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FEDERAL REGISTER

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Title 7—AGRICULTURE

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

[Lemon Reg. 539]

PART 910—LEMONS GROWN IN CALIFORNIA AND ARIZONA

Limitation of Handling

§ 910.839 Lemon Regulation 539.

(a) *Findings.* (1) Pursuant to the marketing agreement, as amended, and Order No. 910, as amended (7 CFR Part 910; 36 F.R. 9061), regulating the handling of lemons grown in California and Arizona, effective under the applicable provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674), and upon the basis of the recommendations and information submitted by the Lemon Administrative Committee, established under the said amended marketing agreement and order, and upon other available information, it is hereby found that the limitation of handling of such lemons, as hereinafter provided, will tend to effectuate the declared policy of the act.

(2) It is hereby further found that it is impracticable and contrary to the public interest to give preliminary notice, engage in public rule making procedure, and postpone the effective date of this section until 30 days after publication hereof in the FEDERAL REGISTER (5 U.S.C. 553) because the time intervening between the date when information upon which this section is based became available and the time when this section must become effective in order to effectuate the declared policy of the act is insufficient, and a reasonable time is permitted, under the circumstances, for preparation for such effective time; and good cause exists for making the provisions hereof effective as hereinafter set forth. The committee held an open meeting during the current week, after giving due notice thereof, to consider supply and market conditions for lemons and the need for regulation; interested persons were afforded an opportunity to submit information and views at this meeting; the recommendation and supporting information for regulation during the period specified herein were promptly submitted to the Department after such meeting was held; the provisions of this section, including its effective time, are identical with the aforesaid recommendation of the committee, and information concerning such provisions and effective time has been disseminated among handlers of such lemons; it is necessary, in order to effectuate the declared policy of the act, to make this section effective during the period herein specified; and compliance with this section will not require any special preparation on the part of persons subject hereto which cannot be completed on or before the effective date hereof. Such committee meeting was held on June 20, 1972.

(b) *Order.* (1) The quantity of lemons grown in California and Arizona which may be handled during the period June 25, 1972, through July 1, 1972, is hereby fixed at 275,000 cartons.

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

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

Dated: June 21, 1972.

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

[FR Doc.72-9657 Filed 6-23-72;8:52 am]

[Apricot Reg. 12]

PART 922—APRICOTS GROWN IN DESIGNATED COUNTIES IN WASHINGTON

Limitation of Shipments

Findings. (1) Pursuant to the marketing agreement, as amended, and Order No. 922, as amended (7 CFR Part 922), regulating the handling of apricots grown in designated counties in Washington, 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 Washington Apricot Marketing 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 apricots, as hereinafter provided, will tend to effectuate the declared policy of the act.

(2) The recommendations by the Washington Apricot Marketing Committee reflect its appraisal of the crop and current and prospective market conditions. Shipments of apricots from the production area are expected to begin on or about June 26, 1972. The grade, maturity and size requirements prescribed herein are necessary to prevent the handling, on and after June 26, 1972, of any apricots of lower grades and smaller sizes than those herein specified, so as to provide consumers with good quality fruit, consistent with (1) the overall size and quality of the crop, and (2) increasing returns to the producers pursuant to the declared policy of the act.

Apricots of the Moorpark variety shipped in open containers are required to be generally well matured. Provision is made for apricots of the Blenheim, Blenril, and Tilton varieties to be of a smaller size when packed in unlidded containers. These three varieties are of a somewhat smaller size than other varieties at comparable stages of maturity. There is a demand for fruit meeting the foregoing specifications in local markets. Due to the nearness to the source of supply, shipment of more mature fruit and fruit of the specified varieties of smaller sizes in less expensive unlidded containers is feasible and the disposition of such fruit in such markets tend to improve the overall returns to growers. Individual shipments, not exceeding 500 pounds of apricots sold for home use and not for resale are exempted from regulation because such shipments do not materially affect the demand in commercial channels. Such shipments would be prevented from entering regulated channels of trade by the requirement that each container therein be stamped with the words "not for resale" in letters at least one-half inch in height.

(3) 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 regulation until 30 days after publication hereof in the FEDERAL REGISTER (5 U.S.C. 553) because the time intervening between the date when information upon which this regulation is based became available and the time when this regulation must become effective in order to effectuate the declared policy of the act is insufficient, and a reasonable time is permitted, under the circumstances for preparation for such effective time; and good cause exists for making the provisions hereof effective as hereinafter set forth. The committee has considered supply and market conditions for apricots and the need for regulation; the recommendation and supporting information for regulation during the period specified herein were promptly submitted to the Department after such consideration; the provisions of this regulation are identical with the aforesaid recommendation of the committee, and information concerning such provisions and effective time has been disseminated among handlers of such apricots; it is necessary, in order to effectuate the declared policy of the act, to make this

regulation effective during the period herein specified; and compliance with this regulation will not require any special preparation on the part of persons subject hereto which cannot be completed on or before the effective date hereof.

§ 922.312 Apricot Regulation 12.

(a) Order: Apricot Regulation 11, (36 F.R. 11713) is hereby terminated on June 26, 1972.

(b) During the period June 26, 1972, through July 31, 1972, no handler shall handle any container of apricots unless such apricots meet the following applicable requirements, or are handled in accordance with subparagraph (3) of this paragraph:

(1) Minimum grade and maturity requirements: Such apricots grade not less than Washington No. 1 and are at least reasonably uniform in color: *Provided,* That such apricots of the Moorpark variety in open containers shall be generally well matured; and

(2) Minimum size requirements: Such apricots measure not less than 1⅝ inches in diameter except that apricots of the Blenheim, Blenril, and Tilton varieties when packed in unlidded containers may measure not less than 1¼ inches: *Provided,* That not more than 10 percent, by count, of such apricots may fail to meet the applicable minimum diameter requirement.

(3) Notwithstanding any other provision of this section, any individual shipment of apricots which meets each of the following requirements may be handled without regard to the provisions of this paragraph, of § 922.41 (Assessments), and of § 922.55 (Inspection and Certification):

(i) The shipment consists of apricots sold for home use and not for resale.

(ii) The shipment does not, in the aggregate, exceed 500 pounds, net weight, of apricots; and

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

(c) Terms used in the amended marketing agreement and order shall, when used herein, have the same meaning as is given to the respective term in said amended marketing agreement and order; "diameter" and "Washington No. 1" shall have the same meaning as when used in the State of Washington Department of Agriculture Standards for Apricots, effective May 31, 1966; "reasonably uniform in color" means that the apricots in the individual container do not show sufficient variation in color to materially affect the general appearance of the apricots; and "generally well matured" means that, with respect to not less than 90 percent, by count, of the apricots in any lot of containers, and not less than 85 percent, by count, of such apricots in any container in such lot, at least 40 percent of the surface area of the fruit is at least as yellow as Shade 3 on the U.S. Department of Agriculture Standard Ground Color Chart for apples and pears in the western States.

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

Dated: June 21, 1972.

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

[FR Doc.72-9558 Filed 6-23-72;8:47 am]

PART 930—CHERRIES GROWN IN MICHIGAN, NEW YORK, WISCONSIN, PENNSYLVANIA, OHIO, VIRGINIA, WEST VIRGINIA, AND MARYLAND

Expenses and Rate of Assessment for 1971–72 Fiscal Period and Carryover of Unexpended Funds

On June 7, 1972, notice of rule making was published in the FEDERAL REGISTER (37 F.R. 11339) regarding proposed expenses and the related rate of assessment for the period beginning May 1, 1972, and ending April 30, 1973, and carryover of unexpended funds pursuant to the marketing Order No. 930, (7 CFR Part 930), regulating the handling of cherries grown in Michigan, New York, Wisconsin, Pennsylvania, Ohio, Virginia, West Virginia, and Maryland. This regulatory program is effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674). After consideration of all relevant matters presented, including the proposals set forth in such notice, which were submitted by the Cherry Administrative Board (established pursuant to said marketing order), it is hereby found and determined that:

§ 930.202 Expenses, rate of assessment, and carryover of unexpended funds.

(a) Expenses. Expenses which are reasonable and likely to be incurred by the Cherry Administrative Board during the 1972–73 fiscal period, May 1, 1972, through April 30, 1973, will amount to $109,100.

(b) Rate of assessment. The rate of assessment for such fiscal period payable by each handler in accordance with § 930.41 is fixed at $1 per ton of first handled cherries.

(c) Unexpended assessment funds in excess of expenses incurred during fiscal period ended April 30, 1972, shall be carried over as a reserve in accordance with § 930.42(a) of said marketing order.

Terms used in this part shall, when used herein, have the same meaning as is given to the respective term in said order and "ton of cherries" shall mean 2,000 pounds of raw unpitted cherries.

It is hereby further found that good cause exists for not postponing the effective date hereof until 30 days after publication in the FEDERAL REGISTER (5 U.S.C. 553) in that (1) handling of the current crop of cherries is currently underway; (2) the relevant provisions of said marketing order require that the rate of assessment fixed for a particular season be applicable to all cherries from the beginning of such fiscal period; and (3) the fiscal period began May 1, 1972, and the rate of assessment herein fixed will automatically apply to all cherries beginning with such date.

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

Dated: June 21, 1972.

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

[FR Doc.72-9559 Filed 6-23-72;8:47 am]

Chapter XVIII—Farmers Home Administration, Department of Agriculture

SUBCHAPTER F—SECURITY SERVICING AND LIQUIDATION

[FHA Instruction 455.1]

PART 1871—CHATTEL SECURITY

Subpart B—Liquidation of Chattel Security and Related Actions

LOANS AND BALANCES OWED ON INVENTORY CHATTELS BY INELIGIBLES; INCREASE IN INTEREST RATES

Section 1871.40(c)(3) of Subpart B of Part 1871, Title 7, Code of Federal Regulations (36 F.R. 1118), is amended to reflect an increase in the interest rates on the loans assumed by ineligible applicants and balance owed on inventory chattels sold on a time basis to ineligibles so that such rates will be more nearly in line with present interest charges. As amended, the revised subparagraph will read as follows:

§ 1871.40 Transfer of chattel security and EO property and assumption of debts not provided for in § 1871.39 and release of liability.

* * * * *

(c) *Transfer to ineligibles.* * * *

(3) A downpayment will be made by the transferee of at least 20 percent of the amount of the debts assumed, calculated before such payment. The balance of FHA debts assumed will be scheduled for repayment in not to exceed five equal annual installments. Interest to the borrower will be at the rate of 7 percent for OL and EM loans and 6 percent for EO loans or at the rate specified in the note(s) evidencing the loan(s) being assumed, whichever is the greater. The transferred property (including EO property) will be made subject to any existing lien in favor of FHA or by execution of new lien instruments. In such cases Form FHA 460–5 will be used.

* * * * *

(Sec. 339, 75 Stat. 318, 7 U.S.C. 1989; sec. 4, 64 Stat. 100, 40 U.S.C. 442; sec. 602, 78 Stat.

528, 42 U.S.C. 2942; sec. 301, 80 Stat. 379, 5 U.S.C. 301; Order of Act. Sec. of Agr., 36 F.R. 21529; Order of Asst. Sec. of Agr. for Rural Development and Conservation, 36 F.R. 21529; Order of Dir., OEO, 29 F.R. 14764)

Dated: June 20, 1972.

JOSEPH HASPRAY,
Deputy Administrator,
Farmers Home Administration.

[FR Doc.72-9616 Filed 6-23-72; 8:50am]

Title 12—BANKS AND BANKING

Chapter V—Federal Home Loan Bank Board

SUBCHAPTER C—FEDERAL SAVINGS AND LOAN SYSTEM

[72-704]

PART 545—OPERATIONS

Loans Without Requirement of Security

JUNE 15, 1972.

Resolved that, notice and public procedure having been duly afforded (37 F.R. 9496) and all relevant material presented or available having been considered by it, the Federal Home Loan Bank Board, upon the basis of such consideration, determines that it is advisable to amend Part 545 of the rules and regulations for the Federal Savings and Loan System (12 CFR Part 545) for the purposes of (1) implementing certain amendments to section 5(c) of the Home Owners' Loan Act of 1933, as amended, contained in Public Law 90-448, 82 Stat. 476, approved August 1, 1968, by authorizing Federal savings and loan associations to invest in unsecured loans for home equipping (as explained as follows) and (2) making certain revisions of an editorial nature.

EXPLANATORY STATEMENT WITH RESPECT TO REGULATORY AMENDMENT RELATING TO LOANS FOR HOME EQUIPPING AND MODERNIZATION

The amendment to § 545.8 of the rules and regulations for the Federal Savings and Loan System contained in Board Resolution No. 72-704, effective August 1, 1972, is designed in part to implement the authority granted to the Board by the Housing and Urban Development Act of 1968 (Public Law 90-448, approved August 1, 1968), to authorize Federal savings and loan associations to make loans for home equipping, whether or not such loans are secured by a lien on such equipment or such home. This amendment provides in part as follows: the total amount of each such loan and all other outstanding loans relating to the same home shall be subject to a $5,000 ceiling and shall be repayable in regular installments within a period of 10 years and 32 days; the home to be equipped must be within the lender's regular lending area; and the aggregate amount of an association's investments in all such equipping loans shall not exceed 5 percent of the lending association's assets and shall be included in the loans subject to the overall 20-percent-of-assets limitation for all loans made under § 545.8.

In the preparation of the regulation, the meaning of the term "equipping," as used in the statute and the regulation, came into question. Items on the following list, which is illustrative rather than exhaustive, constitute eligible items for which a Federal association may make an "equipping" loan under § 545.8.

Some of the items listed will simultaneously qualify with respect to "improvement" as well as "equipping" of real property. In such cases of dual qualification, the lender may classify such loans as within the "improvement" category (subject only to the overall 20-percent-of-assets limitation of § 545.8) rather than the "equipping" category (subject to both the 20-percent and the 5-percent-of-assets limitation in § 545.8), thereby leaving the maximum amount available for "equipping" loans.

Air cleaner, electronic.
Air conditioning, central.
Air conditioning, window.
Alarm System, burglar or fire.
Bookcase.[1]
Cabinet, kitchen.
Carpeting, wall-to-wall.
Chandelier.
Cleaner, vacuum.[1]
Communications System.
Dehumidifier.
Dinette.[1]
Dishwasher.
Disposal, garbage.
Door, interior, exterior/interior or storm.
Drapery.
Drapery hardware.
Dryer, clothes.
Fans, attic, kitchen, or window.
Floor covering, asphalt, linoleum, vinyl, cork, or other.
Freezer.
Heater, hot water.
Humidifier.
Iron, clothes (automatic only).
Lawn Sprinkler System.
Phonograph.[1]
Radiator cover.
Radio.[1]
Range.
Refrigerator.
Shutters.
Television.[1]
Utility building.
Valance and cornice.
Venetian blind.
Washing machine, clothes.
Water softener.
Water System pump, tank, and piping.
Window, storm.
Workshop equipment, installed.

Accordingly, the Federal Home Loan Bank Board hereby amends said Part 545 by revising paragraph (b) of § 545.6-3 and § 545.8 to read as follows, effective August 1, 1972:

[1] These items qualify for inclusion only when built into the property or so affixed as to be inseverable without damage to the property.

§ 545.6-3 Lending powers under other charter provisions.

Except as otherwise provided in paragraph (c) of this section, any Federal association that has amended Charter K by the addition thereto of section 14.1 and any Federal association which has a charter in any other form not inconsistent with the provisions of §§ 545.6 to 545.6-13, may upon authorization by its board of directors and without further action by its members, make the following types of loans and the use by any such association of the applicable loan plans, practices, procedures, and maximum lending percentages is hereby approved by the Board:

* * * * *

(b) *Loans guaranteed at least 20 percent.* Any loan (with or without security) at least 20 percent of which is guaranteed under chapter 37 of title 38, United States Code; and

* * * * *

§ 545.8 Loans without requirement of security.

(a) Without regard to any other provision of this part except the first two sentences of § 545.6-10, any Federal association that has amended Charter K by the addition thereto of section 14.1 and any Federal association that has a charter in the form of Charter K (rev.) or Charter N may, upon adoption of such a loan plan by its board of directors, invest in loans of the following types, but no investment shall be made under this section if immediately after such investment the outstanding aggregate of all investments of the association made under this section would exceed 20 percent of the association's assets:

(1) Any loan, with or without security, for property alteration, repair, or improvement, or for the equipping of any residential real property, if the following requirements are met:

(i) The amount of the net proceeds of the loan plus the aggregate amount of the unpaid net proceeds of all of an association's outstanding loans related to the same property, which are made pursuant to this subparagraph (1), does not exceed $5,000;

(ii) The property is located in such association's regular lending area, as defined in § 545.6-6;

(iii) The loan is evidenced by one or more notes, bonds, or other written evidences of debt;

(iv) The loan is repayable in equal weekly, biweekly, monthly, bimonthly, or quarterly installments with the first installment due no later than 120 days from the date the loan is made and the final installment due no later than 10 years and 32 days from such date. However, the loan contract may provide for a first or final installment, or both, in an amount other than that of the regular installment but, in such instances, such installment shall not be less than one-half of, nor more than one and one-half times, the amount of the regular installment; and

(v) Investment in a loan for the equipping of residential real property will not cause the outstanding aggregate of all investments in loans for the equipping of such property to exceed 5 percent of an association's assets.

(2) Any loan insured under title I of the National Housing Act and any home improvement loan insured under title II of said Act, if the property to which such loan relates is located within the association's regular lending area, as defined in § 545.6–6.

(3) Any unsecured loan insured or guaranteed under the provisions of the Servicemen's Readjustment Act of 1944, as referred to in the fourth sentence of subsection (c) of section 5 of the Home Owners' Loan Act of 1933, or under chapter 37 of title 38, United States Code.

(b) No Federal association may make any loan under this section to a director, officer, or employee of the association, or to any person, firm, or member of any firm regularly serving the asociation in the capacity of attorney-at-law, except for the alteration, repair, improvement, or equipping of a home or combination of home and business property owned and occupied, or to be owned and occupied, as a home by such director, officer, employee, attorney, or member.

(Sec. 5, 48 Stat. 132, as amended; 12 U.S.C. 1464. Reorg. Plan No. 3 of 1947, 12 F.R. 4981, 3 CFR, 1943–48 Comp., p. 1071)

By the Federal Home Loan Bank Board.

[SEAL] EUGENE M. HERRIN,
Assistant Secretary.

[FR Doc.72–9508 Filed 6–23–72;8:45 am]

Title 14—AERONAUTICS AND SPACE

Chapter I—Federal Aviation Administration, Department of Transportation

[Docket No. 70–CE–2–AD, Amdt. 39–1472]

PART 39—AIRWORTHINESS DIRECTIVES

Beech Model 35 Series, 35–33 Series, 33 Series and 36 Airplanes

Paragraph E of AD 70–3–5, Amendment 39–1030, published in the FEDERAL REGISTER on July 17, 1970, authorizes an alternate method of compliance with AD 70–3–5 by the installation of Beech Kit No. 35–9009S in the main fuel tanks of Beech Models 35, 35–33, 33, and 36 series airplanes. This kit provides a baffle which prevents the fuel tank outlet from becoming uncovered.

Subsequent to the issuance of Amendment 39–1030 the manufacturer has developed a fuel system reservoir, Beech Kit No. 35–9012, which accomplishes the same purpose as Beech Kit No. 35–9009S. Accordingly, Paragraph E of AD 70–3–5 is being amended to include Beech Kit 35–9012 or a combination of both kits as additional alternate methods of compliance with the AD, subject to appropriate airplane operating limitations. Paragraph E as now amended references Beechcraft Service Instructions Nos. 0459–281 and 365–281 which are applicable to the baffle installation.

In addition, the manufacturer has determined that Beech Model H–35 airplanes (equipped with Continental O–470–G–C1 engines) and Beech Model J–35 airplanes which have complied with Beechcraft Service Instruction 0495–281 are not subject to engine power loss when performing the maneuvers prohibited by AD 70–3–5. Since the FAA concurs with the manufacturer that these airplanes need not comply with AD 70–3–5, a paragraph F is being added to cover this exemption.

Since this amendment is relaxatory in nature and is in the interest of safety, it imposes no additional burden on any person. Consequently, it is found that notice and public procedure hereon are impracticable and good cause exists for making this amendment effective in less than thirty (30) days.

In consideration of the foregoing and pursuant to the authority delegated to me by the Administrator (14 CFR 11.89) (31 F.R. 13697), § 39.13 of Part 39 of the Federal Aviation Regulations and Amendment 39–1030 are amended as follows:

1. Revise paragraph E to read as follows:

(E) (1) Beech Models K35, M35, N35, P35, S35, S35–TC, V35, V35–TC, V35A, V35A–TC, 35–33, 35–A33, 35–B33, 35–C33, 35–C33A, E33, E33A, E33C, F33C, and 36 airplanes with fuel cell baffles installed in both wings in accordance with Beech Service Instructions 0459–281 (Beech Kits Nos. 35–9009–1S, 35–9009–2S, 35–9009–3S, or 35–9009–4S) or 365–281, Rev. 1 (Beech Kits Nos. 35–9009S or 35–9009–5S), or later revisions, or fuel reservoirs installed in both wings per Beech Kit 35–9012 or a fuel reservoir in one wing and a baffled cell in the other are exempt from compliance with the turning takeoff and 20-second side slip limitations of this AD.

(2) On Models 35–C33A, E33A, E33C, F33C, and 36 airplanes which have complied with paragraph E(1) install a placard on the instrument panel in full view of the pilot with the wording, "Maximum Sideslip Duration 30 Seconds," and operate the airplane accordingly.

(3) On all other model airplanes listed in paragraph E(1) (except those listed in paragraph E(2)), which have complied with paragraph E(1), operate the airplane in accordance with the limitations set forth in Airplane Flight Manual Supplement P/N 35–590118–15 dated February 11, 1972, or later revision.

2. Add a paragraph F to read as follows:

(F) Beech Models H35 (equipped with Continental O–470–G–C1 engines) and J35 airplanes which have complied with Beech Service Instruction No. 0459–281 are exempt from compliance with this AD.

This amendment becomes effective June 30, 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 Kansas City, Mo., on June 16, 1972.

JOHN M. CYROCKI,
Director, Central Region.

[FR Doc.72–9545 Filed 6–23–72;8:45 am]

[Airspace Docket No. 72–EA–50]

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

Designation of Transition Area

On page 9492 of the FEDERAL REGISTER for May 11, 1972, the Federal Aviation Administration published a proposed rule which would designate an Ashland, Va., transition area.

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

In view of the foregoing, the proposed regulation is hereby adopted, effective 0901 G.m.t., August 17, 1972.

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

Issued in Jamaica, N.Y., on June 14, 1972.

ROBERT H. STANTON,
Acting Director, Eastern Region.

1. Amend § 71.181 of Part 71 of the Federal Aviation Regulations so as to designate an Ashland, Va., 700-foot floor transition area as follows:

ASHLAND, VA.

That airspace extending upward from 700 feet above the surface within a 5.5-mile radius of the center (37°42'27" N., 77°26'11" W.) of Hanover County Municipal Airport, Ashland, Va., and within 2.5 miles each side of the Richmond, Va., VORTAC 336° radial, extending from the 5.5-mile-radius area to 22 miles northwest of the VORTAC.

[FR Doc.72–9546 Filed 6–23–72;8:45 am]

[Airspace Docket No. 71–EA–92]

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

Designation of Transition Area

On page 13336 of the FEDERAL REGISTER for July 20, 1971, the Federal Aviation Administration published a proposed rule so as to designate a Berkeley Springs, W. Va., transition area over Potomac Airpark, Berkeley Springs, W. Va.

Interested parties were given 30 days after publication in which to submit written data or views, and the Aircraft Owners and Pilots Association questioned the basis for the seemingly large area to be controlled and Mr. Young of Timber Ridge Airport objected to the size of the proposed controlled area since it would preclude his own airport from acquiring a transition area in the future. The proposed area is predicated upon the criteria

found in the U.S. Standard Terminal Instrument Procedures handbook, Agency Order 8260.3A, and implementing Orders 7400.2A and 8260.19. In determining the size of the transition area, the paramount feature appears to be the disparate heights of the airport and the surrounding terrain.

As to the issue of whether Timber Ridge Airport is precluded in the future from obtaining a transition area if instrument procedures are effected for the airport, suffice it to say that if the airport meets the applicable criteria, then a separate area will be designated.

In view of the foregoing, the proposed regulation is hereby adopted, effective 0901 G.m.t., August 17, 1972.

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

Issued in Jamaica, N.Y., on June 13, 1972.

ROBERT H. STANTON,
Acting Director, Eastern Region.

1. Amend § 71.181 of Part 71, Federal Aviation Regulations, so as to designate a Berkeley Springs, W. Va., 700-foot-floor transition area as follows:

BERKELEY SPRINGS, W. VA.

That airspace extending upward from 700 feet above the surface within a 14.5-mile radius of the center (39°41'30" N., 78°09'45" W.) of Potomac Airpark, Berkeley Springs, W. Va., extending clockwise from the 062° bearing to the 167° bearing from the airport; within a 22.5-mile radius of Potomac Airpark, extending clockwise from the 167° bearing to the 215° bearing from the airport; within a 21.5-mile radius of Potomac Airpark, extending clockwise from the 215° bearing to the 266° bearing from the airport; within a 15.5-mile radius of Potomac Airpark, extending clockwise from the 266° bearing to the 304° bearing from the airport; within a 19.5-mile radius of Potomac Airpark, extending clockwise from the 304° bearing to the 342° bearing from the airport; within a 21.5-mile radius of Potomac Airpark, extending clockwise from the 342° bearing to the 023° bearing from the airport; within a 23.5-mile radius of Potomac Airpark, extending clockwise from the 023° bearing to the 062° bearing from the airport; within 2.5 miles each side of the Hagerstown VOR 268° radial, extending from the 14.5-mile radius to 1 mile west of the VOR, excluding the portion within the Hagerstown, Md., and Martinsburg, W. Va., transition areas.

[FR Doc.72-9547 Filed 6-23-72;8:45 am]

[Airspace Docket No. 72-SO-55]

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

Alteration of Control Zone and Transition Area

Correction

In F.R. Doc. 72-8995, appearing at page 11858, in the issue of Thursday, June 15, 1972, in the first description for Gulfport, Miss. (§ 71.171), the last figure in the second line now reading "95", should read "05".

[Airspace Docket No. 72-SW-19]

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

Designation of Transition Area

Correction

In F.R. Doc. 72-8997 appearing on page 11858 of the issue for Thursday, June 15, 1972, the citation "F.R. Doc. 72-7668," appearing in the second line of the fourth paragraph, should read "F.R. Doc. 72-7868."

Chapter II—Civil Aeronautics Board

SUBCHAPTER A—ECONOMIC REGULATIONS

[Reg. ER-745; Amdt. 241-42]

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

Service Segment Data; Withholding of Data Relating to International Operations

Adopted by the Civil Aeronautics Board at its office in Washington, D.C., on the 19th day of June 1972.

By Amendment No. 24 to Part 241 of the Board's Economic Regulations, adopted August 6, 1969, the Board made comprehensive changes in the system of collecting and reporting traffic and capacity data for certificated air carriers.[1] As part of these revisions, the Board added to Part 241 section 19-6, *Public Disclosure of Service Segment Data.* This section provides for the nondisclosure of such data (except in certain specified circumstances) for a period of 12 months following the close of the calendar year to which the data relate. Thereafter, these data are available to the public. The text of the section does not differentiate between the treatment to be accorded service segment data relating to international as opposed to domestic operations of carriers. However, as discussed below, it was the Board's intention to accord separate treatment with respect to disclosure of data relating to the international operations of U.S.-flag carriers, and it is necessary, therefore, to amend section 19-6 in order to conform with that intention.

In the notice of proposed rule making[2] initiating the proceeding which resulted in the adoption of section 19-6, the Board had stated that:

> With respect to the question whether detailed flight-stage data should be made available to the public, the Board is aware that such data have traditionally been regarded by carriers as trade secrets, not to be disclosed to competitors or the general public. The Board finds that flight-stage data on international routes should be withheld from disclosure because no reciprocal information is provided by foreign air carriers and disclosure would subject U.S.-flag carriers to a serious competitive disadvantage.

This position was reiterated in the preamble to the amendments finally adopted,[3] wherein the Board further noted that such special treatment was in accord with the policy reflected in the policy statement which the Board had recently issued with respect to international passenger O&D survey data.[4]

As already noted, section 19-6 as adopted does not distinguish between data relating to domestic and international operations. However, it is apparent from the foregoing that the Board did not intend section 19-6, which permits disclosure on a time lapse basis, to apply to data relating to the international operations of U.S.-flag carriers.

In order to insure that the Board's regulations accurately reflect its intent regarding the international data, we are amending section 19-6 of Part 241 to provide for the nondisclosure of data relating to international operations by U.S.-flag carriers in a manner similar to that accorded international O&D survey data.[5] Since international routes often include domestic service segments, it is necessary to withhold from disclosure certain data contained in domestic service segment reports in order not to reveal information pertaining to the international operations of U.S.-flag carriers. Specifically, we are providing for the nondisclosure of certain parts of domestic service segment reports where the disclosure of such data would provide information pertaining to the international operations of the reporting carrier. The first of these instances involves downline deplanement data on domestic service segments where any downline point is outside territory under U.S. jurisdiction. If this downline deplanement data were disclosed, nonreporting carriers would be able to determine the number of international passengers enplaned by reporting carriers on any route where two or more domestic points were served prior to a point in territory outside U.S. jurisdiction. The second instance involves traffic transported data on a domestic service segment that is immediately preceded by a service segment originating from a point outside territory under U.S. jurisdiction. The disclosure of this data would enable nonreporting carriers to determine the number of passengers enplaned at the origin point outside U.S. territory being transported on this domestic service segment. Additionally, we are providing for the nondisclosure of data relating to (a) international service segments (defined as service segments with one or both terminals outside of territory under U.S. jurisdiction), and (b) service segments coded as applicable to other than domestic operations pursuant to section 21(i) of Part 241. This includes flight stages between two domestic points

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[1] ER-586, 34 F.R. 14591, Sept. 19, 1969. Part 241 of the Board's Economic Regulations is found at 14 CFR Part 241.

[2] EDR-146, 33 F.R. 14717, Oct. 2, 1968 (Docket 20290).

[3] ER-586, 34 F.R. 14591, Sept. 19, 1969.

[4] 14 CFR § 399.100. This policy statement (PS-39) was adopted May 16, 1969, 34 F.R. 8038, May 22, 1969.

[5] See 14 CFR § 399.100.

where the carrier has no domestic authority for that route, but where international passengers may be enplaned at both points. For the reasons previously set forth in the notice of proposed rule making and the preamble to Amendment 24, ER–586, the Board finds that disclosure of such data would adversely affect the interests of the reporting air carriers and is not required in the interest of the public.

Since the purpose of the within amendment is merely to make explicit in the text of section 19–6 the Board's determination with respect to the issue of public disclosure, which has already been the subject of notice and public procedure, and since there is a need for immediate clarification of the status of the affected data, the Board finds that notice and public procedure hereon are impractical, unnecessary, and would not be in the public interest. Also, for the above reasons and since adoption of this amendment imposes no burden on any party, the Board finds that the amendment may be made effective immediately.

Accordingly, the Civil Aeronautics Board hereby amends section 19–6 of Part 241 of its Economic Regulations (14 CFR Part 241) effective June 19, 1972, to read as follows:

Sec. 19–6 Public disclosure of service segment data.

