like or directly competitive article, (ii) inability of the firm to operate at a level of reasonable profit, (iii) unemployment or underemployment in the firm, and (iv) competitive position of such firm in relation to other firms in the industry.

(2) *Injury or threat thereof.* For the purpose of this section, (i) "serious injury" to a firm means a major adverse impact on its economic condition from which it cannot reasonably be expected to recover without adjustment assistance provided under this part, and (ii) "threat of serious injury" means that an economic trend has been established that can reasonably be expected to continue and to result in serious injury to the firm in the foreseeable future. A long-range possibility of serious injury is not sufficient to demonstrate a threat thereof.

(3) *Causation.* Increased imports of the article in question shall be considered to have caused serious injury, or threat thereof, to the applicant firm if the Secretary finds that such imports have been the major factor in causing such injury or threat thereof.

(e) While OTAA will provide all practicable counsel and assistance in the preparation of applications under this section for certification of eligibility to apply for adjustment assistance, the burden is on each firm to establish its own case.

§ 500.23 Certification of eligibility to apply under section 302(c) of the Act.

Following an affirmative finding with respect to a firm by the Tariff Commission pursuant to section 301(c)(1) of the Act (or by the President in cases involving an affirmative finding by one half of the Commissioners voting), such firm may apply for certification of eligibility to apply for adjustment assistance by filing with the Director a sworn statement, subscribed by the owners, partners or officers of such firm that no material facts were omitted from, and there has occurred no significant change in economic circumstances affecting the firm since presentation of the firm's case to the Tariff Commission. Following receipt of such statement, the Secretary ordinarily will certify promptly that such firm is eligible to apply for adjustment assistance.

§ 500.24 Material change in conditions; denial or revocation of eligibility certification.

(a) A firm that has applied for certification of eligibility to apply for adjustment assistance under § 500.22 or § 500.23 must promptly inform the Director in writing of any material change in economic conditions affecting such firm, including any change in the principal ownership of such firm and any change that has occurred in the facts contained in or underlying the representations set forth in the petition that was filed with the Tariff Commission under section 301(b)(1) or (c)(1) of the Act or in its application to the Secretary under § 500.22 or § 500.23 for certification of eligibility (and any amendments thereto).

(b) At any time, prior to certification of an adjustment proposal, the Secretary may deny or revoke certification of a firm as eligible to apply for adjustment assistance under § 500.22 or § 500.23 upon a finding that: (1) As a result of a material change in economic conditions affecting such firm following the date of the Tariff Commission's finding, adjustment assistance under this part is not required by such firm to achieve economic recovery from the serious injury or threat thereof found by the Tariff Commission to exist with respect to the firm or the industry of which it is a part; (2) such firm has willfully or negligently failed promptly to inform the Director in writing of a material change in economic conditions affecting such firm, as required under paragraph (a) of this section or (3) such firm or its agent has made false or misleading representations or statements or has falsified or concealed any material fact in connection with the application for such certification.

Subpart C—Adjustment Proposal

§ 500.30 Application for adjustment assistance.

Application for adjustment assistance by any firm certified under § 500.22 or § 500.23 as eligible to apply for such assistance must be made within 2 years after the date of such certification, by completing and filing with the Secretary the appropriate OTAA form (see § 500.60). An application for tax assistance under this section will also satisfy the requirements of § 500.43(a): *Provided,* That for purposes of determining the taxable years for which net operating losses may be carried back pursuant to certification by the Secretary of the firm's eligibility for tax assistance under § 500.43(c), the filing date of such application for purposes of section 317(a) of the Act and § 500.43(a) shall be the date of the Secretary's certification of the firm's adjustment proposal pursuant to § 500.32.

§ 500.31 Adjustment proposal.

(a) *Filing.* Within a reasonable time after filing an application for adjustment assistance under § 500.30, a firm shall file with OTAA an adjustment proposal, including a detailed description of the firm's plan for economic adjustment, the type and extent of adjustment assistance requested to carry out such plan and all available information bearing on what impact, if any, implementation of such plan would have on the quality of the human environment.[1]

(b) *Preliminary proposal.* A firm that has applied for adjustment assistance under § 500.30 is encouraged to consult informally with OTAA regarding the preparation and scope of its adjustment proposal. The firm may submit a preliminary proposal to OTAA in order to determine whether the adjustment assistance being sought may be provided under the Act and whether the firm's plan for its economic recovery is likely to satisfy criteria for certification of a proposal.

(c) *Technical assistance.* During informal consultation with OTAA or after submitting a preliminary proposal, a firm may request, and the Secretary may at his discretion authorize, technical assistance in the preparation of a sound adjustment proposal. To the maximum extent practicable, technical assistance under this section shall be provided through existing agencies, and otherwise through private individuals or institutions. A firm receiving technical assistance under this section may be required by the Secretary to bear a portion of the cost thereof as determined to be appropriate.

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[1] See, National Environmental Policy Act of 1969, 42 U.S.C. section 4321 et seq.; Council on Environmental Quality Guidelines, 36 F.R. 7724, Apr. 23, 1971.

(d) *Environmental impact.* Upon submission of a preliminary adjustment proposal (or, if none is submitted, upon filing an adjustment proposal) pursuant to this section, and at all stages of proposal development thereafter, OTAA will undertake to determine what impact, if any, the firm's plan for economic recovery may have on the quality of the human environment. Should the Director consider that an adjustment proposal could, if implemented as initially submitted, significantly affect the quality of the human environment, OTAA will cooperate with the applicant in exploring reasonable alternatives to achieve economic recovery of the firm in a manner that will minimize adverse impact on the environment. In the event data required by OTAA to evaluate such impact are not readily available to the applicant firm, technical assistance may be provided by the Secretary to facilitate collection and evaluation of such data.

(e) *Content of proposal.* An adjustment proposal should be as complete and detailed as possible and should reflect the full extent of adjustment assistance required. OTAA should be consulted regarding preparation and scope of a particular proposal, since only one proposal of a firm will ordinarily be certified.

(f) *Withdrawal of adjustment proposal prior to certification.* At the discretion of the Secretary, a firm may be permitted to withdraw its adjustment proposal at any time prior to a decision thereon without prejudice: *Provided,* That any new or revised proposal by such firm must be filed within 2 years of the date that the firm was originally certified under § 500.22 or § 500.23 as eligible to apply for adjustment assistance.

§ 500.32 Certification of adjustment proposal.

Adjustment assistance (other than technical assistance furnished under § 500.31 (c) or (d)) will not be provided to a firm under this part until the Secretary has certified that its adjustment proposal: Is reasonably calculated materially to contribute to the economic adjustment of such firm; gives adequate consideration to the interests of the workers of such firm adversely affected by actions taken in carrying out trade agreements; and demonstrates that such firm will make all reasonable efforts to use its own resources for economic development. Except in unusual circumstances, financial assistance will not be furnished if the purpose or use of such assistance would be: To pay the major creditors of a firm who would not otherwise be paid in the absence of such financial assistance; to provide funds for distribution or payment to the owners, partners or shareholders of the firm; to replenish funds used for such purposes; or to effect a change in ownership of the firm, unless such change is necessary to preserve the existence of the firm and facilitate its economic adjustment.

(a) *Material contribution to economic adjustment.* An adjustment proposal must demonstrate that the assistance sought therein will be a constructive aid to the firm in establishing a competitive position in the same or a different industry where there is sufficient demand to employ the efficient capacity of existing competitive enterprises.

(b) *Consideration to the interests of workers.* An adjustment proposal must give adequate consideration to the interests of the workers of such firm adversely affected as the result of the serious injury or threat thereof to such firm. Among reasonable alternatives, adjustment proposals that provide for the rehiring of such workers who have been laid off due to the increased imports are preferred. Efforts by the firm to find new employment for such laid-off workers or assistance rendered to such workers under other Government programs will also be taken into account in evaluating a proposal.

(c) *Reasonable efforts by the firm to use its own resources.* An adjustment proposal must demonstrate that the firm will make maximum use of its own resources and that any funds requested are not otherwise available to the firm, from sources other than the Federal Government, on reasonable terms. In determining whether such funds are not otherwise available to the firm, the Secretary may require satisfactory evidence that the firm has been refused the required credit from banks or other sources, or that the funds do not appear to be obtainable on reasonable terms through a public offering or private placement of securities of the firm or through the sale at a fair price of assets of the firm that are not reasonably required in connection with its economic adjustment.

(d) *Terms and conditions.* Certification of an adjustment proposal may be made subject to any terms and conditions that the Secretary, in his discretion, deems necessary or appropriate to ensure compliance with the requirements for adjustment assistance prescribed under the Act or this part. Such terms and conditions may include, but are not limited to, a requirement that owners, partners, or major shareholders of a firm (or other creditors) shall subordinate, consolidate, or reduce their claims against the firm or shall reduce their ownership interest in the firm as part of a reorganization of its capital and debt structure; or a requirement that owners, partners, or major shareholders of a firm shall make equity contributions or loans to the firm or shall guarantee loans to the firm.

(e) *Action on adjustment proposal.* A firm will be informed in writing when its adjustment proposal has been certified or denied by the Secretary. Promptly after certification, a firm seeking tax assistance under § 500.43 shall notify the Director in writing of the closing date of the taxable year or years for which a net operating loss carryback is sought pursuant to section 317 of the Act.

§ 500.33 Material change in conditions.

After an adjustment proposal of a firm has been certified by the Secretary, such firm must promptly inform the Director in writing of any material change in economic conditions affecting such firm, including any change in the principal ownership of such firm and any material change that has occurred in the facts contained in or underlying the representations set forth in the petition that was filed with the Tariff Commission under section 301 (b)(1) or (c)(1) of the Act, in its application to the Secretary under § 500.22 or § 500.23 for certification of eligibility to apply for adjustment assistance, in its application under this subpart for adjustment assistance or in the certified adjustment proposal.

§ 500.34 Modification of a certified adjustment proposal; revocation of certification.

(a) *Modification.* Requests for modification of an adjustment proposal that has been certified under § 500.32 will not be considered if such modifications would require a major increase in the amount of adjustment assistance to be provided pursuant to this part. Other requests for modification of a certified adjustment proposal that would have the effect of increasing the amount of adjustment assistance required, or would significantly alter either the adjustment proposal or the terms and conditions of its certification, may be granted in the discretion of the Secretary if such request (1) is based upon a material change in the firm's economic condition, not reasonably foreseeable at the time the adjustment proposal was certified, and (2) clearly demonstrates that such modification would contribute materially to the firm's economic adjustment. Upon receipt of written notification that the Secretary has granted a request for modification of a certified adjustment proposal pursuant to this section, the firm shall promptly submit to the Director a modified adjustment proposal, which shall be filed and processed in accordance with the provisions of this subpart and, if filed within a reasonable time, shall be deemed to have been timely filed for purposes of § 500.31(a).

(b) *Revocation.* The Secretary may revoke the certification of a firm's adjustment proposal if, within a reasonable period of time following such certification, agreement is not reached concerning appropriate terms and conditions for adjustment assistance pursuant to § 500.40(b)(1), or upon a finding that (1) as a result of a material change in economic conditions affecting such firm, adjustment assistance is no longer reasonably required by the firm to achieve economic recovery, (2) the firm has experienced a material change in economic conditions that adversely affects the economic viability of the certified adjustment proposal, (3) such firm has willfully or negligently failed promptly to inform the Director in writing of a material change in economic conditions affecting such firm, as required under § 500.33, or (4) such firm or its agent has made false or misleading representations or statements or has falsified or concealed any material fact.

Subpart D—Adjustment Assistance

§ 500.40 Referral of certified adjustment proposals; providing adjustment assistance.

(a) *Referral of proposals.* The Secretary will refer each adjustment proposal certified under § 500.32 to such agency or agencies (including any agency of the Department of Commerce) as he determines to be appropriate to furnish the technical and financial assistance necessary to carry out such proposal.

(b) *Providing adjustment assistance.* The Secretary may furnish adjustment assistance under §§ 500.41 and 500.42 to such firm, if he determines: That such assistance is necessary to carry out the adjustment proposal of the firm and that it will materially contribute to its economic adjustment, and that there are no appropriate government agencies to which a certified adjustment proposal may be referred. To the extent that any agency to which an adjustment proposal of a firm has been referred under paragraph (a) of this section has notified the Secretary of its determination not to furnish technical or financial assistance, the Secretary may also furnish adjustment assistance.

(1) *Authorization.* If the Secretary determines to furnish adjustment assistance to a firm, a written authorization will be issued setting forth appropriate terms and conditions for such assistance, including any conditions that must be satisfied by the firm before assistance will be provided. Implementing legal documents may provide such additional terms and conditions as the Secretary deems appropriate. Assistance that is furnished by the Secretary shall also be subject to the terms and conditions of the firm's certified adjustment proposal.

(2) *Failure to satisfy conditions.* The Secretary may withhold disbursement of funds in connection with any adjustment assistance under this part, if he determines that the firm has not satisfied the terms and conditions of the certified adjustment proposal or of the authorization issued pursuant to § 500.40(b)(1).

(3) *Certification of representative of the firm.* Adjustment assistance will not be provided to a firm unless the owners, partners or officers of such firm shall certify to the Secretary (i) the names of any attorneys, agents and other persons engaged by or on behalf of such firm in connection with any application, proposal or other submission or representation under this part, and (ii) the fees or other consideration paid or to be paid to any such persons for such services.