Service segment data in reports submitted by air carriers to the Board, in data banks on magnetic tape maintained at the CAB, and in tabulations prepared from the data banks by CAB shall not be disclosed, except as provided herein:

(a) Data relating to international operations (defined as follows: Service segments with one or both terminals outside of territory under U.S. jurisdiction; service segments coded as applicable to other than domestic operations pursuant to Part 241, section 21(i); downline deplanement data on domestic service segments when any downline point is outside territory under U.S. jurisdiction; and traffic transported statistics on any domestic service segment that is immediately preceded by a service segment whose originating point is outside territory under U.S. jurisdiction), shall only be disclosed as follows:

(1) Twelve (12) months following the close of the calendar year to which the data relate, (i) to an air carrier currently submitting service segment data relating to international operations, as above defined, pursuant to the requirements of Part 241; and (ii) to a legal or consulting firm or other organization designated by such air carrier to use on its behalf such data in connection with a specific assignment by such carrier.

(2) To foreign governments and foreign users as provided in formal reciprocal arrangements between the foreign and U.S. Governments for the exchange of comparable service segment data.

(3) To the extent and for the purposes that International O&D Survey data are disclosed pursuant to § 399.100 (b) (2) and (3) of this chapter.

(4) To such persons and in such circumstances as the Board determines to be consistent with its regulatory functions and responsibilities.

(b) Data relating to all operations other than international operations as defined in paragraph (a) of this section shall not be disclosed prior to 12 months following the close of the calendar year to which the data relate, except as follows:

(1) To parties to any proceeding before the Board to the extent that such data are relevant and material to the issues in the proceeding upon a determination to this effect by the hearing examiner assigned to the case or by the Board. Any data to which access is granted pursuant to this section may be introduced into evidence, subject to the normal rules of admissibility of evidence.

(2) To agencies and other components of the U.S. Government.

(3) To such other persons as the Board may determine to be in the public interest.

(c) The Board may, from time to time, publish summary information compiled from the service segment data, in a form which would not identify individual carrier data.

* * * * *

(Secs. 204(a), 407, 1104, Federal Aviation Act of 1958, as amended, 72 Stat. 743, 766, 797; 49 U.S.C. 1324, 1377, 1504)

By the Civil Aeronautics Board.

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

[FR Doc.72–9542 Filed 6–23–72;8:45 am]

Title 18—CONSERVATION OF POWER AND WATER RESOURCES

Chapter I—Federal Power Commission

SUBCHAPTER E—REGULATIONS UNDER THE NATURAL GAS ACT

[Docket No. R–406; Order 452–A]

PART 154—RATE SCHEDULES AND TARIFFS

Miscellaneous Amendments

JUNE 13, 1972.

By Order No. 452 issued April 14, 1972, the Commission amended § 154.38(d) of the Commission's regulations under the Natural Gas Act to permit the inclusion of a purchased gas cost-adjustment provision (PGA clause) in natural gas pipeline companies' FPC Gas Tariffs. Section 154.38(d) (4) now provides that the Commission will consider requests for approval of PGA clauses provided that they conform with the terms and conditions described by subdivisions (i) through (vii) of that section. Applications for rehearing and requests for modification and clarification were filed by seven persons[1] who, in general, support the provisions of Order No. 452.

Both Tennessee Valley Municipal Gas Association (and the individual members thereof) and the American Public Gas Association (APGA) filed an application for rehearing and requested that Order No. 452 be rescinded in its entirety. Their challenge to the legality of the order under sections 4 and 5 of the Natural Gas Act is not well founded. The Act does not prescribe a "procedure" for making or for changing rates, United Gas Pipeline Co. v. Mobile Gas Service Corp., 350 U.S. 332 (1956), and does not require that every rate change be suspended and set for hearing, cf. Municipal Light Boards of Reading and Wakefield, Mass. v. FPC, 450 F. 2d 1341 (CADC, 1971), cert. denied, 40 USLW 3455 (U.S. March 20, 1972) (No. 902). The Act "provides only for notice to the Commission of the rates established by natural gas companies and for review by the Commission of those rates," 350 U.S. at 343. The amendment promulgated by Order No. 452 provides not only for current surveillance and review of PGA rate changes but also for Commission approval as a prerequisite for PGA clauses to become effective. Finally, Tennessee Valley and APGA ignore that proceedings may be instituted under section 5(a) of the Natural Gas Act whenever any rate is suspected of being excessive.

Southern Natural Gas Co. and INGAA complain that purchased gas cost should include new purchases. It would not be appropriate to include new purchases from pipeline suppliers because the cost of those purchases may be partially offset by savings in transmission cost. Those savings would not result from new producer purchases. Transmission line purchases from new producer suppliers and from existing producer suppliers at new delivery points should be included as purchased gas cost.

Most of the applicants objected to the exclusion of liquefied natural gas, synthetic natural gas, and gas from coal gasification from being reflected in a PGA clause. These sources of gas present special problems which merit individual scrutiny before recognition in PGA rate changes.

The cost of company-owned pipeline production from leases acquired on and after October 7, 1969, should be included, as El Paso Natural Gas Co. suggests, in light of Pipeline Production Area Rate Proceeding (Phase I), 42 FPC 738 (1969), affirmed sum nom. City of Chicago v. FPC, — F2d — (CADC No. 23,740, December 2, 1971), cert. denied, 40 USLW 3504 (U.S. April 18, 1972) (No. 979). Footnote 1 of § 154.38(d) (4) will be revised accordingly.

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[1] United Gas Pipeline Co., Columbia Gas Transmission Corp., Southern Natural Gas Co., El Paso Natural Gas Co., Algonquin Gas Transmission Co., Northern Natural Gas Co., The Independent Natural Gas Association of America (INGAA).

El Paso Natural Gas Co. and Columbia Gas Transmission Corp. object to carrying charges not being allowed on balances pertaining to unrecovered purchased gas costs. El Paso suggests that these amounts constitute working capital. Ratemaking treatment of this item shall be considered on the merits when the issue is raised in rate proceedings for individual companies. The last sentence of § 154.38(d)(4)(iv) will be changed by omitting reference to excluding amounts in Account 186 from rate base. It should be noted that this subsection does not require interest to be paid by companies with excess balances.

United Gas Pipe Line Co. requests that Base Tariff Rate be redefined in Footnote 2 to § 154.38(d)(4)(v) to include rates in effect subject to refund. Changes in purchased gas costs may take place while a final determination in a rate proceeding is pending. Footnote 2 to § 154.38(d)(4)(v) will be revised accordingly.

Several requests for clarification and modification of § 154.38(d)(4)(vi) were made. In order to clarify this subsection and to eliminate impracticable and unnecessary requirements, it will be revised accordingly. It should be noted that the refund floor is the old Base Tariff Rate and is not the last effective rate (i.e., the last Rate After Current Adjustment). This refund floor minimizes the possibility that companies will be able to retain revenues in excess of their cost of service and permits the extent of potential liability for refunds to be known. The potential refund liability is prospective from the date on which a cost study is filed, i.e., after termination of the 36-month period.

INGAA objects to interest being required on supplier refunds if carrying charges on deferred amounts are not permitted. INGAA also asks for clarification of the treatment of refunds. Section 154.38(d)(4)(vii) will be revised accordingly.

INGAA questions the need for the breakdown of unrecovered purchased gas costs by accounts on Exhibit A. Aggregates for each month for Accounts 800–802 concerning producers would be sufficient. This portion of Exhibit A will be revised accordingly.

Ordering clause (C) of Order No. 452 requires pipeline companies with a PGA clause in effect to conform it with § 154.38(d)(4). Companies with nonconforming PGA clauses in effect, which have not been suspended and set for hearing, will be required to conform them with § 154.38(d)(4) within 60 days or to show good cause why waiver for nonconforming provisions should be granted.

The PGA clause is intended to be a complete replacement for the concept of purchased gas cost tracking authority heretofore utilized. No requests for grant of purchased gas cost tracking authority other than in a PGA clause will be entertained by the Commission. Mid-Louisiana Gas Co. and South Georgia Natural Gas Co. have purchased gas cost tracking authority with an undetermined expiration date from Dockets Nos. RP71-101 and RP70-7 et al., respectively. Other companies also have tracking authority other than in a PGA clause. The tracking authority of Mid-Louisiana, South Georgia, and others with purchased gas tracking authority will be terminated within 60 days without prejudice to their filing PGA clauses.

The Commission finds:

(1) The applications for rehearing and requests for modifications and clarification set forth no facts or principles of law which were not fully considered in Order No. 452 issued April 14, 1972, or which having now been considered warrant any modification except as provided herein.

(2) Some matters raised in the application and requests are matters of individual concern and would be more appropriately considered in individual cases or requests for waiver of provisions of § 154.38(d)(4) for good cause shown.

(3) The revisions prescribed in paragraphs (B) through (G) constitute clarifying changes and modifications consistent with the primary purpose of the proposed rulemaking herein. Further compliance with the requirements of 5 U.S.C. section 553, including notice and public procedure, are therefore unnecessary.

(4) The revisions prescribed herein to § 154.38(d)(4) of the Commission's regulations under the Natural Gas Act and other requirements prescribed herein are necessary and appropriate for carrying out the provisions of the Natural Gas Act.

The Commission, acting pursuant to the provisions of the Natural Gas Act as amended, particularly sections 4, 10, and 16 (52 Stat. 822, 826 and 830; 76 Stat. 72; 15 U.S.C. sections 717c, 717i, and 717o), orders:

(A) The applications for rehearing and requests for modification and clarification of Order No. 452 are denied except for the changes provided herein.

(B) Part 154, Subchapter E—Regulations under the Natural Gas Act, Chapter I, Title 18 of the Code of Federal Regulations is amended by revising footnote 1 of § 154.38(d)(4) to read:

[1] For the purposes of this subsection, purchased gas cost represents the cost of wellhead purchases, field line purchases, plant outlet purchases, transmission line purchases, and pipeline production from leases acquired on and after October 7, 1969. Nonconcurrent exchange transactions may be reflected as a cost of purchased gas. If a company has underground storage, the cost of purchased gas included in Accounts 800, 801, 802, 803, and where applicable, Account 806, shall be debited or credited to reflect the net injections or withdrawals from underground storage. This adjustment shall be prorated between pipeline and producer supply. New pipeline supplies (contractual daily delivery obligations) and liquefied natural gas, synthetic natural gas, and gas from coal gasification shall not be reflected in a PGA clause without prior Commission approval.

(C) Part 154, Subchapter E—Regulations under the Natural Gas Act, Chapter I, Title 18 of the Code of Federal Regulations is amended by revising the last sentence of § 154.38(d)(4)(iv) to read: "Carrying charges will not be allowed on any balances pertaining to unrecovered purchased gas costs."

(D) Part 154, Subchapter E—Regulations under the Natural Gas Act, Chapter I, Title 18 of the Code of Federal Regulations is amended by revising footnote 2 to § 154.38(d)(4)(v) to read:

[2] The Base Tariff Rate is the effective rate on file with the Commission excluding adjustments effected pursuant to a PGA clause.

(E) Part 154, Subchapter E—Regulations under the Natural Gas Act, Chapter I, Title 18 of the Code of Federal Regulations is amended by revising § 154.38(d)(4)(vi) to read:

(vi) (*a*) Upon the expiration of 36 months after the effective date of the PGA clause, the company shall file a tariff sheet(s) restating its rates to establish a new Base Tariff Rate. The Company shall state its agreement that this filing will automatically be subject to refund concurrently with the filing at the end of 36 months of the tariff sheets establishing a new Base Tariff Rate until an agreement is reached or a Commission determination is made. With this tariff sheet(s) the company shall file a study in the form and with the content prescribed by § 154.38 of the Regulations, except Statements O and P, to support the new Base Tariff Rate. (If the Company has a section 5(a) case pending a final order or has made a section 4(e) filing for which the proposed rates would not become effective before termination of the 36 months period, a study from that proceeding may be utilized.) This study shall be based upon actual costs for the twelve months of most recently available experience, provided that the 12 month period used ends not more than 4 months prior to the expiration of the 36-month period. Annualization for changes which actually occurred in the 12 months will be permitted. This study shall be served on the company's jurisdictional customers and interested State commissions concurrently with the Company's filing with the Commission.

(*b*) If a section 4(e) case is filed before the expiration of the 36-month period, a new 36-month period will start running when the proposed rates go into effect. Rates determined by the Commission in a section 4(e) or a 5(a) proceeding or rates in a settlement agreement approved by the Commission shall establish the new Base Tariff Rate when they become effective pursuant to a final order, and a new 36-month period will start running.

(*c*) If either as a result of conferences among the company, its jurisdictional customers, interested State commissions, and the Commission staff, or as a result of Commission determination after hearing, it is found, based on the aforementioned study, that the jurisdictional cost of service is less than the jurisdictional revenues collected for the same 12-month period, as adjusted, the company shall restate its Base Tariff Rate, shall file with the Commission a revised tariff sheet(s) reflecting a reduction in its jurisdictional rates by an amount equal to

the excess revenues agreed upon or determined, and shall refund to its jurisdictional customers any excess amounts collected subject to refund to the date of billing under the revised tariff sheets, with interest to that date. This refund obligation shall be limited to the amount collected in excess of the old Base Tariff Rate, and rate reductions, if any, below the old Base Tariff Rate shall be prospective from the date of the Commission's final order determining a new Base Tariff Rate.

(F) Part 154, Subchapter E—Regulations under the Natural Gas Act, Chapter I, Title 18 of the Code of Federal Regulations is amended by revising § 154.38-(d)(4)(vii) to read:

(vii) The jurisdictional portion of all refunds received from suppliers (including interest received) applicable to purchases after a PGA clause becomes effective shall be flowed through to the company's jurisdictional customers. If the company utilizes deferred accounting for unrecovered purchased gas costs, the jurisdictional portion of all refunds received (including interest received) shall be credited to the unrecovered purchased gas cost account. If the company does not utilize deferred accounting and holds supplier refunds more than 30 days, the jurisdictional portion of supplier refunds (including interest received) applicable to purchases after a PGA clause becomes effective shall be flowed through to the company's jurisdictional customers with interest. Any requirement for the serving and filing of reports, showing details of the computations of any such refunds, shall be either as agreed in settlement discussions held among the company, jurisdictional customers, interested State commissions, other interested parties, and the Commission staff, or as prescribed by Commission order.

(G) Part 154, Subchapter E—Regulations under the Natural Gas Act, Chapter I, Title 18 of the Code of Federal Regulations is amended by revising that a portion of Exhibit A to § 154.38(d)(4) pertaining to the unrecovered purchased gas cost account, to read:

Unrecovered purchased gas cost account:
For each month provide the following information certified by the appropriate company official:

Account [1]	Per books		Unit cost	Applicable base rate	Difference in rate	Unrecovered purchased gas cost DR or CR.
	Volume purchased	Cost				
(a)	(b)	(c)	(d)	(e)	(f)	(g)
800-02						
803						
806						
808						
809						

[1] LNG, SNG, and gas from coal gasification are excluded. If included, they must be approved by the Commission. Amounts from Account 806 consist of nonconcurrent exchange transactions only.

(H) The purchased gas cost tracking authority of Mid-Louisiana Gas Co., South Georgia Natural Gas Co., and others with tracking authority shall terminate not later than 60 days from the date this order is issued, without prejudice, however, to their filing PGA clauses conforming with § 154.38(d)(4) of the Commission's Regulations under the Natural Gas Act.

(I) Within 60 days from the date this order is issued, companies with nonconforming PGA clauses in effect, if they have not been suspended and set for hearing, shall file conforming PGA clauses; or, in requesting waiver of any provision of § 154.38(d)(4), shall show good cause for noncomplying provisions.

(J) This order shall be effective upon issuance.

(K) The Secretary shall cause this order to be published in the FEDERAL REGISTER.

By the Commission.

[SEAL] KENNETH F. PLUMB,
Secretary.

[FR Doc.72-9577 Filed 6-23-72;8:48 am]

SUBCHAPTER G—APPROVED FORMS, NATURAL GAS ACT

[Docket No. R-335; Order 360-C]

PART 260—STATEMENTS AND REPORTS (SCHEDULES)

Order Suspending Detailed Reporting Requirements

JUNE 13, 1972.

By Commission Orders Nos. 360, 39 FPC 229 (1968), 360-A, 41 FPC 233 (1969), and 360-B, 43 FPC 321 (1970), the Commission suspended the detailed reporting requirements of the schedule page 550 of FPC Annual Report Form No. 2, "Natural Gas Reserves Available From Purchase Agreements" for the years 1967, 1968, 1969, and 1970, because the data was required to be reported as a part of the natural gas reserves review program in the proceedings in Docket No. R-308, on the revised FPC Form No. 15, "Total Gas Supply of Natural Gas Pipeline Companies—Annual Report."

In Commission Order No. 399, 43 FPC 563 (1970), Docket No. R-308, the Commission decided not to require the detailed reporting requirements as prescribed by Orders Nos. 360, 360-A, and 360-B in Docket No. R-335 as to FPC Form No. 2, schedule page 550.

In Order No. 399, 43 FPC 563, we concluded that limited reporting in FPC Form 15 was justified as a means of "further alleviating the claimed reporting burden" of the previous detailed reporting and that the data not included on the new Form 15 could be obtained on an ad hoc basis, should the need arise. Since these reasons apply with equal force to FPC Form No. 2, it is appropriate that the limited reporting requirements prescribed by Orders Nos. 360 et al. be continued with respect to Form No. 2, schedule page 550, subject to further Commission order.

The Commission finds: The abridgement of the reporting requirement ordered herein is necessary and appropriate for the administration of the Natural Gas Act.

The Commission orders:

(A) In FPC Form No. 2, prescribed by § 260.1, Subchapter G, Chapter I, Title 18 of the Code of Federal Regulations, the detailed reporting requirements of the schedule "Natural Gas Reserves Available From Purchase Agreements" are hereby further suspended on the conditions specified below:

(1) Respondents will report, on page 550 of the Form 2 entitled, "Natural Gas Reserves Available From Gas Purchase Agreements," estimated total Mcf of recoverable pipeline gas available to respondent at the end of year 1971 and thereafter by the following account numbers:

800. Natural gas wellhead purchases.
801. Natural gas field line purchases.
802. Natural gas gasoline plant outlet purchases.
803. Natural gas transmission line purchases.
804. Natural gas city gate purchases.
805. Other gas purchases.

(2) Respondents shall maintain documents reflecting the suspended detailed data related to the estimated total Mcf reported in subparagraph (A)(1) above.

(B) The abridged FPC Form 2, schedule page 550, reporting requirement as set out in paragraph (A) shall be effective upon the issuance of this order and is prescribed for the reporting year 1971 and thereafter, subject to further Commission order.

By the Commission.

[SEAL] KENNETH F. PLUMB,
Secretary.

[FR Doc.72-9578 Filed 6-23-72;8:48 am]

Title 21—FOOD AND DRUGS

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

SUBCHAPTER B—FOOD AND FOOD PRODUCTS

PART 121—FOOD ADDITIVES

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

CHLORDIMEFORM

A petition (FAP 2H5011) was filed by Ciba Agrochemical Co., Division of Ciba-Geigy Corp., Ardsley, NY 10502, and NOR-AM Agricultural Products, Inc., 11710 Lake Avenue, Woodstock, IL 60098, in accordance with provisions of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 348), proposing establishment of a food additive tolerance (21 CFR Part 121) of 25 parts per million for combined residues of the insecticide chlordimeform (*N'*-(4-chloro-*o*-tolyl) - *N,N* - dimethylformanidine) and its metabolites containing the 4-chloro-*o*-toluidine moiety (calculated as the insecticide) in dry apple pomace from application of the insecticide to apples. A tolerance of 3 parts per million in or on apples was established by an order published in the FEDERAL REGISTER of July 9, 1970 (34 F.R. 11018).

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

Having evaluated the data in the petition and other relevant material it is concluded that:

1. Established pesticide tolerances for residues in eggs, meat, milk, and poultry (40 CFR 180.285) will not be exceeded by transfer of residues from apple pomace containing not more than 25 parts per million combined residues of the insecticide and its metabolites.

2. The tolerance established by this order will protect the public health.

Therefore, pursuant to provisions of the Act (secs. 409(c) (1), (4), 72 Stat. 1786; 21 U.S.C. 348(c) (1) (4)), the authority transferred to the Administrator of the Environmental Protection Agency (35 F.R. 15623) and the authority delegated by the Administrator to the Deputy Assistant Administrator for Pesticides Programs (36 F.R. 9038) § 121.388 is amended to read as follows:

§ 121.388 **Chlordimeform.**

The following tolerances are established for combined residues of the insecticide chlordimeform (*N'*-(4-chloro-*o*-tolyl)-*N,N*-dimethylformamidine) and its metabolites containing the 4-chloro-*o*-toluidine moiety (calculated as the insecticide) resulting from carryover and concentration after application of the insecticide to growing crops:

25 parts per million in dried apple pomace.

10 parts per million in cottonseed hulls.

Any person who will be adversely affected by the foregoing order may at any time within 30 days after its date of publication in the FEDERAL REGISTER file with the Hearing Clerk, Environmental Protection Agency, Room 3125, South Agriculture Building, 12th Street and Independence Avenue SW., Washington, D.C. 20460, written objections thereto in quintuplicate. Objections shall show wherein the person filing will be adversely affected by the order and specify with particularity the provisions of the order deemed objectionable and the grounds for the objections. If a hearing is requested, the objections must state the issues for the hearing. A hearing will be granted if the objections are supported by grounds legally sufficient to justify the relief sought. Objections may be accompanied by a memorandum or brief in support thereof.

Effective date. This order shall become effective on its date of publication in the FEDERAL REGISTER (6–24–72).

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

Dated: June 19, 1972.

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

[FR Doc.72-9569 Filed 6-23-72;8:47 am]

Title 29—LABOR

Chapter V—Wage and Hour Division, Department of Labor

PART 690—FABRICATED PLASTIC PRODUCTS INDUSTRY IN PUERTO RICO

Wage Order

Correction

In F.R. Doc. 72-6634 appearing at page 8872 of the issue for Tuesday, May 2, 1972, in § 690.2 *Wage rates*, the word "maximum" in paragraph (c)(1) should read "minimum".

Title 40—PROTECTION OF ENVIRONMENT

Chapter I—Environmental Protection Agency

SUBCHAPTER E—PESTICIDES PROGRAMS

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

Ammonium Isobutyrate

A petition (PP 2F1216) was filed by W. R. Grace & Co., Washington Research Center, Clarksville, Md. 21029, in accordance with provisions of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 346a), proposing establishment of a tolerance (40 CFR Part 180) for residues of the fungicide ammonium isobutyrate in or on raw agricultural commodities intended for feeding animals at 20,000 parts per million. Subsequently, the petitioner amended the petition by proposing a tolerance for residues of ammonium isobutyrate in or on corn grain intended for feeding animals at 20,000 parts per million.

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

1. The fungicide is useful for the purpose for which the tolerance is being established.

2. Residues transferring to meat, milk, poultry, and eggs are expected to be insignificant in relation to background levels; therefore tolerances are not needed for meat, milk, poultry, and eggs.

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

Therefore, pursuant to provisions of the Federal Food, Drug, and Cosmetic Act (sec. 408(d)(2), 68 Stat. 512; 21 U.S.C. 346a(d)(2)), the authority transferred to the Administrator of the Environmental Protection Agency (35 F.R. 15623), and the authority delegated by the Administrator to the Deputy Assistant Administrator for Pesticides Programs (36 F.R. 9038), Part 180 is amended by adding the following new section to Subpart C:

§ 180.320 **Ammonium isobutyrate; tolerances for residues.**

A tolerance is established for residues of the fungicide ammonium isobutyrate in or on the raw agricultural commodity corn grain at 20,000 parts per million. This grain is for use only as animal feed.

Any person who will be adversely affected by the foregoing order may at any time within 30 days after its date of publication in the FEDERAL REGISTER file with the Hearing Clerk, Environmental Protection Agency, Room 3125, South Agriculture Building, 12th Street and Independence Avenue SW., Washington, D.C. 20460, written objections thereto in quintuplicate. Objections shall show wherein the person filing will be adversely affected by the order and specify with particularity the provisions of the order deemed objectionable and the grounds for the objections. If a hearing is requested, the objections must state the issues for the hearing. A hearing will be granted if the objections are supported by grounds legally sufficient to justify the relief sought. Objections may be accompanied by a memorandum or brief in support thereof.

Effective date. This order shall become effective on its date of publication in the FEDERAL REGISTER (6–24–72).

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

Dated: June 19, 1972.

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

[FR Doc.72-9568 Filed 6-23-72;8:47 am]

Title 41—PUBLIC CONTRACTS AND PROPERTY MANAGEMENT

Chapter 101—Federal Property Management Regulations

SUBCHAPTER D—PUBLIC BUILDINGS AND SPACE

PART 101-19—MANAGEMENT OF BUILDINGS AND GROUNDS

Transfer of Federal Fire Council

The Federal Fire Council was transferred from the General Services Administration to the Department of Commerce by Executive Order 11654 of March 13, 1972 (37 F.R. 5361). Accordingly, material in Subpart 101-19.6 is deleted and the subpart is reserved.

The table of contents for Part 101-19 is amended by deleting and reserving Subpart 101-19.6, as follows:

Subpart 101-19.6 [Reserved]

Part 101-19 is amended by deleting and reserving Subpart 101-19.6, as follows:

Subpart 101-19.6 [Reserved]

Effective date. This regulation is effective upon publication in the FEDERAL REGISTER (6-24-72).

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

Dated: June 19, 1972.

ARTHUR F. SAMPSON,
Acting Administrator of General Services.

[FR Doc.72-9585 Filed 6-23-72;8:49 am]

Title 46—SHIPPING

Chapter I—Coast Guard, Department of Transportation

[CG 72-53R]

PART 176—INSPECTION AND CERTIFICATION

Subpart 176.01—Certificate of Inspection

SMALL PASSENGER VESSELS; CHANGE IN USE OF CERTIFICATE FORM

The purpose of these amendments to the inspection and certification regulations for small passenger vessels is to simplify and make uniform the use of certificate of inspection forms. The amendments are based on a notice of proposed rule making (CGFR 72-53P) issued on March 15, 1972 (37 F.R. 5394) which described the changes and solicited comments from interested persons. No comments were received.

In consideration of the foregoing, Part 176 of Title 46 of the Code of Federal Regulations is amended by revising § 176.01-3 (a) and (b) to read as follows:

§ 176.01-3 When required—I..

(a) Except as noted in this subpart or § 176.01-27, no vessel subject to inspection and certification may be operated without a valid certificate of inspection, Form CG-3753.

(b) If necessary to prevent delay of the vessel, a temporary certificate of inspection, Form CG-854, shall be issued pending the issuance and delivery of the regular certificate of inspection. Such temporary certificate shall be carried in the same manner as the regular certificate and shall in all ways be considered the same as the regular certificate of inspection which it represents.

(46 U.S.C. 375, 390b, 416; 49 U.S.C. 1655(b); 49 CFR 1.4(b), 1.46(b))

This amendment shall become effective on July 28, 1972.

Dated: June 20, 1972.

C. R. BENDER,
Admiral, U.S. Coast Guard Commandant.

[FR Doc.72-9571 Filed 6-23-72;8:47 am]

Title 47—TELECOMMUNICATION

Chapter I—Federal Communications Commission

[Docket No. 19327; FCC 72-508]

ALLOCATION OF FREQUENCIES

First report and order. In the matter of amendment of Parts 2, 21, 89, and 91 of the Commission's rules with regard to allocation of frequencies in the bands 35.19-35.69 MHz and 43.19-43.69 MHz; Docket No. 19327; RM 1069.

First report and order. In the matter of Parts 2, 21, 89, and 91 of the Commission's rules with regard to allocation of frequencies in the bands 35.19-35.69 MHz and 43.19-43.69 MHz; Docket No. 19327; RM 1069.

1. The Commission, on September 30, 1971, adopted a notice of proposed rule making (36 F.R. 19916 October 13, 1971) in the above-entitled matter proposing certain rule changes which would create 26 assignable channels within the bands 35.19-35.69 MHz and 43.19-43.69 MHz. These new channels were proposed to be allocated as follows: 14 to the Special Industrial Radio Service for base and land mobile use; four to the Special Emergency Radio Service for one-way paging operations; and eight channels to the Domestic Public Land Mobile Service for common carrier one-way paging service to the general public. The creation of these new channels involved a reduction in spacing between assignable frequencies in the two bands and the combination of certain unused guard bands or splinter frequencies at the band edges. A period of 2 years was proposed during which no assignments would be made on the new channels in areas where interference might be caused to existing adjacent channel common carrier one-way systems. This time period was considered necessary in order that existing wide band superregenerative paging receivers could be replaced with more selective units capable of operation within the narrower channels.

2. Comments on the Commission's proposals were due on or before November 15, 1971, and replies were due on or before November 26, 1971. These dates were subsequently extended to December 15, 1971, and January 28, 1972, respectively. Comments and/or reply comments were received from the following parties: Airsignal International, Inc. (Airsignal); American Telephone & Telegraph Co. (A.T. & T.); Lear Siegler, Inc.; National Association of Radiotelephone System (NARS); National Cable Television Association (NCTA); Arthur K. Peters, Consulting Engineers; Radio Relay Corp.; Special Industrial Radio Service Association (SIRSA); and Aircall New York Corp. & Page Boy, Inc.

3. Most of the comments generally support the intent of the Commission's proposals, although there is difference of opinion on the length of time to be allowed for the conversion of wide band paging receivers and the degree to which such systems should be afforded geographical protection from adjacent channel interference during the changeover period. Lear Seigler, Inc., recommends that the proposals be withdrawn in toto on the grounds that conversion of some 100,000 paging units would be too costly to the users. A.T. & T. requests a 3-year changeover period in lieu of the 2 years proposed and suggests use of mileage separations in § 21.503 to protect existing paging operations from adjacent channel interference. It also recommends a permanent separation of 6 miles between common carrier and noncommon carrier base stations on adjacent channels and 2 miles between such stations 60 kHz apart. NARS recommends a permanent 40-mile separation distance to protect existing paging operations on exclusive one-way channels. Airsignal International, Inc., urges that all of the new channels become available immediately without any geographical restrictions. It argues that existing paging licensees would be adequately notified of proposed assignments through the FCC public notice procedure and would have ample opportunity to oppose such assignments on a case-by-case basis if interference is indicated. Finally, NCTA raises a question of potential i.f. interference to TV receivers and harmonic interference to TV channels 4 and 6 resulting from increased land mobile utilization of the 35 and 43 MHz bands.

4. The Commission has considered these comments and concludes that the evidence presented substantiates the desirability of proceeding with channel splitting in these bands with minor changes in the interim provisions for protecting existing paging assignments. We recognize, as pointed out by Lear

Seigler, Inc., that any rule making which requires modification or replacement of equipment entails some costs and inconvenience to the users. It is necessary, however, to continually improve the efficiency of techniques and equipment if rising demands for radio services are to be met. In order to minimize the economic burden on existing users it has been the Commission's policy to allow reasonable periods of time for the amortization or modification of affected equipment. We believe the proposals advanced in the notice are reasonable and in keeping with this practice. However, we recognize A.T. & T.'s point with regard to the practical problems of replacing large numbers of receivers, and we are therefore persuaded to extend the interim protection period of such receivers to October 1, 1974, which is 3 years from the date of release of our initial notice herein. We must, however, reject the proposal of NARS for a permanent 40-mile separation as inconsistent with current technology and our basic objective of providing spectrum relief in congested areas.