(4) *Compliance with the Civil Rights Act of 1964.* Adjustment assistance will not be provided to any firm unless the owners, partners, or officers of such firm provide satisfactory evidence that the requirements of title VI of the Civil Rights Act of 1964 will be complied with, and an undertaking to such effect is incorporated into the adjustment proposal.

§ 500.41 Technical assistance.

(a) *Purpose of assistance.* After a determination under § 500.40(b) that technical assistance is necessary to carry out the adjustment proposal of a firm, the Secretary may provide such technical assistance to the firm as in his judgment will materially contribute to the economic adjustment of the firm. Technical assistance includes market and other economic research, feasibility studies, managerial advice and counseling, operation and engineering assistance, employee training and assistance in research and development.

(b) *Forms of assistance.* To the maximum extent practicable, technical assistance will be furnished through existing agencies, and otherwise through private individuals, firms, or institutions working under contracts with the Department. Under special circumstances, a technical assistance grant may be made directly to the firm, subject to the condition that the Direcotr must approve (1) all plans of the firm for spending grant funds and (2) the qualifications of technical assistance personnel, consultants, and contractors.

(c) *Cost sharing.* A firm receiving technical assistance under this section shall be required to bear an appropriate portion of the cost thereof. In determining the firm's share of such cost, consideration will be given to all contributions by the firm, including space, equipment and services, and to the firm's need to conserve funds for working capital purposes.

§ 500.42 Financial assistance.

(a) *Forms of assistance.* After a determination under § 500.40(b) that financial assistance is necessary to carry out the adjustment proposal of a firm, the Secretary may provide such financial assistance to the firm as in his judgment will materially contribute to the economic adjustment of the firm. Financial assistance includes direct loans, guarantees of loans made by financial institutions, and agreements for deferred participation in or purchase upon demand of loans made by financial institutions. Guarantees and agreements for deferred participation are preferred over direct loans, and the Department may subordinate its lien position in order to encourage financial institutions to make loans to a firm. To the maximum extent practicable, financial assistance will be provided through agencies empowered under other law to furnish such assistance.

(b) *Purpose of financial assistance.* Financial assistance provided under this section shall be for the purpose of making funds available to a firm for acquisition, construction, installation, modernization, development, conversion, or expansion of land, plant, buildings, equipment, facilities or machinery, and in exceptional cases only, for working capital.

(1) *Working capital loans.* For purposes of this section, a working capital loan is defined as a loan for the purpose of providing liquidity needed by the firm for minimum cash flow requirements in connection with the conduct of current business operations.

(2) *Exceptional cases.* A finding by the Secretary that a case is exceptional will be made only if: (i) A working capital loan is essential to the adjustment of a firm, and (ii) such funds are not otherwise reasonably available.

(c) *Conditions for financial assistance—(1) Limitation on guarantees or participations.* A loan guarantee or agreement for deferred participation will not be made in an amount greater than 90 percent of that portion of the loan made for the purposes specified in this section.

(2) *Minimum interest rate.* Any loan or deferred participation provided by the Secretary under this section shall bear interest at a rate not less than the greater of (i) 4 percent per annum or (ii) the rate determined by the Secretary of the Treasury under section 315(b)(2) of the Act for the year in which the loan is made or the agreement for such deferred participation is entered into.

(3) *Maximum interest rate.* A guarantee or agreement for deferred participation will be made only with respect to a loan bearing interest at a rate determined to be reasonable in comparison with normal terms for equivalent loans from private sources, not to exceed one percent per annum in excess of the rate determined by the Secretary of the Treasury under section 315(b)(2) of the Act for the year in which the guarantee is made or the agreement for deferred participation is entered into, unless the Secretary finds that special circumstances justify a higher rate not more than 2 percent per annum in excess of the rate determined by the Secretary of the Treasury under section 315(b)(2) of the Act.

(4) *Maturity.* The maturity of loans made or guaranteed, or with respect to which a deferred participation agreement will be entered into, under this section shall not exceed 25 years, including renewals and extensions: *Provided,* That such limitation on maturities shall not apply in the case of (i) securities or obligations received by the Secretary as claimant in bankruptcy or equitable reorganization, or as creditor in other proceedings attendant upon insolvency of the obligor, or (ii) loans with respect to which the Secretary has determined that an extension or renewal for an additional period not exceeding 10 years is reasonably necessary for orderly liquidation.

(5) *Service fee.* The Secretary may impose on a private lender a guarantee or deferred participation service fee of one-half of 1 percent per annum on the unpaid balance of the guaranteed or deferred portion of the loan. Such service fee may not be passed on to the borrower.

(6) *Reasonable assurance of repayment.* Financial assistance will not be provided unless there is reasonable assurance that a loan will be repaid pursuant to its terms. The test of reasonable assurance of repayment will be met only if the loan is sufficiently secured or if the future earnings prospects of the firm indicate ability to repay the loan out of income from the business. In determining the ability of the firm to repay the loan

from income, the Secretary will consider all factors that he deems relevant, including the firm's total fixed obligations, the adequacy of its working capital, including its cash flow projection, and the ratio between its debts and net worth.

(7) *Agreement not to employ certain persons.* Financial assistance will not be provided to any firm unless the owners, partners or officers shall execute an agreement binding them and the firm, for a period of 2 years after financial assistance is provided, to refrain from employing, tendering any office or employment to, or retaining for professional services any person who, on the date such assistance or any part thereof was provided, or within 1 year prior thereto, shall have served as an officer, attorney, agent, or employee occupying a position or engaging in activities which the Secretary shall have determined involve discretion with respect to the provision of such financial assistance.

(8) *Security provisions.* In providing financial assistance, the Secretary may require such security and other protective devices as he deems appropriate, including (i) mortgages, (ii) security interests, (iii) pledge or hypothecation of inventories and receivables, (iv) personal guarantees of major shareholders, (v) subordination, reduction, and consolidation of claims of existing creditors, (vi) provision for expediting repayments based on favorable earnings, and (vii) restrictions on disbursements, dividends, debts, salaries, acquisition and disposition of assets, liens, expenditures and liabilities.

(9) *Default provisions.* In providing financial assistance, the Secretary may require in any loans or evidences of indebtedness such provisions regarding default and acceleration upon default as he deems appropriate.

(10) *Termination of assistance and recovery of funds in the event of revocation.* Financial assistance provided by the Secretary to implement a certified adjustment proposal shall be subject to his right to terminate such assistance and to recover any funds disbursed thereunder, in the event of revocation of the certification pursuant to § 500.34(b): *Provided,* That recovery of funds disbursed will only be sought in cases where such recovery is deemed appropriate by the Secretary and where revocation was made pursuant to § 500.34(b) (iii) or (iv).

(11) *Other provisions.* In providing financial assistance, the Secretary may require such other terms and conditions relevant to commercial agreements as he deems appropriate, including opinions of counsel and accountants, and affirmative and negative covenants.

(d) *Administration of financial assistance.* (1) The Secretary will exercise all such powers and take all such action as may be necessary or incidental to the administration of financial assistance under this part, including, but not limited to the following:

(i) Assignment or sale at public or private sale, or other disposition of, any evidence of debt, contract, claim, personal property or security assigned to or held by him in connection with such financial assistance, upon such terms and conditions and for such consideration as he shall determine to be reasonable;

(ii) Collection, compromise and deficiency judgments with respect to all obligations assigned to or held by him in connection with such financial assistance until such time as such obligations may be referred to the Attorney General for suit or collection;

(iii) Renovation, improvement, modernization, completion, protection by insurance, rental, sale or other dealing with any real or personal property conveyed to or otherwise acquired by him in connection with such financial assistance, upon such terms and conditions and for such consideration as he shall determine to be reasonable; and

(iv) Acquisition, holding, transfer, release or conveyance of any real or personal property, or any interest therein, whenever deemed necessary or appropriate, and execution of all legal documents for such purposes.

(2) Any mortgage acquired as security under paragraph (c)(8) shall be recorded under applicable State law.

(3) A financial institution that has made a loan in connection with which there has been a guarantee, or with respect to which there is a deferred participation agreement, shall hold the note and all security and other agreements obtained by it in connection with such loan, and shall receive all payments of principal and interest on such loan until such time as the Secretary may purchase the guaranteed or deferred participation share thereof: *Provided,* That except as authorized in writing by the Secretary, such financial institution shall not (i) make or consent to any alteration in the terms of the note or related agreements, (ii) make or consent to any release, substitution or exchange of collateral, (iii) accelerate the maturity of the note, (iv) sell, assign or transfer the note or related agreements, (v) sue upon the note or related agreements, (vi) waive or agree to waive any claim against the borrower or any guarantor, standby creditor or other obligor in connection with the loan, (vii) charge or receive any bonus, fee, commission or expense in any form, directly or indirectly, in connection with the loan, except charges or expenses incurred or earned for services rendered, or (viii) increase the amount due on a prior lien. Such financial institution shall assign and deliver to the Secretary the note and related agreements with respect to such portion of the loan as may be purchased pursuant to the guarantee or deferred participation agreement.

§ 500.43 Tax assistance.

(a) *General.* Upon certification of a proposal for adjustment assistance under § 500.32, a firm may apply for tax assistance with respect to a net operating loss alleged to have been sustained by such firm in a taxable year that closed not more than 24 months prior to the date of such application. Such assistance will permit the firm to carry back a net operating loss to each of the 5 taxable years preceding the year of the loss, rather than the normal 3-year carryback provided in the Internal Revenue Code of 1954, as amended. Tax refunds received by a firm pursuant to a tax assistance certification must be used by such firm in accord with the terms of its certified adjustment proposal.

(b) *Application.* An application for tax assistance filed pursuant to § 500.30 shall satisfy the application requirement of paragraph (a) of this section, but the effective date of filing for purposes of section 317(a) of the Act shall be the date on which the firm's adjustment proposal is certified by the Secretary pursuant to section 500.32 of this part.

(c) *Certification.* Following receipt from the firm of the written notice required by § 500.32(e), eligibility for tax assistance will be certified by the Secretary if he determines that (1) the net operating loss alleged to have been sustained by the firm in a taxable year that closed not more than 24 months prior to the date of its application under this section arose predominantly out of the carrying on of a trade or business which was seriously injured during such year by the increased imports found by the Tariff Commission to have resulted from concessions granted under trade agreements, and (2) tax assistance under this section will materially contribute to the economic adjustment of the firm. A certification under this section shall not constitute a determination of the existence or amount of any net operating loss for purposes of section 172 of the Internal Revenue Code of 1954, as amended.

(d) *Notice to Internal Revenue Service.* At such time and in such manner as may be prescribed pursuant to section 172(b)(3)(A)(i) of the Internal Revenue Code of 1954, as amended, and regulations issued thereunder, the firm or other taxpayers involved must file with the Secretary of the Treasury or his delegate a notice that it or they have applied for tax assistance and, if such assistance is approved, a copy of the certification of eligibility therefor, issued pursuant to paragraph (c) of this section.

(e) *Revocation.* A tax assistance certification may be revoked by the Secretary at any time upon a finding that the tax refunds made to the firm pursuant to such certification are not being used in accord with the terms of the firm's certified adjustment proposal.

Subpart E—Records and Reports

§ 500.50 Records.

(a) Each firm receiving adjustment assistance under this part shall make or cause to be made by any person under the control or direction of such firm, original or facsimile records, receipts or documents with respect to all transactions relating to the receipt, disbursement and utilization of proceeds or other forms of such assistance as are received that will fully disclose their amount and disposition. Such records, receipts or documents shall be in such form and detail as will facilitate effective audit.

(b) In any undertaking to provide adjustment assistance, the Secretary may require the firm to keep, or cause to be kept, such additional records, receipts or documents as he may deem appropriate.

(c) Any records, receipts or documents required to be kept pursuant to this section shall be retained for a period of at least 3 years following completion of the adjustment assistance proposal certified by the Secretary pursuant to Subpart C of this part or until any loans called for therein have been repaid, whichever date is later.

(d) The records, receipts and documents referred to in this section shall include, but not by way of limitation, source materials, journals or other books of original entry, ledgers, financial statements, work papers regardless of by whom prepared, and minute books.

§ 500.51 Reports.

Each firm receiving adjustment assistance under this part, and any person under the control or direction of such firm, shall furnish, in the form of notarized reports or otherwise as required by the Secretary, complete information relative to any matter involving or pertinent to the adjustment assistance proposal certified pursuant to Subpart C of this part, and information otherwise reasonably related to such proposal or the purposes of the Act or of this part. The Secretary may require that such reports include the production of any books of account, contracts, letters, or other papers relevant to adjustment assistance received by the firm or transactions related thereto in the custody or control of the firm or person required to make such reports.

Subpart F—Procedures

§ 500.60 Forms.

(a) For the convenience and guidance of interested persons, the following printed forms are available for use in connection with submissions under this part in connection with adjustment assistance to firms:

(1) OTA–1, Application for Certification of Eligibility To Apply for Adjustment Assistance (under section 302(b)(1) of the Act).

(2) OTA–2, Certificate of Eligibility To Apply for Adjustment Assistance.

(3) OTA–3, Application for Adjustment Assistance.

(4) OTA–4, Adjustment Proposal.

(5) OTA–5, Certification of Adjustment Proposal.

(6) OTA–6, Certification of Eligibility for Tax Assistance.

(b) Copies of all necessary forms, and instructions for their preparation and filing, may be obtained upon request from the Office of Trade Adjustment Assistance, Department of Commerce, Washington, D.C. 20230, or from any Field Office of the Department.

§ 500.61 Submissions.