5. While we agree in principle with A.T. & T.'s suggestion, as supported by SIRSA, that some permanent mileage separation is desirable between common carrier and private base stations on adjacent channels, such a rule restriction would be difficult to administer. The problem of proximity interference between base station transmitters and receivers of different licensees is universal in the land mobile services. While we cannot solve the general problem here, we believe it desirable to make a special effort to minimize such interference resulting from the interleaving of common carrier and private systems on adjacent channels. Therefore, we are encouraging SIRSA and A.T. & T. and others who may be involved to coordinate the selection of transmitting sites so that future problems of proximity interference might be minimized.

6. As a final modification of the proposed rules, we have decided to adopt a uniform temporary separation distance of 40 miles to protect existing one-way paging operations from interference from assignments on the new adjacent channels. This will be handled by addition of an appropriate footnote limitation against the new channels, listing the locations and frequencies to be protected. We believe this approach is preferable to the proposed zone prohibition which unnecessarily limits the areas where the new channels can be used. This modified restriction insures necessary protection without the administrative burden that would be imposed by the public notice procedure recommended by Airsignal International, Inc., or the coordination process suggested by SIRSA and A.T. & T.

7. We have considered the points raised raised by NCTA concerning potential interference to TV receivers, but do not believe they warrant any deviation from the action proposed in the notice. We believe the Commission's policies regarding land mobile transmitter intermodulation performance are adequate to protect TV reception. Also, we note there is considerable activity and interest within the Commission and industry in the area of standards for cable TV systems and TV receivers. One of the major objectives of these activities is to minimize interference between over-the-air systems and cable systems which must share the same frequency spectrum. We fully appreciate the importance of adequate shielding in cable systems and TV receivers in minimizing interference from other services and this factor will be given due consideration in developing future standards.

8. The comments expressed some differences of opinion over the apportionment of the 26 new channels to be made available through channel splitting. Most of the controversy centered around the allocation of the new common carrier one-way channels. There was no opposition to the proposed allocation of 14 channels to the Special Industrial Radio Service. Arthur K. Peters argued that the four one-way channels which we proposed to allocate to the Special Emergency Radio Service for one-way paging should be opened for broader paging requirements including use by the common carriers.

9. In its reply comments, SIRSA emphasized the urgent needs of the Special Industrial Radio Service for additional channels in this portion of the spectrum and asked the Commission to quickly finalize the proposed allocations. It suggested that adoption of the private service allocations need not await a solution of the more complex competitive issues affecting the common carrier channels. We believe this to be a reasonable approach considering the lack of any substantive opposition to the proposed private service allocations. Consequently, we are adopting the necessary amendments to Parts 2, 89, and 91 to make the new channels available for immediate use in the Special Industrial and Special Emergency Radio Services, subject to the interim restrictions discussed in the preceding paragraphs. The final amendments of Part 21 will be forthcoming in a separate report and order in this proceeding.

10. With regard to the proposal of Arthur K. Peters, we believe the allocation of four one-way channels to the Special Emergency Radio Service to be consistent with demonstrated need. Also, the eight one-way channels which we propose for common carrier use should adequately meet the need for broader paging services to the general public.

11. In summary, we are adopting changes in Parts 2, 89, and 91 to make the proposed frequencies available to the Special Industrial Radio Service and Special Emergency Radio Service with the limitation that prior to October 1, 1974, such channels will not be assigned within 40 miles of existing common carrier one-way paging stations on adjacent channels. Such special protection will not be afforded common carrier paging operations carried out on a secondary basis on two-way channels under the provision of § 21.501(a).

12. *Accordingly, it is ordered,* Pursuant to authority contained in section 4(i) and 303 of the Communications Act of 1934, as amended, that effective July 28, 1972, Parts 2, 89, and 91 of the Commission's rules are amended as set forth below.

(Secs. 4, 303, 48 Stat., as amended, 1066, 1082; 47 U.S.C. 154, 303)

Adopted: June 14, 1972.

Released: June 19, 1972.

FEDERAL COMMUNICATIONS COMMISSION,[1]
[SEAL] BEN F. WAPLE,
Secretary.

[1] Commissioner Johnson concurring in the result; Commissioner H. Rex Lee absent.

Parts 2, 89, and 91 of Chapter I of Title 47 of the Code of Federal Regulations is amended as follows:

PART 2—FREQUENCY ALLOCATIONS AND RADIO TREATY MATTERS; GENERAL RULES AND REGULATIONS

I. In Part 2, § 2.106, the Table of Frequency Allocation is amended for the bands 35–36 MHz and 42.95–44.61 MHz to read as follows in columns 7 through 11:

§ 2.106 Table of Frequency Allocations.

Band (MHz)	Service	Class of station	Frequency (MHz)	Nature {of services / of stations}
7	8	9	10	11
• • •	• • •	• • •	• • •	• • •
35–35.19	LAND MOBILE	Base. Land mobile.		INDUSTRIAL.
35.19–35.69	LAND MOBILE	Base. Land mobile.		DOMESTIC PUBLIC. INDUSTRIAL. PUBLIC SAFETY.
35.69–36	LAND MOBILE.	Base. Land mobile.		INDUSTRIAL.
• • •	• • •	• • •	• • •	• • •
42.95–43.19	LAND MOBILE.	Base. Land mobile.		INDUSTRIAL.
43.19–43.69	LAND MOBILE.	Base. Land mobile.		DOMESTIC PUBLIC. INDUSTRIAL. PUBLIC SAFETY.
43.69–44.61	LAND MOBILE.	Base. Land mobile.		LAND TRANSPORTATION.

PART 89—PUBLIC SAFETY RADIO SERVICES

II. Part 89 of the rules is amended as follows:

In § 89.525 the table of frequencies in paragraph (e) is amended by the addition of frequencies 35.64, 35.68, 43.64, and 43.68 MHz and new limitations (12) and (13) are added to paragraph (f) to read as follows:

§ 89.525 Frequencies available to the Special Emergency Radio Service.

* * * * *

(e) * * *

Frequency or band	Class of station(s)	Limitations
MHz		
* * *	* * *	* * *
33.10	do	6
35.64	Base	12, 13, 17
35.68	do	12, 13, 17
37.90	Base and mobile	6
* * *	* * *	* * *
37.98	do	6
43.64	Base	12, 17
43.68	do	12, 17
45.92	Base and mobile	15
* * *	* * *	* * *

(f) * * *

(12) This frequency will be assigned only for one-way paging communications to mobile receivers. Transmissions for the purpose of activating or controlling remote objects on this frequency are not authorized.

* * * * *

(13) Prior to October 1, 1974, no assignments will be made on the frequency 35.64 MHz within 40 miles of the center of Houston, Tex., Charleston, W. Va., Boston, Mass., and Binghamton, N.Y.; or on 35.68 MHz within 40 miles of the center of Portland, Maine, Boston, Mass., Binghamton, N.Y., and Charleston, W. Va. The centers of cities are defined on page 226 of the U.S. Department of Commerce publication "Air-Line Distances Between Cities in the United States."

* * * * *

PART 91—INDUSTRIAL RADIO SERVICES

III. Part 91 of the rules is amended as follows:

1. In § 91.8 the list of frequencies in paragraph (j) is amended by deleting the bands 35.19–35.20 MHz and 35.68–35.69 MHz to read as follows:

§ 91.8 Policy governing the assignment of frequencies.

* * * * *

(j) * * *

MHz	MHz
30.56–30.57	35.99–36.00
35.00–35.01	37.00–37.01

* * * * *

2. The table of frequencies in paragraph (a) of § 91.504 is amended by the addition of the following frequencies, and by the addition of a new footnote limitation (subparagraph (32)) to paragraph (b).

§ 91.504 Frequencies available.

(a) * * *

Frequency or band	Class of station(s)	General reference	Limitations
* * *	* * *	* * *	* * *
MHz			
35.12	Mobile	do	14
35.28	Base or mobile	General use	
35.32	do	do	32
35.36	do	do	32
35.40	do	do	32
35.44	do	do	32
35.48	do	do	32
35.52	do	do	32
35.74	do	Permanent use	11
* * *	* * *	* * *	* * *
43.18	do	Permanent use	11
43.28	do	General use	
43.32	do	do	
43.36	do	do	
43.40	do	do	
43.44	do	do	
43.48	do	do	
43.52	do	do	
47.44	do	Permanent use	11
* * *	* * *	* * *	* * *

[FR Doc.71-14799 Filed 10-12-71;8:45 am]

* * * * *

3. A new footnote limitation is added to paragraph (b) of § 91.504 to read as follows:

(b) * * *

* * * * *

(32) Prior to October 1, 1974, no assignments will be made on the frequency 35.32 MHz within 40 miles of the center of Mobile, Ala., and Allentown, Pa.; on frequency 35.36 MHz within 40 miles of the center of Mobile, Ala., Allentown, Pa., and Denver, Colo.; on frequency 35.40 MHz within 40 miles of the center of Denver, Colo., Springfield, Ill., and Canton, Ohio; on frequency 35.44 MHz within 40 miles of the center of Springfield, Ill., and Canton, Ohio; on frequency 35.48 MHz within 40 miles of the center of Dayton, Ohio, Youngstown, Ohio, and Grand Rapids, Mich.; and on frequency 35.52 MHz within 40 miles of the center of Dayton, Ohio, Youngstown, Ohio, Rochester, Minn., Omaha, Nebr., and Grand Rapids, Mich. Centers of cities are defined on page 226 of U.S. Department of Commerce publication "Air-Line Distances Between Cities in the United States."

* * * * *

[FR Doc.72-9519 Filed 6-23-72;8:45 am]

Title 49—TRANSPORTATION

Subtitle A—Office of the Secretary of Transportation

[OST Docket No. 1; Amdt. 1-54]

PART 1—ORGANIZATION AND DELEGATION OF POWERS AND DUTIES

Delegation of Emergency Preparedness Responsibilities

The purpose of this amendment is to delegate to the head of each operating administration the authority to carry out the emergency preparedness responsibilities assigned to the Secretary of Transportation by Executive Order 11490 and by the Office of Emergency Preparedness.

Since this amendment relates to Departmental management, procedures and practices, notice and public procedure thereon is unnecessary, and it may be made effective in less than 30 days after publication in the FEDERAL REGISTER.

In consideration of the foregoing, effective immediately, § 1.45(a) of Title 49, Code of Federal Regulations, is amended by adding a new subparagraph (6) at the end thereof, to read as follows:

§ 1.45 Delegations to all Administrators.

(a) Except as otherwise prescribed by the Secretary of Transportation, each Administrator is authorized to—

* * * * *

(6) Carry out the emergency preparedness functions assigned to the Secretary by Executive Order 11490 and by the Office of Emergency Preparedness as they pertain to his administration, including those relating to continuity of operations, emergency transportation service or support thereof, emergency resource management, associated Federal claimant procedures, facilities protection and warfare effects monitoring and reporting, research, stockpiling, financial aid, and training.

* * * * *

(Sec. 9, Department of Transportation Act, 49 U.S.C. 1657)

Issued in Washington, D.C., on June 20, 1972.

JOHN A. VOLPE,
Secretary of Transportation.

[FR Doc.72-9551 Filed 6-23-72;8:46 am]

Chapter I—Department of Transportation

SUBCHAPTER A—HAZARDOUS MATERIALS REGULATIONS BOARD

[Docket No. HM-93, Amdt. 173-63]

PART 173—SHIPPERS

Class B Propellant Explosives in Fiber Drums

The purpose of this amendment to the Department's Hazardous Materials Regulations is to prohibit the shipment of Class B propellant explosives in specification 21C fiber drums in rail boxcars and in container-on-flatcar service.

On November 6, 1971, the Hazardous Materials Regulations Board published Docket No. HM-93; Notice No. 71-28 (36 F.R. 21360) proposing the change described above. On December 16, 1971 (36 F.R. 23931), the comment period in this docket was extended from January 4 to February 22, 1972, to permit test results to be presented to the Board by the petitioner. Again, on February 10, 1972, the same petitioner requested further extension of the comment period for 60 days, for the same reason. This later petition for extension was denied since no additional information was submitted to the Board showing good cause and public interest. To date, the results of the tests referred to above have not been submitted to the Board.

Several comments were received. The objectors took issue with the Board's proposed

solution to the problem. Commenters did not question the existence of the problem cited, namely, serious failures in rail transportation of DOT-21C fiber drums filled with Class B propellant explosives. The Board admits that if conditions in rail transportation were changed, the package could be satisfactory in this service. But, given the existing problem, which the parties involved have been unable to solve, the Board must take this action to prevent undue public exposure to hazards. No evidence has been presented that would indicate that the Board could satisfactorily resolve this issue which shippers and carriers have also been unable to solve.

Several commenters correctly noted that the basis for the Board's decision did not include unsatisfactory experience reports in container-on-flat-car or trailer-on-flat-car service, but by its proposed rule this transportation by rail was precluded. The Board agrees that the incidents reported do not directly support excluding such transportation. However, as far as is known to the Board, no shipments have been made by COFC and in view of the problems in boxcar shipments the Board has no information on which to base a determination that COFC shipments could safely be made. Safe shipments are being made in TOFC service. Therefore the rule has been changed to authorize TOFC service.

In consideration of the foregoing, 49 CFR Part 173 is amended as follows:

In § 173.93, paragraph (a)(10) is amended to read as follows:

§ 173.93 Propellant explosives (solid) for cannon, small arms, rockets, guided missiles, or other devices, and propellant explosives (liquid).

(a) * * *

(10) Specification 21C (§ 178.224 of this subchapter). Fiber drum. Each drum having any wooden head must be provided with a strong, sift-proof liner. Net weight may not exceed 225 pounds. Shipment by rail freight is prohibited except in trailer-on-flat-car service.

* * * * *

This amendment is effective September 30, 1972.

(Secs. 831–835 of title 18, U.S.C.; sec. 9, Department of Transportation Act, 49 U.S.C. 1657)

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

MAC E. ROGERS,
Board Member for the Federal Railroad Administration.

[FR Doc.72-9570 Filed 6-23-72;8:47 am]

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

[Docket No. 70-17; Notice 4]

PART 571—FEDERAL MOTOR VEHICLE SAFETY STANDARDS

Air Brake Systems

The purpose of this notice is to respond to petitions filed pursuant to 49 CFR 553.35, seeking reconsideration of the amendments to Motor Vehicle Safety Standard No. 121, Air Brake Systems, published February 24, 1972 (37 F.R. 3905). The petitions are granted in part and denied in part.

I. *Amendments.* S5.1.6 International Harvester stated that the operation of the antilock warning system should be the same as that of the low pressure warning signal under S5.1.5. S5.1.6 presently requires an audible warning of at least 10 seconds duration regardless of whether the visible signal required by the section is within the driver's forward field of view. The change requested by International Harvester would require an audible warning only if the visual warning is out of the driver's forward field of view. On reconsideration, the NHTSA has concluded that the system requested by International Harvester will give the driver adequate warning of antilock system failure. S5.1.6 is therefore being amended to parallel S5.1.5.

S5.1.5 and S5.1.6 In a letter designated as a request for clarification or interpretation, General Motors suggested that because diesel systems do not have an "on" position, they might be considered exempt from the requirement that the antilock warning signal must operate when the ignition is in the "on" position. Although the NHTSA does not consider it likely that the requirement will be understood as exempting diesels, the agency has concluded that amending the standard to refer to the "run" position as suggested by GM would avoid any possibility of misinterpretation. S5.1.5 and S5.1.6 are amended accordingly.

S5.2.1.1 Midland-Ross requested that a pressure should be specified at which the protected reservoir should be capable of releasing the parking brakes. On reconsideration, it seems appropriate to specify a pressure that corresponds to the lower end of the range of pressures maintained by current compressors. The section is therefore amended to specify a pressure of 90 p.s.i. The related question of when the brake is considered to be released, also raised by Midland-Ross, does not require amendment. The NHTSA considers a brake to be released at the point where it no longer exerts any torque.

S5.2.1.2 In response to a question in the Midland-Ross petition and a related request for interpretation by Wagner Electric Corp., this section is amended by adding the word "service" before "reservoir", so that the section, as amended, requires the total service reservoir volume to be at least eight times the combined volume of all service brake chambers at maximum travel of the pistons or diaphragms. The amendment reflects the basic intent of S5.2.1.2, which is to have a specified volume of air available to the service brakes.

S5.4 Several petitioners stated that S5.4 appeared to exempt some vehicles from the dynamometer requirements. This impression is erroneous, in that all vehicles are required to conform to S5.4. The source of the confusion appears to be the sentence in S5.4 which states that "[a] brake assembly that has undergone a road test pursuant to S5.3 need not conform to the requirements of this section". The intent of the standard is to conduct the dynamometer tests on new brake assemblies, and the quoted sentence was intended to make it clear that a single brake assembly would not have to pass the road test and the dynamometer test in succession. The sentence is being amended to clarify its meaning.

S5.7.1.4 This section is amended in response to a request by Wagner Electric, to require manual application whenever the system pressure prevents automatic application.

II. *Provisions not amended.* With respect to the remaining petitions, no changes are being made in the standard. In some cases this is because the petitioner has misinterpreted the applicable provisions to his disadvantage and needs no amendment to obtain the relief he wants. In other cases, the agency has concluded that the requested amendments do not serve the need for motor vehicle safety. In one or two cases, the change requested may prove desirable but cannot be fully evaluated without further information. The following discussion deals with the petitioned requirements in numerical order.

S3. Clark Equipment Co. requested the addition of trailer converter dollies to the list of affected vehicles. The addition is not necessary, in that a converter dolly is a "trailer" within the meaning of that term in 49 CFR 571.3(b).

S5.1 Clark Equipment Co. requested an amendment to exclude vacuum brake systems from the equipment requirements of S5.1. Despite the reference to a vacuum assist in S4, the standard does not apply to vacuum brakes and therefore does not require vacuum systems to have the equipment described in S5.1.

S5.1.2.2 It was suggested by Midland-Ross that the requirement that the reservoir must be capable of "withstanding" the specified pressure was not sufficiently precise. It may be that experience will show a need for quantification of this requirement, but the agency does not consider it to be necessary at this time. A reservoir will be considered to withstand the test pressure if it shows no pressure loss during the test interval.

S5.1.3 It was suggested by Midland-Ross that the requirements for the towing vehicle protection system should be amended to indicate the degree of protection required and the operating modes protected. The agency's response is much the same as its response on S5.1.2.2: The suggestion may prove to have merit, if systems appear which cause problems in service. At this point, however, the agency will retain the broad requirement that a towing vehicle must have a system to protect it from the loss of air pressure in the towed vehicle, without regard to the system's design or method of operation.

S5.1.5 Midland-Ross requested an increased pressure level at which the low pressure warning signal actuates, so that it would be above the protection valve trip pressure used in new trailers. The requested change is not necessary, in that the standard does not now prevent the manufacturer from setting the signal actuation level at a pressure above 60 p.s.i. If Midland-Ross wishes to set its level at 80 p.s.i., it may do so.

S5.1.6 Clark Equipment Co. requested that the antilock warning signal requirements be expanded to apply to the failure of a towed vehicle's antilock system. The NHTSA is receptive to further discussion of this issue. However, it has decided not to adopt the request at this time. Trailers are not required to have provision for antilock warning systems, and requiring towing vehicles to accommodate systems that are not likely to exist would be unjustified.

S5.3.1 Two petitioners requested amendments of the stopping distance requirements. The Carlisle Corp. requested a longer stopping distance, and Midland-Ross requested that the reference to "controlled lockup" be amended to specify a system that would provide for resumption of wheel rotation at some point before the speed falls to 10 m.p.h. Both requests are denied. The distances specified are considered to be appropriate and within the current state of the art. The requested change with respect to wheel lockup would permit systems in which all wheels could be completely locked for substantial periods, a situation that S5.3.1 was designed to avoid.

S5.3.3 Midland-Ross requested that Figure 1, referenced by this section, should be amended by specifying a pressure of 100 p.s.i. in both reservoirs, by omitting the tractor protection valve from the test rig, and by employing a service brake control valve rather than a brake pedal. Because S5.3.3 specifies a pressure of 100 p.s.i., it should be clear that each reservoir would be at that pressure, and no amendment is necessary. A protection valve is used because such valves are in widespread use, even though they are not required by the standard. The service brake pedal specified in Figure 1 is a service brake foot control valve. No change of label appears necessary.

S5.4.1 International Harvester requested the deletion of this section as unnecessary. As stated before the purpose of the section is to promote compatibility between the brakes of vehicles used in combination. The agency is of the opinion that it serves the stated function and has therefore retained it.

S5.4.2 Wagner Electric and the Carlisle Corp. each objected to certain aspects of this section. Wagner Electric requested the reinstatement of the phrase "at least" before the deceleration of 9 f.p.s.p.s., and requested the use of the phrase "a minimum" in S5.4.2.1, on the grounds that it is impossible to achieve a deceleration rate of exactly 9 f.p.s.p.s. In response, it should be pointed out that it is not necessary for a manufacturer to conduct his tests at exactly the specified rate, but only to test in such a manner as to assure himself that if the brakes were to be tested at that rate they would meet the requirements. It is to his advantage to test under less favorable conditions than those specified in the standard. The insertion of the language requested by Wagner would, if anything, make the test more severe for the manufacturers, in that the government could run tests with average decelerations in excess of 9 f.p.s.p.s. making the "worst case" situation much more difficult to ascertain.

The Carlisle Corp. objected to procedural disparities between the retardation force tests of S5.4.1 and the brake power tests of S5.4.2. The basic procedural difference between the sections is that the measurement period under S5.4.1 begins when the specified air pressure is reached whereas the period under S5.4.2. begins with the onset of deceleration. Although it may be that different instrumentation will be required in the two tests, they are not for that reason inconsistent or incompatible. The NHTSA considers each procedure to be appropriate for the aspect of performance that it measures.

S5.4.3 The Carlisle Corp. requested a further reduction in the lower limit of the recovery force, from the current level of 20 p.s.i. to 10 p.s.i. The NHTSA considers a brake system that produces a deceleration of 12 f.p.s.p.s. with a pressure of only 10 p.s.i. to be too sensitive and therefore denies the petition.

S5.5.2 Clark Equipment Co. objected to the use of the stop lamp circuit to power the antilock system. The basis for the requirement is the need for compatibility between trucks and trailers made by different manufacturers. The stop lamp circuit is the most suitable electrical connection between trucks and trailers because it is always energized when the brakes are applied. It was therefore chosen as the source of power. The agency is of the opinion that the stop lamp circuit has adequate power for single trailer applications. For multiple trailers, it may be necessary to employ complementary systems as permitted by S5.5.2. The petition is therefore denied.

S5.6.1 In response to a request for interpretation by International Harvester, the intent of this section is to require parking brakes on each axle other than steerable front axles.

S5.6.2 Midland-Ross suggested the amendment of this section to specify that a sliding bogie on a semitrailer shall be placed in its most favorable position. As presently worded, the section is silent with respect to bogies so that the NHTSA will be obliged to test in a manner that favors the manufacturer. However, if there are indications that the position of the bogie makes a substantial difference in the braking performance of the vehicle, the agency will consider rulemaking to specify that the trailer must meet the requirements with the bogie in any position.

S5.7.1.1 Wagner Electric requested an amendment to provide for brake application when the pressure in "any" service reservoir is less than the automatic application pressure level. The section now requires application when "all" service reservoirs are below that level. The NHTSA does not consider the requested amendment necessary to permit the type of system that Wagner envisions. It is permissible under the present wording for a manufacturer to have a system that applies the brakes upon a low pressure signal from a single reservoir. To require operation in such a case, as Wagner requests, would eliminate systems that are capable of fully applying the service brakes despite low pressure in one reservior.

S5.7.2.2 The Clark Equipment Co. requested deletion of "brake fluid housing" from the list of items whose failure must not affect the parking brake system. The purpose of the section is to make it clear that the sharing of components by the service and emergency braking systems should not be construed as permitting malfunction of the parking brake system despite the provisions of S5.6.3. The petition is denied.

S5.8 The Clark Equipment Co. requested the deletion of the phrase "or S5.6.2" from this section, on the grounds that it converts the requirement into a parking brake requirement that may be weaker than the emergency braking performance currently required under the regulations of the Bureau of Motor Carrier Safety. However, despite the use of .20 rather than the value of .28 specified in S5.6.1, the trailer under S5.6.2 is loaded to its GVWR and the supporting dolly is unbraked so that the braking performance required by the two sections is nearly identical. The NHTSA has therefore decided to retain the option of S5.6.2 under S5.8.

S6.1.1 Midland-Ross requested that the loading of a trailer be based on the sum of its GAWR's rather than on its GVWR. A GVWR designation for trailers is required by Part 567, and the agency considers it appropriate to specify GVWR as the test condition under this section.

S6.1.7 International Harvester again questioned the appropriateness of using a skid number of 75 for road tests. This issue has been raised a number of times in the course of the various braking standard rule makings. Although the NHTSA is not prepared at this time to state that a number higher than 75 ought to be selected, the agency intends to collect additional data concerning road surfaces with a view to possible future changes.

S6.1.9 Midland-Ross stated that parking brake tests for semitrailers should be conducted with the trailer front end supported by the trailer landing gear. The use of the parking brakes as part of the emergency braking system and the unknown effect of the friction in the landing gear system weigh against the adoption of this requirement. The petition is denied.

S6.2.1 The Carlisle Corp. requested that a 5 percent tolerance be specified in the dynamometer loading. The request is denied, for the reasons given in the preceding discussion of Wagner Electric's petition on S5.4.2.

In consideration of the foregoing, Motor Vehicle Safety Standard No. 121, 49 CFR 571.121 is amended as follows:

1. S5.1.5 is amended to read as follows:

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

2. S5.1.6 is amended to read as follows:

S5.1.6 *Antilock warning signal.* A signal on each vehicle equipped with an antilock system that gives a continuous warning to a person in the normal driving position when the ignition is in the "on" or "run" position in the event of a total electrical failure of the antilock system. The signal shall be either visible within the driver's forward field of view or both audible, for a duration of at least 10 seconds, and continuously visible. The signal shall operate in the specified manner each time the ignition is returned to the "on" or "run" position.

3. S5.2.1.1 is amended to read as follows:

S5.2.1.1 A reservoir shall be provided that is capable, when pressurized to 90 p.s.i., of releasing the vehicle's parking brakes at least once and that is unaffected by a loss of air pressure in the service brake system.

4. S5.2.1.2 is amended to read as follows:

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

5. S5.4 is amended to read as follows:

S5.4 *Service brake system—dynamometer tests.* When tested without prior road testing, under the conditions of S6.2, each brake assembly shall meet the requirements of S5.4.1, S5.4.2, and S5.4.3 when tested in sequence and without adjustments other than those specified in the standard. For purposes of the requirements of S5.4.2 and S5.4.3, an average deceleration rate is the change in velocity divided by the deceleration time measured from the onset of deceleration.

6. S5.7.1.4 is amended to read as follows:

S5.7.1.4 *Manual operation.* The parking brakes shall be manually operable and releasable when the air pressure in the service reservoir system is sufficient to keep the parking brakes from automatically applying.

Effective date: September 1, 1974.

(Secs. 103, 119, National Traffic and Motor Vehicle Safety Act, 15 U.S.C. 1392, 1407, delegation of authority at 49 CFR 1.51)

Issued on June 21, 1972.

DOUGLAS W. TOMS,
Administrator.

[FR Doc.72-9648 Filed 6-22-72;11:00 am]

Chapter X—Interstate Commerce Commission

SUBCHAPTER A—GENERAL RULES AND REGULATIONS

[S.O. 1087, Amdt. 1]

PART 1033—CAR SERVICE

Burlington Northern Inc. Authorized To Operate Over Tracks of Peoria and Pekin Union Railway Co.

At a Session of the Interstate Commerce Commission, Railroad Service Board, held in Washington, D.C., on the 13th day of June 1972.

Upon further consideration of Service Order No. 1087 (36 F.R. 25425), and good cause appearing therefor:

It is ordered, That § 1033.1087 *Service Order No. 1087* (Burlington Northern Inc. authorized to operate over tracks of the Peoria and Pekin Union Railway Co.) be, and it is hereby, amended by substituting the following paragraph (e) for paragraph (e) thereof:

(e) *Expiration date.* This order shall expire at 11:59 p.m., December 31, 1972, unless otherwise modified, changed, or suspended by order of this Commission.

Effective date. This amendment shall become effective at 11:59 p.m., June 30, 1972.

(Secs. 1, 12, 15, and 17(2), 24 Stat. 379, 383, 384, as amended; 49 U.S.C. 1, 12, 15, and 17 (2). Interprets or applies Secs. 1(10–17), 15 (4), and 17(2), 40 Stat. 101, as amended, 54 Stat. 911; 49 U.S.C. 1(10–17), 15(4), and 17(2))

It is further ordered, That a copy of this amendment 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 notice of this order be given to the general public by depositing a copy in the Office of the Secretary of the Commission at Washington, D.C., and by filing it with the Director, Office of the Federal Register.

By the Commission, Railroad Service Board.

[SEAL] ROBERT L. OSWALD,
Secretary.

[FR Doc.72-9619 Filed 6-23-72;8:51 am]

[S.O. 1091, Amdt. 1]

PART 1033—CAR SERVICE

Norfolk and Western Railway Co. Authorized To Operate Over Tracks of Penn Central Transportation Co.

George P. Baker, Richard C. Bond, Jervis Langdon, Jr., and Willard Wirtz, trustees.

At a Session of the Interstate Commerce Commission, Railroad Service Board, held in Washington, D.C., on the 15th day of June 1972.

Upon further consideration of Service Order No. 1091 (37 F.R. 4917), and good cause appearing therefor:

It is ordered, That § 1033.1091 *Service Order No. 1091* (Norfolk and Western Railway Co. authorized to operate over tracks of Penn Central Transportation Co., George P. Baker, Richard C. Bond, Jervis Langdon, Jr., and Willard Wirtz, trustees) be, and it is hereby, amended by substituting the following paragraph (e) for paragraph (e) thereof:

(e) *Expiration date.* This order shall expire at 11:59 p.m., December 31, 1972, unless otherwise modified, changed, or suspended by order of this Commission.

Effective date. This amendment shall become effective at 11:59 p.m., June 30, 1972.

(Secs. 1, 12, 15, and 17(2), 24 Stat. 379, 383, 384, as amended; 49 U.S.C. 1, 12, 15, and 17 (2). Interprets or applies secs. 1(10–17), 15 (4), and 17(2), 40 Stat. 101, as amended, 54 Stat. 911; 49 U.S.C. 1(10–17), 15(4), and 17 (2))

It is further ordered, That copies of this amendment shall be served upon the Association of American Railroads, Car Service Division, as agent of the 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 notice of this amendment shall be given to the general public by depositing a copy in the Office of the Secretary of the Commission at Washington, D.C., and by filing it with the Director, Office of the Federal Register.

By the Commission, Railroad Service Board.

[SEAL] ROBERT L. OSWALD,
Secretary.

[FR Doc.72-9620 Filed 6-23-72;8:51 am]

Title 6—ECONOMIC STABILIZATION

Chapter II—Pay Board

PART 201—STABILIZATION OF WAGES AND SALARIES

Deferred Increase Reporting Requirements

The purpose of the amendments set forth below is to incorporate the provisions of a Pay Board resolution regarding deferred increase reporting, announced in Pay Board News Release PB–95, dated June 8, 1972. The amendments provide that certain scheduled increases, otherwise permitted to operate according to their terms under contracts and pay practices existing on November 13, 1971, may not be put into effect unless the Board has received timely notice thereof and, where appropriate, timely additional information requested after such notice has been received.