(a) *Applications.* Forms and related material, including communications, with respect thereto, in connection with (1) applications for certification of eligibility to apply for adjustment assistance, (2) applications for adjustment assistance and (3) adjustment proposals under this part, should be submitted, in triplicate, to the Director, Office of Trade Adjustment Assistance, Department of Commerce, Washington, D.C. 20230.

(b) *Petitions for reconsideration and appeals.* See § 500.62(b)(2) and (c)(4), respectively.

(c) *Other communications.* In order to expedite attention to inquiries or other correspondence concerning matters relevant to or arising in connection with the provisions of this part, persons initiating such communications are urged to direct them in the first instance to OTAA.

(d) *Due date.* (1) Applications for certification of eligibility to apply for adjustment assistance under section 302(b)(1) of the Act, and applications for adjustment assistance under section 311 of the Act are subject to statutory filing deadlines. The Secretary may, in appropriate circumstances, condition acceptance of other submissions upon timely filing on or before a specified date. (2) Except as provided in §§ 500.43(b) and 500.62(a)(3), submissions received by mail are deemed filed on the date postmarked on the envelope in which they are mailed. Submissions delivered directly are deemed filed when received.

(e) *Extensions of time.* With respect to any submission, other than a petition for reconsideration or an appeal under § 500.62, concerning which a date has been established for receipt by the Secretary or his delegate and submission on or before such date is a condition precedent to its acceptance as timely filed, application for extension of time may be made to OTAA. Such application must be received by OTAA prior to the time such submission is due, and must contain a statement of reason for inability to comply with the required filing date. An extension of time will be given for good cause shown.

§ 500.62 Reconsideration and appeals.

This section sets forth the procedures applicable to: Petitions for reconsideration of administrative actions and appeals to the Secretary from certain delegated administrative actions and from decisions on petitions for reconsideration.

(a) *General provisions.* (1) The term "administrative action" means with respect to any person, (i) a decision with respect to certification of eligibility to apply for adjustment assistance, or (ii) a decision upon an application for adjustment assistance, or (iii) any action taken specifically with respect to such person pursuant to the exercise of a discretionary power by the Secretary or his delegate in accordance with any provision of this part. The term "administrative action" does not include an opinion or ruling interpreting these regulations, or a decision upon a petition for reconsideration or upon an appeal.

(2) Notice of an administrative action or of a decision upon a petition for reconsideration or upon an appeal shall be deemed to have been given on the date when mailed or delivered directly to the petitioner or appellant: *Provided,* That notice of an administrative action taken prior to the effective date of this section shall be deemed to have been given on such effective date.

(3) A petition for reconsideration or an appeal shall be deemed filed on the date received by the addressee.

(4) Any person may withdraw a petition for reconsideration or an appeal at any time prior to the date a decision is rendered thereon.

(b) *Petition for reconsideration.* Any person may petition the official who has taken an administrative action under this part with respect to such person for reconsideration of such action unless such person has previously appealed the same or a related administrative action to the Secretary and such appeal is then pending or a decision has been rendered thereon. The filing of a petition for reconsideration shall not suspend or stay the effect of the administrative action of which reconsideration is sought unless the Secretary, in his discretion, so orders.

(1) *Form of petitions.* An original and five copies of the petition for reconsideration and all supporting documents shall be submitted. The petition shall enclose a copy of the administrative action of which reconsideration is asked, and shall state the grounds upon which the petition is based and the relief requested. All facts and argument in support of the petition shall be separately identified and set forth in detail.

(2) *Filing.* A petition for reconsideration of an administrative action shall be filed not later than 20 days after notice of the administrative action is given to the petitioner. It shall be addressed to the official who took the action of which reconsideration is sought, in care of the U.S. Department of Commerce, Washington, D.C. 20230. If a petition is withdrawn, the time which has elapsed since notice of the administrative action was given to the petitioner shall not be counted as part of the time allowed for appeal. Requests for extension of time within which to file petitions for reconsideration may be granted in the discretion of the official who took the action of which reconsideration is to be sought.

(3) *Decisions.* The official who took the action of which reconsideration is sought may dismiss the petition or may grant or deny the petition in whole or in part, or may modify all or part of the administrative action under reconsideration. Written notice of the decision shall be given to the petitioner.

(c) *Appeals.* Any person may appeal in writing to the Secretary with respect to a decision by another official of the Department on the ground that the administrative action (including a decision on a petition for reconsideration) with respect to such person was based on legal or factual error or was arbitrary. An appeal may not be filed if such person has previously filed a petition for reconsideration respecting the same or a related administrative action and no decision has been rendered thereon and the petition has not been withdrawn. The filing of an appeal shall not suspend or stay the effect of the administrative action or decision on the

petition for reconsideration under appeal unless the Secretary, in his discretion, so orders.

(1) *Form of appeals.* An original and three copies of the appeal and all supporting documents shall be submitted. If the submission of three copies of all accompanying documents or exhibits would place an undue burden on the petitioner, waiver of this rule may be requested at the time the appeal is filed. The appeal shall enclose a copy of the administrative action or decision on the petition for reconsideration from which appeal is made, and shall state the particulars upon which the appeal is based and the relief requested. All facts and arguments in support of the appeal shall be separately identified and set forth in detail. The appellant may request the Director, in writing, to transmit to the Secretary the documentation originally submitted to OTAA.

(2) *Filing.* Appeals shall be filed with the Secretary not later than 30 days after notice of the administrative action or decision on the petition for reconsideration has been given to the appellant. Requests for extensions of time within which to file appeals may be granted in the discretion of the Secretary. Appeals shall be addressed to the Secretary, U.S. Department of Commerce, Washington, D.C. 20230.

(3) *Oral presentations.* The Secretary may, in his discretion, request an appellant to make an oral presentation at a time and place designated.

(4) *Decisions.* The Secretary may dismiss, grant or deny the appeal in whole or in part or modify all or part of the administrative action or decision on the petition for reconsideration under appeal. Written notice of the Secretary's decision shall be furnished to the appellant and shall constitute final Departmental action.

§ 500.63 Public access to information.

Completed Forms OTA–1, OTA–3, OTA–4, or any other completed forms filed with OTAA, applications and requests from applicants, petitions for reconsideration, appeals, materials submitted therewith, and decisions thereon are considered to be matters covered by 5 U.S.C. 552(b). Other information, records, and material in the possession of OTAA, if required by 5 U.S.C. 552 to be made available to the public, shall be available in accordance with the provisions of Part 4, Subtitle A of this title.

Subpart G—Investigation and Audit; Penalties

§ 500.70 Investigation and audit.

(a) The Secretary may, through any person or agency, investigate any matter relevant to or any violation of the provisions of this part, regardless of whether any report has been required or filed in connection therewith.

(b) The Secretary, through any person or agency, shall have access for the purpose of audit and examination to any records, receipts and documents (as defined in § 500.50(d)) in the possession of a firm that is receiving or has received adjustment assistance under this part, or in the possession of any other person or firm, pertaining to or relevant to such adjustment assistance.

§ 500.71 Penalties.

(a) Attention is directed to 19 U.S.C. section 1919, which provides in connection with adjustment assistance to firms that:

> Whoever makes a false statement of a material fact knowing it to be false, or knowingly fails to disclose a material fact, or whoever willfully overvalues any security, for the purpose of influencing in any way the action of the Secretary of Commerce * * *, or for the purpose of obtaining money, property, or anything of value * * *, shall be fined not more than $5,000 or imprisoned for not more than 2 years, or both.

(b) Attention is also directed to 18 U.S.C. section 1001, which provides that:

> 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 or 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.

(c) Failure by a firm to maintain or cause to be maintained records or make reports required under Subpart E of this Part shall be grounds for suspension or termination of adjustment assistance. This provision shall constitute an integral part of any certification by the Secretary of an adjustment proposal, whether or not expressly incorporated therein.

§ 500.72 Effect on lenders.

Any person who in good faith lends money or extends credit to a firm that is receiving or has received adjustment assistance under this part and who does not have actual knowledge, when such loan is made or credit extended (or when a commitment is given to make the loan or extend the credit), that the use of the proceeds thereof, the repayment thereof or any other transaction in connection therewith will involve or constitute a violation by the firm of any provision of this part or of any license, ruling, regulation, order, direction, or instruction issued by or pursuant to the authorization or direction of the Secretary pursuant to this part or otherwise under § 500.71, may receive payment thereof (together with all interest and other fees and charges) and may otherwise participate in any other transaction in connection therewith, and such person's rights against the firm in connection with such loan or extension of credit shall not in any way be affected or impaired by reasons of the provisions of this part.

[FR Doc.72–7340 Filed 6–7–72;8:52 am]

federal register

THURSDAY, JUNE 8, 1972
WASHINGTON, D.C.

Volume 37 ■ Number 111

PART III

FEDERAL COMMUNICATIONS COMMISSION

■

RADIO BROADCAST SERVICES

Operator Requirements for Standard, FM and Noncommercial Educational FM Stations

Title 47—TELECOMMUNICATION

Chapter I—Federal Communications Commission

[Docket No. 18930; FCC 72-467]

PART 73—RADIO BROADCAST SERVICES

Operator Requirements for Standard (AM) and FM Broadcast Stations

Report and order, In the matter of amendment of §§ 73.93, 73.265 and 73.565 of the Commission's rules concerning operator requirements for standard (AM) and FM broadcast stations; Docket No. 18930, RM-1576, RM-1627.

1. This proceeding concerns the possible amendment of those rules and regulations of the Commission which govern the qualifications of radio operators required to be on duty and in charge of standard broadcast and FM broadcast transmitters.

2. The proceeding was initiated by a notice of inquiry and notice of proposed rule making, adopted July 29, 1970 (FCC 70-825), in response to petitions filed by the National Association of Broadcasters (NAB) and the Oregon Association of Broadcasters. The deadlines for filing comments and reply comments specified in the notice, November 2, 1970, and December 1, 1970, respectively, were extended by subsequent orders to February 23, 1971, for comments, and March 22, 1971, for reply comments. These times having run, the matter, accordingly, is ready for further action.

3. Existing rules require that FM broadcast stations with transmitter output power in excess of 25 kilowatts, standard broadcast stations with nondirectional antennas and power in excess of 10 kilowatts, and all standard broadcast stations using directional antennas have first class radiotelephone operators on duty and in charge of the transmitting apparatus. However, the rules permit the routine operation of FM stations, and standard broadcast stations with nondirectional antennas of lower powers than those specified above, to be conducted by operators holding licenses requiring less extensive qualifications: *Provided,* That such stations have one or more radiotelephone first class licensees in full-time employment, or under contract on a part-time basis. (Noncommercial educational FM broadcast stations with power of 1 kilowatt or less are permitted to use second class operators to fulfill this requirement.) An operator of this class is required to perform transmitter maintenance, and to be available at all times should transmitter malfunctions occur. In the usual case, the routine operation of such stations is conducted by persons holding third class operator licenses endorsed for broadcast station operation. A person may qualify for such a license with minimal technical knowledge or training.

4. The NAB petition seeks amendments to the rules which would permit the routine operation on all FM and standard broadcast stations to be conducted by operators with third class licenses endorsed for broadcast station operation. It suggests that the operator requirements now applicable to FM stations and standard broadcast stations with non-directional antennas of limited power (at least one first class operator in full-time employment or on contract part-time) be extended to all such stations without restriction on power, and that standard broadcast stations using directional antennas be required to employ at least one first-class operator full-time.

5. In support of its proposal, NAB offers the following:

(a) That station licensees experience difficulty in obtaining the services of first class operators because of the competing demands of other industries.

(b) The greater sophistication of modern transmitting equipment, the improved stability of directional antennas, and the utilization or availability of elaborate detection and alarm circuits has lessened the need for the constant attendance by an operator possessing high technical qualifications.

(c) That, in any event, many of the first-class operators now involved in the routine operation of broadcast stations are little better qualified to perform, or are not required to perform duties more demanding of technical skill and knowledge than those which are expected of a third class radiotelephone operator.

(d) As an additional consideration, the relaxation of present operator requirements would create employment opportunities in broadcasting for members of minority groups, since many positions which presently must be held by operators with first-class radiotelephone licenses will become open to those who pass the relatively much simpler third class license examination.

6. The Association for Broadcasting Standards, Inc. (ABS), filed a statement fully supporting the NAB petition, as did the Alabama and Georgia Associations of Broadcasters and various Senators and Congressmen.

7. The proposed rule amendments were opposed, and the basic premises on which NAB justified its proposal were challenged by Elkins Institute, a long-established radio school, and by the National Association of Broadcast Employees and Technicians (NABET), one of the unions of broadcast technical employees, as well as in letters from a number of individuals, usually identifying themselves as holders of first-class radiotelephone licenses.

8. In determining on the action to be taken in response to the NAB petition, in view of the oppositions thereto, and in the light of our own experience, we observed that the broadcasting industry should not be burdened with unnecessary or artificial restraints, and to the extent that the present rules represent such restraints, they should be changed. However, despite NAB's claim that constant technical surveillance of modern transmitting equipment is unnecessary, we noted that much of the transmitting apparatus in present use is not of the most modern design, the number of technical violations by broadcast stations observed by our engineers continues at an unsatisfactorily high level, and the directional antennas of many stations are found during Commission inspections, or at license renewal time, to be out of adjustment. We suggested that many of these deficiencies could be attributed to an insufficient recognition by station management of its responsibility for the proper technical operation of the broadcast station, or to a lack of adequate supervision of duty operators in the performance of their technical duties. As contributing to this situation, we noted the likelihood that many operators with third-class licenses are inadequately motivated to participate readily in the technical side of broadcast station operation, having procured operator licenses only to gain employment in a broadcast station, when their main interests and functions lie in the programming field.