Since such amendments are essential to the expeditious implementation of the Economic Stabilization Act of 1970, as amended, and Executive Order No. 11640, as amended, the Board finds that the time for submission of written comments by interested persons in accordance with the usual rule making procedures is impracticable and that good cause exists for promulgating them in less than 30 days. As previously announced by the Board (37 F.R. 7557, April 15, 1972), comments on Pay Board regulations will be solicited and public hearings will be held upon recodification of the regulations. The substance of the amendments set forth below will be included in such recodification as a notice of proposed rule making.

(Economic Stabilization Act of 1970, as amended; Public Law 92–210, 85 Stat. 743; E.O. 11640, 37 F.R. 1213, Jan. 27, 1972, as amended, Public Law 92–210, 85 Stat. 743;

1972, and Cost of Living Council Order No. 3, 36 F.R. 20202, Oct. 16, 1971, as amended)

Effective date. These amendments are effective on and after June 24, 1972.

GEORGE H. BOLDT,
Chairman of the Pay Board.

Section 201.14 is amended by revising paragraphs (a), (e), and (f) of such section to read as follows:

§ 201.14 Wage and salary increases effective after November 13, 1971.

(a) *In general.* Unless otherwise provided by this section, employment contracts and pay practices previously set forth which existed prior to November 14, 1971, will be allowed to operate according to their terms. However, any such specific contract or pay practice, when challenged by a party at interest, by the Chairman of the Pay Board, or by two or more other members of the Board, is subject to a review to determine whether any wage and salary increase granted pursuant to such contract or pay practice is unreasonably inconsistent with the criteria established by the Board. In the event of a challenge, these terms shall be allowed to remain in effect unless and until the Pay Board rules otherwise. Notwithstanding any other provision of this chapter a pay practice which does not by its own terms or by applicable provisions of paragraph (c) of this section, expire earlier, will be deemed to expire on November 13, 1972.

* * * * *

(e) *Notice requirement*—(1) *In general.* Notwithstanding the provisions of Part 202 of this chapter a notice shall be given to the Pay Board prior to the scheduled date of any increase to be paid pursuant to an employment contract or pay practice referred to in this section when such increase would affect an appropriate employee unit of 1,000 or more employees and would cause the total of such increases to be in excess of 7 percent. The timing of such notice and the date such increase may be put into effect shall be governed by the provisions of this paragraph. For purposes of this paragraph, a fair and reasonable estimate shall be used in determining whether contingent increases (such as cost-of-living adjustments) will cause the total of such increases to exceed 7 percent. Furthermore, such notice shall be in accordance with the instructions contained in paragraph (f) of this section.

(2) *Additional information.* In addition to the notice requirements of subparagraph (1) of this paragraph, on or after June 24, 1972, the Board may require a party at interest to furnish adequate and complete supplemental information as to the factors the Board considers necessary to determine whether the increase referred to in such subparagraph is unreasonably inconsistent with the standard, exceptions, or the review criteria referred to in paragraph (d) of this section.

(3) *Increases scheduled from April 19, 1972, through July 17, 1972.* In the case of increases scheduled to take effect after April 18, 1972, and prior to July 18, 1972, notice of such increases shall be given to the Pay Board before May 19, 1972: *Provided, however,* That no part of such increase shall be paid or received until 30 days after a party at interest provides any additional information required pursuant to subparagraph (2) of this paragraph.

(4) *Increases scheduled from July 18, 1972, through September 22, 1972.* No part of any increase scheduled to take effect after July 17, 1972, and prior to September 23, 1972, shall be paid or received until the later of 60 days after notice of such increase has been given to the Pay Board, 30 days after a party at interest provides any additional information required pursuant to subparagraph (2) of this paragraph, or the scheduled effective date of such increase.

(5) *Increases scheduled on or after September 23, 1972.* No part of any increase scheduled to take effect on or after September 23, 1972, shall be paid or received until the later of 90 days after notice of such increase has been given to the Pay Board, 60 days after a party at interest provides any additional information required pursuant to subparagraph (2) of this paragraph, or the scheduled effective date of such increase.

(f) *Notification instructions.* The notice required by paragraph (e)(1) of this section shall be submitted on forms provided by the Pay Board. Such notice shall be accompanied by a full statement of facts prepared by a party at interest showing good cause as to why such increase is not unreasonably inconsistent with the standard, exceptions, or the review criteria referred to in paragraph (d) of this section.

[FR Doc.72-9738 Filed 6-23-72;12:25 pm]

PART 201—STABILIZATION OF WAGES AND SALARIES

Retroactive Increases for Services Rendered

The purpose of the amendments set forth below is to incorporate the provisions of a Pay Board resolution regarding retroactivity, announced in Pay Board News Release PB-82, dated May 3, 1972. The resolution and these amendments deal with successor employment contracts or pay practices adopted after November 13, 1971, that succeed employment contracts or pay practices expiring before August 15, 1971. Since such amendments are essential to the expeditious implementation of the Economic Stabilization Act of 1970, as amended, and Executive Order No. 11640, as amended, the Board finds that the time for submission of written comments by interested persons in accordance with the usual rule making procedure is impracticable and that good cause exists for promulgating them in less than 30 days. As previously announced by the Board (37 F.R. 7557, Apr. 15, 1972), comments on Pay Board regulations will be solicited and public hearings will be held upon recodification of the regulations. The substance of the amendments set forth below will be included in such recodification as a notice of proposed rule making.

(Economic Stabilization Act of 1970, as amended (Public Law 92-210, 85 Stat. 743), E.O. 11640 (37 F.R. 1213, Jan. 27, 1972) as amended by E.O. 11660 (37 F.R. 6175, Mar. 25, 1972), and Cost of Living Council Order No. 3 (36 F.R. 20202, Oct. 16, 1971), as amended)

Effective date. These amendments are effective on and after November 14, 1971.

GEORGE H. BOLDT,
Chairman of the Pay Board.

Subpart B of Part 201 is amended by adding at the end thereof a new § 201.18 to read as follows:

§ 201.18 Increases in wages and salaries scheduled after November 13, 1971, for services rendered in certain periods on or before such date.

(a) *In general.* Subject to the provisions of this section, an increase in wages and salaries with respect to an appropriate employee unit for services rendered before November 14, 1971, may be made retroactively on or after such date if—

(1) *Expired agreement, schedule, or practice prior to August 15, 1971.* The prior succeeded employment contract or pay practice (including a schedule of wages and salaries adopted by an employer) expired before August 15, 1971,

(2) *Successor agreement, schedule, or practice adopted after November 13, 1971.* Such employment contract or pay practice was followed by a successor contract between the same parties, or by a successor pay practice after November 13, 1971,

(3) *Retroactivity prior to August 15, 1971.* Evidence is demonstrated to the Pay Board that retroactivity—

(i) Had been agreed to by the parties prior to August 15, 1971, or had been provided for in the immediately preceding two employment contracts (including the prior succeeded contract) terminating prior to August 15, 1971, or

(ii) Was provided for by the employer in the immediately preceding two pay practices (including the prior succeeded pay practice) terminating prior to August 15, 1971, and

(4) *No change in bargaining position.* In the case of a successor contract referred to in subparagraph (2) of this paragraph, evidence is demonstrated to the Pay Board that the parties did not change their position during negotiations in order to compensate for or absorb the impact of the freeze.

(b) *Retroactivity period.* Payment of retroactive wage and salary increases that are provided for in successor employment contracts or successor pay practices (described in paragraph (a)(2) of this section) may be made for services rendered for the period beginning the day after the expiration date of the prior succeeded contract or prior succeeded pay practice and ending on November 13, 1971.

(c) *First control year*—(1) *Base compensation rate.* Wage and salary in-

creases paid retroactively pursuant to paragraphs (a) and (b) of this section may not be included in the base compensation rate (§ 201.54) with respect to an appropriate employee unit for measuring increases in the first control year, unless specifically authorized by the Pay Board, subject to whatever terms and conditions it may impose, in a decision and order rendered pursuant to § 201.11(d).

(2) *Chargeable increases.* Unless included in the base compensation rate as provided in subparagraph (1) of this paragraph by decision and order of the Pay Board, continued payment after November 13, 1971, of increases paid retroactively pursuant to paragraphs (a) and (b) of this section shall be treated as chargeable increases with respect to an appropriate employee unit in the first control year. Thus, continued payment of a retroactive wage and salary increase is not authorized to the extent such increase and any subsequent increase occuring after such date exceed the maximum permissible annual aggregate wage and salary increase for such unit during such control year.

(d) *Procedures for payment*—(1) *In general.* No increases referred to in paragraph (a) of this section may be made unless the procedures set forth in this paragraph have been followed. Such procedures shall be in addition to the provisions of Part 202 of this chapter and shall include, as appropriate, a request for exception with respect to continued payment of any such increase after November 13, 1971, and with respect to payment of any subsequent increases scheduled after such date to the extent the total of such increases exceed the general wage and salary standard for the control year. Notwithstanding the preceding two sentences, such adjustment may not be included in the base compensation rate unless specifically requested by a party at interest and authorized by the Board in a decision and order rendered pursuant to § 201.11(d). See paragraph (c) of this section.

(2) *Category I pay adjustment.* In the case of a Category I pay adjustment (as defined in § 101.21 of this title), the Board shall receive prenotification of such adjustment (and any subsequent adjustments) and such adjustment shall be approved before payment can be made.

(3) *Category II pay adjustment.* In the case of a Category II pay adjustment (as defined in § 101.23 of this title), the employer shall determine that he fulfills the requirements of this section and with 10 days of making such adjustment shall report the adjustment (and any subsequent adjustments) to the Board.

(4) *Category III pay adjustment.* In the case of a Category III pay adjustment (as defined in § 101.25 of this title), the employer shall determine that he fulfills the requirements of this section and within 10 days of making such adjustment shall report the adjustment (and any subsequent adjustments) to the Internal Revenue Service if the total of such adjustments exceed the general wage and salary standard.

[FR Doc.72-9739 Filed 6-23-72;12:25 pm]

Chapter III—Price Commission

PART 305—PROCEDURAL REGULATIONS

Issuance and Requests for Modification or Rescission of Remedial Orders

A new Subpart H is added to Part 305 to implement that part of section 207(b) of the Economic Stabilization Act of 1970, Public Law 92-210, which specifies that an "agency, authorized by the President to issue rules, regulations, or orders under this title shall, in regulations prescribed by it, establish procedures which are available to any person for the purpose of seeking * * * modification, or rescission of, such orders" and further requires the agency to "establish appropriate procedures, including hearings where deemed advisable, for considering such requests for action * * *"

By this new subpart the Commission establishes procedures for the issuance of remedial orders and the procedures for requests for modification or rescission of such orders. A remedial order "means an order requiring a person to cease a violation or to take action to eliminate or compensate for the effects of a violation, or both, or which imposes other sanctions." The Commission may begin proceedings by a notice of probable violation or by the issuance of a remedial order.

If proceedings are begun by issuance of a remedial order, the Commission provides an opportunity for the person named in the order to come in to request a stay of the order pending completion of the administrative proceedings. The order except in rare circumstances will be suspended by the Commission pending final disposition of the matter.

Reply by either a person named in a notice of probable violation or in a remedial order may be either in writing or in person or both. The person will be afforded a reasonable opportunity to present his case.

Thereafter the Commission will issue a decision and order. Such a decision is subject to request for modification or rescission. Proceedings for handling such requests are provided.

This new Subpart H is designed to implement changes already effected in the substantive regulations (6 CFR 300.53 and 300.54) by providing procedures for carrying out these substantive provisions. In view of the necessity of immediate implementation it is hereby found that notice and public procedure are not feasible and that good cause exists for making the procedures effective less than 30 days after publication.

In consideration of the foregoing, Subpart H is added to Part 305 of Title 6 of the Code of Federal Regulations, effective June 23, 1972.

Issued in Washington, D.C., on June 21, 1972.

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

Subpart H—Issuance of Remedial Orders; Procedures Governing Requests for Modification or Rescission of Such Orders

Sec.

AUTHORITY: The provisions of this Subpart H are issued under the 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 of 1970, as amended, Public Law 91-92-210, Executive Order 11640, 37 F.R. 1213, January 27, 1972; Cost of Living Council Order No. 4, 36 F.R. 20202, October 16, 1971.

Subpart H—Issuance of Remedial Orders; Procedures Governing Requests for Modification or Rescission of Such Orders

§ 305.80 Purpose and scope.

This subpart establishes the procedures for determining the nature and extent of violations, the procedures for the issuance of remedial orders, and the procedures for requests for modification or rescission of remedial orders.

(a) A "remedial order" is an order requiring a person to cease a violation or to take action to eliminate or to compensate for the effects of a violation, or both, or which imposes other sanctions.

(b) The Commission will not consider that a person has exhausted his administrative remedies until he has filed a request for modification or rescission under §§ 305.86-305.89 and final action has been taken thereon by the Commission under § 305.38.

§ 305.81 General.

When any report required by Part 300 of this chapter or any audit or investigation discloses, or the Commission otherwise discovers, that a person appears to be in violation of the Act or any regulation in this chapter, the Commission may conduct proceedings to determine the nature and extent of the violations and issue remedial orders. The Commission may commence proceedings by serving a notice of probable violation or by issuing a remedial order.

§ 305.82 Issuance of notice of probable violation to begin proceedings.

The Commission may begin proceedings under this Subpart H by issuing a

notice of probable violation if the Commission has reason to believe that a violation has occurred or is about to occur.

§ 305.83 Issuance of remedial orders to begin proceedings in unusual circumstances.

Remedial orders may be issued to begin proceedings under this Subpart H if the Commission finds on preliminary examination that the violations are patent or repetitive, that their immediate cessation is required to avoid irreparable injury to others or unjust enrichment to the person to whom the order is issued, or for any other unusual circumstance the Commission deems sufficient.

(a) When the Commission issues a remedial order to begin proceedings the person to whom the order is issued may request a stay of the order, or a suspension of the order if it has already become operative, whichever is appropriate, pending completion of the proceedings, which stay the Commission will grant as a matter of course unless the Commission finds that the order is needed to avoid irreparable injury to others or the unjust enrichment of the person to whom the order was issued.

(b) A request for stay, if any, should be sent to the Price Commission and should be appropriately identified on the envelope.

§ 305.84 Reply.

Within 10 days of receipt of a notice of probable violation issued under § 305.82 or of a remedial order issued under § 305.83, the person to whom the notice or order is issued may file an answer. He may respond to the Price Commission in writing or by personal appearance or both. A person may be accompanied by counsel. If a person wishes to appear in person he must request an appointment; the request must be made promptly so that a time and place may be set within the 10-day period provided for reply. The Commission will extend the 10 days for good cause shown.

(a) If a person has not requested a stay or suspension of a remedial order issued to begin proceedings, or if such a stay has been denied, the order will go into effect or remain in effect, in accordance with its terms, as the case may be.

(b) If a person does not reply within the time allowed by a notice of probable violation, the violation will be considered admitted as alleged and the Commission may issue whatever remedial order would be appropriate.

(c) An order which goes into effect or is permitted to remain in effect under paragraph (a) of this section or an order issued under paragraph (b) of this section is not subject to judicial or any other review with respect to any finding of fact or conclusion of law which could have been raised in the proceedings before the Commission by the filing of a reply.

§ 305.85 Decision.

(a) If the Commission finds, after the person has filed a reply under § 305.84, that no violation has occurred or is about to occur or that for any other reason the issuance of a remedial order would not be appropriate, it will issue a decision so stating and, if necessary, an order revoking or modifying any remedial order which already may be outstanding.

(b) If the Commission finds that a violation has occurred or is about to occur and that a remedial order is appropriate, it will issue a decision so stating, specifying the nature and extent of the violation, and, if necessary, issue a remedial order implementing the decision, vacating the suspension of any outstanding remedial order, or modifying as appropriate, an outstanding remedial order. The decision will state the findings of fact and conclusions of law upon which it is based.

(c) Remedial orders issued hereunder may include any of the provisions stated in §§ 300.53 or 300.54 of this chapter for the kind of violation concerned or any other requirement which is reasonable and appropriate.

§ 305.86 Who may request modification or rescission of an order issued under § 305.85.

The person to whom an order is issued under § 305.85 may file a request for modification or rescission of that order.

§ 305.87 Where to file.

A request for modification or rescission shall be filed with the Price Commission, 2000 M Street NW., Washington, DC 20508.

§ 305.88 When to file.

A request for modification or rescission must be filed within 10 days of receipt of the order issued under § 305.85.

§ 305.89 Contents of request.

A request for modification or rescission shall—

(a) Be in writing and signed by the applicant;

(b) Be designated clearly as a request for modification or rescission;

(c) Identify the order which is the subject of the request;

(d) Point out the alleged error in the order;

(e) Contain a concise statement of the grounds for the request for modification or rescission and the requested relief;

(f) Be accompanied by briefs, if any; and

(g) Be marked on the outside of the envelope "Request for Modification or Rescission."

§ 305.90 Preliminary processing by Commission.

(a) A request for modification or rescission of an order issued under § 305.85 will be considered by the Commission only if it:

(1) Is made by a person to whom the order sought to be modified or rescinded was issued;

(2) Is timely; and

(3) Makes a prima facie showing of error.

(b) The Commission may summarily reject a request for modification or rescission which is not made by a person to whom the order was issued, or which is not timely filed, or which fails to make a prima facie showing of error.

(c) When the request for modification or rescission meets the requirements set forth in paragraph (a) of this section, the Commission on its own motion or for good cause shown may temporarily suspend the order appealed from and then proceed in accordance with §§ 305.37 and 305.38.

[FR Doc.72-9599 Filed 6-23-72;8:50 a.m.]

PART 305—PROCEDURAL REGULATIONS

IRS; Authority To Grant or Deny Certain Requests for Exceptions

The purpose of this amendment is to revise the Procedural Regulations to reflect the fact that a delegation of authority has been given to IRS to consider and grant or deny initially rent requests for exceptions and requests for exceptions filed by certain Price Category III firms. Review by the Commission of adverse actions by IRS is through the appeals procedures and only initial actions by the Commission are reviewed via the reconsideration mechanism of the procedural regulations.

To reflect these changes the definition of exception has been modified to reflect that IRS also may issue some and §§ 305.30, 305.32, and 305.36(a) are being amended.

Because this amendment is necessary to implement changes in the substantive regulations it is hereby found that notice and public procedure is unnecessary 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 11640, 37 F.R. 1213, January 27, 1972; Cost of Living Council Order No. 4, 36 F.R. 20202, October 16, 1971)

In consideration of the foregoing, Part 305 of Title 6 of the Code of Federal Regulations is amended as set forth below effective June 23, 1972.

Issued in Washington, D.C., on June 21, 1972.

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

1. § 305.2 is amended by changing the definition of "Exception" to read as follows:

§ 305.2 Definitions.

* * * * *

"Exception" means an order issued by the Commission or IRS to an individual firm waiving the specific requirements of a rule, regulation, or order issued pursuant to the Act.

* * * * *

2. § 305.30 is amended to read as follows:

§ 305.30 Purpose and scope.

Exceptions may be granted for the purpose of preventing or correcting a serious hardship or gross inequity.

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

(b) This subpart establishes the rules of the Commission governing the disposition of—

(1) Requests for exceptions in price cases filed by prenotification firms (as defined in § 300.5 of this chapter) and which also are described as Price Category I firms in § 101.11 of this title;

(2) Requests for exception in price cases filed by reporting firms (as defined in § 300.5 of this chapter) and which also are described as Price Category II firms in § 101.13 of this title; and

(3) Requests for exception in price cases by a Price Category III firm (as defined in § 101.15 of this title) which—

(i) Is a provider of health services subject to §§ 300.18 and 300.19 of this chapter; or

(ii) Is a public utility covered by §§ 300.16 or 300.16a of this chapter; or

(iii) Involves productivity matters under § 300.11a of this chapter.

(c) This subpart also establishes the procedures governing reconsiderations of denials by the Commission in whole or in part, of requests for exception filed by firms enumerated in paragraph (b) of this section.

(d) Requests for exception in all rent cases and in price cases by Price Category III firms, other than those specified in paragraph (b)(3) of the section, are granted or denied in the first instance by IRS under §§ 301.607 and 300.507 of this title, respectively.

(e) The Commission will not consider that an applicant has exhausted his administrative remedies—

(1) If it is a request for exception by a firm enumerated in paragraph (b) of this section until it has filed a request for reconsideration under §§ 305.32 to 305.35 and final action thereon has been taken by the Commission under § 305.38; or

(2) If it is a request for exception in a rent case or a price case by a Price Category III firm other than those specified in paragraph (b)(3) of this section until it has filed an appeal under §§ 305.21 to 305.24 and final action has been taken thereon by the Commission under § 305.28.

3. Section 305.32 is amended to read as follows:

§ 305.32 Who may request reconsideration.

A person enumerated in § 305.30(b) whose request for exception was denied by the Commission in whole or in part may request reconsideration.

4. Subparagraph (1) of § 305.36(a) is amended to read as follows:

§ 305.36 Review by Commission.

(a) * * *

(1) Is made by a person enumerated in § 305.30(b) whose request for exception was denied by the Commission in whole or in part;

* * * * *

[FR Doc.72-9598 Filed 6-23-72;8:50 am]

Proposed Rule Making

DEPARTMENT OF THE INTERIOR

Bureau of Indian Affairs

[25 CFR Part 221]

SAN CARLOS INDIAN IRRIGATION PROJECT, ARIZONA

Assessment; Joint Works

Pursuant to the authority vested in the Secretary of the Interior for issuance of irrigation operation and maintenance orders fixing per acre assessments against lands included in Indian Irrigation Projects, delegated to the Commissioner of Indian Affairs by Order No. 2508 (10 BIAM 2.1, section 15a) and redelegated to the Area Directors by 10 BIAM 4.1, notice is hereby given that it is proposed to modify § 221.63, *Assessment, joint works,* of Title 25, Code of Federal Regulations, dealing with operation and maintenance assessments against the irrigable lands of the San Carlos Irrigation Project, Arizona, by increasing the total basic assessment from $230,000 to $300,000 per annum and the per acre assessment rate from $2.30 to $3 for each acre of land.

It is the policy of the Department of the Interior whenever practicable to afford the public an opportunity to participate in the rule making process. Accordingly, interested persons may submit written comments, suggestions, or objections with respect to the proposed amendment to John H. Artichoker, Area Director, Phoenix Area Office, Post Office Box 7007, Phoenix, AZ 85011, within thirty (30) days from date of publication of this notice of intention in the daily issue of the FEDERAL REGISTER.

Section 221.63 is revised to read as follows:

§ 221.63. Assessment, joint works.

(a) Pursuant to the Act of Congress approved June 7, 1924 (43 Stat. 476), and supplementary acts, the repayment contract of June 8, 1931, as amended, between the United States and the San Carlos Irrigation and Drainage District, and in accordance with applicable provisions of the order of the Secretary of the Interior of June 15, 1938 (§§ 221.69a–221.69m), the cost of the operation and maintenance of the Joint Works of the San Carlos Indian Irrigation Project for the fiscal year 1974 is estimated to be $300,000 and the rate of assessment for the said fiscal year and subsequent fiscal years until further order, is hereby fixed at $3 for each acre of land.

FLOYD FARRELL,
Acting Assistant Area Director (Economic Development).

[FR Doc.72-9588 Filed 6-23-72;8:49 am]

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

[7 CFR Part 917]

FRESH PEARS, PLUMS, AND PEACHES GROWN IN CALIFORNIA

Proposed Approval of Expenses and Fixing of Rates of Assessment for 1972–73 Fiscal Period

Consideration is being given to the following proposals submitted by the Control Committee, established under the marketing agreement, as amended, and Order No. 917, as amended, regulating the handling of fresh pears, plums, and peaches grown in the State of California, effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674), as the agency to administer the provisions thereof:

(a) That expenses that are reasonable and likely to be incurred during the fiscal period from March 1, 1972, through February 28, 1973, will amount to $670,684.

(b) That the rates of assessment for such fiscal period payable by each handler in accordance with § 917.37 be fixed at:

(1) One and five-tenths of a cent ($0.015) per standard western pear box of pears, or its equivalent in other containers or in bulk;

(2) Seven cents ($0.07) per standard four-basket crate of plums, or its equivalent in other containers or in bulk; and

(3) Four cents ($0.04) per Los Angeles lug of peaches or its equivalent in other containers or in bulk.

Terms used in the amended marketing agreement and this part shall, when used herein, have the same meaning as is given to the respective term in said amended marketing agreement and this part.

All persons who desire to submit written data, views, or arguments in connection with the aforesaid proposals shall file the same, in quadruplicate, with the Hearing Clerk, U.S. Department of Agriculture, Room 112, Administration Building, Washington, D.C. 20250, not later than the 10th day after the publication of this notice in the FEDERAL REGISTER. All written submissions made pursuant to this notice will be made available for public inspection at the office of the Hearing Clerk during regular business hours (7 CFR 1.27(b)).

Dated: June 20, 1972.

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

[FR Doc.72-9560 Filed 6-23-72;8:46 am]

[7 CFR Part 922]

APRICOTS GROWN IN DESIGNATED COUNTIES IN WASHINGTON

Proposed Handling

Notice is hereby given that the Department is considering the following proposal of the Washington Apricot Marketing Committee, established under the marketing agreement, as amended, and Order No. 922, as amended (7 CFR Part 922), regulating the handling of apricots grown in designated counties in Washington, effective under the applicable provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674). The proposal would extend grade and size limitations, in Apricot Regulation 12, for the period August 1, 1972, through July 31, 1973.

The proposed extension of the period of Apricot Regulation 12 is designed to continue its quality and size requirements for such fruit consistent with: (1) The available supply and demand for such fruit; and (2) improve returns to producers pursuant to the declared policy of the act.

The proposal is as follows:

Amend the introductory sentence of paragraph (b) of Apricot Regulation 12 (37 F.R. 12483) to read as follows:

§ 922.312 Apricot Regulation 12.

* * * * *

(b) During the period August 1, 1972, through July 31, 1973, no handler shall handle any container of apricots unless such apricots meet the following applicable requirements, or are handled in accordance with subparagraph (3) of this paragraph:

* * * * *

All persons who desire to submit written data, views, or arguments in connection with the aforesaid proposals should file the same, in quadruplicate, with the Hearing Clerk, U.S. Department of Agriculture, Room 112–A, Administration Building, Washington, D.C. 20250, not later than the 10th day after publication of this notice in the FEDERAL REGISTER. All written submissions made pursuant to this notice will be made available for public inspection at the Office of the Hearing Clerk during regular business hours (7 CFR 1.27(b)).

Dated: June 21, 1972.

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

[FR Doc.72-9563 Filed 6-23-72;8:47 am]

[7 CFR Part 930]

CHERRIES GROWN IN CERTAIN STATES

Proposed Limitations of Handling

Notice is hereby given that the Department is considering a proposed amendment, as hereinafter set forth, to the rules and regulations (Subpart—Rules and Regulations, 7 CFR Part 930.101–930.107; 37 F.R. 273), currently in effect pursuant to the applicable provisions of marketing Order No. 930 (7 CFR Part 930), regulating the handling of cherries grown in Michigan, New York, Wisconsin, Pennsylvania, Ohio, Virginia, West Virginia, and Maryland hereinafter referred to as the order. This is a regulatory program effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674).

This amendment of said rules and regulations was proposed by the Cherry Administrative Board, established under said order, as the agency to administer the terms and provisions thereof. The amendment would establish: A processing factor, which when used in relation to raw cherries received for juice, would determine handler reserve pool obligations; and charges to be paid by producers having an interest in the reserve pool or their successors in interest to handlers for receiving raw unpitted cherries, processing such cherries into the prescribed form for reserve pool cherries and freezing such cherries, storage (first 30 days) and storage thereafter of reserve pool cherries.

The Board, in recommending amendment of § 930.105, is recognizing that cherries used for juice are of a lower quality than that which is normally used in the production of frozen or canned cherries. Hence, it would take a greater quantity of such cherries, taking into consideration that quality of such cherries in relation to the quality and condition requirements of reserve pool cherries, than would be required for cherries possessing the quality required of cherries for canning or freezing.

In recommending the handler compensation for receiving, processing, and freezing, storage for the first 30 days after freezing, and monthly storage thereafter of reserve pool cherries, for the 1972–73 fiscal period, the Board considered the costs incurred due to the aforementioned actions during the previous fiscal period by handlers who had processed varied amounts of such cherries into the prescribed form for reserve pool cherries, as specified in § 930.104, the expected cost increases of raw and manufacturing materials for the 1972–73 fiscal period and other related information. Such Board action is required by § 930.58.

All persons who desire to submit written data, views, or arguments for consideration in connection with the proposed amendment shall file the same, in quadruplicate, with the Hearing Clerk, Room 112, Administration Building, Washington, D.C. 20250, not later than the 10th day after publication of this notice in the FEDERAL REGISTER. All written submissions made pursuant to this notice will be made available for public inspection at the office of the Hearing Clerk during regular business hours (7 CFR 1.27(b)).

As proposed to be amended § 930.105 *Processing factor* and a new § 930.158 *Handler compensation charge 1* will read as follows:

§ 930.105 Processing factor.

The factor (ratio of raw unpitted cherries to finished processed cherries, including sugar, i.e., in the form of 5 plus 1 frozen cherries as prescribed in § 930.104 (a)) to be used in accordance with § 930.54(a) to determine the total amount of reserve pool cherries each handler shall set aside in the reserve pool shall be computed on the basis that each 33 pounds of raw unpitted cherries shall equal one 30-pound can of 5 plus 1 frozen cherries (25 pounds of raw pitted cherries combined with 5 pounds of sugar) for a ratio of 1.1 to 1: *Provided*, That for each handler who produces cherry juice the factor shall be computed on the basis that each 110 pounds of raw, unpitted cherries used by such handler to produce the cherry juice shall equal one 30-pound can of the 5 plus 1 frozen cherries for a ratio of 11 to 3.

§ 930.158 Handler Compensation Charge 1.

(a) During the fiscal period ending April 30, 1973, each handler shall be compensated, as provided by § 930.58, by producers having an interest in the reserve pool, or their successors in interest: (1) At the rate of $0.08217 (8.217 cents) per pound of reserve pool cherries for receiving raw, unpitted cherries, processing such cherries into the form of 5 plus 1 frozen cherries packed in new 30 pound metal cans, as specified in § 930.104(a), and for storage in a suitable freezer storage facility for 30 days from the date the reserve pool cherries are placed in such storage facility; and (2) at the rate of 5 cents per can per month for storage thereafter in a suitable freezer storage facility.

Dated: June 20, 1972.

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

[FR Doc.72-9562 Filed 6-23-72;8:47 am]

[7 CFR Part 981]

ALMONDS GROWN IN CALIFORNIA

Advertising Activities and Reporting Requirements for Credit

Notice is hereby given of a proposal, unanimously recommended by the Almond Control Board, to amend certain provisions of the Subpart—Administrative Rules and Regulations (7 CFR 981.450–981.481). The subpart is operative pursuant to the marketing agreement, as amended, and Order No. 981, as amended (7 CFR Part 981; 37 F.R. 3983), regulating the handling of almonds grown in California (hereinafter collectively referred to as the order). The order is effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674).

The proposed amendment would add two new sections to the Administrative rules and regulations. The first section would prescribe the activities and manner by which handlers, engaging in advertising activities, may receive credit against their assessment obligation attributable to advertising. The second section would prescribe reporting requirements for handlers to authenticate their advertising activities and claims for credit.

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

The proposal is as follows:

1. A new section, § 981.441 is added to read:

§ 981.441 Crediting for paid advertising.

(a) In order for a handler to receive credit for paid advertising expenditures against his pro rata expense assessment obligation pursuant to § 981.41(c), the Control Board shall determine that such expenditures meet the applicable requirements of this section.

(b) Each advertisement must be published, broadcasted, or shown during the crop year for which credit is requested. In the case of broadcast or print, the media used must be any domestic advertising media listed by Standard Rate and Data Service, Inc. In the case of outdoor advertising, the rate schedules to be applicable must be those published by the National Outdoor Advertising Bureau or the Traffic Audit Bureau.

(c) The major theme of each advertisement shall promote the sale, consumption, or use of California almonds and nothing therein shall detract from this objective.

(d) Credit against the assessment obligation shall be obtained as follows:

(1) Expenditures may be credited for 100 percent of the payment to the advertising medium: (i) For a generic advertisement of California almonds; (ii) for an advertisement of the handler's brand of almonds; or (iii) when either of such advertisements includes reference to a complementary commodity or product and the entire expenditure is borne by the handler. The credit shall not exceed the maximum rate for the space or time unit used as published by the Standard Rate and Data Service; or

(2) When the advertisement is the result of a joint effort on the part of a handler and a manufacturer or seller of a complementary commodity or product,

and includes the brands of both, the allowance shall be 50 percent of the total allowable payment to the advertising medium or the handler's allowable payment thereof, whichever is less; or

(3) When the advertisement is the result of a joint effort on the part of a handler and manufacturers or sellers of two complementary commodities or products, and includes the brands of all three, the allowance shall be one-third of the total allowable payment to the advertising medium or the handler's allowable payment thereof, whichever is less; or

(4) Credit shall also be allowed for the handler's unreimbursed media expenditures meeting the requirements of paragraphs (c), (f), and (g) of this section for advertising conducted in a foreign country under a contract with the Foreign Agricultural Service, U.S. Department of Agriculture.

(e) No credit shall be granted to a handler when more than two complementary branded products are included in an advertisement.

(f) A handler must file a claim with the Control Board to obtain credit for an advertising expenditure. Each claim shall be filed within 60 days after the advertisement has been published, broadcast, or posted; or within 60 days after payment has been made therefor, whichever comes first and in any event not later than July 15, of the succeeding crop year. For published advertisements each claim shall include: (1) A tear sheet or page of the actual ad for proof of performance; (2) a publication in which the ad appeared and the date the ad appeared, and (3) a publication's invoice including agency commission. For broadcasted advertisements each claim shall include: (i) A printed script of the commercial as actually presented; (ii) the city, station and time the commercial was broadcast; (iii) a notarized station affidavit of performance; and (iv) a station invoice including total costs including agency commission), listing separately each time the commercial was broadcast. For outdoor advertisements each claim shall include: (*a*) A photograph of the actual outdoor design; (*b*) a notarized affidavit of location and the period of display; and (*c*) an outdoor company invoice including agency commission. Each claim shall also include a certification to the Secretary of Agriculture, and to the Control Board that the claim is just and conforms to requirements set forth in § 981.41(c). The Control Board shall advise the handler promptly of the extent to which such claim has been allowed.

(g) Advertisements which, in addition to promoting California almonds, also mention or promote the sale of noncomplementary commodities or products, or of competing nuts, shall not be eligible for credit.

2. A new section, § 981.482 is added to read:

§ 981.482 Statement of assessments due.

Any handler desiring to obtain credit for paid media advertising in accordance with § 981.41, shall file with the Control Board a statement of assessments due based on redetermination of kernel weight of almonds received as of December 31, March 31, and June 30 of the applicable crop year. The statement shall also show the total of claims previously approved by the Board as well as the balance of creditable assessments due. Each such statement shall be submitted to the Board as prescribed in § 981.73. The balance of the assessments due shall accompany the June 30 report. Assessments due on funds other than those for which credit may be obtained by the handler pursuant to § 981.41 shall be paid on demand in accordance with § 981.81(a).

Dated: June 20, 1972.

PAUL A. NICHOLSON,
Deputy Director,
Fruit and Vegetable Division.

[FR Doc.72-9561 Filed 6-23-72;8:46 am]

Farmers Home Administration

[7 CFR Part 1871]

[FHA Ins. 462.1, AL-87(462)]

SECURITY SERVICING LIQUIDATION

Servicing Chattel Security

Notice is hereby given that the Farmers Home Administration (FHA) has under consideration proposed miscellaneous amendments to Subpart A of Part 1871, "Servicing Chattel Security," Title 7 CFR (36 F.R. 1110) as follows:

1. Section 1871.6 as amended would require County Supervisors, if requested to do so, to furnish lists of borrowers whose chattels are subject to FHA liens to business firms in a trade area (such as salebarns and warehouses) which buy or sell chattels or crops on a commission basis. These lists shall be updated every 3 months.

2. Section 1871.11(b)(7) as amended, would add a restriction against subordinating FHA chattel liens to permit payment of real estate taxes. This restriction will make the subordination authority uniform with loanmaking policies in Subpart A of Part 1831 of this chapter.

3. Section 1871.16 as amended, provides a method of assisting borrowers in the orderly marketing of crops of peanuts and tobacco under lien to FHA and provides buyers of these commodities with information as to the existence of such mortgage liens.

Interested persons are invited to submit written comments, suggestions, or objections regarding the proposed amendment to the Assistant Administrator for Management, Farmers Home Administration, U.S. Department of Agriculture, Room 5013, South Building, Washington, D.C. 20250, within 30 days after date of publication of this notice in the FEDERAL REGISTER. All written submissions made pursuant to this notice will be made available for public inspection at the Office of the Assistant Administrator for Management during regular business hours (8:15 a.m.-4:45 p.m.).

As amended, § 1871.6, § 1871.11(b)(7), and § 1871.16 will read as follows:

§ 1871.6 Furnishing lists of borrowers.

County Supervisors may furnish lists of borrowers, whose chattels or crops are subject to FHA liens, to business firms in a trade area (such as salesbarns and warehouses) which buy chattels or crops or sell them on a commission basis. However, County Supervisors will furnish such lists to any such firm upon its request. Such lists will exclude those borrowers in cases in which all the crops they produce for sale require the issuance of marketing cards by ASCS. The list will contain the statement: "The crop and chattel liens or financing statements of the Farmers Home Administration are recorded or filed as required by law. This list of borrowers is furnished only as a convenience. It may be incomplete or inaccurate as of any particular date. The fact that a person's name does not appear on this list does not necessarily mean that the Farmers Home Administration does not have a security interest in or lien on his crops, livestock, and other chattels." Lists will be transmitted by Form FHA 462-3, "List of Farmers Home Administration Borrowers." When the County Supervisor considers it advisable, he should personally deliver the form and list to the buyers and explain their purposes. It will be the responsibility of the County Supervisor to update all lists that have been distributed by notifying buyers in writing, at least every three months, of the names of any borrowers that should be added and any paid-up or transferred borrowers that should be deleted. Forms FHA 462-13, "Addition to List of Farmers Home Administration Borrowers," and FHA 462-14, "Deletion From List of Farmers Home Administration Borrowers," will be used for this purpose.

§ 1871.11 Use of other credit and subordination of chattel security.

* * * * *

(b) *Purposes and limitations.* * * *

(7) Chattel liens of the FHA will not be subordinated to enable a borrower to obtain credit for making payment on FHA accounts, the payment of taxes in connection with real estate securing FHA loans other than operating loans, the purchase of capital goods, except feeder livestock, or making principal payments on real estate debts.

* * * * *

§ 1871.16 Stamping peanut and tobacco marketing cards.

(a) *Purpose.* This section provides a method of assisting borrowers in the orderly marketing of crops of peanuts and tobacco under lien to the FHA and provides buyers of these commodities with information as to the existence of such mortgage liens. In accordance with this purpose, arrangements have been made with the Agricultural stabilization and Conservation Service (ASCS) to permit County Office personnel of the FHA to indicate on marketing cards that the

FHA has a lien on the commodity involved.

(b) *Policy.* It is the policy to indicate on marketing cards issued to all borrowers who produce peanuts and tobacco on which FHA has a lien that FHA has a lien on the commodity involved.

(c) *Procedure for making marketing cards.* (1) Just prior to the preparation of ASCS marketing cards for each commodity, the FHA county office will furnish the appropriate ASCS county office with applicable lists of the names and addresses of FHA borrowers whose marketing cards are to be marked as provided in subparagraph (2) of this paragraph to denote that FHA has a lien on the commodities involved. The appropriate ASCS county office also will be informed that before delivery FHA will stamp the marketing cards of each borrower whose name appears thereon.

(2) After FHA determines that the marketing cards are ready for delivery, the person designated by the FHA County Supervisor will go to the ASCS county office and:

(i) For peanuts and tobacco, except Flue-cured and Burley tobacco, will stamp or insert the following in script in indelible ink on the cards of FHA borrowers whose names appear on the lists:

Subject to FHA Lien

The stamp will be placed on such cards wherever it is mutually agreeable to the FHA County Supervisor and the ASCS county office manager.

(ii) For Flue-cured and Burley tobacco, will stamp or insert the following in script in indelible ink on Form MQ 76, "Tobacco Marketing Card," of borrowers whose names appear on the list:

Subject to FHA Lien

The stamp will be placed on the left at the bottom of the signature strip under "Tobacco Marketing Card."

(iii) If the borrower satisfied the lien or repays the amount due the current year, the FHA County Supervisor, Assistant County Supervisor, or County Office Clerk will cancel the "Notice" by writing the word "canceled" across "Subject to FHA Lien" followed on the same line by the name of the official making the cancellation and the date of such cancellation.

(d) *Notice to borrowers.* County Supervisors will inform borrowers of these arrangements, including the arrangements for canceling the lien "Notice."

(e) *Notice to buyers.* County Supervisors will explain this plan to buyers (warehousemen and dealers in case of tobacco) in the area and solicit their cooperation. In doing so, it should be explained that the actual "Notice" of liens afforded by this procedure is not in lieu of the constructive notice afforded by recorded mortgages. Instead, it is offered as a courtesy and to provide buyers with readily available current information. This information may not always be accurate and the fact that a person's marketing card is not stamped as subject to an FHA lien does not necessarily mean that the commodities covered by the card are free of an FHA lien. This explanation should be made personally, if practical. If, because of a large number of buyers in the area served by a County Office, personal contact with them is impractical, the County Supervisor may explain the plan to them through correspondence.

(Sec. 339, 75 Stat. 318, 7 U.S.C. 1989 sec. 4, 64 Stat. 100, 40 U.S.C. 442 sec. 602, 78 Stat. 528, 42 U.S.C. 2942 sec. 301, 80 Stat. 379, 5 U.S.C. 301 Order of Acting Secretary of Agriculture, 36 F.R. 21529 Order of Assistant Secretary of Agriculture for Rural Development and Conservation, 36 F.R. 21529 Order of Director, OEO, 29 F.R. 14764)

Dated: June 20, 1972.

JOSEPH HASPRAY,
Deputy Administrator,
Farmers Home Administration.

[FR Doc.72-9617 Filed 6-23-72;8:50 am]

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Public Health Service

[42 CFR Part 73]

BIOLOGICAL PRODUCTS

Additional Standards for Normal Serum Albumin (Human)

Notice is hereby given that the Director, National Institutes of Health, proposes to amend Part 73 of the Public Health Service regulations by prescribing specific standards of safety, purity and potency for Normal Serum Albumin (Human).

Inquiries may be addressed, and data, views, and arguments may be presented by interested parties, in writing, in triplicate, to the Director, Division of Biologics Standards, National Institutes of Health, Public Health Service, 9000 Rockville Pike, Bethesda, MD 20014. All comments received in response to this notice will be available for public inspection and copying in the Office of the Assistant to the Director, Division of Biologics Standards, Room 122, Building 29, National Institutes of Health, weekdays (Federal holidays excepted) between the hours of 8:30 a.m. and 5 p.m. All relevant material received not later than 45 days after publication of this notice in the FEDERAL REGISTER will be considered.

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

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

Dated: June 19, 1972.

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

1. Amend Subpart D of the table of contents by inserting in numerical sequence the following:

NORMAL SERUM ALBUMIN (HUMAN)

Sec.
73.3540 The product.
73.3541 Processing.
73.3542 Tests on final product.
73.3543 General requirements.
73.3544 Equivalent methods.

2. Amend Subpart D by adding immediately after § 73.3524 the following:

NORMAL SERUM ALBUMIN (HUMAN)

§ 73.3540 The product.

(a) *Proper name and definition.* The proper name of the product shall be Normal Serum Albumin (Human). The product shall consist of a sterile solution of the albumin component of human blood.

(b) *Source material.* The source of Normal Serum Albumin (Human) shall be blood, plasma, serum, or placentas from human donors determined at the time of donation to have been free of disease-causative agents which are not destroyed or removed by the processing method, as determined by the donor's medical history and from such physical examination and clinical tests as appear necessary for each donor at the time the blood was obtained. The source material shall (1) be collected by a procedure approved by the Director, Division of Biologics Standards, which is suited to the kind of source material involved and designed to minimize the risk of contamination, (2) be identified adequately as to the donors and dates of collection, (3) not contain a preservative, and (4) be stored in a manner that will prevent contamination by microorganisms, pyrogens, and other impurities.

(c) *Additives in source material.* Source material shall contain no additives unless it is shown that the processing method yields a product free of the additives to such extent that the safety, purity, and potency of the product will not be adversely affected.

§ 73.3541 Processing.

(a) *Date of manufacture.* The date of manufacture shall be the date of placing the albumin into solution.

(b) *Processing method.* The processing method shall not affect the integrity of the albumin and shall have been shown to consistently yield a product which is safe for intravenous injection.

(c) *Microbial contamination.* All processing steps shall be conducted in a manner designed to prevent contamination with either microorganisms or other deleterious matter. Preservatives to inhibit growth or microorganisms shall not be used during processing.

(d) *Storage of albumin fraction.* The albumin fraction may be stored in bulk, as either a liquid concentrate or a solid, prior to further processing, provided it is stored in clearly identified hermetically closed vessels at a temperature of −10° C. or lower.

(e) *Heat treatment.* The albumin in solution shall be heated in bulk and/or in the final container at an attained temperature of 60° C.±0.5° C. for 10 hours.

(f) *Stabilizer.* Either 0.16 millimole sodium acetyltryptophanate, or 0.08 millimole sodium acetyltryptophanate and 0.08 millimole sodium caprylate shall be added per gram of albumin as a stabilizer.

§ 73.3542 Tests on final product.

(a) *Albumin content.* The final product shall be either a 25.0±1.5 percent or a 5.0±0.3 percent solution of albumin.

(b) *Protein composition.* At least 96 percent of the total protein in the final product shall be albumin as estimated by moving boundary electrophoresis at a 1.0 percent protein concentration in sodium diethylbarbiturate buffer at pH 8.6 and 0.1 ionic strength.

(c) *Hydrogen ion concentration.* The pH shall be 6.9±0.5 when measured in a solution of the final product diluted to contain one percent protein with 0.15 molar sodium chloride.

(d) *Sodium content.* The sodium content of the final product shall be 100–160 milliequivalents per liter.

(e) *Heme content.* The absorbance at 403 millimicrons of a solution of the final product diluted to contain 1 percent protein in a cell with a 1 cm. light path

$$\left[A\frac{1\%}{1\text{ cm.}}(403\text{ mu})\right]$$

shall not exceed 0.25.

(f) *Turbidity.* The final product shall be free of turbidity as determined by visual inspection and a test sample of at least one final container shall remain unchanged after heating at 57° C. for 50 hours.

§ 73.3543 General requirements.

(a) *Preservative.* The final product shall not contain a preservative.

(b) *Storage of bulk solution.* After all processing steps have been completed, sterile bulk solution shall be kept at a temperature not above 5° C. before filling into final containers.

(c) *Labeling.* In addition to the items required by other applicable labeling provisions of this part, the container and package labels shall indicate:

(1) The osmotic equivalent in terms of plasma.

(2) The caution: "Do not use if turbid."

(3) The need for additional fluids when 25 percent albumin is administered to a patient with marked dehydration.

(4) The albumin content, expressed as either a 5 percent or a 25 percent solution.

(5) The type of source material, expressed as venous blood or placentas, used to prepare the product.

(d) *Samples; protocols; official release.* For each lot of Normal Serum Albumin (Human) the following material shall be submitted to the Director, Division of Biologics Standards, National Institutes of Health, Bethesda, Md. 20014:

(1) A sample of no less than 200 ml. of the product distributed in no less than two final containers.

(2) A protocol which consists of a summary of the history of manufacture of each lot, including all results of each test for which test results are requested by the Director, Division of Biologics Standards.

Normal Serum Albumin shall not be issued by the manufacturer until notification of official release is received from the Director, Division of Biologics Standards.

§ 73.3544 Equivalent methods.

Modification of any particular manufacturing method or process or the conditions under which it is conducted as set forth in the additional standards relating to Normal Serum Albumin (Human) (§§ 73.3540 through 73.3543) shall be permitted whenever the manufacturer presents evidence that demonstrates the modification will provide assurances of the safety, purity, and potency of the Normal Serum Albumin (Human) that are equal to or greater than the assurances provided by such standards, and the Director, National Institutes of Health, so finds and makes such findings a matter of official record.

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

[FR Doc.72-9587 Filed 6-23-72;8:49 am]

[42 CFR Part 73]

BIOLOGICAL PRODUCTS

Additional Standards for Plasma Protein Fraction (Human)

Notice is hereby given that the Director, National Institutes of Health, proposes to amend Part 73 of the Public Health Service regulations by prescribing specific standards of safety, purity and potency for Plasma Protein Fraction (Human).

Inquiries may be addressed, and data, views, and arguments may be presented by interested parties, in writing, in triplicate, to the Director, Division of Biologics Standards, National Institutes of Health, Public Health Service, 9000 Rockville Pike, Bethesda, MD 20014. All comments received in response to this notice will be available for public inspection and copying in the Office of the Assistant to the Director, Division of Biologics Standards, Room 122, Building 29, National Institutes of Health, weekdays (Federal holidays excepted) between the hours of 8:30 a.m. and 5 p.m. All relevant material received not later than 45 days after publication of this notice in the FEDERAL REGISTER will be considered.

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

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

Dated: June 19, 1972.

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

1. Amend Subpart D of the table of contents by inserting in numerical sequence the following:

PLASMA PROTEIN FRACTION (HUMAN)

2. Amend Subpart D by adding in numerical sequence the following:

PLASMA PROTEIN FRACTION (HUMAN)

§ 73.3560 The product.

(a) *Proper name and definition.* The proper name of the product shall be Plasma Protein Fraction (Human). The product shall consist of a sterile solution of protein consisting of albumin and globulin, derived from human blood.

(b) *Source material.* The source of Plasma Protein Fraction (Human) shall be blood, plasma, or serum from human donors determined at the time of donation to have been free of disease-causative agents which are not destroyed or removed by the processing method, as determined by the donor's medical history and from such physical examination and clinical tests as appear necessary for each donor at the time the blood was obtained. The source material shall (1) be collected by a procedure approved by the Director, Division of Biologics Standards, which is suited to the kind of source material involved and designed to minimize the risk of contamination, (2) be identified adequately as to the donors and dates of collection, (3) not contain a preservative, and (4) be stored in a manner that will prevent contamination by microorganisms, pyrogens, and other impurities.

(c) *Additives in source material.* Source material shall contain no additives unless it is shown that the processing method yields a product free of the additives to such extent that the safety, purity, and potency of the product will not be adversely effected.

§ 73.3561 Processing.

(a) *Date of manufacture.* The date of manufacture shall be the date of placing the plasma protein fraction into solution.

(b) *Processing method.* The processing method shall not affect the integrity of the product and shall have been shown to consistently yield a product which:

(1) After heating at 60° C. for 10 hours does not show more than a 5 percent apparent increase in the components having an electrophoretic mobility similar to that of alpha globulin.

(2) Contains less than 5 percent protein with a sedimentation coefficient greater than 7.0 S.

(3) Is safe for intravenous injection.

(c) *Microbial contamination.* All processing steps shall be conducted in a manner designed to prevent contamination with either microorganisms or other deleterious matter. Preservatives to inhibit growth of microorganisms shall not be used during processing.

(d) *Storage of bulk fraction.* The plasma protein fraction may be stored in bulk as either a liquid concentrate or a solid prior to further processing, provided it is stored in clearly identified hermetically closed vessels at a temperature of −10° C. or lower.

(e) *Heat treatment.* The product in solution shall be heated in bulk and/or in the final container at an attained temperature of 60° C.±0.5° C. for 10 hours.

(f) *Stabilizer.* Either 0.16 millimole sodium acetyltryptophanate, or 0.08 millimole sodium acetyltryptophanate and 0.08 millimole sodium caprylate shall be added per gram of plasma protein fraction as a stabilizer.

§ 73.3562 Tests on final product.

(a) *Protein content.* The final product shall be a 5.0±0.3 percent protein solution.

(b) *Protein composition.* The total protein in the final product shall consist of at least 83 percent albumin, no more than 1 percent gamma globulin and no more than 16 percent of other globulins. Protein composition shall be estimated by moving boundary electrophoresis at a 1 percent protein concentration in sodium diethylbarbiturate buffer at pH 8.6 and 0.1 ionic strength.

(c) *Hydrogen ion concentration.* The pH shall be 7.0±0.3 when measured in a solution of the final product diluted to contain 1 percent protein with 0.15 molar sodium chloride.

(d) *Sodium content.* The sodium content of the final product shall be 100–160 milliequivalent per liter.

(e) *Potassium content.* The potassium content of the final product shall not exceed two milliequivalents per liter.

(f) *Turbidity.* The final product shall be free of turbidity as determined by visual inspection and a test sample of at least one final container shall remain unchanged after heating at 57° C. for 50 hours.

(g) *Heme content.* The absorbance at 403 millimicrons of a solution of the final product diluted to contain 1 percent protein in a cell with a 1 cm. light path

$$\left(A\frac{1\%}{1\text{ cm.}}(403\text{ mu})\right)$$

shall not exceed 0.25.

§ 73.3563 General requirements.

(a) *Preservative.* The final product shall not contain a preservative.

(b) *Storage of bulk solution.* After all processing steps have been completed, sterile bulk solution shall be kept at a temperature not above 5° C. before filling into final containers.

(c) *Labeling.* In addition to the items required by other applicable labeling provisions of this part, the container and package labels shall indicate:

(1) The osmotic equivalent in terms of plasma.

(2) The caution "Do not use if turbid."

(d) *Samples; protocols; official release.* For each lot of Plasma Protein Fraction (Human), the following material shall be submitted to the Director, Division of Biologics Standards, National Institutes of Health, Bethesda, Maryland 20014:

(1) A sample of no less than 200 ml. of the product distributed in no less than two final containers.

(2) A protocol which consists of a summary of the history of manufacture of each lot, including all results of each test for which test results are requested by the Director, Division of Biologics Standards.

Plasma Protein Fraction (Human) shall not be issued by the manufacturer until notification of official release is received from the Director, Division of Biologics Standards.

§ 73.3564 Equivalent methods.

Modification of any particular manufacturing method or process or the conditions under which it is conducted as set forth in the additional standards relating to Plasma Protein Fraction (Human) (§§ 73.3560 through 73.3563) shall be permitted whenever the manufacturer presents evidence that demonstrates the modification will provide assurances of the safety, purity and potency of Plasma Protein Fraction (Human) that are equal to or greater than the assurances provided by such standards, and the Director, National Institutes of Health, so finds and makes such findings a matter of official record.

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

[FR Doc.72-9586 Filed 6-23-72;8:49 am]

DEPARTMENT OF TRANSPORTATION

Coast Guard

[33 CFR Part 117]

[CGD 72-117P]

CARRABELLE RIVER, FLA.

Proposed Drawbridge Operation Regulations

The Coast Guard is considering revising, the regulations for the U.S. Highway 98 and 319 (State Road 30) drawbridge across the Carrabelle River at Carrabelle, Fla. to require that the draw open on signal if at least 12 hours' notice has been given. This change is being considered because of infrequent openings for the passage of vessels (there were 5 openings from July 1970 through June 1971).

Interested persons may participate in this proposed rule making by submitting written data, views, or arguments to the Commander (oan), Eighth Coast Guard District, Customhouse, New Orleans 70130. Each person submitting comments should include his name and address, identify the bridge, and give reasons for any recommended change in the proposal. Copies of all written communications received will be available for examination by interested persons at the office of the Commander, Eighth Coast Guard District.

The Commander, Eighth Coast Guard District, will forward any comments received before July 28, 1972, with his recommendations to the Chief, Office of Marine Environment and Systems, who will evaluate all communications received and take final action on this proposal. The proposed regulations may be changed in the light of comments received.

In consideration of the foregoing, it is proposed that Part 117 of Title 33 of the Code of Federal Regulations, be amended by adding subparagraph (6–b) to paragraph (i) of § 117.245 to read as follows:

§ 117.245 Navigable waters discharging into the Atlantic Ocean south of and including Chesapeake Bay and into the Gulf of Mexico, except the Mississippi River and its tributaries and outlets; bridges where constant attendance of draw tenders is not required.

* * * * *

(i) * * *

(6–b) *Carrabelle River, Fla.* The draw shall open promptly on signal if at least 12 hours' notice has been given.

* * * * *

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

Dated: June 19, 1972.

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

[FR Doc.72-9572 Filed 6-23-72;8:47 am]

Federal Aviation Administration

[14 CFR Parts 25, 121]

[Docket No. 12006; Notice 72-15]

LARGE PASSENGER-CARRYING TURBOJET POWERED AIRPLANES

Rear Exit Security

The Federal Aviation Administration is considering rule making with respect to Parts 25 and 121 of the Federal Aviation Regulations to provide additional security on all large passenger-carrying turbojet powered airplanes operated under Part 121 by requiring that a means be provided to prevent the opening of central exits and tail cone exits during flight.

This proposed requirement would also apply to air travel clubs certificated under Part 123 and air taxi operators certificated under Part 135 when conducting operations governed by those Parts with the large airplanes specified.

Interested persons are invited to participate in the making of the proposed rule by submitting such written data, views, or arguments as they may desire. Communications should identify the regulatory docket or notice number and be submitted in duplicate to: Federal Aviation Administration, Office of the

General Counsel, Attention: Rules Docket CG–24, 800 Independence Avenue SW., Washington, DC 20591. All communications received on or before July 24, 1972, will be considered by the Administrator before taking action on the proposed rule. The proposals contained in this notice may be changed in the light of comments received. All comments submitted will be available, both before and after the closing date for comments in the Rules Docket for examination by interested persons.

In spite of concerted efforts made by the FAA and the air carriers, incidents continue to occur wherein the safety of the flight of aircraft engaged in passenger-carrying operations under Part 121 of the Federal Aviation Regulations has been jeopardized by persons intending to harm the crew or take command of the airplane. On a number of occasions in recent hijackings, the ventral exit of an airplane has been opened and a hijacker aboard has parachuted from the airplane through that exit. The agency recognizes that every possible step must be taken to deter persons from boarding aircraft for such a hijacking purpose. Accordingly, the FAA deems it appropriate to propose certain amendments to Parts 25 and 121.

Specifically, it is proposed to amend § 25.809 to provide that, when required by the operating rules, for any large passenger carrying turbojet powered airplane an approved means must be provided so that: (1) takeoff cannot be started if either the ventral exit or tail cone exit is not locked; and (2) neither the ventral exit nor the tail cone exit can be opened in flight.

A similar amendment is proposed to be made to § 121.310, to become effective with respect to persons conducting operations under Part 121 six months following its adoption.

However, it is to be noted that to achieve compliance with the proposed regulation both the ventral exit and tail cone exit would have to continue to meet all of the requirements applicable to their approval as emergency exits. Specifically, to achieve compliance, the conditions that would have to be met to obtain approval of modification to the locking mechanisms of these two exits are as follows:

(1) The mechanism must be locked while the airplane is aloft;

(2) Takeoff of the airplane cannot be started if either ventral or tail cone is not locked; and

(3) The exit must be available for use in the event of an emergency.

In summary, it is the purpose of these proposed amendments to Parts 25 and 121 to assure that, without changing the function of either the ventral exit or the tail cone exit as an emergency means of egress in the event of an accident, these exits will no longer be a means of exit during flight.

In consideration of the foregoing, it is proposed to amend Parts 25 and 121 of the Federal Aviation Regulations as follows:

1. By adding a new paragraph (j) to § 25.809 to read as follows:

§ 25.809 Emergency exit arrangement.

* * * * *

(j) When required by the operating rules for any large passenger-carrying turbojet powered airplane, an approved means must be provided so that—

(1) Takeoff cannot be started if either the ventral exit or tail cone exit is not locked; and

(2) Neither the ventral exit nor the tail cone exit can be opened in flight.

2. By adding a new paragraph (k) to § 121.310 to read as follows:

§ 121.310 Additional emergency equipment.

* * * * *

(k) After (6 months after effective date), on each large passenger-carrying turbojet powered airplane an approved means must be provided so that—

(1) Takeoff cannot be started if either the ventral exit or the tail cone exit is not locked; and

(2) Neither the ventral exit nor the tail cone exit can be opened in flight.

These amendments are proposed under the authority of sections 313(a), 601, 603, 604, and 605 of the Federal Aviation Act of 1958 (49 U.S.C. 1354(a), 1421, 1423, 1424, and 1425), and section 6(c) of the Department of Transportation Act (49 U.S.C. 1655(c)).

Issued in Washington, D.C., on June 20, 1972.

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

[FR Doc.72–9549 Filed 6–23–72;8:46 am]

[14 CFR Part 71]

[Airspace Docket No. 72–SW–36]

CONTROL ZONE

Proposed Alteration

Correction

In F.R. Doc. 72–8985 appearing on page 11897 in the issue for Thursday, June 15, 1972, the latitude "36°30'43" N.", in the second line of the fourth paragraph, should read "36°20'43" N."

[14 CFR Part 71]

[Airspace Docket No. 72–EA–61]

TRANSITION AREA

Proposed Designation

Correction

In F.R. Doc. 72–9071 appearing at page 11978 of the issue of Friday, June 16, 1972, the following should be inserted between lines 21 and 22 of the description of the transition area for Hornell, N.Y.: "within a 13-mile radius of the center of the airport, extending clockwise from a 157° bearing to a 252° bearing from the airport;".

[14 CFR Parts 71, 91]

[Docket No. 9471; Notice 72–12A]

RADAR BEACON TRANSPONDER REQUIREMENTS

Extension of Comment Period

On April 15, 1972, a supplemental notice of proposed rule making was published in the FEDERAL REGISTER (Notice 72–12; 37 F.R. 7527), which proposed to require aircraft operating in certain designated controlled airspace to be equipped with an improved transponder having both a Mode 3/A, 4096 code capability, and a Mode C automatic altitude reporting capability.

The proposal was correct as published in the FEDERAL REGISTER. However, the FAA mailing copies of the supplemental notice of proposed rule making, which were sent to the public for comment, did not contain the entire proposed amendment to § 91.90. This could mislead persons whose comments were based on the mailed copies. A correction is now being mailed to all persons to whom the original supplemental notice of proposed rule making was mailed by the FAA.

In view of this correction, the FAA believes that interested persons should be afforded additional time to submit comments. Therefore, the deadline for comments is extended from June 29, 1972, to July 21, 1972.

Issued in Washington, D.C., on June 13, 1972.

WILLIAM M. FLENER,
Director, Air Traffic Service.

[FR Doc.72–9548 Filed 6–23–72;8:45 am]

National Highway Traffic Safety Administration

[49 CFR Part 571]

[Docket No. 70–17; Notice 5]

AIR BRAKE SYSTEMS

Notice of Proposed Rule Making

The purpose of this notice is to propose amendments to Federal Motor Vehicle Safety Standard No. 121, Air Brake Systems, dealing with the loading conditions for truck tractors and with the wind velocity test conditions for all vehicles.