9. In spite of this situation, we offered the tentative opinion that the routine operation of most aural broadcast stations, including standard broadcasting stations utilizing directional antennas (if these antennas are equipped with modern monitoring equipment, and are not unstable or do not require abnormally critical adjustment) can be performed satisfactorily by third-class operators, if these operators are adequately instructed and supervised by a competent first-class operator.

10. In the notice of proposed rule making, presented in paragraph 42 of the subject proceeding, we offered for comment a set of conditions which, if met, might make feasible the routine operation by lesser grade operators of those categories of stations now requiring first-class operators for routine duty. These conditions, which are summarized below,[1] are intended to cope with anticipated equipment and supervisory problems, but depend heavily for their success on the effective supervision of the duty operators by a "well qualified" first-class operator.

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[1] In summary, the proposal was this:

All categories of stations which are presently required to utilize first-class operators for routine operation would be permitted to conduct such operation using operators of lesser grade, on the basis of a satisfactory showing that at least one first-class radiotelephone operator "well qualified by training and/or experience" is employed full time by the station, and on call at all times, and another such operator is under contract on a part-time basis.

In addition, the licensee must undertake to show that:

(1) A first-class operator will review and countersign the previous day's operating logs of lesser grade operators within one-half hour of sign-on.

(2) That the third-class operators have been thoroughly instructed in their duties, and that written instructions and a tabulation of permissible deviations in operating parameters have been posted.

For standard broadcast stations using directional antennas these further showings would be necessary:

(3) A first-class operator will be on duty at the transmitter or remote control point

11. That many holders of first-class radiotelephone operator licenses are not "well qualified" is a fact recognized by NAB, by many of those supporting or opposing its petition, and by the Commission. The reasons for this situation are discussed, and suggestions as to the steps which might be taken by the Commission or industry to rectify or ameliorate it are sought in the notice of inquiry section of this proceeding.

12. The notice of inquiry also invited comments concerning other measures which might be taken to minimize the necessity for detailed surveillance of broadcast station operation by radio operators, such as the more general employment of automatic logging, and, for the future, the authorization and employment of automatic and semiautomatic transmitters.

13. The notice of inquiry further invited, by a number of pointed questions, a discussion of the relative adequacy of first and lower grade operators to perform the technical duties required in routine station operation, in the light of their attitudes and involvement in other nontechnical duties; the reasons for the alleged shortage or unavailability of first-class operators; and the effects of the proposed changes in the rules on (1) job security and wage levels of presently employed first-class operators, and (2) on-the-job opportunities, overall, of minority group members.

14. Finally, questions were raised as to whether duty operator requirements should be relaxed for those stations using directional antennas which have a history of instability, or are required to maintain their antenna parameters within closely specified limits; and whether, in instances of violation of its technical rules, the Commission should institute enforcement action against a supervising first-class operator.

15. In response to our notice, more than 200 timely comments and reply comments were filed. As such, they represent a cross section of views of all those who might be considered to have identifiable interests in the matters at issue—individual broadcast station licensees, national and State organizations of broadcasters, operator's unions and individual operators, and radio license schools. A listing of the parties is included in Appendix A.

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when the station begins directional operation or changes directional radiation patterns.

(4) That the directional antenna system is stable.

(5) That a type approved phase monitor, fed by a properly designed sampling system, is installed.

(6) A study of the array has been undertaken to establish the tolerable deviations in phase and current relationships.

We stated that a decision as to whether a relaxation of operator requirements would be permitted would depend, further, on the complexity of the array, and on the broadcast licensee's previous record of compliance with the technical rules. We contemplated that no relaxation would be permitted for those stations with directional antennas required by their licenses to operate within specified phase and current limitations.

16. The Commission has fully considered all comments filed, whether or not a particular comment is specifically alluded to in our decision, which is based on the following analysis of the factors involved in this matter.

Use of third-class operators for routine operations of all broadcast stations. 17. As previously pointed out, the reasons advanced for relaxation of the operator requirements for broadcast stations were the following:

(1) It is difficult to obtain frst-class licensed operators for broadcast employment, particularly in small markets or in isolated areas.

(2) In many cases where first-class duty operators are required, they are held responsible only for meter readings, and may not be interested in or capable of maintenance work.

(3) Lesser grade operators can easily be trained to properly read all required meters and monitors at any type of station and to evaluate such readings to the extent necessary to determine when a maintenance operator should be summoned.

(4) Most stations depend on only one or two operators for the maintenance of transmitting equipment.

(5) The economics of the industry require the employment of "combo" operators. (Duty announcers who also serve concurrently as transmitter operators.) Stations are sometimes forced to employ "inferior" broadcast program talent when such talent must also have a difficult-to-obtain first-class license.

(6) Pressures on announcer talent to obtain a first-class license has resulted in numerous efforts to obtain licenses by fraudulent means.

(7) Most major technical problems (and rule violations) are matters not under the immediate control of transmitter duty operators.

18. In considering possible changes in the rules, the duties and responsibilities of licensed operators, as currently employed in the radio broadcast industry, will be reviewed. Broadcast operation involves duties of two rather distinct levels of technical competence: Routine operation of the transmitting apparatus requires the making of periodic meter readings, minor adjustments and changes in operation by means of switch controls, duties not necessarily demanding a substantial degree of technical aptitude. Major maintenance, and detailed adjustment of the transmitting apparatus, can be performed only by skilled and knowledgeable technicians for high power stations, and for those using directional antenna systems. Our operator licensing requirements have been the same for operators who perform both of these functions. However, for a number of years, operators in the first category at nondirectional stations using output powers of 10 kilowatts or less have been permitted to hold the less technically qualified third class operator permit.

19. The ability of a person to perform his duties as a routine transmitter operator depends primarily on his training, his interest and conscientiousness, and his being given sufficient freedom from other duties to have time to perform these tasks adequately.

20. It is our opinion, based on experience gained in observing the performance of third-class permit holders since operation of broadcast stations by this class of operator was inaugurated, that these operators can adequately perform the required duties provided the above conditions are met.

21. The Commission's field inspections of stations have indicated that there are problems at many stations resulting in numerous violations and many of these violations result from lack of responsibility by duty operators. Yet the inspections also show that in many cases operators have been inadequately instructed in their duties, including the making of required adjustments to maintain station power within authorized limits.

22. In recognition of this problem concerning duty operations, the adopted rules clearly state that it is the station licensee's responsibility to provide for proper instruction of all duty operators in the performance of their duties and to require that written detailed instructions together with charts or tables be posted at the operating position so that the duty operator can readily determine whether the station is operating as required. These instructions and charts, and operators' understanding of them, will be subject to Commission inspection and review.

23. Regardless of the class of license held by routine duty operators, that operator must not be encumbered by other programing responsibilities such that he can not devote adequate time or attention to transmitter operation. It is again emphasized that the station licensee may not assign other duties to operators which prevent them from performance of operating and logging duties.[3]

Comments on rules as adopted. 24. The operator requirement for broadcast stations in the rules as adopted herein provide for the following:

(1) Stations employing nondirectional antenna systems and operating with

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[3] In connection with the amendment of the rules governing the use of radio operators by broadcast stations it is appropriate to state formally certain principles concerning the terms of employment of duty operators, which have been established by interpretation of these rules in individual cases. To insure against abdication of licensee responsibility for proper technical operation, operators responsible for the routine operation of a broadcast station must actually be employed by the station. Normally, this employment is evidenced by the inclusion of each operator on the station payroll. An individual may be included on the payrolls of more than one station: *Provided*, That the multiple duties which he thereby assumes do not limit his ability to exercise proper supervision over each broadcast transmitter with whose operation he is charged. In instances where licensees contract for the maintenance of transmitting apparatus, such contracts must be executed in the names of individual first-class radiotelephone operators; contracts with service organizations are not acceptable.

transmitter power of 10 kilowatts or less, or FM stations with transmitter output power 25 kilowatts or less—no changes from from present requirements; i.e., duty operators must have third-class permits endorsed for broadcast station operation (or higher) and at least one first-class radiotelephone operator employed either full time or on a contract basis.

(2) Stations employing directional antenna systems whose station authorization specifies tolerances for antenna and sample loop current ratios and phase angle relationships which are less than 5 percent and 3°, respectively, must have a first-class radiotelephone licensed operator on duty at all times.

(3) Standard broadcast stations employing transmitter output power in excess of 10 kilowatts, or employing directional antenna systems, or FM broadcast stations with power greater than 25 kilowatts, may employ operators holding a third-class permit endorsed for broadcast station operation for the routine operation of the station, providing certain specific conditions are met. These include, among others:

(i) The employment of at least one first-class radiotelephone licensed operator on a full-time basis. One such operator shall be designated in writing as the station's chief operator with specified responsibilities.

(ii) That inspections of the transmitting apparatus shall be made within 2 hours after the commencement of operation with or change in directional radiation pattern.

(iii) That a review of the station's completed operating logs be made promptly by the chief operator.

(iv) That switching to or between directional radiation patterns does not involve adjustment of the transmitter tuning or phasor controls.

(v) That the station make at least monthly field strength measurements at the licensed monitoring points.

(vi) That a partial proof of performance for each directional radiation pattern be made on an annual basis.

(4) Standard broadcast stations employing directional antenna systems that do not desire to use lesser grade operators and FM broadcast stations with power greater than 25 kilowatts will not be required to comply with the above provisions (i) through (vi) at this time.

25. The Commission was disappointed in the number of comments received concerning the specific matters covered in the notice of inquiry. Most of the comments in response to the inquiry items were incorporated in the comments relating to the specific rules proposed and therefore will be reflected in the discussion to follow, covering the rules. The one item which attracted considerable comment was the increased employment opportunities which might be afforded members of minority groups but gave no specific statistics or plans to implement such employment.

26. As a rule, operators stated that they did not believe that the proposed rule changes would make any significant improvement in the number of minority groups employed, for the following reasons:

Only about 20 percent of all persons employed in the broadcast industry are engaged in technical duties which require the holding of a radio operator license or permit, and, therefore, there is already ample opportunity for improvement of the minority employment record within the remaining 80 percent of broadcast positions for which FCC operator licenses are not required.

It is believed that the rules being adopted, permitting employment of lesser grade operators under certain conditions, will provide additional employment opportunities for minority groups.

Separate operator rules and standards for small market stations. 27. The notice of inquiry addressed itself to the question: Whether the Commission should consider separate standards for stations in the small market areas. A few comments submitted to the Commission on this matter indicated that the same operator rule requirements should apply to all stations as a class and, therefore, there will be no difference in the rules based on "market area." Typical of the comments received is the following from Hall Communications, Inc.:

> Serious difficulties have been encountered in obtaining an ample supply of first-class operators for Hall's Norwich station notwithstanding the fact that Norwich is an attractive community of 42,000 persons situated in a densely populated area of the Northeast. The current operator shortage is not solely a function of market size rather it results in large measure from the unwillingness of thoroughly competent technical personnel to accept employment in jobs which involve little more than meter reading and control board operation. The position of the average first-class operator at a modern day directional station offers insufficient activity and challenge to attract capable technically motivated persons.

We believe it would be a difficult problem to establish on a case-by-case basis a relationship between "market areas" and the availability of first-class radiotelephone operators for broadcast station employment. Furthermore, even if this were not the case, it is highly questionable whether such a consideration should be used in a determination of the situations where first-class operators must be employed for routine broadcast station operation. Rather, the technical complexity of the duties which the operator must perform should be the primary criterion in making such a determination. The operational complexity of a station has little or no relationship to the size of the market in which it is located.

Training of operators. 28. A variety of suggestions were offered as to the methods the Commission or station licensees might use to determine whether operators were properly trained and qualified. The Cleveland Institute of Electronics, as well as several other correspondents, suggested that additional examinations be conducted by the Commission with separate elements covering the operation of directional antenna systems, color television stations, FM stereo stations, etc. Licenses might then be endorsed to demonstrate proficiency in each of these areas. Others suggested that a year of experience in broadcast station operation be required before an operator is eligible to obtain a first-class radiotelephone license. This would be similar to the current requirement of 1 year's experience necessary to obtain a first-class radiotelegraph license. It was also suggested that the note to § 13.28 of the Commission's operator rules be deleted so that a record of actual employment under a license would be required to obtain license renewal. Serious consideration was given to these suggestions. However, we do not find that it is practical at this time to establish separate endorsements for each type of broadcast station operation. We are planning to implement a more comprehensive element 4 examination that will test the applicant's knowledge in greater detail in more aspects of broadcast station technology. We are also considering implementing a procedure under which licensed operators may be recalled on a random sampling basis for reexamination. Although experience under a license would be a desirable condition for its renewal, it would be exceedingly difficult for the Commission's field offices to determine on a case-by-case basis whether the experience record submitted would in fact qualify the individual for a license renewal. It would be impractical to devise a comprehensive examination, including demonstrations of practical repair and maintenance of equipment, that would insure that a licensed operator could perform all of the duties that may be encountered at any station. It should be the responsibility of the licensee of each broadcast station to determine whether a prospective operator employee has the necessary experience and training to perform the duties of a licensed operator.

29. The rules which we are adopting spell out the duties of the chief operator of a broadcast station in considerable detail. If these duties are to be satisfactorily discharged, as the Commission intends they shall, an operator with a considerable degree of technical competence must occupy the chief operator's position. It behooves the station licensee, therefore, to exert the utmost care in selecting the operator who will be designated for this post.

30. These rules, furthermore, require that the station licensee give the chief operator such authority and provide him with such facilities as are needed for the efficient supervision and maintenance of the operation of the transmitting apparatus. Major deficiencies found in the technical performance of a station employing a chief operator may be deemed to reflect either on the adequacy of the authority granted and the facilities afforded the chief operator, or on the competence and diligence of such operator. In such a situation, appropriate sanctions may be imposed by the Commission in the light of its assessment of the basic responsibility for the deficiencies.

Theoretical or empirical study of directional antenna system. 31. It was originally proposed that a theoretical or empirical study be undertaken to determine the magnitude of deviations in phase relationships and current ratios in the elements of a directional antenna system that could be tolerated without the field strength at monitoring points exceeding the licensed maximum values. Comments were received from consulting engineers and station licensees that this could involve a tremendous amount of field experimentation or mathematical analysis to provide the complete tabulations required in particular of a multielement array.

32. Storer Broadcasting Co. wrote:

> Such a study is not necessary and should not be required in cases where the operating logs for a 1-year period (the period used in connection with remote control authorization) so that the array is operating within the prescribed parameters. In addition, to apply the requirement to every station seeking third-class operator privileges would defeat the purpose of the relaxation by imposing substantial additional engineering expenses.

Radio Station KID wrote the following:

> In principle, we are in agreement with the proposal except that an empirical study is not necessary with respect to a directional antenna system which has proven over the years to be very stable. The number of combinations possible in a three-tower array in order to establish some sort of table of tolerances leaves us somewhat aghast. There ought to be some other system that could be devised which would still produce the results the Commission is proposing.

A tabulation of the antenna system variables that could be encountered would be unrealistically difficult for use and interpretation by duty operators. We concur that the time and cost for the preparation of such a study would not significantly provide station duty operators with information that they could readily use in day-to-day operation. It is believed that more constant surveillance of the actual operating parameters, combined with proper overall technical supervision, including field measurements, will provide more realistic evaluation of directional antenna systems. We, therefore, are not adopting the requirement that the theoretical or empirical study be undertaken.

One first class licensed operator employed full time designated as station's chief operator. 33. Since 1964, certain low powered standard and FM broadcast stations employing nondirectional antenna systems have been permitted to employ a first-class radiotelephone operator on a part-time contract basis for maintenance responsibilities at these stations. Although our experience has indicated that some stations have been able to maintain their transmitting apparatus in good operating condition with part-time technical help, at many of the stations the results have been somewhat less than impressive. This is primarily dependent to the degree with which station management supervises and takes an interest in the technical operation of the station. The rules permitting part-time first-class operators were adopted primarily on the arguments that a "well qualified" first-class radiotelephone operator would be able to adequately maintain one or more stations without being a full-time staff member. In this proceeding we recognize that a directional antenna system, containing a greater number of components than a nondirectional station, is more subject to failure and more in need of a systematic preventative maintenance program. Furthermore, we are of the opinion that if the routine operation of stations using directional antennas is to be performed by third-class operators, they must be subject to a degree of supervision beyond that which can be exercised by a contract operator. We see no alternative than to require all stations employing directional antenna systems to have at least one first-class radiotelephone operator in full-time employment whose primary responsibility is for the technical supervision of the station's operation. The rules in Appendix B provide for this minimum requirement. We also believe that an individual operator usually would be unable to satisfactorily perform these duties concurrently at more than one standard and one FM broadcast station even though the additional station or stations may be owned by the same licensee. The rule will preclude one first-class radiotelephone operator, designated as the station's chief operator, from holding the same position at more than one broadcast station in the same service.

34. We realize, however, that there may be certain circumstances where it would be in the public interest to permit one operator to serve as chief operator at more than one standard or more than one FM broadcast station. Consideration will be given to granting a waiver to an operator to serve as chief operator at more than one standard or FM broadcast station upon a satisfactory showing that the stations are sufficiently close to each other, that the operator can discharge all required responsibilities, and be readily available to make necessary repairs and adjustments in event of malfunctions at each station. A request for waiver shall delineate how the operator's time is to be divided between the stations; his duties at each station, including the amount of time he will serve as a routine duty operator; the location of each station's facilities and the distance between them; and shall include a statement from each station licensee that it concurs in the sharing of services of the chief operator with each of the other stations.

35. It is obvious that standard broadcast stations operating with transmitter output power in excess of 10 kilowatts and FM stations with transmitter output power in excess of 25 kilowatts have a greater potential than do stations of lower power for causing harmful interference to other stations and services, in particular, in the case of FM, to radio aids to aeronautical navigation. In addition, our experience with the results achieved by using contract first-class operators makes us unwilling, at this time, to extend this privilege further. Therefore, these stations must have at least one first-class radiotelephone operator in full-time employment. It is the responsibility of the designated chief operator to be responsible for all maintenance log entries, proper supervision of maintenance and technical operation of the station, and to supervise other operators in the performance of their technical duties. He is also responsible for reviewing completed operating logs for accuracy and for compliance with applicable rules and authorizations.

Posting of instructions. 36. The rules, as adopted, require detailed operating instructions to be posted at the operator position, together with charts and tabulations of limiting parameters which will provide the operator with specific information by which he may determine when the station is operating beyond the tolerances specified by the rules or the station authorization.

37. Contemporary Media, Inc., in its comments, stated the following:

> Most all directional stations now are preparing charts of permissible operating tolerance values for use by operators with first-class licenses particularly for the common 6 week first phone license, can announce, no maintenance type of operator and younger inexperienced operators. Each station could easily have its transmitter supervisor or consulting engineer prepare a list or chart of acceptable reading limits, plus written instructions with checklist, steps of procedure, and examples of possible problems and how they may be corrected or the other appropriate remedy to be taken.

We emphasize that it is the station licensee's responsibility to insure that all operators are fully instructed in the use of, and the significance of, the posted instructions and tables, so that the duty operator can readily determine when corrective action is required by a first-class radiotelephone operator.

First class operator on duty at "sign on" with or changes in directional radiation pattern. 38. Reply comments from broadcast station licensees agree almost universally that it would be impractical to require the first-class operator to be on duty at the transmitter or remote control point each time a station begins daily operation, or makes any change in the directional antenna radiation pattern. WCAO, Pensacola, Fla., writes.

> The possibility exists that stations would find it most economical to reduce early morning program schedules to avoid the necessity of employing one first-class engineer to turn the station on in the morning and another to change from nondirectional to directional operation.

The Commission agrees that the proposed rule is unduly restrictive and could in fact, in some cases, result in causing some stations to reduce their operating schedules.

39. Several licensees claimed that a review of their operating records over a number of years has revealed no greater number of failures in the operation of their directional antenna systems occurring at times of "sign on," or during switching, than during other periods of

the operating day. Some directional antenna systems are so designed that the station cannot actually begin operation unless all antenna elements are properly switched. Susquehanna Broadcasting Co. wrote:

> Our experience indicates that there is no discernible difference in the occurrence of antenna system malfunction resulting at beginning of operations or pattern change times as compared to other portions of the operating day. Further, our experience indicates that times when there are discrepancies in operation of a directional antenna system the chief engineer is consulted as to corrective actions to be taken. It is our opinion that properly instructed third-class operators can satisfactorily perform all the typically required functions necessary to the normal operation of a directional system.

40. Although our own experience would indicate that there is a greater possibility of failure of circuit components and relays at "sign on" or during switching operations, we believe that it is the licensee's responsibility to insure that the station equipment is maintained to function as required. Rules as initially proposed, requiring the first-class operator to be on duty at the commencement of directional operations would have permitted that operator to be at an authorized remote control point. Stations having directional antenna systems and authorized for remote control, normally do not provide remote control of the phasor tuning or individual relays under such circumstances. If a failure is observed at the remote control point the operator must then proceed to the transmitting site to make adjustments or repairs. There may be no significant difference in the time required for the operator to reach the transmitter site in such a situation and the time involved for the duty operator to obtain the assistance of a first-class operator. We, therefore, are not requiring that a first-class operator be on duty at the time of actual commencement of operator or with a change in the radiation pattern, if the switching of the directional antenna system can be accomplished by the simple activation of switches and does not involve the manual tuning of the transmitter amplifier or antenna phasor equipment. The switching equipment is to be arranged so that any failure of a relay in the directional system to activate properly causes the emissions of the station to terminate. This is to preclude the possibility of the station operating with a radiation pattern that could cause serious interference to other stations.

41. The rules which we are adopting require that the chief operator of a station with directional antenna, or a first-class radiotelephone operator designated by him, record daily observations of base currents, remote base currents, sample loop currents, and the computed tower current ratios. The recording of such information is now customarily required by the individual station license, and it is not a function that can be entrusted to lesser grade operators. Base current readings can usually be observed only by entry into the antenna tuning house where the operator may be exposed to potentially lethal RF voltages. The interpretation of the information obtained and any adjustments which are indicated as necessary, are quite beyond the competence of a lesser grade operator.

Operator responsibilities. 42. The Commission for a number of years has been vitally concerned with questions involving the responsibilities of licensed radio operators in the performance of their required duties at broadcast stations and the degree they individually should be held culpable for violations charged to station licensees. Comments in response to the notice of inquiry by the National Association of Broadcasters and others on this subject indicated that there was considerable concern about this matter but no specific recommendations could be made. The National Association of Broadcasters stated:

> This is indeed a very complex subject. One which must be judged on a case by case or situation by situation at best.

The reply later continues:

> One may be quick to see that should the first-class holder be derelict in his duties he should be punished for any resulting infractions of the Commission's rules. However, there may be varying circumstances surrounding such infractions and one must not immediately condemn the performance of the license holder. In some instances the discrepancies may be the result of a misunderstanding, a valid misinterpretation of the rules, inability to take immediate and effective corrective action due to circumstances of conditions beyond his control or a host of other contributing factors.

43. A number of the licensed operators submitting comments to the Commission alleged that many of the technical violations occurring at broadcast stations, although known to exist by the operators, are completely beyond the operator's ability to correct, particularly those requiring expenditure of funds for new equipment. Some first-class operators stated that they would not seek or remain in employment at a broadcast station if they were to be held responsible for technical violations occurring at the station, especially those committed by lesser grade operators over whom the first-class operator's supervision may be limited by management. J. G. Rountree, Consulting Engineer, submitted comments including the following:

> As to whether the Commision's enforcement actions should run against the technical director of the station if routine operations were to be permitted by third-class operators may answer is a simple "no". While many of the broadcast stations in the United States proudly maintain a high order of technical excellence there are all too many stations which will not permit an adequate expenditure of funds for proper maintenance of technical equipment and thus incur FCC citations on inspection of the station.

44. We realize that many station owners depend on their licensed operators to be kept informed of the Commission's technical rules and of the technical status of the station. However, at this time, we reiterate our position that it is the primary responsibility of the station licensee to comply with the Commission's rules and the terms of the station authorization, and to provide proper instruction and supervision of all operators. On the other hand, we believe that any licensed operator is obligated to keep himself informed of his responsibilities and the rules to which he is subject. In any case, where the Commission finds that an individual operator, through carelessness, ineptness, or lack of candor, fails in the performance of his assigned duties at a licensed station, appropriate violation notices, to the degree it is adminstratively feasible, will be issued to that operator, as well as to the station licensee. The operator will be afforded an opportunity to submit an explanation for alleged technical violations charged and the Commission will carefully consider each explanation.

45. Under the present rules that require all transmitter duty operators at certain stations to hold first-class radiotelephone operator licenses, these duty operators are also frequently responsible for programing assignments as announcers, newscasters, disc jockeys, or for related studio production work. There is frequently a conflict between the operator's ability to adequately respond to his obligations to properly maintain the transmitting apparatus and at the same time carry out his programing assignments. The rules as adopted herein permit the station's chief operator to serve as a transmitter duty operator during routine operation only to the extent that such secondary assignments do not interfere with his primary responsibility for insuring that the station is operating within the required technical standards of the rules and the terms of the station authorization. When assigning routine transmitter operating duties to the chief operator, the station licensee must take into consideration the station's particular operating conditions so as to afford sufficient time to the chief operator to adequately maintain the station's technical equipment and carry out his other obligations specified in the rules.

Review of operating logs by first-class radiotelephone operator. 46. The rules as proposed would have required a first-class operator to review the previous day's operating logs within one-half hour or sign-on, unless a first-class operator was on duty at signoff and countersigned the log to that effect. Many comments indicated that this was a severe restriction on the scheduling of first-class operators and would afford little relief. It was pointed out that although review of the logs would be desirable, little would be accomplished by such review within the one-half hour time period proposed, in that any major discrepancies in the station operation should have been brought to the attention of the first-class operator for correction prior to the required review. The Columbia Broadcasting System submitted comments including the following:

> CBS suggests that the Commission's goals would be satisfied if the well qualified first-class operator reads and countersigns the operating log once each calendar day with

readings for adjacent calendar days to be separated by a minimum of 12 hours. This would allow the operating logs to be reviewed daily by the responsible well qualified first-class operator who would thus be aware of any deviations and/or trends in transmitting and antenna systems performance.