In the notice of rule making published February 24, 1972 (37 F.R. 3905), the NHTSA stated its intent to modify the GVWR loading conditions for truck tractors to test them with a trailer rather than in the bobtail configuration. In proposing an amendment to this effect, the agency has tried to strike a balance between uniformity and convenience. The specifications for the trailer must be precise enough that manufacturers can ascertain the limits of the range of trailers with which their vehicles may be tested, but at the same time the range of trailers must not be so small that some tractors would have no appropriate trailer nor so closely tailored

that each tractor would require a different and unique trailer.

Accordingly, the proposed amendment would establish general specifications for the performance of the trailer, including a specification for conformity with Standard 121 and a stopping distance specification to insure that the trailer's brakes will be doing their share of the work during the stopping distance tests. A range is specified for the gross axle weight ratings of the trailer in relation to the ratings of the tractor axles and the range of trailer lengths is specified as a function of the tractor's wheelbase. Comments are particularly invited on the appropriateness of these ranges. Also proposed is a burnishing procedure designed to accommodate trailers with new linings as well as those that have been previously burnished and used.

On the subject of the wind conditions for road tests, experience elsewhere in the NHTSA testing programs indicates that the standard may be more efficiently enforced if the wind velocity presently specified in S6.1.6 is changed from zero to a velocity that represents the wind likely to be encountered on most testing days. Review of the prevailing conditions on several tracks indicates that 15 m.p.h. is a reasonable maximum velocity. The direction of the wind is quite variable at most locations and it is therefore proposed that the wind be at any velocity up to 15 m.p.h. in any direction.

Manufacturers should understand that these conditions represent the outer limits of NHTSA compliance testing, and are not permissive conditions for manufacturer tests. Thus, manufacturer test results should be obtained under, or corrected to, the most adverse conditions within the limits specified.

It is therefore proposed that S6.1 of Motor Vehicle Safety Standard No. 121 (49 CFR 571.121) be amended to read as follows:

1. The following section would be added:

S6.1.2 When a truck tractor is tested at its gross vehicle weight rating, it is loaded by coupling it to a flatbed semitrailer as follows:

S6.1.2.1 The trailer conforms to this standard, and has a length from its rearmost axle to its kingpin of from 1.5 to 3 times the tractor's wheelbase. The sum of the GAWR's for the trailer's axles is within ±25 percent of the sum of the GAWR's for the tractor's nonsteerable axles.

S6.1.2.2 The trailer's brakes are burnished in accordance with S6.1.1. If the linings are new, 400 burnish stops are conducted. If the linings have been previously burnished and the brakes have been used after burnishing, 35 burnish stops are conducted.

S6.1.2.3 The trailer is loaded so that the trailer's axles and the tractor's nonsteerable axles are loaded to their respective GAWR's and the center of gravity of the trailer is at a height above ground of 72 inches or less. The tractor's fifth wheel is at any position to which it can be adjusted.

S6.1.2.4 With the tractor-trailer combination loaded in accordance with S6.1.2.3, the trailer's service brakes are capable of stopping the combination from 45 m.p.h. under the conditions of S6.1, without assistance from the tractor's brakes, in the distance found by multiplying the distance specified for the service brakes in Table II by the ratio

$$\frac{\text{Weight on all axles of combination}}{\text{Weight on trailer axles}}$$

2. The sections presently numbered S6.1.2 through S6.1.9 would be renumbered S6.1.3 through S6.1.10.

3. The present section S6.1.6, renumbered as S6.1.7, would be amended as follows:

S6.1.7 The wind is at any velocity up to 15 m.p.h. in any direction.

Proposed effective date: September 1, 1974.

Interested persons are invited to submit comments on the proposal. Comments should refer to the docket number and be submitted to: Docket Section, National Highway Traffic Safety Administration, Room 5221, 400 Seventh Street SW., Washington, DC 20590. It is requested but not required that 10 copies be submitted.

All comments received before the close of business on August 25, 1972, will be considered, and will be available for examination in the docket at the above address both before and after the closing date. To the extent possible, comments filed after the above date will also be considered by the Administration. However, the rulemaking action may proceed at any time after that date, and comments received after the closing date and too late for consideration in regard to the action will be treated as suggestions for future rulemaking. The Administration will continue to file relevant material, as it becomes available, in the docket after the closing date, and it is recommended that interested persons continue to examine the docket for new material.

(Secs. 103, 112, 119, National Traffic and Motor Vehicle Safety Act, 15 U.S.C. 1392, 1401, 1407; delegations of authority, 49 CFR 501.8)

Issued on June 21, 1972.

ROBERT L. CARTER,
Associate Administrator,
Motor Vehicle Programs.

[FR Doc.72-9649 Filed 6-22-72;11:00 am]

DEPARTMENT OF LABOR

[41 CFR Part 29-1]

SMALL BUSINESS CONCERNS

Designation of Responsible Official for Small Business Program Planning and Establishing Procedures for Program Implementation

Notice is hereby given that the Secretary of Labor proposes to revise Part 29-1.7 of Title 41 of the Code of Federal Regulations, presently entitled "Small Business Concerns." The principal purpose of the revision is to designate the responsible official for small business program planning and establishing procedures for program implementation.

Interested persons are invited to submit written comments, suggestions, or objections regarding the proposed revisions to the Assistant Secretary for Administration and Management, Department of Labor, Washington, D.C. 20210, within 30 days after the date of publication of this notice in the FEDERAL REGISTER.

It is, therefore, proposed to revise Subpart 29-1.7 of Title 41 in the manner set forth below.

Subpart 29-1.7—Small Business Concerns

AUTHORITY: The provisions of this Subpart 29-1.7 issued under 80 Stat. 379, 5 U.S.C. 301, 63 Stat. 389, 40 U.S.C. 486(c).

§ 29-1.702 Small business policies.

The Department of Labor fully supports the Government's small business program for placing a fair proportion of its private sector purchases and contracts for supplies, research and development, and services, including contracts for maintenance, repair and construction, with small business concerns and increasing small business participation in procurement by the Department.

§ 29-1.704 Agency program direction and operation.

§ 29-1.704-1 Small business adviser.

The Associate Assistant Secretary for Financial Management, or his designee, under the policy direction of the Assistant Secretary for Administration and Management, is designated at DOL's small business adviser. The small business adviser will have the responsibility, as a collateral duty, of establishing and implementing the small business program and guiding the small business specialists in executing the program. He will be the central point of contact for inquiries concerning the small business

program from industry, the Small Business Administration (SBA), the Congress, and others. His duties shall include developing a plan of operation to increase the share of contracts awarded to small business by DOL.

§ 29–1.704–2 Small business specialists.

(a) Each head of a procuring activity shall appoint by name and in writing a small business specialist to perform the duties set forth in this section on either a full-time or part-time basis. Only individuals possessing the necessary business acumen, knowledge of DOL procurement policies and procedures, and program background to effectively accomplish the objective of the small business program shall be considered for the appointment. In any instance where the appointee's duty as small business specialist is to be a part-time basis, the appointment shall clearly indicate that the part-time nature of the duty shall in no way relieve the individual from full responsibility for effectively accomplishing the activities of small business program requirements.

(b) The small business specialist shall perform such of the following duties to execute a small business program as are appropriate for his procurement activity.

(1) Develop a plan of operation to increase the share of contracts and purchase orders awarded to small business concerns.

(2) Promote the minority business enterprise program through the Small Business Administration 8(a) procedures (see § 29–1.713).

(3) Review the types and classes of items and services to be purchased to determine the applicability of small business set-asides or class set-asides.

(4) Plan for locating capable small business sources for current and future procurements.

(5) Develop adequate small business competition on all appropriate procurements.

(6) Examine bidders lists to assure that small business firms are identified and adequately represented on all procurements.

(7) Assure that small business firms are identified on bid abstracts.

(8) Assure that restrictive specifications or other actions which prevent small business participation are modified to permit small business participation where adequate performance can be obtained.

(9) Assist and counsel small business firms with individual problems.

(10) Provide for counseling nonresponsive or nonresponsible small business bidders to help qualify them for future awards.

(11) Screen proposed large procurements to determine the possibility of separation or breakout of components suitable for purchase from small business firms.

(12) Attend conferences and meetings publicizing the small business program.

(13) Insure that proposed procurements are publicized in the Commerce Business Daily.

(14) Set goals for small business and 8(a) purchase orders and contracts.

(15) Assure preference to small business firms on multiple award Federal supply schedules.

(16) Promote the award of research contracts to small business firms.

§ 29–1.704–3 Responsibilities of the procurement office.

(a) Each procurement office shall use its best efforts to identify goods and services where a potential exists for increasing the small business share of contract awards. Each procurement office shall, to the maximum extent feasible, arrange for the making of unilateral small business set-asides on all contracting actions which qualify. The procurement office shall take appropriate actions to provide maximum advance and current information, assistance and counseling of such nature and extent as to enable small business concerns to take full advantage of available DOL business opportunities and to compete for contracts.

(b) The procurement office shall insure that bidder's mailing lists and Federal supply schedules identify small business concerns and that all solicitations state the applicable small business size standard and produce classification.

(c) The responsibilities set forth in paragraph (a) are intended to complement the responsibilities of the small business specialists.

§ 29–1.706 Procurement set-asides for small business.

§ 29–1.706–50 Procurement set-asides for small business when an SBA representative is not available.

§ 29–1.706–51 General.

If no SBA representative is available, the small business specialists shall initiate recommendations to the contracting officer for small business set-asides with respect to individual procurements or classes of procurements or portions thereof.

§ 29–1.706–52 Review of set-aside recommendations initiated by small business specialist.

When a small business specialist has recommended that all, or a portion, of an individual procurement or class of procurements be set aside for small business, the contracting officer shall promptly either (a) concur in the recommendation, or (b) disapprove the recommendation, stating in writing his reasons for disapproval. If the contracting officer disapproves the recommendation of a small business specialist, the small business specialist may appeal in writing to the head of the procuring activity whose decision shall be final.

§ 29–1.706–53 Withdrawal or modification of set asides.

Withdrawals or modification of an individual or class set-aside which was originally established upon the recommendation of the small business specialist may be proposed by the contracting officer by giving notice, containing the reason for the proposed withdrawal or modification, to the small business specialist. If the small business specialist does not agree to a withdrawal or modification, he may appeal to the head of the procuring activity, whose decision in writing shall be final.

§ 29–1.706–54 Small business set-asides for proposed procurement.

(a) Each proposed procurement for construction estimated to cost between $2,500 and $500,000 shall be set aside for exclusive small business participation. Such set-asides shall be considered to be unilateral small business set-asides, and shall be withdrawn, in accordance with the procedures of §§ 1–1.706–3 and 29–1.706–53, only if found not to serve the best interest of the Government.

(b) Small business set-aside preferences for construction procurements in excess of $500,000 shall be considered on a case-by-case basis.

§ 29–1.708 Certificate of competency program.

§ 29–1.708–3 Conclusiveness of certificate of competency.

If a contracting officer has doubt as to a firm's ability to perform, notwithstanding the issuance of a certificate of competency, he shall refer the matter, with his recommendation, to the Associate Assistant Secretary for Financial Management for his decision. If there is concurrence in a contracting officer's recommendation of not to make an award to the certificate of competency holder, the Associate Assistant Secretary for Financial Management shall request SBA to consider withdrawal of the certificate.

§ 29–1.709 Records and reports.

A semiannual small business report shall be prepared by each procuring activity in accordance with § 1–16.804–3 of this title and shall be forwarded to the Associate Assistant Secretary for Financial Management, Office of the Assistant Secretary for Administration, Attention: OPP, not later than the 25th day following the end of the 6-month and 12-month periods covered respectively by the report.

§ 29–1.713 Contracts with the Small Business Administration.

§ 29–1.713–2 Policy.

(a) It is the policy of DOL to give full consideration to contracting with SBA in order to foster or assist in the establishment or the growth of small business

concerns as designated by the SBA so that these concerns may become self-sustaining, competitive entities within a reasonable period of time. The SBA is empowered to arrange for the performance of such contracts by negotiating or otherwise letting contracts to small business concerns or others.

(6) The SBA has delegated to its field offices authority to handle contracts and subcontracts under section 8(a) of the Small Business Act. Heads of procuring activities in Washington, D.C., and the regional offices should assure full cooperation with SBA in their efforts to place procurements with firms who are eligible for subcontract awards by SBA under section 8(a). They shall take the necessary steps to:

(1) Invite appropriate SBA field representatives to identify needs for 8(a) contracts and to provide for cooperation and assistance on the part of DOL in verifying the availability or nonavailability of requirements, funding, and other pertinent factors; and

(2) Propose any requirements which appear to offer potential opportunity for contracting with SBA under authority of section 8(a) of the Small Business Act, for consideration by appropriate SBA field representatives.

Signed at Washington, D.C., this 19th day of June 1972.

J. D. HODGSON,
Secretary of Labor.

[FR Doc.72-9589 Filed 6-23-72;8:49 am]

Notices

DEPARTMENT OF THE TREASURY

Office of the Secretary

U.S. SECURITIES BEARING FACSIMILE SIGNATURES OF FORMER SECRETARIES OF THE TREASURY

Authorization for Issuance

Pursuant to the provisions of 5 U.S.C. 301, in the issue of U.S. securities under the Second Liberty Bond Act, as amended, codified in title 31, Chapter 12, United States Code, I hereby authorized the use of all stocks on hand, or on order bearing the signature of any former Secretary of the Treasury, where (a) such securities are issued as an additional issue or under a continuing offer; and (b) such securities are to be issued pursuant to a new offer hereafter made and stocks therefor gearing my signature are not available for timely delivery.

This authorization shall be effectively immediately.

Dated: June 20, 1972.

[SEAL] GEORGE P. SHULTZ,
Secretary of the Treasury.

[FR Doc.72-9646 Filed 6-23-72;9:52 am]

BICYCLE SPEEDOMETERS FROM JAPAN

Determination of Sales at Less Than Fair Value

Information was received on June 9, 1971, that bicycle speedometers from Japan 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).

A "Withholding of Appraisement Notice" issued by the Commissioner of Customs is being published concurrently with this notice.

I hereby determine that for the reasons stated below, bicycle speedometers from Japan are being, or are likely to be, sold at less than fair value within the meaning of section 201(a) of the Act (19 U.S.C. 160(a)).

Statement of reasons on which this determination is based. The information before the Bureau indicates that the proper basis of comparison for fair value purposes is between purchase price and adjusted home market price of such or similar merchandise.

Purchase price was calculated by deducting inland freight from the exgodown selling price to the trading company in Japan.

Adjusted home market price was calculated by deducting inland freight from the delivered customer's premises price. Adjustments were made for differences in credit costs and packing and for differences in the merchandise.

Using the above criteria, purchase price was found to be lower than adjusted home market price.

The U.S. Tariff Commission is being advised of this determination.

This determination is published pursuant to section 201(c) of the Act (19 U.S.C. 160(c)).

[SEAL] EUGENE T. ROSSIDES,
Assistant Secretary of the Treasury.

JUNE 19, 1972.

[FR Doc.72-9565 Filed 6-23-72;8:46 am]

Bureau of Customs

BICYCLE SPEEDOMETERS FROM JAPAN

Withholding of Appraisement Notice

Information was received on June 9, 1971, that bicycle speedometers from Japan 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 was published in the FEDERAL REGISTER of July 14, 1971, on page 13102. 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 bicycle speedometers from Japan is less, or is likely to be less, than the foreign market value (section 205 of the Act; 19 U.S.C. 164).

Customs officers are being directed to withhold appraisement of bicycle speedometers from Japan 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 request 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 7 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 14 days from the date of publication of this notice in the FEDERAL REGISTER.

This notice, which is published pursuant to § 153.34(a), Customs Regulations, shall become effective upon publication in the FEDERAL REGISTER. It shall cease to be effective at the expiration of 3 months from the date of this publication, unless previously revoked.

[SEAL] LEONARD LEHMAN,
Acting Commissioner of Customs.

Approved: June 19, 1972.

EUGENE T. ROSSIDES,
Assistant Secretary of the Treasury.

[FR Doc.72-9564 Filed 6-23-72;8:46 am]

[T.D. 72-172]

COFFEE; SPECIAL CLASSES OF MERCHANDISE

Notice of Extension of Agreement and Import Quota From Nonmember Countries

Notice of extension of International Coffee Agreement of 1968 and import quota on coffee from nonmember countries of the International Coffee Organization.

Public Law 92-262 (86 Stat. 113), approved March 24, 1972, has amended section 302 of the International Coffee Agreement Act of 1968 (19 U.S.C. 1356f), by striking out the date of July 1, 1971, and inserting in lieu thereof October 1, 1973.

In accordance with the obligations of the United States under Article 45 of the International Coffee Agreement of 1968, the Department of State has requested that in the period October 1, 1971–September 30, 1972 (the 1971–72 coffee year), the Bureau of Customs authorize the entry of 5,026,488 pounds of green coffee of nonmember origin.

Coffee entered on and after October 1, 1971, has been charged to this quota, and the quota has been filled. Upon the recommendation of the Department of State, however, coffee exported from nonmember countries of origin on a continuous voyage to the United States on or before February 29, 1972, shall be permitted entry irrespective of the quota limitation.

[SEAL] LEONARD LEHMAN,
Acting Commissioner of Customs.

Approved: June 15, 1972.

EUGENE T. ROSSIDES,
Assistant Secretary of the Treasury.

[FR Doc.72-9566 Filed 6-23-72;8:46 am]

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[Docket No. B-542]

LEONARD A. EUGLEY

Notice of Loan Application

JUNE 19, 1972.

Leonard A. Eugley, South Bristol, Maine 04568, has applied for a loan from the Fisheries Loan Fund to aid in financing the purchase of a new wood vessel, about 35 feet in length, to engage in the fishery for lobsters and shrimp.

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

ROBERT W. SCHONING,
Acting Director.

[FR Doc.72-9575 Filed 6-23-72;8:48 am]

[Docket No. G-533]

WILSON AND MABEL C. HERRING

Notice of Loan Application

JUNE 19, 1972.

Wilson Herring and Mabel C. Herring, 2409 East Ida Street, Tampa, FL 33610, have applied for a loan from the Fisheries Loan Fund to aid in financing the purchase of a used wood vessel, about 73 feet in length, to engage in the fishery for shrimp.

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

ROBERT W. SCHONING,
Acting Director.

[FR Doc.72-9576 Filed 6-23-72;8:48 am]

YELLOWFIN TUNA FISHING IN EASTERN PACIFIC OCEAN BY PURSE SEINE VESSELS

Reversion of Incidental Catch Rate

Notice of reversion is hereby given pursuant to § 280.7(b)(2), Title 50, Code of Federal Regulations, as follows:

At 0800 hours, local time at port of departure on Saturday, June 24, 1972, the incidental catch rate of yellowfin tuna for purse seine vessels of 301–400 short tons carrying capacity will revert to fifteen percent (15%). On the basis of the catch and present catch rate, as of that date the amount of yellowfin tuna caught, during the closed season, by purse seine vessels of 301–400 short tons carrying capacity will have reached 900 tons as provided in § 280.7(b)(2), Title 50, Code of Federal Regulations.

Issued at Washington, D.C., and dated June 21, 1972.

WILLIAM F. ROYCE,
Acting Director, National Marine Fisheries Service.

[FR Doc.72-9630 Filed 6-23-72;8:50 am]

ATOMIC ENERGY COMMISSION

[Dockets Nos. 50-289; 50-320]

METROPOLITAN EDISON CO., AND JERSEY CENTRAL POWER & LIGHT CO.

Notice of Availability of Applicants' Revised Environmental Report and AEC's Draft Environmental Statement for Three Mile Island Nuclear Station, Units 1 and 2

Pursuant to the National Environmental Policy Act of 1969 and the Atomic Energy Commission's regulations in Appendix D to 10 CFR Part 50, notice is hereby given that a revised report entitled "Metropolitan Edison Company, Jersey Central Power & Light Company Environmental Report Operating License Stage, Three Mile Island Nuclear Station Unit 1 and Unit 2," and "Amendment No. 1 to the Three Mile Island Nuclear Station Environmental Report," (collectively the report) submitted by the Metropolitan Edison Co., has been placed in the Commission's Public Document Room at 1717 H Street NW., Washington, D.C., and in the Government Publications Section, State Library of Pennsylvania, Box 1601 (Education Building), Harrisburg, Pa. 17126. The report has also been made available at the Pennsylvania State Planning Board, 503 Finance Building, State Capitol, Harrisburg, Pa. 17120, and at the Tri-County Regional Planning Commission, 341 South Cameron Street, Harrisburg, PA 17101.

The report discusses environmental considerations related to the Three Mile Island Nuclear Station, Units 1 and 2 located on the company's site on Three Mile Island in the Susquehanna River, Dauphin County, Pa.

The report has been analyzed by the Commission's Directorate of Licensing, and a draft environmental statement on the environmental considerations related to the Three Mile Island Nuclear Station, Units 1 and 2, and has been prepared and has been made available at the locations designated above. Copies of the draft environmental statement on environmental considerations may be obtained upon request addressed to the U.S. Atomic Energy Commission, Washington, D.C. 20545, Attention: Deputy Director for Reactor Projects, Directorate of Licensing.

Pursuant to Appendix D to 10 CFR Part 50, interested persons may, within seventy-five (75) days from date of publication of this notice in the FEDERAL REGISTER, submit comments for the Commission's consideration on the report, the draft environmental statement, and on the proposed issuance of an operating license for the Three Mile Island Nuclear Station, Units 1 and 2. In addition, interested persons may, within thirty (30) days from the date of publication of this notice in the FEDERAL REGISTER, submit comments for the Commission's consideration on the report, the draft environmental statement, and on whether the construction permit authorizing construction of the Three Mile

Island Nuclear Station, Units 1 and 2, should be continued, modified, terminated, or appropriately conditioned to protect environmental values.

Federal and State agencies, are being provided with copies of the report and the draft detailed statement (local agencies may obtain these documents on request), and when comments thereon of the Federal, State, and local officials are received, they will be made available for public inspection at the above-designated locations. Comments on the draft environmental statement on environmental considerations from interested members of the public should be addressed to the U.S. Atomic Energy Commission, Washington, D.C. 20545, Attention: Deputy Director for Reactor Projects, Directorate of Licensing.

Dated at Bethesda, Md., this 21st day of June 1972.

For the Atomic Energy Commission.

A. SCHWENCER,
Acting Assistant Director for Pressurized Water Reactors, Directorate of Licensing.

[FR Doc.72-9658 Filed 6-23-72;8:52 am]

[Docket No. 50-367]

NORTHERN INDIANA PUBLIC SERVICE CO.

Notice of Reconstitution of Board

In the matter of Northern Indiana Public Service Co., Bailly Generating Station, Nuclear 1.

Robert M. Lazo, Esq., was Chairman of the Board established to consider the above application. Because of other commitments, he is unable to continue to serve as Chairman of this proceeding. James R. Yore, Esq., the Alternate Chairman, because of other commitments is unable to serve in place of Mr. Lazo.

Accordingly, the Commission has appointed Jerome Garfinkel, Esq., as Chairman and Elizabeth J. Bowers, Esq., as Alternate Chairman for this proceeding.

Dr. Richard L. Doan, who was a member of this Board, has advised that he is unable to continue in his duties as a member of the Atomic Safety and Licensing Board Panel and has regretfully resigned. Therefore, he is unable to continue to serve in this proceeding. The Commission has appointed Dr. Walter H. Jordan a member of the Board in place of Dr. Doan.

Dated at Washington, D.C., this 20th day of June 1972.

JAMES R. YORE,
Executive Secretary, Atomic Safety and Licensing Board Panel.

[FR Doc.72-9574 Filed 6-23-72;8:48 am]

[Docket No. 50-185]

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

Notice of Issuance of Amendment to Facility License

The Atomic Energy Commission (the Commission) has issued, effective as of the date of issuance, Amendment No. 1 to Facility License No. R-93 dated August 1, 1963. The license presently authorizes the National Aeronautics and Space Administration to possess, use, and operate the mockup reactor located at the Plum Brook Reactor Facility site at Sandusky, Ohio, at power levels up to 100 kilowatts (thermal). The amendment extends the expiration date to June 30, 1982.

The Commission has found that the application for the amendment complies with the requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's regulations published in 10 CFR Chapter I. The Commission has made the findings required by the Act and the Commission's regulations which are set forth in the amendment, and has concluded that the issuance of the amendment will not be inimical to the common defense and security or to the health and safety of the public. The Commission has also found that prior public notice of this amendment is not required since the amendment does not present significant hazards considerations different from those previously evaluated.

Within fifteen (15) days from the date of publication of the notice in the FEDERAL REGISTER, the applicant may file a request for a hearing and any person whose interest may be affected by this proceeding may file a petition for leave to intervene. Requests for a hearing and petitions to intervene shall be filed in accordance with the Commission's rules of practice in 10 CFR Part 2. If a request for a hearing or a petition for leave to intervene is filed within the time prescribed in this notice, the Commission will issue a notice of hearing or an appropriate order.

For further details with respect to this amendment, see (1) the licensee's application for license amendment dated April 17, 1972, and (2) the amendment to facility license, which are available for public inspection at the Commission's Public Document Room at 1717 H Street, NW., Washington, D.C. A copy of the amendment may be obtained upon request sent to the Atomic Energy Commission, Washington, D.C. 20545, Attention: Deputy Director for Reactor Projects, Directorate of Licensing.

Dated at Bethesda, Md., this 14th day of June 1972.

For the Atomic Energy Commission.

DONALD J. SKOVHOLT,
Assistant Director for Operating Reactors, Directorate of Licensing.

[FR Doc.72-9573 Filed 6-23-72;8:47 am]

CIVIL AERONAUTICS BOARD

[Dockets Nos. 24555; 22859; Order 72-6-69]

AIR FREIGHT RATES

Order of Suspension and Investigation

Adopted by the Civil Aeronautics Board at its office in Washington, D.C., on the 15th day of June 1972. Minimum charges per air freight shipment, Docket 24555; domestic air freight rate investigation, Docket 22859.

In its decision in Minimum Charges per Shipment of Air Freight, Docket 20398, Order 72-4-105, served April 21, 1972, the Board found, inter alia, that "The general commodity minimum charges which are based on the charge for 50 pounds are unjust and unreasonable, and therefore unlawful, and should be canceled." The carriers were given 60 days to conform with this finding, such action to be taken on not less than 30 days' notice.

Pursuant to the above finding, the airlines, in tariff revisions bearing the issue dates of May 12 and 19, and marked to become effective June 20, 1972, propose to cancel or revise their local minimum charges. The filings of the carriers can be divided into two groups. One group involves the replacement of the current 50-pound rule with a scale of minimum dollar charges ranging from $11 for 1,151 miles and over to $14 for longest hauls. The minimum charge for hauls between 1,151 and 1,350 miles would be $11, that between 1,351 and 1,650 miles $12, that between 1,651 and 2,000 miles $13 and that over 2,000 miles $14. The carriers filing these proposals are American Airlines, Inc. (American), Braniff Airways, Inc., Continental Air Lines, Inc., Northwest Airlines, Inc. (Northwest), Trans World Airlines, Inc. (TWA), United Air Lines, Inc., and Western Air Lines, Inc.

The second group of proposals consists of the cancellation of the minimum charges based on the 50-pound charges by Airlift International, Inc., Delta Air Lines, Inc., Eastern Air Lines, Inc., The Flying Tiger Line, Inc., Frontier Airlines, Inc., National Airlines, Inc., Northeast Airlines, Inc., Ozark Air Lines, Inc., Piedmont Aviation, Inc., and Seaboard World Airlines, Inc. This action leaves a $10 minimum charge in effect.

Hughes Air Corp., doing business as Air West, proposes to increase its minimum charge from $9 to $10 per shipment.

In support of their proposals, the carriers filing the scale of $11 to $14 generally assert that they are in accordance with the Board's decision, which states, inter alia, "In abolishing the 50-pound rule, we do not mean to imply that minimum charges for small shipments must be in the form of a flat dollar sum. It may well be that some alternate system of pricing could be devised for small shipments which will more accurately reflect the length of haul and the size of particular shipments." Certain of the carriers further state that their proposals recoup revenues that would be

reduced by cancellation of the 50-pound rule, revenues badly needed because of their unfavorable all-cargo financial results, and that inflationary pressures have increased the costs upon which the Board relied in its decision.

Only some of the carriers, American, Northwest, and TWA, purport to justify the proposed scale with cost figures by size of shipment and length of haul. But even the support of these three carriers is inadequate chiefly because it is essentially based upon the costs presented to the Board in the Minimum Charge Case, which the Board's decision criticized as follows:

> There is considerable controversy between the Bureau [of Economics] and the carrier parties as to the costs against which the rates should be measured. The Bureau claims that carrier costs are overstated for a number of reasons: Inter alia, low all-cargo load factors (ranging down to 41.6 percent for TWA), the failure of some carriers to consider the higher density and lower priority of freight, because certain carriers allocated some types of noncapacity costs on the basis of ton-miles, and because other noncapacity costs were in some instances allocated on a per shipment basis, which ignores cost differences as between large and small shipments. In view of the above, we find on this record that the weighted average carrier costs used by the examiner overstate small shipment costs. (Footnote omitted.)

Although American adjusted its costs to reflect a 60-percent load factor, which it stated is in accordance with the view of the Bureau of Economics, it apparently made no adjustment in its costs, e.g., to reflect different sizes of shipments. The costs here submitted by Northwest have been calculated on the same basis as used in the Minimum Charge Case. TWA made no adjustment for its low load factor.

We recognize that in its Minimum Charge Case decision, the Board ultimately relied heavily on American's cost presentation in support of its finding the $10 charge not unreasonable. However, since these rates are charged by all the carriers, any changes in the rates found not unreasonable in that case should not be permitted on the basis of one carrier's presentation. In our judgment a broader showing and justification is required for as pervasive a rate change as has been proposed and we will therefore suspend all the proposed scale rate charges pending investigation.

In the above circumstances and upon consideration of all other relevant factors, the Board finds the proposed minimum dollar charges ranging between $11 and $14 per shipment may be unjust, unreasonable, unjustly discriminatory, unduly preferential, unduly prejudicial, or otherwise unlawful and should be investigated. (These charges would also automatically be under investigation in the Domestic Air Freight Rate Investigation, Docket 22859.) The Board further concludes that these charges should be suspended pending investigation. As indicated in Appendix A, this suspension does not stay the cancellation in the Domestic Air Freight Investigation of the presently effective minimum charges subject to the 50-pound rule and will result in the application of the current dollar minimum charge of $10.

The remaining proposals will be permitted to become effective, pursuant to the Board's decision in Docket 20398. These proposals will also be automatically under investigation in Docket 22859.

Accordingly, pursuant to the Federal Aviation Act of 1958, and particularly sections 204(a) and 1002 thereof:

It is ordered, That:

1. An investigation is instituted to determine whether the minimum charges exceeding $10 between points in the continental United States and the District of Columbia on the pages listed in Appendix A hereto are or will be unjust, unreasonable, unjustly discriminatory, unduly preferential, unduly prejudicial, or otherwise unlawful, and if found to be unlawful, to determine and prescribe the lawful minimum charges.