We concur that it would serve no substantive purpose to require the review of the logs to be made within one-half hour of sign-on. However, the Commission's station inspections and renewal application records do indicate, in many instances, operating logs with extended periods of operation in violation of the rules or the station authorization. We, therefore, believe that the review of the operating logs by the station's chief operator, together with proper evaluation of the log entries, should be made. The adopted rules, for stations electing to use lesser grade operators, makes this review mandatory by the designated chief operator. Although it would be desirable to have this review completed on a daily basis within a specified number of hours after log completion, we do not wish to specify an unreasonable period during which this review must be made. The rule as adopted requires that the chief operator complete review of operating logs after completion of the log, to initiate any required corrective action, and to so attest by a signed and dated entry.

Installation of type-approved phase (antenna) monitor. 47. The rules as adopted will require stations to install a type-approved phase (antenna) monitor. Cleveland Institute of Electronics commented as follows:

> One of the limitations in the proposed program is that many phase monitor systems that are in use at the present time are both inadequate and unstable.

Susquehanna Broadcasting Co. concurs in stating:

> Susquehanna agrees that a type-approved phase monitor and well maintained antenna monitoring system should be required at all AM directional stations.

Docket 18471, looking toward type approval of phase monitors, is under consideration. Until such time as the proceedings of Docket 18471 are finalized, the requirement that a type-approved monitor be installed will be held in abeyance. In the meantime, it is expected that stations employing directional antenna systems will maintain their present phase (antenna) monitor and upgrade, if necessary, the associated sampling circuits to accepted standards of good broadcast engineering.

Need for field measurement and partial proof. 48. In establishing the license class for operators for a particular type of radio station, the overall functioning of the station must be considered. As was mentioned by many stations and operators, the overall technical condition of the station depends on the degree of supervision and interest devoted by the licensee. Many stations with directional antenna systems have found serious difficulties after long periods of little or no surveillance of their directional antenna system. Stations first licensed or which have made changes in the antenna system during recent years have been required to have field strength measuring equipment available and to make periodic measurements at locations specified on the license. Although such measurements provide some monitoring of the antenna system operation, variations in readings at a single point on a radial may be caused by a number of factors in addition to changes in the station equipment itself. When variations are encountered, significant evaluation of a directional pattern can be accomplished only by a partial proof of performance of the directional array consisting of at least 10 measurements on each radial and an analysis of those measurements. We believe that the public interest can be served in authorizing the use of lesser grade operators, but only when combined with increased technical supervision of the directional antenna systems. Therefore, at least monthly measurements at monitoring points will be required together with annual partial directional antenna proof of performance for those stations electing to use lesser grade operators.

Automated transmitters and logging. 49. The replies to the notice of inquiry, including comments on automated transmitters and automated logging, did not contain sufficient information or opinions upon which any rule making action could be considered at this time. There were several comments that it is within the current state-of-the-art to develop automated transmitting systems. No specific time schedule, cost factors, or conversion data by broadcasters were included. The rules, as adopted, make no provisions for automation other than when lesser grade operators are employed. All switching in antenna radiation patterns must be by simple switch controls and if any switching relay fails to function, the system must be so arranged that transmissions will terminate.

50. While, at this time, we have an insufficient record on which to base affirmative action in this matter, we are convinced that automation of broadcast transmitter operation offers the ultimate solution to the problem posed when the desirability for improved technical operation of the broadcast station conflicts with the practical limitations to achieving adequate transmitter surveillance by human means. It is difficult to believe that the automation of the transmitters themselves can pose any major engineering problem; rather the pertinent question is whether manufacturers will be able to offer automated transmitters, or perhaps conversion packages for existing transmitters, at prices which will make them economically attractive to broadcasters, when balanced against an anticipated reduction in transmitter surveillance expense. We have little information on this subject. The automation of stations with directional antennas, especially those with antennas including more than two elements, obviously presents more formidable problems, which might not be solved within a time frame which would accommodate the automation of nondirectional systems. Under the circumstances, it is unfortunate, from the standpoint of the orderly implementation of an automated systems concept, that the instant proceeding is concerned primarily with the operator requirements for stations with directional antennas.

51. Perhaps the full economies of automated operation are not to be achieved unless the broadcaster, when he employs a fully automated transmitting system is relieved of any requirement for duty operators. Such relief may not be given unless the Communications Act, which requires all broadcast stations (other than TV translator and booster stations) to utilize operators, is appropriately amended. At such time as satisfactory automated transmitting systems became generally available, the Commission would undertake to seek the necessary amendment of the Act.

52. We intend to explore this matter further, and, at an appropriate time, may institute further proceedings for this purpose.

Granting of authorization to use lesser grade operators on a case-by-case basis upon showing. 53. The notice of inquiry and notice of proposed rule making requested comments on the practicability of granting stations using directional antenna systems or higher power transmitters the authority to use lesser grade operators only upon specific showing to the Commission. Many broadcast licensees concurred that this procedure could be undertaken. However, they submitted objections to one or more of the required showings or conditions required in order to use lesser grade operators. Some licensees believed that the granting process would cause unnecessary delays and result in a large application processing chore for the Commission staff.

54. WQBA, WSBA, licensed to Susquehanna Broadcasting Co., made the following comment:

> It is our opinion that whatever rules are ultimately adopted in this matter the right to use lower class operators should not require individual requests for such relief but rather should be integral to the Commission's rules.

We concur, that in light of the overall conditions placed on a station electing to use lesser grade operators, and because of the additional workload that would be placed upon Commission staff processing such proposed applications, individual station authorization will not be required. The rules adopted so provide.

Effective date. 55. In accordance with the principles and for the reasons set forth in the above discussion, we are hereby amending §§ 73.93; 73.113; 73.114; 73.265; 73.283; 73.565 and 73.583 of our rules and regulations as set forth in Appendix B below.

56. In view of the foregoing, and pursuant to authority contained in sections 4(i) and 303(r) of the Communications Act of 1934, as amended: *It is ordered*, That effective July 14, 1972, §§ 73.93; 73.113; 73.114; 73.265; 73.283; 73.565 and 73.583 are amended as set forth in Appendix B below and the proceedings in Docket No. 18930 are terminated.

(Secs. 4, 303, 48 Stat., as amended, 1066, 1082; 47 U.S.C. 154, 303)

Adopted: June 1, 1972.

Released: June 7, 1972.

FEDERAL COMMUNICATIONS COMMISSION,[3]

[SEAL] BEN F. WAPLE, *Secretary.*

APPENDIX A

National Association of Broadcast Employees and Technicians (AFL–CIO) (NABET).
National Association of Broadcast Employees and Technicians (Rochester Local 22).
International Brotherhood of Electrical Workers, Local 1234 (IBEW).
International Brotherhood of Electrical Workers, Local Union 1264 (IBEW).
International Brotherhood of Electrical Workers, Local Union 1241.
Society of Broadcast Engineers.
Mobile District Labor Council of Mobile, Alabama.
International Brotherhood of Electrical Workers (IBEW).
National Association of Broadcasters (NAB).
Association of Broadcast Engineering Standards, Inc. (ABS).
Oregon Association of Broadcasters.
Georgia Association of Broadcasters.
Alabama Association of Broadcasters.
Wyoming Association of Broadcasters.
Mississippi Broadcasters Association.
Montana Broadcasters Association.
Iowa Broadcasters Association.
Nebraska Broadcasting Association.
North Carolina Association of Broadcasters.
Michigan Association of Broadcasters.
Massachusetts Broadcasting Association.
National Association of FM Broadcasters (NAFMB).
National Association of Educational Broadcasters (NAEB).
Maryland/District of Columbia/Delaware Broadcasters Association.
County of Dutchess, Office of the County Executive.
J. G. Rountree.
Arthur R. Nott.
Robert A. James.
Edward Edison et. al.
Collins Radio Co.
Harold J. Turner, Jr.
Melvin M. Cheek.
Frank A. Dieringer.
Harry D. Kratz, Sr.
Jon D. Byerley.
William O. Thompson.
Chester J. Kuharski.
Edward P. Herpel, Jr.
John A. Clayton.
Herbert R. Shein.
Lawrence J. Rimshaw.
Roy J. Horsman.
James F. McCarthy.
Charles R. Juneau.
George G. Huber.
Homer M. Haines.
John White.
Willard R. Draper, Jr.
Henry R. Gripp et. al.
Hugh J. Williams.
Drue L. Rutherford, Jr.
Clay Freinwald et al.
William P. Richardson.
Richard L. Miller.
Arthur E. Holm.
Norman S. Hurley.
James C. Wulliman.
Robert H. Schaefer.
Philip Whitney.
F. F. Cherny.
Robert J. Scott.
Donald F. Ayers, Sr.
Allan C. Godwin.
Abbot Larry Pines.
William P. Richardson.
Rufus M. Jones.
Horace N. Smith.
Bill L. Sutton.
H. W. Holt.
William Ogden.
William R. Dillon.
Floyd Gentry.
Kent Petty.
Dave Ruleman.
Don Hiles.
George Jennings III.
George E. Fore.
William E. Loucks.
E. Neil Pike.
Alex H. Kuhn.
Joseph W. Smith.
Harry Boone.
Dave Schutz.
Antonio Vaccaro.
Jim Stokes.
David Gene Lee.
Clifford S. Cronk.
Elkins Institute.
R.E.I., Inc.
Cleveland Institute of Electronics.
Columbia Broadcasting System.
KMBY, Radio 1240.
Indiana Broadcasters.
Elkins Broadcasting Corp. (KKJO).
Brainerd Broadcasting Co. (KLIZ).
KMON, Radio 560.
Palmetto Broadcasting System, Inc., et al.
Radio Station WVOC.
Radio Station WDVL (Vineland, N.J.).
Radio Station WELM (Elmira, N.Y.).
Radio Station WKKD (Aurora, Ill.).
Radio Station KHMO (Hannibal, Mo.).
Norman Broadcasting Co. (WGNU).
Andalusia Broadcasting Co., Inc. (WCTA).
Badger Broadcasting Co. (WIBA).
Progressive Broadcasting Corp.
KBOW, Inc. (Butte, Mont.).
KSEN Radio (Shelby, Mont.).
Fort Wayne Broadcasting Co. et al.
Dublin Broadcasting Co. (WMLT).
Radio Station WLIL (Knoxville, Tenn.).
Lakes Broadcasting Co. (WWCA).
Lewis Clark Broadcasting Co. (KOZE et al.).
Plattsburgh Broadcasting Corp. (WEAV).
Broadcast House, Inc. (KMO).
Wolfe Broadcasting Co. (WFRO).
McClendon Corp.
Waco Radio, Inc: (WACO).
Cedar Falls Broadcasting, Inc. (KCFI).
Ottawa Broadcasting Co. (WJBL).
Columbus Broadcasting Co., Inc. et al.
WHOO Radio, Inc. (WFFG).
Greenville Broadcasting Co. (WGRP).
Radio Aeropuerto, Inc. (WEYA et al.).
George O. Cory & Northwestern Colorado Broadcasting Co. (KSLV et al.).
Screen Gems of Utah et al.
Victoria Broadcasting System, Inc. et al.
Radio Station WPDQ–AM (Jacksonville, Fla.).
WEEU Broadcasting Co.
Elyria-Lorain Broadcasting Co. (WEOL).
Radio Station WVFC (Cartez, Calif.).
KFXM Broadcasting Co.
Mesabi Western Corp. (KIDO).
Beckley Radio Co.
Brewster Broadcasting Corp.
Contemporary Media, Inc. (KIRL).
Broadcaster Services, Inc. (WEAQ).
Buckley Broadcasting Corporation of California (WIBE).
Radio Station WTNT (Tallahassee, Fla.).
KBLW Radio (Logan, Utah).
Radio Station WEIR (Weirton, W. Va.).
K & M Radio, Inc. (WEGP).
KWMT Radio (Fort Dodge, Iowa).
Rice Communications, Inc. (WSCR).
WLIK, Inc. (Lenoir City, Tenn.).
Radio Station WCHL (Rochelle, Tex.).
Radio Station WCHL.
McDunn, Inc. (KRRU).
Radio Station KGUD (Santa Barbara, Calif.).
Richland Broadcasting Co. (WKSR).
KLEY Radio (Wellington, Kan.).
KRNT Radio (Des Moines, Iowa).
KRBI Radio (St. Peter, Minn.).
KCCO Radio (Lawton, Okla.).
KROX Radio (Crookston, Minn.).
Jim Gibbons Radio (WFRO et al., Frederick, Md.).
Washtenaw Broadcasting Co., Inc. (WPAG).
Radio Station WKKD (Aurora, Ill.).
KSUB Radio (Cedar City, Utah).
KSJB Radio (Jamestown, N. Dak.).
Pioneer Broadcasters Corp. (KSEI).
WKMF, Inc.
Radio Station KMNS.
Radio Station KDKO, Inc. (Littleton, Colo.).
KONA Radio.
WDAK Radio (Columbus, Ga.).
The News Journal Stars (WNDB AM/FM).
Lufkin Broadcasting Corp. (KLUF).
Davidson Broadcasting Co. (WBUY).
Radio Station KJNP (North Pole, Alaska).
WBEC, Inc. (Pittsfield, Mass.).
The South Wisconsin Co., Inc. (WMIR).
KLGA Radio (Algone, Iowa).
Radio Station KALN.
Garden Spot Broadcasters, Inc. (WGSA/WIOV).
Kops-Monahan Communications, Inc. (WAVZ et al.).
Mount Sterling Broadcasting Co., Inc. (WMST).
Mid-America Radio, Inc. (WIRE).
Radio Greeley (KFKA).
Central Virginia Broadcasting Co., Inc. (WMAN).
Radio Station WBEL.
Radio Station KARE.
KRGV Radio/TV.
Clarke Broadcasting Corp. (WLAQ).
KSEN Radio.
Shepard Broadcasting Corp. (WLAV et al.).
The News-Sun Broadcasting Co. (WKRS).
KVNU Radio (Logan, Utah).
Michigan Broadcasting Co. (WBCK).
Radio Station WGBF, Inc.
KNCY Radio Corp., et al.
The Pottsville Broadcasting Co. (WPPA).
Bell Broadcasting Co. (WCHB).
WEOK Broadcasting Corp. et al.
Hall Communications, Inc. (WVSJ).
Radio Abilene, Inc. (KRBC).
Susquehanna Broadcasting Co. (WARM et al.).
Gem State Broadcasting Corp. (KGEM).
WDAY, Inc.
Rust Communications Group, Inc. (WPTR et al.).
Bosie Communications, Inc. et al.
WCOA Radio, Inc.
WDXR, Inc.
Valley Broadcasting Co. (WYNS).
Radio Station WIFE (CES comments).
Radio Station KDXU.
New England Broadcasting Co. (WEAW).
New England Broadcasting Co. (WSRO).
Radio Station WRTL.
Martin Broadcasting Corp. (KALV).
Shepard Broadcasting Corp. (WTTO).
WIBX Radio.
Radio Station KUMA.
KID Broadcasting Corp.
Midwest Broadcasting Corp. (KDMA).
KMRS Radio.
The James S. Rivers Stations (WJAZ et al.).
KVOC Radio.
Lansing Broadcasting Co. (WILS).
Storer Broadcasting Co.
Southwest Wisconsin Co., Inc. (WSWW).
Etowah Broadcasters, Inc. (WAAX).
Radio Station WOKW.
Associated Broadcasters, Inc. (WORK).
Shenval Broadcasting Corp. et al.
WKNE Corp. et al.
Central Broadcasting Co. (WCGC).

[3] Commissioners Robert E. Lee and Johnson absent.

APPENDIX B

1. Section 73.93 of the Commission's rules is amended to read as follows:

§ 73.93 Operator requirements.

(a) One or more operators holding a radio operator license or permit of a grade specified in this section shall be in actual charge of the transmitting system, and shall be on duty either at the transmitter location or at the remote control point. If operation by remote control has not been authorized, the transmitter, required monitors and other required metering equipment shall be readily accessible, clearly visible, and located sufficiently close to the operator at the normal operating position that deviations from normal indications of required instruments can be observed readily. If operation by remote control is authorized, the required controls and instruments shall be readily accessible, clearly visible, and located sufficiently close to the operator at the normal operating position that deviations from normal indications of required instruments can be observed readily.

(b) With the exceptions set forth in paragraph (f) of this section, adjustments of the transmitting system and inspection, maintenance, and required equipment performance measurements and required field strength measurements shall be performed only by a first-class radiotelephone operator.

(c) A station using a nondirectional antenna and with authorized power of 10 kilowatts or less shall have at least one first-class radiotelephone operator, readily available at all times, either in full-time employment, or, in the alternative, the licensee may contract in writing for the services on a part-time basis of one or more such operators. Signed contracts with part-time operators shall be kept in the files of the station and shall be made available for inspection upon request by an authorized representative of the Commission. A signed copy of contracts shall be forwarded to the engineer in charge of the radio district in which the station is located within three (3) days after the contract is signed.

(d) A station using a nondirectional antenna, during periods of operation with authorized power in excess of 10 kilowatts, may employ first-class radiotelephone operators, second-class operators, or operators with the third-class permits endorsed for broadcast station operation for routine operation of the transmitting system if the station has in full-time employment at least one first-class radiotelephone operator and complies with the provisions of paragraphs (f) and (g) of this section.

(e) A station using a directional antenna system, which is required by the station authorization to maintain the ratios of the currents in the elements of the system within a tolerance which is less than 5 percent or the relative phases of those currents within a tolerance which is less than 3° shall, without exception, employ first-class radiotelephone operators who shall be on duty and in actual charge of the transmitting system as specified in paragraph (a) of this section during hours of operation with a directional radiation pattern. A station whose authorization does not specifically require therein the maintenance of phase and current relationships within closer tolerances than above specified shall employ first-class radiotelephone operators for routine operation of the transmitting system during periods of directional operation: *Provided, however,* That holders of second-class licenses or third-class permits endorsed for broadcast station operation, may be employed for routine operation of the transmitting system if the following conditions are met:

(1) The station must have in full-time employment at least one first-class radiotelephone operator.

(2) The station shall be equipped with a type-approved phase (antenna) monitor fed by a sampling system installed and maintained pursuant to accepted standards of good engineering practice (see Note 1 at end of this section).

(3) At least once each day, 5 days each week, unless required more frequently by the terms of the station authorization, or, rules governing operation by remote control (see §§ 73.67(a)(6) and 73.113(a)(4)), a first-class radiotelephone operator shall record the following observations in the station maintenance log for each directional radiation pattern used:

(i) Common point current.

(ii) Antenna base currents.

(iii) Sample loop currents or remote antenna base currents and phase monitor indications.

(iv) Antenna base current ratios, and remote antenna or sample loop current ratios, and the deviations in these ratios, in percent, from the licensed values.

A station authorized to use the same directional radiation pattern during all hours of operation shall record these observations with successive readings not less than 12 hours apart.

(4) A partial proof of performance as defined in Note 2 at the end of this section shall be made once each calendar year, with intervals between successive proofs not to exceed fourteen (14) months. The report of such proof measurements shall be prepared and filed as specified in paragraph (b) of § 73.47.

(5) Field strength measurements shall be made at the monitoring points specified in the station authorization at least once each 30 days unless more frequent measurements are required by such authorization. The results of these measurements shall be entered in the station maintenance log. The licensee shall have readily available, and in proper working condition, field strength measuring equipment to perform these measurements.

(f) Subject to the conditions set forth in paragraphs (c), (d), and (e) of this section, the routine operation of the transmitting system may be performed by an operator holding a second-class license or third-class permit endorsed for broadcast station operation. Unless, however, performed under the immediate and personal supervision of an operator holding a first-class radiotelephone license, an operator holding a second-class license or third-class permit endorsed for broadcast station operation, may make adjustments only of external controls, as follows:

(1) Those necessary to turn the transmitter on and off;

(2) Those necessary to compensate for voltage fluctuations in the primary power supply;

(3) Those necessary to maintain modulation levels of the transmitter within prescribed limits;

(4) Those necessary to effect routine changes in operating power which are required by the station authorization;

(5) Those necessary to change between nondirectional and directional or between differing radiation patterns, provided that such changes require only activation of switches and do not involve the manual tuning of the transmitter final amplifier or antenna phasor equipment. The switching equipment shall be so arranged that the failure of any relay in the directional antenna system to activate properly will cause the emissions of the station to terminate.

(g) It is the responsibility of the station licensee to insure that each operator is fully instructed in the performance of all the above adjustments, as well as in other required duties, such as reading meters and making log entries. Printed step-by-step instructions for those adjustments which the lesser grade operator is permitted to make, and a tabulation or chart of upper and lower limiting values of parameters required to be observed and logged, shall be posted at the operating position. The emissions of the station shall be terminated immediately whenever the transmitting system is observed operating beyond the posted parameters, or in any other manner inconsistent with the rules or the station authorization, and the above adjustments are ineffective in correcting the condition of improper operation, and a first-class radiotelephone operator is not present.

(h) When lesser grade operators are used, in accordance with paragraphs (d) or (e) of this section, for any period of operation using authorized power in excess of 10 kilowatts, or using a directional radiation pattern, the station licensee shall designate one first-class radiotelephone operator in full-time employment as the chief operator who, together with the licensee, shall be responsible for the technical operation of the station. The station licensee shall notify the engineer in charge of the radio district in which the station is located of the name and license number of the designated chief operator. Such notification shall be by letter within three (3) days of such designation. A copy of the notification shall be posted with the chief operator's license.

(i) An operator designated as chief operator for one station may not be so designated concurrently at any other standard broadcast station.

(2) The station licensee shall vest such authority in, and afford such facilities to the chief operator as may be necessary to insure that the chief operator's primary responsibility for the proper technical operation of the station may be discharged efficiently.

(3) At such times as a regularly designated chief operator is unavailable or unable to act as chief operator (e.g., vacations, sickness), the station licensee shall designate another first-class radiotelephone operator as acting chief operator on a temporary basis. Within 3 days of the date such action is taken, the engineer in charge of the radio district in which the station is located shall be notified by the licensee by letter of the name and license number of the acting chief operator, and shall be notified by letter, again within 3 days of the date when the regularly designated chief operator returns to duty.

(4) The designated chief operator may serve as a routine duty transmitter operator at any station only to the extent that it does not interfere with the efficient discharge of his responsibilities as listed below.

(i) The inspection and maintenance of the transmitting system including the antenna system and required monitoring equipment.

(ii) The accuracy and completeness of entries in the maintenance log.

(iii) The supervision and instruction of all other station operators in the performance of their technical duties.

(iv) A review of completed operating logs to determine whether technical operation of the station has been in accordance with the rules and terms of the station authorization. After review, the chief operator shall sign the log and indicate the date of such review. If the review of the operating logs indicates technical operation of the station is in violation of the rules or the terms of the station authorization, he shall promptly initiate corerctive action. The review of each day's operating log shall be made within 24 hours, except that, if the chief operator is not on duty during a given 24-hour period, the logs must be reviewed within 2 hours after his next appearance for duty. In any case, the time before review shall not exceed 72 hours.

(i) The operator on duty at the transmitter or remote control point, may, at the discretion of the licensee and the chief operator, if any, be employed for other duties or for the operation of another radio station or stations in accordance with the class of operator's license which he holds and the rules and regulations governing such other stations: *Provided, however,* That such other duties shall not interfere with the proper operation of the standard broadcast transmitting system and keeping of required logs.

(j) At all standard broadcast stations, a complete inspection of the transmitting system and required monitoring equipment in use, shall be made by an operator holding a first class radiotelephone license at least once each day, 5 days each week, with an interval of no less than 12 hours between successive inspections. This inspection shall include such tests, adjustments, and repairs as may be necessary to insure operation in conformance with the provisions of this subpart and the current station authorization.

NOTE 1: The effectiveness of subparagraph (2) of paragraph (e) of this section is suspended pending final action in Docket 18471.

NOTE 2: The partial proof of performance is to consist of at least 10 field strength measurements including the point designated as a monitoring point, taken at a distance of from 2 to 10 miles from the antenna on each radial measured in connection with the latest complete adjustment of the directional antenna system. These measurements shall be analyzed in the manner prescribed in § 73.186 of the rules.

2. Section 73.113 is amended by amending paragraph (a) and adding new paragraph (e) to read as follows:

§ 73.113 Operating log.

(a) The entries specified in subparagraphs (1), (2), (3), (5), and (6) of this paragraph, shall be made in the operating log by the properly licensed operator on duty in actual charge of the transmitting system. The entries required by subparagraph (4) of this paragraph shall be made only by a first-class radiotelephone operator.

* * * * *

(e) If required by § 73.93(h)(2)(iv), each completed operating log shall bear a signed and dated notation by the station's chief operator of the results of the review of that log.

3. Section 73.114(a) is amended by adding new subparagraphs (6) and (7) to read as follows:

§ 73.114 Maintenance log.

(a) The following entries shall be made in the maintenance log:

* * * * *

(6) If required by § 73.93(e)(3), the common point current, antenna base currents, sample loop currents or remote base currents, phase indications, and antenna base and sample loop current or remote antenna base current ratios and the percentage of deviation of these ratios from the authorized values.

(7) If required by the station authorization or § 73.93(e)(5), the results of field strength measurements at the monitoring points specified in the station authorization.

* * * * *

4. Section 73.265 of the Commission's rules is amended to read as follows:

§ 73.265 Operator requirements.

(a) One or more operators holding a radio operator license or permit of a grade specified in this section shall be in actual charge of the transmitting system, and shall be on duty either at the transmitter location or at the remote control point. If operation by remote control has not been authorized, the transmitter, required monitors, and other required metering equipment shall be readily accessible, clearly visible, and located sufficiently close to the operator at the normal operating position that deviations from normal indications of required instruments can be observed readily. If operation by remote control is authorized, the required controls and instruments shall be readily accessible, clearly visible, and located sufficiently close to the operator at the normal operating position that deviations from normal indications of required instruments can be observed readily.

(b) With the exceptions set forth in paragraph (g) of this section, adjustments of the transmitting system and inspection, maintenance, and required equipment performance measurements shall be performed only by a first-class radiotelephone operator.

(c) A station with authorized transmitter output power of 25 kilowatts or less shall have at least one first-class radiotelephone operator readily available at all times, either in full-time employment, or, in the alternative, the licensee may contract in writing for the services on a part-time basis of one or more such operators. Signed contracts with part-time operators shall be kept in the files of the station and shall be made available for inspection upon request by an authorized representative of the Commission. A signed copy of contracts shall be forwarded to the engineer in charge of the radio district in which the station is located within three (3) days after the contract is signed.

(d) A station with authorized transmitter output power in excess of 25 kilowatts may employ first-class radiotelephone operators, second-class operators, or operators with the third-class permits endorsed for broadcast station operation for routine operation of the transmitting system if the station has in full-time employment at least one first-class radiotelephone operator and complies with the provisions of paragraph (e) of this section and the following:

(1) The station licensee shall designate one first-class radiotelephone operator as the chief operator, who, together with the licensee, shall be responsible for the technical operation of the station. The station licensee shall notify the engineer in charge of the radio district in which the station is located of the name and license number of the designated chief operator. Such notification shall be by letter within three (3) days of such designation. A copy of the notification shall be posted with the chief operator's license.