2. Pending hearing and decision by the Board, all minimum charges exceeding $10 between points in the continental United States and the District of Columbia on the pages listed in Appendix A[1] hereto are suspended and their use deferred to and including September 17, 1972, unless otherwise ordered by the Board, and that no changes be made therein during the period of suspension except by order or special permission of the Board;

3. The proceeding herein, designated Docket 24555, be assigned before an examiner of the Board at a time and place to be designated; and

4. Copies of this order shall be filed with the tariffs and served upon American Airlines, Inc., Braniff Airways, Inc., Continental Air Lines, Inc., Northwest Airlines, Inc., Trans World Airlines Inc., United Air Lines, Inc., and Western Air Lines, Inc., which are hereby made parties to Docket 24555.

This order will be published in the FEDERAL REGISTER.

By the Civil Aeronautics Board.

[SEAL] HARRY J. ZINK,
Secretary.

[FR Doc.72-9611 Filed 6-23-72;8:50 am]

[Docket No. 24504; Order 72-6-87]

INTERSTATE AIRMOTIVE, INC.

Order Regarding Certificate of Public Convenience and Necessity for Supplemental Transportation

Adopted by the Civil Aeronautics Board at its office in Washington, D.C., on the 21st day of June 1972.

By Order 72-5-97, dated May 26, 1972, the Board instituted an investigation of Interstate Airmotive, Inc. to determine whether that carrier's certificates should be altered, amended, modified, suspended, or revoked for failure to comply with the continuing service and fitness requirements of section 401(n) of the Act. The order also directed interested persons to show cause within 10 days why the Board should not make final its tentative findings and conclusions that Interstate's certificates should be suspended during the pendency of the investigation.

On June 5, 1972, Interstate filed its response to Order 72-5-97, objecting to suspension of its certificates during the pendency of the investigation.[1] Interstate alleges that there are unusual circumstances which constitute good cause why its operating authority should not be suspended. Specifically, Interstate alleges that after it received its certificates the following events coming in rapid succession adversely affected its business: The country entered a recession; adverse publicity resulted from the accident involving the Wichita State University football team; the company was forced to cease operations for 6 weeks and reorganize, thus losing all advance bookings; and a significant portion of charter business and revenue that Interstate had counted on operating was diverted by an illegal operation.

Interstate further contends that its financial condition has not deteriorated to the level where it is unable to meet current obligations. In support of this, the carrier states that its business has been rising steadily since January of this year;[2] that June, July, and August are forecast to be busy and successful months;[3] that estimated operations will result in well over the minimum 500 revenue flight hours for the 6 months ending December 31, 1972; and that Interstate has reduced its current liabilities substantially since March 31, 1972.[4]

Interstate also contends that there are unusual circumstances responsible for its failure to meet the Board's minimum service requirements. It states that its certificates limit its operations to a small portion of the United States and small charter groups; that the Board's requirements are designed to apply to supplementals whose authority is not so limited; that it is unrealistic to expect Interstate to meet the same standards; and that Interstate was forced to cut back its capacity because of a severe decline in traffic growth.

Finally, Interstate contends that if the Board suspends its certificates pending an investigation, it will be forced to go out of business.

Upon consideration of Interstate's response and other pertinent circumstances, the Board has decided that the public interest does not require the suspension of Interstate's certificates of public convenience and necessity during

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[1] Filed as part of the original document.

[1] Interstate states that it does not object to the institution of an investigation.

[2] It cites $71,000 in revenue earned and 183.15 revenue flight hours operated during the first 5 months of 1972.

[3] The carrier forecasts revenues of $90,000, $96,300, and $89,500, respectively, for the months of June, July, and August. The resultant net income for the 3 months is forecast to be $7,200, $14,900, and $15,500, respectively.

[4] The company accomplished this by issuing $41,400 in debentures to certain creditors.

the pendency of the investigation of that carrier's continuing fitness instituted by Order 72–5–97.[5] In view of Interstate's contention that it will be forced to go out of business if temporarily suspended, we believe it to be in the public interest to allow the carrier to continue operations under the current safeguards (escrow account) until the Board has the opportunity to review Interstate's fitness[6] upon a full evidentiary record. We shall proceed with the investigation instituted by Order 72–5–97.

Accordingly, we shall vacate that part of Order 72–5–97 which tentatively concluded that the public interest requires the suspension of Interstate's certificates during the pendency of the investigation of that carrier's continued fitness to operate under such certificates.

Accordingly, it is ordered, That:

1. Order 72–5–97 be and it hereby is vacated to the extent that it tentatively concluded that Interstate's certificates should be suspended during the pendency of the investigation instituted therein;

2. The investigation instituted by Order 72–5–97 will be assigned for expedited hearing before an Examiner of the Board at a time and place to be hereafter designated; and

3. A copy of this order shall be served upon Interstate Airmotive, Inc.

This order will be published in the FEDERAL REGISTER.

By the Civil Aeronautics Board.

[SEAL] HARRY J. ZINK,
Secretary.

[FR Doc.72-9612 Filed 6-23-72;8:50 am]

[Docket No. 2333; Order 72–6–61]

INTERNATIONAL AIR TRANSPORT ASSOCIATION

Order Regarding Specific Commodity Rates

Issued under delegated authority, June 14, 1972.

By Order 72–6–6, dated June 2, 1972, action was deferred, with a view toward eventual approval, on an agreement adopted by the Joint Conferences of the International Air Transport Association (IATA) relating to a specific commodity rate.

In deferring action on the agreement, 10 days were granted in which interested persons might file petitions in support of or in opposition to the proposed action. No petitions have been received within the filing period, and the tentative conclusions in Order 72–6–6 will herein be made final.

Accordingly, It is ordered, That:

Agreement CAB 23054, R–1, be and hereby is approved: *Provided,* That approval shall not constitute approval of the specific commodity description contained therein for purposes of tariff publication: *Provided further,* That tariff filings shall be marked to become effective on not less than 30 days' notice from the date of filing.

This order will be published in the FEDERAL REGISTER.

[SEAL] HARRY J. ZINK,
Secretary.

[FR Doc.72-9613 Filed 6-23-72;8:50 am]

[Docket No. 18078; Order 72–6–80]

TRANSATLANTIC AND TRANSPACIFIC MAIL RATES

Order To Show Cause

Adopted by the Civil Aeronautics Board at its office in Washington, D.C., on the 20th day of June 1972.

By petition filed January 28, 1972, American Airlines, Inc. (American), has requested that the service mail rates in effect for the U.S. transpacific air carriers be made applicable to the transpacific services provided by American on and after August 1, 1970. In support of this request the carrier states that pursuant to Order 69–7–104, dated July 17, 1969, American was issued a certificate for transpacific route 162 from domestic coterminals to Hawaii and beyond to American Samoa, Fiji, New Zealand, and Australia. Accordingly, American requests that the Board make the transpacific service mail rates established by Orders 68–9–8 and 68–9–9, as amended, applicable to the service provided by American on and after August 1, 1970.

In our opinion, the rates that have been found reasonable for other carriers performing similar services are also reasonable for American's service.[1] We therefore propose herein to establish such rates for American on and after December 2, 1970.

On August 1, 1970, the date on which American inaugurated its Pacific service, final mail rates were in effect that were applicable to its operations. Order 70–4–9, dated April 12, 1970, established space-available rates which applied with respect to the geographic points designated in the order.[2] As here pertinent, tenders of space-available mail involving Hawaii and American Samoa for which no other final rates have been established were covered by this order. The rates established by Order E–25610, dated August 28, 1967, applied to American's system for the transportation of all other mail.

That system rates apply to after-acquired routes is well-established,[3] as is the Board's lack of authority to change final mail rates retroactively.[4] Thus, in connection with its transpacific operations on August 1, 1970, all mail tendered to American would be subject to the rates established by Order E–25610 or 70–4–9, except for SAM mail, which would be subject to the rates established for that category of mail in Order E–26713. This situation existed until December 12, 1970, at which time the rates in Orders E–25610 and 70–4–9 were reopened.[5] Therefore, since December 12, 1970, temporary rates have existed for American insofar as its transpacific operations are concerned, until March 2, 1971.[6] Thus, for the period August 1, 1970, through December 11, 1970, any mail tendered to American on a space-available basis in its transpacific operations (except SAM mail) involving Hawaii and American Samoa would be subject to the rates established in Order 70–4–9. All other mail tendered to American in transpacific operations during such period would be subject to the rates established in Order E–25610.

Accordingly, in view of the foregoing and in order that American's service mail rates may be competitive with those applicable to other carriers providing transpacific service, the Board proposes to issue an order including the following findings and conclusions:

(1) On and after December 12, 1970, the fair and reasonable final service mail rates to be paid to American Airlines, Inc., for the transportation of mail over its transpacific routes, the facilities used and useful therefor, and the services connected therewith shall be as follows:

(a) For military ordinary mail, the current final service mail rate established for military ordinary mail by Order 68–9–8, September 4, 1968, as amended.

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[5] The carrier is placing deposits received from customers in an escrow account in accordance with the requirements of section 208.40 of the economic regulations. In addition, it appears that to summarily suspend Interstate's certificates would result in the disruption of the travel plans of persons proposing to travel with Interstate under its certificate authority.

[6] The Board's concern involves the financial fitness of Interstate. It is the Board's understanding that the safety aspects of Interstate's operations are being monitored closely by the Federal Aviation Administration (FAA) and that there are no present indications that Interstate's operations are violative of the FAA's safety requirements. In any event the FAA is empowered to take prompt action to suspend and/or revoke Interstate's operating certificate should it become apparent that the safety of Interstate's operations is compromised.

[1] Order 69–8–2, Aug. 1, 1969, extended the transpacific rates to The Flying Tiger Line, Inc., and Order 69–9–8, Sept. 2, 1969, made such rates applicable to Trans World Airlines, Inc.

[2] Other space-available rates applicable to American were the SAM rates which applied to all transportation of this mail (Order E–25654, Sept. 8, 1967, as amended by Order E–26713, Apr. 25, 1968), and a MOM rate which applied only in conjunction with the transportation of this category of mail to a limited number of points in Europe (Order 70–3–147, Mar. 30, 1970).

[3] Eastern Air Lines, Puerto Rico Mail Rates, 11 C.A.B. 479 (1950); States-Alaska Service Mail Rates, Order E–26334 (1968).

[4] Transcontinental & Western Air Lines, Inc. v. C.A.B., 336 U.S. 601 (1949).

[5] Order 70–12–48, Dec. 8, 1970.

[6] Order 71–6–32 amended Order E–25610 to limit the application of the rates in the latter order to specified points on American's system, effective Mar. 2, 1971. Also Order 71–6–32 made the Latin American rates established by Order 69–10–149 applicable to American's Latin American operations.

(b) For all mail matter other than specific mail matter for which rates are elsewhere established, the current final service mail rate established by Order 68-9-9, September 4, 1968, as amended.

(2) The foregoing findings and conclusions shall be implemented by the following amendments to Board orders:

(a) Order 68-9-8, dated September 4, 1968, as amended, shall be further amended as follows:

(i) By inserting the following sentence at the end of the paragraph on page 2 thereof:

"On and after December 12, 1970, the rate of compensation for the transpacific services of American Airlines, Inc., for this class of mail shall be 21.84 cents per ton-mile."

(ii) By amending the introductory sentence in footnote 3 to read as follows:

[3] "'Transpacific service' as used herein is defined as those services performed by Pan American, Northwest, Flying Tiger, TWA, and American over their respective routes:"

(b) Order 68-9-9, dated September 4, 1968, as amended, shall be further amended as follows:

(i) By inserting the following sentence before the last sentence of paragraph 1.C on page 2 thereof:

"On and after December 12, 1970, the transpacific services of American Airlines, Inc., shall be compensated at the rate of 28.8 cents per ton-mile."

(ii) By amending the introductory sentence in footnote 2 to read as follows:

[2] "'Transpacific service' as used herein is defined as those services performed by Pan American, Northwest, Flying Tiger, TWA, and American over their respective routes:"

(3) The service mail rates here fixed and determined are to be paid in their entirety by the Postmaster General.

Accordingly, pursuant to the Federal Aviation Act of 1958, and particularly sections 204(a) and 406 thereof, and pursuant to regulations promulgated in 14 CFR Part 302,

It is ordered, That:

1. All interested persons, and particularly American Airlines, Inc., and the Postmaster General, are directed to show cause why the Board should not fix, determine, and publish the final rates specified above as the fair and reasonable rates of compensation to be paid American Airlines, Inc., for the transportation of mail by aircraft, the facilities used and useful therefore, and the services connected therewith as specified above.

2. Further procedures herein shall be in accordance with 14 CFR Part 302, and if there is any objection to the rates or to the other findings and conclusions proposed herein, notice thereof shall be filed within ten days, and if notice is filed, written answer and supporting documents shall be filed within 30 days, after the date of service of this order.

3. If notice of objection is not filed within 10 days, or if notice is filed and answer is not filed within 30 days, after service of this order, all persons shall be deemed to have waived the right to a hearing and all other procedural steps short of a final decision by the Board, and the Board may enter an order incorporating the findings and conclusions proposed herein and fix and determine the final rates specified herein.

4. If answer is filed presenting issues for hearing, the issues involved in determining the fair and reasonable rates shall be limited to those specifically raised by the answer, except insofar as other issues are raised in accordance with Rule 307 of the Rules of Practice (14 CFR 302.307).

5. This order shall be served upon American Airlines, Inc., and the Postmaster General.

This order will be published in the FEDERAL REGISTER.

By the Civil Aeronautics Board.[1]

[SEAL] HARRY J. ZINK,
Secretary.

[FR Doc.72-9614 Filed 6-23-72;8:50 am]

[Docket No. 24553; Order 72-6-81]

WESTERN AIR LINES, INC.

Order Granting Exemption

Adopted by the Civil Aeronautics Board at its office in Washington, D.C., on the 20th day of June 1972.

By telegraphic application filed on June 15, 1972, Western Air Lines, Inc. (Western), requests an exemption from section 403 of the Federal Aviation Act of 1958 in order to transport, free of charge, 25 members of the news media from heavily populated points on Western's system, such as Los Angeles, San Francisco, San Diego, Salt Lake City, Denver, and Minneapolis/St. Paul to Rapid City, S. Dak.

In its application the carrier refers to the flash flood on June 9, 1972, which caused massive damage and loss of life in Rapid City, S. Dak., and to the declaration by the President of the United States of Rapid City as a major disaster area, and to the fact that the news concerning this catastrophe has received national dissemination. Western states that while the death and destruction caused by the flood cannot be minimized, damage was concentrated in a relatively narrow area. The great majority of tourist accommodations, tourist attractions, and camping facilities in the Black Hills area were not affected and have resumed normal operations.

The carrier states that the Governor of South Dakota has asked its assistance in combating the negative effect which the flood disaster promises to have on tourism. It is the Governor's and Western's hope that a brief tour of the area's facilities by members of the news media from the cities which generate South Dakota's largest number of tourists will have beneficial results in this regard.

The Board's policy has been not to permit air carriers to provide free transportation to members of the news media. However, the President has declared Rapid City a major disaster area, and apparently the tourist facilities in that area are having considerable difficulty in attracting vacationers because of the flood. In view of these particular and unusual circumstances, we find that an exception from our policy is warranted.

For the reasons discussed above, the Board finds that the enforcement of section 403 of the Act would be an undue burden on Western and would not be in the public interest.

Accordingly, pursuant to the Federal Aviation Act of 1958, and particularly section 416(b) thereof,

It is ordered, That:

Western Air Lines, Inc., is hereby exempted from section 403 of the Act and Part 221 of the Economic Regulations insofar as necessary to permit it to provide the transportation described in its application in Docket 24553.

This order will be published in the FEDERAL REGISTER.

By the Civil Aeronautics Board.

[SEAL] HARRY J. ZINK,
Secretary.

[FR Doc.72-9615 Filed 6-23-72;8:50 am]

[Docket No. 22358]

UNION OF PROFESSIONAL AIRMEN ET AL.

Notice of Postponement of Hearing

Union of Professional Airmen affiliated with Air Line Pilots Association, International v. Shawnee Airlines, Inc.

Notice is hereby given, pursuant to the provisions of the Federal Aviation Act of 1958, as amended, that the hearing in the above-entitled proceeding, which was assigned to be held on June 27, 1972 (37 F.R. 11384, June 7, 1972), is postponed to July 12, 1972, at 10 a.m. (local time), and will be held in Room 503, Universal Building, 1825 Connecticut Avenue NW., Washington, DC.

Dated at Washington, D.C., June 19, 1972.

[SEAL] HYMAN GOLDBERG,
Hearing Examiner.

[FR Doc.72-9543 Filed 6-23-72;8:45 am]

[Docket No. 23780 etc.]

YOUTH AND STUDENT FARES IN FOREIGN AIR TRANSPORTATION

Notice of Postponement of Hearing

Notice is hereby given, pursuant to the provisions of the Federal Aviation Act of 1958, as amended, that the hearing in the above-entitled proceeding now scheduled to commence on August 8, 1972 (37 F.R. 10467), is hereby postponed until October 3, 1972, at 10 a.m. (local time), in Room 726, Universal Building, 1825 Connecticut Avenue NW., Washington, DC, before the undersigned examiner.

Dated at Washington, D.C., June 19, 1972.

[SEAL] EDWARD T. STODOLA,
Hearing Examiner.

[FR Doc.72-9544 Filed 6-23-72;8:45 am]

[1] Member Minetti submitted a concurring statement, filed as part of the original document.

FEDERAL MARITIME COMMISSION

CONTINENTAL-U.S. GULF FREIGHT ASSOCIATION

Notice of Agreement Filed

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

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

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

Notice of agreement filed by:

R. J. Finnan, Analyst, Rates and Tariffs, Lykes Bros. Steamship Co., Inc., 821 Gravier Street, New Orleans, LA 70150.

Agreement No. 9988, among Central Gulf Contramar Line, Combi Line, and Lykes Bros. Steamship Co., Inc., establishes a ratemaking agreement with the right of independent action in the trade from the Bordeaux/Hamburg range to U.S. gulf ports, including ports, places, and points on inland waterways tributary to the above ocean ports and ranges.

Dated: June 21, 1972.

By order of the Federal Maritime Commission.

FRANCIS C. HURNEY,
Secretary.

[FR Doc.72-9605 Filed 6-23-72;8:50 am]

GLOBAL TERMINAL & CONTAINER SERVICES, INC., AND ATLANTICA, SOCIETA PER AZIONI

Notice of Agreement Filed

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

Interested parties may inspect and obtain a copy of the agreement at the Washington office of the Federal Maritime Commission, 1405 I Street NW., Room 1015; or may inspect the agreement at the field offices located at New York, N.Y., New Orleans, La., and San Francisco, Calif. Comments on such agreements, including requests for hearing, may be submitted to the Secretary, Federal Maritime Commission, Washington, D.C. 20573, within 10 days after publication of this notice in the FEDERAL REGISTER. Any person desiring a hearing on the proposed agreement shall provide a clear and concise statement of the matters upon which they desire to adduce evidence. An allegation of discrimination or unfairness shall be accompanied by a statement describing the discrimination or unfairness with particularity. If a violation of the Act or detriment to the commerce of the United States is alleged, the statement shall set forth with particularity the acts and circumstances said to constitute such violation or detriment to commerce.

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

Notice of agreements filed by:

Edwin Longcope, Esq., Hill, Betts & Nash, 26 Broadway, New York, NY 10004.

Agreement No. T-2653, between Global Terminal & Container Services, Inc. (Global) and Atlantica, Societa per Azioni (Atlantica), is a 1-year container terminal services agreement providing that Global will furnish Atlantica container, terminal, and stevedoring services at its facility at New York Harbor. Atlantica is bound by the agreement to use Global's facility exclusively for containerships trading to and from the Port of New York. As compensation, Global is to receive all applicable tariff charges, which are to be assessed in accordance with the tariff it will file with the Federal Maritime Commission.

Agreement No. T-2654, also between Global and Atlantica, provides for the 1-year operation of a container chassis management service by Global at its marine terminal facility located at New York Harbor. Atlantica is to furnish Global a fleet of container chassis adequate to handle the number of containers it anticipates it will put through Global's facility for the current calendar year. These chassis are to be utilized by Global in a common pool, together with chassis supplied by other users of Global's facility under the same terms and conditions as set forth in the subject agreement. Global will provide the necessary management services for the movement and control of the chassis consisting of: (1) Reporting services; (2) repair services; (3) per diem chassis rental billing and collection services; and (4) accounting services. As compensation, Global is to receive: (1) All per diem charges for chassis rentals which will be billed and collected by Global directly from the users of the chassis; (2) the costs for the inland positioning of the chassis; and (3) Atlantica's share of the common pool's total chassis operating costs, such share to be computed in accordance with the formula set forth in the agreement.

Dated: June 20, 1972.

By order of the Federal Maritime Commission.

FRANCIS C. HURNEY,
Secretary.

[FR Doc.72-9606 Filed 6-23-72;8:50 am]

HANSEN SEAWAY SERVICE, LTD., AND STEARNS MILWAUKEE MARINE TERMINAL, INC.

Notice of Agreement Filed

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

Interested parties may inspect and obtain a copy of the agreement at the Washington office of the Federal Maritime Commission, 1405 I Street NW., Room 1015; or may inspect the agreement at the field offices located at New York, N.Y., New Orleans, La., and San Francisco, Calif. Comments on such agreements, including requests for hearing, may be submitted to the Secretary, Federal Maritime Commission, Washington, D.C. 20573, within 10 days after publication of this notice in the FEDERAL REGISTER. Any person desiring a hearing on the proposed agreement shall provide a clear and concise statement of the matters upon which they desire to adduce evidence. An allegation of discrimination or unfairness shall be accompanied by a statement describing the discrimination or unfairness with particularity. If a violation of the Act or detriment to the commerce of the United States is alleged, the statement shall set forth with particularity the acts and circumstances said to constitute such violation or detriment to commerce.

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

Notice of agreement filed by:

Mr. Thomas D. Wilcox, Attorney at Law, 919 18th Street NW., Washington, DC 20006.

Agreement No. T-2655, between Hansen Seaway Service, Ltd. (Hansen), and Stearns Milwaukee Marine Terminal, Inc. (Stearns), is a cooperative working agreement wherein Hansen and Stearns will confer with each other on the allocation, hiring, and assignment of available terminal, warehouse, and stevedore labor in Milwaukee, Wis. Any marine terminal operator-stevedore contractor within the Port of Milwaukee may become a party to this agreement upon showing of its being engaged in such

business and a good faith intent to comply with the terms of the agreement. The Commission is to be notified of any additions to, refusal to admit, or withdrawals from the agreement, said withdrawal to be effective upon 30 days' notice to each member of the agreement. Any amendments to the agreement are to be by unanimous vote of the members. A record of all proposals, actions, and agreements taken under the agreement will be submitted to the Commission.

Dated: June 20, 1972.

By order of the Federal Maritime Commission.

FRANCIS C. HURNEY,
Secretary.

[FR Doc.72-9607 Filed 6-23-72;8:50 am]

NORTH ATLANTIC WESTBOUND FREIGHT ASSOCIATION

Notice of Agreement Filed

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

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

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

Notice of agreement filed by:

D. K. Conway, Chairman, North Atlantic Westbound Freight Association, Atlantic Freight Secretariat, Cunard Building, Liverpool L3 1DS, England.

Agreement No. 5850-18 modifies article 3 of the basic agreement to provide that none of the parties, their principals, or affiliated companies shall give or promise, either directly or indirectly, to anyone any gift of substantial value or remuneration for any service beyond that called for in the Contracts of Affreightment or Tariffs.

Dated: June 21, 1972.

By order of the Federal Maritime Commission.

FRANCIS C. HURNEY,
Secretary.

[FR Doc.72-9608 Filed 6-23-72;8:50 am]

NORTH ATLANTIC CONTINENTAL FREIGHT CONFERENCE

Notice of Agreement Filed

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

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

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

Notice of agreement filed by:

Charles J. Moran, Chairman, North Atlantic Continental Freight Conference, 17 Battery Place, New York, NY 10004.

Agreement No. 9214-6, among the member lines of the above-named conference, modifies the basic agreement to include within its scope cargo moving to interior points in continental Europe via ports in the range from Belgium to Hamburg and to provide for the establishment and implementation of through rates and rules relating thereto upon unanimous agreement of the members.

Dated: June 21, 1972.

By Order of the Federal Maritime Commission.

FRANCIS C. HURNEY,
Secretary.

[FR Doc.72-9609 Filed 6-23-72;8:50 am]

TRANS-PACIFIC PASSENGER CONFERENCE

Notice of Agreement Filed

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

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

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

Notice of agreement filed for approval by:

Mr. Ronald C. Lord, General Manager, Trans-Pacific Passenger Conference, 311 California Street, San Francisco, CA 94104.

Agreement No. 131-254, filed by the Trans-Pacific Passenger Conference, modifies Article B, Paragraph 1, which is concerned with the geographical scope of the Conference Agreement.

The stated purpose of the modification is to clarify the geographical scope of the Trans-Pacific Passenger Conference, so as to include, as was originally intended, any and all passenger traffic on the vessels of the member Lines which has originated and been booked in North America and which embarks and/or debarks at any Pacific Coast port of North America, including Alaska and Hawaii.

Dated: June 20, 1972.

By order of the Federal Maritime Commission.

FRANCIS C. HURNEY,
Secretary.

[FR Doc.72-9610 Filed 6-23-72;8:50 am]

CERTIFICATES OF FINANCIAL RESPONSIBILITY (OIL POLLUTION)

Notice of Certificates Issued

Notice is hereby given that the following vessel owners and/or operators have established evidence of financial responsibility, with respect to the vessels indicated, as required by section 11(p)(1) of the Federal Water Pollution Control Act, as amended, and, accordingly, have been issued Federal Maritime Commission Certificates of Financial Responsibility (Oil Pollution) pursuant to Part 542 of Title 46 CFR.

Certificate No.	*Owner/Operator and Vessels*
01428---	The Ocean Steam Ship Co., Ltd.:
	Fian.
01891---	Canal Barge Co., Inc.:
	Elaine Jones.
	Leondas Polk.
	Ned Merrick.
	Sally Polk.
	Elizabeth Huger.
	Marian Hagestad.
	Raymond Thorpe.
	Lydia E. Campbell.
	CM 341.
	CBC 282.
	CBC 231.
	CBC 255.
	CBC 256.
	CBC 257.
	CBC 321.
	CBC 322.
	CBC 241.
	CBC 194.
	CBC 191.
	CBC 192.
	CBC 201.
	CBC 137.
	GS 100.
	GW 200.
	CBC 135.
	CBC 136.
	CBC 131.
	CBC 132.
	CKC 51.
	CKC 52.
	CKC 53.
	CKC 54.
	CKC 55.
	CKC 56.
	CBC 142.
	CBC 845.
	CM 171.
	CBC 133.
	CBC 134.
	NBC 843.
	NBC 918.
	NBC 924.
	CBC 742.
	NBC 883.
	NBC 758.
	CBC 261.
	CBC 263.
	Hamilton.
	SMC 278.
	SMC 254.
	SMC 251.
	SMC 153.
	SMC 152.
	SMC 157.
	SMC 156.
	SMC 155.
	Joseph M. Jones.
	Eugenie P. Jones.
	Susan Lane.
	CBC 37.
	CBC 38.
	CBC 24.
	CBC 28.
	CBC 35.
	CBC 36.
	CBC 23.
	CBC 27.
	CBC 32.
	CBC 31.
	CBC 20.
	CBC 25.
	CBC 29.
	CBC 26.
	CBC 30.
	CBC 21.
	CBC 33.
	CBC 34.
	CBC 22.
	FC 1.
	FC 2.
	CBC 651.
	HJL 62.
	GD 1.
	CBC 602.
	CBC 603.
	CBC 501.
	CBC 502.
	CBC 503.
	CBC 504.
	CBC 505.
	CBC 506.
	CBS 507.
	CBC 508.
	CBS 509.
	CBC 510.
	CBC 511.
	Machine Shop Barge.
	CBC 512.
	CBC 125.
	CMS 110.
	CMS 115.
02199---	Atlantic Richfield Co.:
	Gary.
	Arco Birmingham.
	Arco Petro Chem.
	Arco Asphalt.
	Arco Lube Oil.
	Arco Road Oil.
02256---	Sigurd Haavik A/S:
	Vikfrost.
	Mardina Cooler.
03640---	Pan Ocean Bulk Carriers, Ltd.:
	Bumchin.
03847---	American Stern Trawlers, Inc.:
	Sea Freeze Atlantic.
	Sea Freeze Pacific.
04125---	Atlantic Towing, Ltd.:
	Irving Marigold.
04314---	Jadranska Slobodna Plovidba-SPLIT:
	Biokovo.
05008---	Star-Kist Foods, Inc.:
	Anthony M.
05743---	Reederei Barthold Richters:
	Ana Cristina.
05958---	Perseus Tanker Corp.:
	Perseus I.
06472---	Taiheiyo Kisen Kaisha, Ltd.:
	Eiryu Maru.
06686---	Forest Shipping Corp.:
	Forest Hill.
06728---	Scientist Shipping Corp. of Monrovia:
	Oinoussian Scientist.
06730---	Hellenic Mediterranean Lines Co., Ltd.:
	Aquarius.
06782---	Ogden Nelson Transport, Inc.:
	Ogden Nelson.
06787---	Evergreen Marine (Singapore) Private, Ltd.:
	Ever Lucky.
	Ever Nobility.
06790---	Lycavittos Compania Naviera S.A.:
	Lycavittos.
06791---	Hymettus Shipping Co., Ltd.:
	Hymettus.
06816---	Marine Contracting & Towing Co.:
	Martoco Barge No. 10.
06850---	Katrien, N.V.:
	Kathy.
06922---	I/S 413:
	Jessie Stove.
06951---	Southsea Shipping Co., Ltd.:
	Eugenie Livanos.
06954---	Olympiakos Compania Naviera S.A.:
	Leonis Halcoussis.
06965---	Scandinavian Motorships AB:
	Sergel.
06973---	The Celotex Corp.:
	Barrett Barge No. 3.
06979---	Anna Building Corp.:
	Naftroporos.
06980---	Cia Naviera Kanaris S.A.:
	Kapodistrias.
06985---	A Kastanos, S. Ladas & E. Fostiropoulou:
	Mitera.
06993---	Navegadora Ultramar S.A.:
	Nicolaos S. Embiricos.
07001---	Nakaya Kaiun Kabushiki Kaisha:
	Koyo Maru.
07002---	Kabushiki Kaisha Tokushima Shokai:
	Yamaki Maru.
07005---	Cia Paisano de Navegacion S.A.:
	USA.
07012---	Konkar Indomitable Corp.:
	Konkar Indomitable.
07013---	Delos General Co.:
	Delos.
07014---	Compagnie Atlantique Maritime:
	Mont Laurier.
07015---	Argosy Ventures, Ltd.:
	Strona.
07018---	Tokushima-Ken:
	Ashu Maru.

By the Commission.

FRANCIS C. HURNEY,
Secretary.

[FR Doc.72-9603 Filed 6-23-72;8:56 am]

CERTIFICATES OF FINANCIAL RESPONSIBILITY (OIL POLLUTION)

Notice of Certificates Revoked

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

Certificate No.	*Owner/Operator and Vessels*
01230---	Skibs A/S Oiltank:
	Belmona.
01553---	Rederi-Interessentskabet of 1956:
	Aase Nielsen.
01767---	Gulf & South American Steamship Co., Inc.:
	Gulf Shipper.
01798---	Stag Line, Ltd.:
	Camellia.
02001---	Rederi A/B Transatlantic:
	Mangarella.
	Stratus.
02194---	Compagnie Generale Transatlantique:
	Carbet.
02256---	Sigurd Haavik A/S:
	Vikfrost.
02465---	Koch-Ellis Marine Contractors, Inc.:
	KE-25.
	KE-26.
	KE-29.