(2) An operator designated as chief operator for one station may not be so designated concurrently at any other FM broadcast station.

(3) The station licensee shall vest such authority in, and afford such facilities to the chief operator as may be necessary to insure that the chief operator's primary responsibility for the proper technical operation of the station may be discharged efficiently.

(4) At such times as a regularly designated chief operator is unavailable or unable to act as chief operator (e.g., vacations, sickness), the station licensee

shall designate another first-class radiotelephone operator as acting chief operator on a temporary basis. Within 3 days of the date such action is taken, the engineer in charge of the radio district in which the station is located shall be notified by the licensee by letter of the name and license number of the acting chief operator, and shall be notified by letter, again within 3 days of the date when the regularly designated chief operator returns to duty.

(5) The designated chief operator may serve as a routine duty transmitter operator at any station only to the extent that it does not interfere with the efficient discharge of his responsibilities as listed below.

(i) The inspection and maintenance of the transmitting system, including the antenna system and required monitoring equipment.

(ii) The accuracy and completeness of entries in the maintenance log.

(iii) The supervision and instruction of all other station operators in the performance of their technical duties.

(iv) A review of completed operating logs to determine whether technical operation of the station has been in accordance with the rules and terms of the station authorization. After review, the chief operator shall sign the log and indicate the date of such review. If the review of the operating logs indicates technical operation of the station is in violation of the rules or terms of the station authorization, he shall promptly initiate corrective action. The review of each day's operating logs shall be made within 24 hours, except that, if the chief operator is not on duty during a given 24-hour period, the logs must be reviewed within 2 hours after his next appearance for duty. In any case, the time before review cannot exceed 72 hours.

(e) Subject to the conditions set forth in paragraphs (c) and (d) of this section, routine operation of the transmitting system may be performed by an operator holding a second-class license or third-class permit endorsed for broadcast station operation. Unless, however, performed under the immediate and personal supervision of an operator holding a first-class radiotelephone license, an operator holding a second-class license or third-class permit endorsed for broadcast station operation, may make adjustments only of external controls, as follows:

(1) Those necessary to turn the transmitter on and off;

(2) Those necessary to compensate for voltage fluctuations in the primary power supply;

(3) Those necessary to maintain modulation levels of the transmitter within the prescribed limits.

(f) It is the responsibility of the station licensee to insure that each operator is fully instructed in the performance of all of the above adjustments as well as in other required duties, such as reading meters and making log entries. Printed step-by-step instructions for those adjustments which the lesser grade operator is permitted to make, and a tabulation or chart of upper and lower limiting values of parameters required to be observed and logged, shall be posted at the operating position. The emissions of the station shall be terminated immediately whenever the transmitting system is observed operating beyond the posted parameters, or in any other manner inconsistent with the rules or the station authorization and the above adjustments are ineffective in correcting the condition of improper operation and a first-class radiotelephone operator is not present.

(g) The operator on duty at the transmitter site or remote control point, may, at the discretion of the licensee and the chief operator, if any, be employed for other duties or for the operation of another radio station or stations in accordance with the class of operator's license which he holds and the rules and regulations governing such other stations: *Provided, however,* That such other duties shall not interfere with the proper operation of the transmitting system and keeping of required logs.

(h) At all FM broadcast stations, a complete inspection of the transmitting system and required monitoring equipment in use shall be made by an operator holding a first-class radiotelephone license at least once each day, 5 days a week, with an interval of not less than 12 hours between successive inspections. This inspection shall include such tests, adjustments, and repairs as may be necessary to insure operation in conformance with the provisions of this subpart and the current station authorization.

5. Section 73.283 is amended by adding new paragraph (e) to read as follows:

§ 73.283 Operating log.

* * * * *

(e) If required by § 73.265(d)(5)(iv), each completed operating log shall bear a signed and dated notation by the station's chief operator of the results of the review of that log.

6. Section 73.565 of the Commission's rules is amended to read as follows:

§ 73.565 Operator requirements.

(a) One or more operators holding a radio operator license or permit of a grade specified in this section shall be in actual charge of the transmitting system, and shall be on duty either at the transmitter location or at the remote control point. If operation by remote control has not been authorized, the transmitter, required monitors and other required metering equipment shall be readily accessible, clearly visible, and located sufficiently close to the operator at the normal operating position that deviations from normal indications of required instruments can be observed readily. If operation by remote control is authorized, the required controls and instruments shall be readily accessible, clearly visible, and located sufficiently close to the operator at the normal operating position that deviations from normal indications of required instruments can be observed readily.

(b) With the exceptions set forth in paragraph (g) of this section, adjustments of the transmitting system, and inspection, maintenance and required equipment performance measurements shall be performed only by an operator holding the class of license specified below:

(1) A first-class radiotelephone operator license if the station is authorized to operate with transmitter power output of more than 1 kilowatt.

(2) A first-class or second-class radiotelephone operator license if the station is authorized to operate with transmitter power output of more than 10 watts but not in excess of 1 kilowatt.

(3) A first-class or second-class radiotelephone or radiotelegraph operator license if the station is authorized to operate with transmitter power output of not more than 10 watts.

(c) The operators specified in paragraph (b) of this section shall perform transmitter maintenance and shall correct conditions of improper operation beyond the scope of authority of the lesser grade operator on duty. If the services of the operator or the operators indicated in paragraph (b) of this section are on a contract, part-time basis, a signed copy of the contract shall be kept in the files of the station and shall be made available for inspection upon request by an authorized representative of the Commission. A signed copy of the contract shall be forwarded to the Engineer-in-Charge of the radio district in which the station is located within three (3) days after the contract is signed.

(d) A noncommercial educational FM station with authorized transmitter power in excess of 25 kilowatts may employ first-class radiotelephone operators, second-class operators or operators with the third-class permits endorsed for broadcast station operation for routine operation of the transmitting system if the station has in full-time employment at least one first-class radiotelephone operator and complies with the provisions of paragraph (e) of this section and the following:

(1) The licensee shall designate one first-class radiotelephone operator as the chief operator, who, together with the licensee, shall be responsible for the technical operation of the station. The station licensee shall notify the engineer in charge of the radio district in which the station is located of the name and license number of the designated chief operator. Such notification shall be by letter within three (3) days of such designation. A copy of the notification shall be posted with the chief operator's license.

(2) An operator designated as chief operator for one station may not be so designated concurrently at any other noncommercial educational FM broadcast station.

(3) The station licensee shall vest such authority in, and afford such facilities to the chief operator as may be necessary to insure that the chief operator's primary responsibility for the proper technical operation of the station may be discharged efficiently.

(4) At such times as a regularly designated chief operator is unavailable or unable to act as chief operator (e.g., vacations, sickness), the station licensee shall designate another first-class radiotelephone operator as acting chief operator on a temporary basis. Within 3 days of the date such action is taken, the engineer in charge of the radio district in which the station is located shall be notified by the licensee by letter of the name and license number of the acting chief operator, and shall be notified by letter, again within 3 days of the date when the regularly designated chief operator returns to duty.

(5) The designated chief operator may serve as a routine duty transmitter operator at any station only to the extent that it does not interfere with the efficient discharge of his responsibilities as listed below.

(i) The inspection and maintenance of the transmitting system, including the antenna system and required monitoring equipment.

(ii) The accuracy and completeness of entries in the maintenance log.

(iii) The supervision and instruction of all other station operators in the performance of their technical duties.

(iv) A review of completed operating logs to determine whether technical operation of the station has been in accordance with the rules and terms of the station authorization. After review, the chief operator shall sign the log and indicate the date of such review. If the review of the operating logs indicates technical operation of the station is in violation of the rules or terms of the station authorization, he shall promptly initiate corrective action. The review of each day's operating logs shall be made within 24 hours, except that, if the chief operator is not on duty during a given 24-hour period, the logs must be reviewed within 2 hours after his next appearance for duty. In any case, the time before review cannot exceed 72 hours.

(e) Subject to the conditions set forth in paragraphs (c) and (d) of this section, routine operation of the transmitting apparatus may be performed by an operator holding a second-class license or third-class permit endorsed for broadcast station operation. Unless, however, performed under the immediate and personal supervision of an operator holding a first-class radiotelephone license, an operator holding a second-class license or third-class permit endorsed for broadcast station operation, may make adjustments only of external controls as follows:

(1) Those necessary to turn the transmitter on and off;

(2) Those necessary to compensate for voltage fluctuations in the primary power supply;

(3) Those necessary to maintain modulation levels of the transmitter within prescribed limits.

(f) It is the responsibility of the station licensee to insure that each operator is fully instructed in the performance of all of the above adjustments, as well as in other required duties, such as reading meters and making log entries. Printed step-by-step instructions for those adjustments which the lesser grade operator is permitted to make, and a tabulation or chart of upper and lower limiting values of parameters required to be observed and logged, shall be posted at the operating position. The emissions of the station shall be terminated immediately whenever the transmitting system is observed operating beyond the posted parameters, or in any other manner inconsistent with the rules or the station authorization, and the above adjustments are ineffective in correcting the condition of improper operation, and a first-class radiotelephone operator is not present.

(g) The operator on duty at the transmitter site or remote control point, may, at the discretion of the licensee and the chief operator, if any, be employed for other duties or for the operation of another radio station or stations in accordance with the class of operator's license which he holds and the rules and regulations governing such other stations: *Provided, however,* That such other duties shall not interfere with the proper operation of the transmitting system and keeping of required logs.

(h) At all noncommercial education FM broadcast stations, a complete inspection of the transmitting system and required monitoring equipment in use shall be made by an operator holding a first-class radiotelephone license at least once each day, 5 days each week, with an interval of not less than 12 hours between successive inspections. This inspection shall include such tests, adjustments, and repairs as may be necessary to insure operation in conformance with the provisions of this subpart and the current station authorization: *Provided,* That if the transmitter power output is in excess of 10 watts, but not greater than 1 kilowatt, an operator holding a second-class radiotelephone license may perform the required inspection: *Provided, further,* That if the transmitter power output is 10 watts or less, no such daily inspection need be made, although this shall in no way relieve such stations from the duty to operate in conformance with the provisions of this subpart and the current station authorization.

7. Section 73.583 of the Commission's rules is amended by adding new paragraph (e), to read as follows:

§ 73.583 Operating log.

* * * * *

(e) If required by § 73.565(d)(5)(iv), each completed operating log shall bear a signed and dated notation by the station's chief operator of the results of the review of that log.

[FR Doc.72-8665 Filed 6-7-72;8:51 am]

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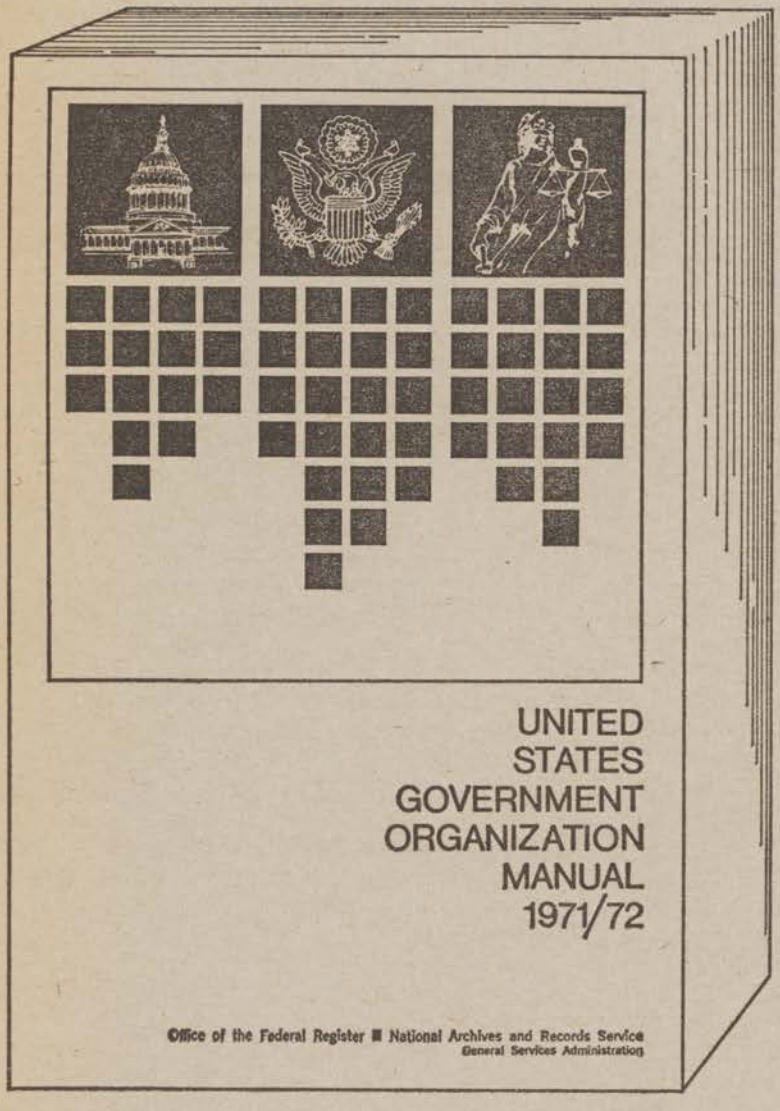

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