Certificate No.	Owner/operator and vessels
02551---	Ellerman Lines, Ltd.: City of Bedford.
02721---	Healy Tibbitts Construction Co.: H.T. No. 6.
02716---	Aktieselskabet Det Dansk-Franske Dampskibsselskab: Frankrig.
02731---	Halcyon Lijn N.V.: Stad Zwolle. Stad Den Haag.
02943---	Holy Peacefulness Shipping Co., S.A.: Chrysovalandou.
02994---	Teramar Shipping Co. S.A., Panama: Capetan Pantelis.
02995---	Diana Compania Maritima S.A. Panama: Trias.
02996---	June Shipping Co. Ltd. Cyprus: June.
03564---	A/S Mosvolds Rederi: Moster.
03727---	Continental Oil Co.: Jack Cleverley.
04039---	Parker Brothers & Co., Inc.: WB 425.
04132---	Parco, Inc.: Elizabeth Turner.
04357---	Koninlijke Nedlloyd N.V.: Amerskerk.
04581---	Marine Navigation Co., Inc.: R. E. Wilson. Marine Clipper.
04590---	Cayber Transportation Corp.: Cayber.
04770---	Texaco Panama Inc.: Texaco Australia.
04791---	Atlantic Navigation, Ltd.: Dolphin.
05034---	Messagerie Cotiere Ltee Coastal Shipping, Ltd.: Cacouna.
05293---	Scheepvaart-Handelmij "Marico" N.V.: Marico N.V.
05630---	Newport News Shipbuilding and Dry Dock Co.: Narrows No. 1.
05676---	International Barge Inc.: BW-1933. BW-1934.
05702---	Loyd W. Richardson Construction Corp.: B-19. Patco II.
05720---	United International Shipping Co., Ltd.: Dona Anita.
06975---	Forest Shipping Corp.: Forest Hill.

By the Commission

FRANCIS C. HURNEY,
Secretary.

[FR Doc.72-9604 Filed 6-23-72;8:50 am]

DEPARTMENT OF THE INTERIOR

Office of the Secretary

[FES 72-18]

STRIP MINED AREA RECLAMATION AND RECREATION CENTER DEVELOPMENT, LACKAWANNA, COUNTY, PA.

Notice of Availability of Final Environmental Impact Statement

Pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969, the Bureau of Mines, U.S. Department of the Interior, prepared a draft environmental statement concerning the conduct of a strip mined area reclamation project as part of an overall public recreation area/anthracite museum-mine tour complex development program being coordinated by Lackawanna County, Pa. Written comments were invited from interested Federal, State, and county authorities and the public for a period of 30 days from the date of publication of the original notice of April 4, 1972.

The proposed project will eliminate the scars of past surface coal mining activities on 125 acres of county owned land located within the adjoining communities of Scranton and Taylor, Pa. The Bureau of Mines will cooperate in the finalization of the park land use plan, fill coal strip mine pits with material from adjoining spoil banks, grade the park area to stable rolling contours, plant graded areas, and stabilize the channel of Lucky Run Creek which flows across the park area preparatory to construction of other park facilities by organizations participating with Lackawanna County in this project.

The final environmental statement has been put on file with the Executive Council on Environmental Quality, 722 Jackson Place NW., Washington, DC 20006. Single copies of the statement are available from:

Director, Bureau of Mines, Room 4614, U.S. Department of the Interior, Washington, D.C. 20240.

In requesting this document, please refer to the statement number above.

Dated: June 19, 1972.

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

[FR Doc.72-9550 Filed 6-23-72;8:46 am]

FEDERAL POWER COMMISSION

[Docket No. CI72-843]

AMERICAN TRADING AND PRODUCTION CORP. ET AL.

Notice of Application

JUNE 21, 1972.

Take notice that on June 19, 1972, American Trading and Production Corp., *et al.* (applicants), c/o John T. Hooper, McCormick Oil & Gas Corp., 1204 Tenneco Building, Houston, Tex. 77002, filed in Docket No. CI72-843 an application pursuant to section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the sale for resale of natural gas in interstate commerce to Texas Eastern Transmission Corp. (Texas Eastern) and the delivery of said gas to Trunkline Gas Co. for the account of Texas Eastern from the Myrick Prospect, Brooks County, Tex., all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicants state that they commenced the sale of natural gas to Texas Eastern on May 13, 1972, within the contemplation of § 157.29 of the regulations under the Natural Gas Act (18 CFR 157.29) and that they propose to continue said sale for 1 year from the termination of the 60-day emergency period within the contemplation of § 2.70 of the Commission's general policy and interpretations (18 CFR 2.70). Applicants propose to deliver 3,500 Mcf of gas per day at 35 cents per Mcf at 14.65 p.s.i.a.

It appears reasonable and consistent with the public interest in this case to prescribe a period shorter than 15 days for the filing of protests and petitions to intervene. Therefore, any person desiring to be heard or to make any protest with reference to said application should on or before July 3, 1972, file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Power Commission by sections 7 and 15 of the Natural Gas Act and the Commission's rules of practice and procedure, a hearing will be held without further notice before the Commission on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for applicants to appear or be represented at the hearing.

KENNETH F. PLUMB,
Secretary.

[FR Doc.72-9654 Filed 6-23-72;8:51 am]

[Docket No. CI72-834]

NAVARRO GAS PRODUCTION CO. AND LOUISIANA GAS PRODUCTION CO.

Notice of Application

JUNE 21, 1972.

Take notice that on June 13, 1972, Navarro Gas Production Co. and Louisiana Gas Production Co., divisions of Commercial Solvents Corp. (applicant), Post Office Box 368, Sterlington, LA 71280, filed in Docket No. CI72-834 an

application pursuant to section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the sale for resale and delivery of natural gas in interstate commerce to Mid Louisiana Gas Co. (Mid Louisiana) from the Monroe Field, Ouachita Parish, La., all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicant states that it commenced the sale of natural gas to Mid Louisiana on June 1, 1972, within the contemplation of § 157.29 of the regulations under the Natural Gas Act (18 CFR 157.29) and that it proposes to continue said sale from the termination of the 60-day emergency period until December 1, 1972, within the contemplation of § 2.70 of the Commission's general policy and interpretations (18 CFR 2.70). Applicant proposes to deliver 20,000 Mcf of gas per day until November 1, 1972, and 15,000 Mcf per day thereafter at the rate of 31.79 cents per Mcf at 15.025 p.s.i.a., subject to downward B.t.u. adjustment.

It appears reasonable and consistent with the public interest in this case to prescribe a period shorter than 15 days for the filing of protests and petitions to intervene. Therefore, any person desiring to be heard or to make any protest with reference to said application should on or before July 3, 1972, file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Power Commission by sections 7 and 15 of the Natural Gas Act and the Commission's rules of practice and procedure, a hearing will be held without further notice before the Commission on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for applicant to appear or be represented at the hearing.

KENNETH F. PLUMB,
Secretary.

[FR Doc.72-9655 Filed 6-23-72;8:51 am]

[Docket No. R-427; Order No. 437A-11]

RATE INCREASES FOR PUBLIC UTILITIES

Implementation of Economic Stabilization

JUNE 12, 1972.

The Commission's statement of policy in Order No. 437, issued August 18, 1971, added, among other things, § 2.90(2)(c) to the general policy and interpretations. This section states that increases resulting from rates containing "automatic or other escalations, including tracking" would be included within "frozen" increases. By subsequent Order No. 437A, issued November 16, 1971, the Commission's general policy and interpretations was amended by adding a new § 2.90a. In paragraph (d) of § 2.90a, the Commission stated as follows:

> For the purposes of the Economic Stabilization Act, as amended, the Commission announces that its actions with respect to increases in rates or charges otherwise effective, but for the policy announced in Order No. 437, where the applicability of Order No. 437 is not reflected in any Commission order, such actions will be reviewed for consistency with the Economic Stabilization Act, as amended, and, after such review, increases in rates or charges approved as being consistent with such purposes will be reported as supplements to this order and shall be effective as of 12:01 a.m., November 14, 1971.

Subsequently on December 10, 1971, the Commission issued Order No. 437A-5 which provided the procedure by which fuel cost adjustment clauses set forth in rate schedules filed with this Commission by various public utilities within the meaning of the Federal Power Act, could be approved as being consistent with the purposes of the Economic Stabilization Act.

Included among the rate schedules of public utilities on file with the Commission are various rate schedules which contain "cost-of-service" rates which merely "pass-through" costs which are incurred in rendering the particular service involved. Increases resulting from these types of rates should be allowed to go into effect for they are purely cost based, do not reflect inflationary expectations and are thus consistent with the recent Price Commission guidelines.

The Commission further finds:

Rate increases, which would have resulted from the pass-through of specific allowable costs as provided for in accepted rate schedule provisions in effect prior to August 15, 1971, but for the policy announced in Order No. 437, are consistent with the purposes of the Economic Stabilization Act of 1970 and should be allowed to become effective as hereinafter provided.

The Commission orders:

(A) Within 45 days of the date of issuance of this order each public utility, subject to the jurisdiction of this Commission, which has on file with the Commission, rate schedules which provide for the passing through of allowable costs and under which increased rates would have become effective but for the policy announced in Order No. 437, shall file with the Commission a report identifying each such rate schedule and the level of such increased rates contained therein.

(B) Upon review of the filed reports, each public utility shall be notified by the Commission as to whether increased rates filed pursuant to a designated rate schedule have become effective, whereupon the effective date of such increased rates shall be no earlier than 12:01 a.m., November 14, 1971.

(C) This order when accompanied by the Commission's notification provided herein, shall constitute the certification of consistency with the purposes of the Economic Stabilization Act of 1970, as amended, as required by § 300.016(b) of Chapter III, Title 6 of the Code of Federal Regulations.

By the Commission.

[SEAL] KENNETH F. PLUMB,
Secretary.

[FR Doc. 72-9579 Filed 6-23-72;8:48 am]

FEDERAL RESERVE SYSTEM

COMMUNITY BANKS OF FLORIDA, INC., ET AL.

Formation of Bank Holding Company

Community Banks of Florida, Inc., Seminole, Fla., has applied for the Board's approval under section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1)) to become a bank holding company through acquisition of 80 percent or more of the voting shares of the following banks located in Florida: Bank of Seminole, Seminole (Post Office Largo); First Community Bank, Largo; First Commercial Bank, St. Petersburg; First Bank of West Pasco, Pasco County; and Northside Community Bank, St. Petersburg. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the office of the Board of Governors or at the Federal Reserve Bank of Atlanta. Any person wishing to comment on the application should submit his views in writing to the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551, to be received not later than July 10, 1972.

Board of Governors of the Federal Reserve System, June 19, 1972.

[SEAL] MICHAEL A. GREENSPAN,
Assistant Secretary.

[FR Doc.72-9553 Filed 6-23-72;8:46 am]

ATLANTIC BANCORPORATION

Order Approving Acquisition of Bank

Atlantic Bancorporation, Jacksonville, Fla., a bank holding company within the meaning of the Bank Holding Company Act, has applied for the Board's approval under section 3(a)(3) of the Act (12

U.S.C. 1842(a)(3)) to acquire not less than 70 percent of the voting shares of University Atlantic Bank, Jacksonville, Fla. (Bank), a proposed new bank.

Notice of the application, affording opportunity for interested persons to submit comments and views, has been given in accordance with section 3(b) of the Act. The time for filing comments and views has expired, and none has been timely received. The Board has considered the application in light of the factors set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

Applicant controls 20 banks with aggregate deposits of about $708 million, representing 4.8 percent of the total commercial bank deposits in the State, and is the fifth largest banking organization and bank holding company in Florida.[1] Since Bank is a proposed new bank, no existing competition would be eliminated nor would concentration be increased in any relevant area.

Bank would be located to the east of downtown Jacksonville, in a recently developing trade area with an estimated population of 20,000, and would be competing in the Duval County banking market, in which market applicant controls 31.3 percent of deposits and is the largest of 13 banking organizations in that market. Applicant presently operates six banks in the Duval County banking market, two of which, Southside Atlantic Bank and The Atlantic Bank of Jacksonville, compete in the primary service area of the proposed Bank. However, Southside Bank is located 7 miles west of Bank and is separated from Bank by numerous intervening banks. Jacksonville Bank, applicant's lead subsidiary bank, is located 10 miles west of Bank and is separated from it by the St. John's River. The most convenient and accessible routes between Jacksonville Bank and Bank are by means of toll bridges.

Applicant's share of deposits in the relevant market has declined over the past 10 years. The second and third largest bank holding companies in the market control, respectively, 23.5 and 20.8 percent of commercial bank deposits there. It appears that consummation of the proposal herein would not alter adversely the competitive situation nor the concentration of resources in the market. Nor is there any evidence that applicant's proposal is an attempt to preempt a site before there is a need for a bank.

The financial and managerial resources and the future prospects of applicant and its subsidiary banks are regarded as generally satisfactory. Prospects for Bank appear favorable. Bank would be able to provide a local alternative banking source within the proposed service area, which is experiencing rapid growth, and is presently being served by banks located outside of the service area. Considerations relating to the convenience and needs of the area to be served lend slight support to, and are consistent with, approval of the application. It is the Board's judgment that the proposed acquisition would be in the public interest and that the application should be approved.

On the basis of the record, the application is approved for the reasons summarized above. The transaction shall not be consummated (a) before the 30th calendar day following the effective date of this order or (b) later than 3 months after that date, and (c) University Atlantic Bank, Jacksonville, Fla., shall be opened for business not later than 6 months after the effective date of this order. Each of the periods described in (b) and (c) may be extended for good cause by the Board, or by the Federal Reserve Bank of Atlanta pursuant to delegated authority.

By order of the Board of Governors,[2] effective June 16, 1972.

[SEAL] TYNAN SMITH,
Secretary of the Board.

[FR Doc 72-9580; Filed 6-23-72;8:48 am]

CARLTON AGENCY, INC.

Order Approving Formation of Bank Holding Company and Acquisition of First National Bank Insurance Agency

Carlton Agency, Inc., Carlton, Minn., has submitted an amended proposal for the Board's approval under section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1)) to become a bank holding company through the acquisition of 100 percent of the voting shares (less directors' qualifying shares) of Carlton National Bank, Carlton, Minn. (Bank). Applicant's original application was denied by Board order dated January 27, 1972 (1972 Federal Reserve Bulletin 168).

At the same time, applicant has resubmitted, as part of its amended proposal, its application for the Board's approval under section 4(c)(8) of the Act and § 225.4(b)(2) of the Board's Regulation Y to engage in certain permissible insurance agency activities through the acquisition of certain assets of First National Bank Insurance Agency, Carlton, Minn. (Agency).

Notice of receipt of these applications was published in the FEDERAL REGISTER on April 21, 1972 (37 F.R. 7950). Time for filing comments and views has expired, and none have been timely received. The Board has considered the applications in light of the factors set forth in section 3(c) of the Act, and the considerations specified in section 4(c)(8) of the Act.

Upon acquisition of Bank ($6.3 million in deposits), applicant would control about 0.1 percent of the commercial bank deposits in the State.[1] As the proposed transaction represents a transfer of an individual's ownership of Bank into a presently nonoperating holding company, consummation would not eliminate any existing or potential competition and would not result in any increase in the concentration of banking resources in any relevant area. Bank's management and financial condition are consistent with approval and its capital is adequate.

Applicant's original proposal was denied by the Board on the grounds that the acquisition debt involved presented adverse circumstances bearing on the financial condition and prospects of applicant and Bank which were not outweighed by any other factors of record. Under the present proposal, applicant would still incur acquisition debt of $175,000; however, due to increased capital of the Bank from retained earnings this would amount to approximately 58 percent of applicant's equity rather than 66 percent. The balance of the debt, $100,000, while still being held by the principal, will no longer be secured directly or indirectly by the stock of applicant since the principal has pledged assets to the lending institution with sufficient income to amortize the installments on the debt as they come due over a 10-year period. Further, due to greater than projected earnings for 1971 and consequent higher projected earnings in the future, significantly less of Bank's earnings will be needed to amortize applicant's debt than the 60 percent present in the first proposal. The Board concludes that considerations relating to the acquisition debt involved in the present proposal are consistent with approval of the application.

The convenience and needs of the community involved are consistent with approval of the application, as there will result no change in Bank's present operations. Accordingly, it is the Board's judgment that the transaction would be in the public interest, and that the section 3 application should be approved.

Agency is the only general insurance agency in Carlton (1970 population 884) and is located on the premises of Bank. The operation by a bank holding company of a general insurance agency in a community with a population of less than 5,000 is an activity that the Board has previously determined to be closely related to banking (12 CFR 225.4(a)(9)(iii)).

There is no evidence in the record that the proposal would result in any undue concentration of resources, unfair competition, conflicts of interest, unsound banking practices, or other adverse effects on the public interest. The acquisition would assure continuation of the only source of general insurance in the town of Carlton and would assist applicant in servicing its acquisition debt. Based upon the foregoing and other considerations reflected in the record, the Board has determined that the balance of the public interest factors the Board is required to consider under section 4(c)(8) regarding the performance by

[1] All banking data are as of June 30, 1971, and reflect bank holding company formations and acquisitions approved by the Board through May 31, 1972.

[2] Voting for this action: Chairman Burns and Governors Robertson, Mitchell, Daane, and Sheehan. Absent and not voting: Governors Brimmer and Bucher.

[1] All banking data are as of Dec. 31, 1971.

applicant of Agency's business is favorable and that the application should be approved.

On the basis of the record, the applications to acquire Bank and Agency are approved for the reasons summarized above. The acquisition of Bank shall not be consummated (a) before the 30th calendar day following the effective date of this order, or (b) later than 3 months after the effective date of this order, unless such period is extended for good cause by the Board or by the Federal Reserve Bank of Minneapolis pursuant to delegated authority. The determination as to Agency's activities is subject to the Board's authority to require reports by, and make examinations of, holding companies and their subsidiaries and to require such modification or termination of the activities of a holding company or any of its subsidiaries as the Board finds necessary to assure compliance with the provisions and purposes of the Act and the Board's regulations and orders issued thereunder, or to prevent evasion thereof.

By order of the Board of Governors,[2] effective June 16, 1972.

[SEAL] TYNAN SMITH,
Secretary of the Board.

[FR Doc. 72-9581 Filed 6-23-72;8:48 am]

EXCHANGE BANCORPORATION, INC.

Order Approving Acquisition of Bank

Exchange Bancorporation, Inc., Tampa, Fla., a bank holding company within the meaning of the Bank Holding Company Act, has applied for the Board's approval under section 3(a)(3) of the Act (12 U.S.C. 1842(a)(3)) to acquire 80 percent or more of the voting shares of Citizens Bank of Clermont, Clermont, Fla. (Bank).

Notice of the application, affording opportunity for interested persons to submit comments and views, has been given in accordance with section 3(b) of the Act. The time for filing comments and views has expired, and the Board has considered the application and all comments received in light of the factors set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

Applicant, the 10th largest of 23 multibank holding companies in Florida, controls seven banks with aggregate deposits of $316.8 million, representing 2.15 percent of the total deposits in commercial banks in Florida.[1] Applicant's acquisition of Bank (deposits of $12.4 million) would increase applicant's share of statewide deposits by only 0.08 percentage points.

Bank is the fourth largest of five banks in the South Lake County banking market, controlling 14.35 percent of deposits in that market. No existing nor significant potential competition between Bank and any of applicant's existing subsidiary banks would be eliminated upon consummation of this proposal because of Florida's restrictive branching laws and the distance of 32 miles which separate Bank and applicant's nearest subsidiary banking office. On the basis of the record, the Board considers that consummation of the proposal would not adversely affect competition in any relevant area nor would any competing bank be adversely affected.

The financial and managerial resources and future prospects of applicant, its subsidiary banks and Bank are generally satisfactory and consistent with approval. In addition, it is expected that Bank's affiliation with applicant will help Bank develop a more stable and prudent management. Applicant will incur substantial debt in acquiring Bank. However, applicant has assured the Board that it will promptly retire such debt from the proceeds of a public offering of securities to be issued shortly. In light of applicant's assurances, the Board does not consider the debt involved significant enough to bar approval of this proposal.

Consideration relating to the convenience and needs of the community to be served lend weight toward approval of the application, since applicant proposes to offer through Bank, trust, travel, and international banking services that are not presently available in Bank's area. It is the Board's judgment that the proposed acquisition would be in the public interest and that the application should be approved.

On the basis of the record, the application is approved for the reasons summarized above. The transaction shall not be consummated (a) before the 30th calendar day following the effective date of this order or (b) later than 3 months after the effective date of this order, unless such period is extended for good cause by the Board, or by the Federal Reserve Bank of Atlanta pursuant to delegated authority.

By order of the Board of Governors,[2] effective June 16, 1972.

[SEAL] TYNAN SMITH,
Secretary of the Board.

[FR Doc.72-9582 Filed 6-23-72;8:48 am]

KEWANEE INVESTING CO.

Order Approving Action to Become a Bank Holding Company

Kewanee Investing Co., Kewanee, Ill., has applied for the Board's approval under section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1)) to become a bank holding company through the acquisition of 60.04 percent of the voting shares of Kewanee National Bank, Kewanee, Ill. (Bank).

Notice of receipt of the application has been given in accordance with section 3(b) of the Act, and the time for filing comments and views has expired. The Board has considered the application and all comments received in the light of the factors set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

Applicant is a newly organized corporation formed for the purpose of acquiring the assets and assuming the liabilities of Kewanee Investing Co., an Iowa corporation that is a registered bank holding company presently holding 60.04 percent of the voting shares of Bank ($5 million of deposits as of June 30, 1971), the smaller of two banks in the city of Kewanee. The proposed transaction is essentially a corporate reorganization in which the ownership of Bank will be transferred from an Iowa corporation to an Illinois corporation with the same stockholders. Applicant states that the reason for the reorganization is to facilitate the obtaining of additional capital at minimum cost. Consummation of the proposal would not alter existing banking competition nor significantly affect potential competition; nor does it appear that there would be any adverse effects on any bank in the relevant area.

As a result of consummation of the proposal, applicant will assume a large debt now held by the Iowa corporation. The size of the debt to be transferred to applicant is of serious concern to the Board. However, applicant states that it proposes to raise additional capital through a stock issue; and it appears that the change in the holding company's state of incorporation to the State of Illinois would facilitate a reduction of the debt since the cost of raising additional capital through the intrastate sale of equity securities should be substantially less than if the holding company remained an Iowa corporation. The prospect of an early reduction of the holding company's debt lends some weight toward approval of the application.

No immediate benefits to convenience and needs of the community to be served will result from the consummation of applicant's proposal. However, the improved financial condition of applicant which is projected after the infusion of additional capital and its ability as an Illinois corporation to raise capital more easily for the Bank if the need should arise should enhance Bank's financial condition, and improve its ability to serve the banking needs of its area. Considerations relating to convenience and needs are regarded as consistent with approval of the application. It is the Board's judgment that the application should be approved.

On the basis of the record, the application is approved for the reasons summarized above. The transaction shall not be consummated (a) before the 30th calendar day following the effective date of this order or (b) later than 3 months after the effective date of this order, unless such period is extended for good cause by the Board, or by the Federal

[2] Voting for this action: Chairman Burns and Governors Robertson, Mitchell, Daane and Sheehan. Absent and not voting: Governors Brimmer and Bucher.

[1] All banking data are as of June 30, 1971, adjusted to reflect holding company formations and acquisitions to date.

[2] Voting for this action: Chairman Burns and Governors Robertson, Mitchell, Daane, and Sheehan. Absent and not voting: Governors Brimmer and Bucher.

Reserve Bank of Chicago pursuant to delegated authority.

By order of the Board of Governors,[3] effective June 16, 1972.

[SEAL] TYNAN SMITH,
Secretary of the Board.

[FR Doc.72-9583 Filed 6-23-72;8:48 am]

ROYAL TRUST CO.

Order Approving Formation of Bank Holding Company

The Royal Trust Co., Montreal, Quebec, Canada, has applied for the Board's approval under section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1)) of formation of a bank holding company through acquisition of 100 percent of the voting shares (less directors' qualifying shares) of the successor by merger to Inter National Bank of Miami, Miami, Fla. (Bank). The bank into which Bank is to be merged has no significance except as a means to facilitate the acquisition of voting shares of Bank. Accordingly, the proposed acquisition of shares of the successor organization is treated herein as the proposed acquisition of the shares of Bank.

Notice of the application, affording opportunity for interested persons to submit comments and views, has been given in accordance with section 3(b) of the Act. The time for filing comments and views has expired, and none has been timely received. The Board has considered the application in light of the factors set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

Applicant with total assets of $1.6 billion[1] is the largest trust company in Canada, also operating through subsidiaries and other interests, in Great Britain, Ireland, the channel islands, the Bahamas, Bermuda, Cayman Islands, and New Hebrides. Applicant engages principally in trust and real estate financing activities outside of the United States. Consummation of the proposed transaction therefore would not eliminate any existing competition in the United States.

Bank, with deposits of close to $43 million,[2] is the 19th largest of the 75 banks located in Dade County, Fla., the relevant banking market, and holds 1.26 percent of the total amount of deposits in commercial banks located in that market. Since applicant is not considered to be a likely potential entrant into the Dade County banking market other than by the proposed acquisition of Bank, consummation of that transaction is unlikely to have an adverse effect upon potential competition. Rather, it appears that consummation of the proposal may promote competition in that an affiliation of Bank with applicant should strengthen Bank's ability to compete in a market, a substantial proportion of which is controlled by the largest bank holding company in Florida.

The financial and managerial resources and future prospects of applicant and Bank are consistent with approval of the application, especially in view of the fact that the proposal has been structured in such a manner that, upon consummation of the transaction, Bank's capital and surplus will be increased by $240,000 and outstanding convertible debentures in the sum of $400,000 will be either converted to capital stock or redeemed. All shareholders of Bank are to be accorded equal treatment. Although the banking needs of the Dade County community are being served adequately by existing institutions, consummation of the proposed transaction should have a beneficial effect on the convenience and needs of that community in that applicant intends to utilize its trust expertise in the establishment of a trust department in Bank and to improve the services offered by Bank's international department. This aspect of the proposal lends some weight toward approval of the application. It is the Board's judgment that the transaction would be in the public interest and that the application should be approved.

On the basis of the record, the application is approved for the reasons summarized above. The transaction shall not be consummated (a) before the 30th calendar day following the effective date of this order or (b) later than 3 months after the effective date of this order, unless such period is extended for good cause by the Board, or by the Federal Reserve Bank of Atlanta pursuant to delegated authority.

By order of the Board of Governors,[3] effective June 16, 1972.

[SEAL] TYNAN SMITH,
Secretary of the Board.

[FR Doc.72-9584 Filed 6-23-72;8:49 am]

[1] This datum is as of Dec. 31, 1971, and is stated in terms of Canadian dollars.

[2] All banking data are as of June 30, 1971, unless otherwise indicated.

[3] Voting for this action: Chairman Burns and Governors Robertson, Mitchell, Daane, and Sheehan. Absent and not voting: Governors Brimmer and Bucher.

PRICE COMMISSION

PERSONS SUBJECT TO OUTSTANDING REMEDIAL ORDERS

Time To Apply for Modification or Rescission

The Price Commission this day has issued a new Subpart H of its Procedural Regulations 6 CFR Part 305 Subpart H providing procedures for the issuance of remedial orders and for requesting modification or rescission thereof. ("remedial order" is defined as "an order requiring a person to cease a violation or to take action to eliminate or compensate for the effects of a violation, or both, or which imposes other sanctions."

When the Commission begins proceedings with such an order the new regulation provides an opportunity for the person to come in and reply and request a stay of the order pending completion of the administrative proceedings. A decision issued in such proceedings is subject to request for modification or rescission.

As to any remedial order issued prior to the promulgation of the new Subpart H, if the person to whom the order was issued has not had an opportunity to reply or to request modification or rescission of the order after the order became final, the person may within 15 days from the date of this notice apply to the Commission for permission to utilize the provisions of Subpart H.

An application for modification or rescission pursuant to this notice shall be in writing, addressed to Program Operations, Price Commission, 2000 M Street NW., Washington, DC 20508.

If the Commission finds the person did not have an opportunity to reply or to request modification or rescission it will authorize the person to proceed in accordance with Subpart H.

Issued in Washington, D.C., June 21, 1972.

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

[FR Doc.72-9600 Filed 6-23-72;8:50 am]

[Order 7]

MANUFACTURERS OF LUMBER AND WOOD PRODUCTS

Allowable Costs

The definition of "allowable cost" in § 300.5 of the regulations of the Price Commission (6 CFR 300.5) states that "allowable cost" means any cost not disallowed by the Commission. A variety of methods of determining allowable costs for the manufacture of logs into lumber and wood products have been considered by the Commission.

The Commission has now determined that under present practices respecting allowable costs, persons in the lumber and wood products industries who use logs as a raw material are able to substantially control the level of log costs and, therefore, cost increases in direct materials that they incur in the manufacture of lumber and other wood products, such as plywood.

In consideration of the foregoing and for the purpose of more closely controlling the amounts of allowable price increases in the lumber and wood products industries, it is hereby ordered that the allowable costs for logs costed into production as a direct material shall be calculated as the average cost of the logs, weighted by production volume measured in thousands of board or cubic feet of lumber and wood products, measured over a 6-month period. Allowable increases of direct raw material costs relating to logs shall be determined by comparing the average cost of logs, by species, into production for the 6-month period ending at a present or past point

in time with a comparable average cost of logs into production figures for the immediately preceding 6-month period.

EXAMPLE: For a price increase (if any) effective June 1, 1972, compare average log costs for the 6-month period ending May 30, 1972, with average log costs for the 6-month period ending November 30, 1971. This calculation can next be done for a price increase (if any) effective July 1, 1972. For the July 1 increase, the period for calculation would be the 6-month period ending June 30, 1972, compared with the 6-month period ending December 31, 1971.

Issued in Washington, D.C., on June 21, 1972.

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

[FR Doc.72-9601 Filed 6-23-72;8:50 am]

SECURITIES AND EXCHANGE COMMISSION

[70-5211]

DELMARVA POWER & LIGHT CO. AND DELMARVA POWER & LIGHT COMPANY OF VIRGINIA

Notice of Proposed Issue and Sale of Promissory Notes and Common Stock By Subsidiary Public Utility Company and Acquisition and Pledge Thereof By Parent Registered Holding Company

JUNE 19, 1972.

Notice is hereby given that Delmarva Power & Light Co. (Delmarva), 800 King Street, Wilmington, DE 19899, a registered holding company and a public utility company, and its subsidiary company, Delmarva Power & Light Company of Virginia (Virginia), U.S. Route 13 and Naylor Mill Road, Salisbury, Md. 21801, a public utility company, all of whose outstanding securities are owned by Delmarva, have filed with this Commission an application-declaration pursuant to the Public Utility Holding Company Act of 1935 (Act), designating sections 6(b), 9(a), 12(d), and 12(f) of the Act and Rules 43, 44, and 50(a)(2) promulgated thereunder as applicable to the proposed transactions. All interested persons are referred to said application-declaration, which is summarized below, for a complete statement of the proposed transactions.

From time to time prior to September 30, 1973, Virginia proposes to issue and sell to Delmarva for cash its promissory notes due October 1, 1973, in an aggregate principal amount not in excess of $750,000 and to issue and sell to Delmarva for cash a total not to exceed 7,500 shares of its common capital stock at the par value thereof of $100 per share or an aggregate of $750,000. Delmarva will purchase such notes, when issued, at the principal amount thereof, plus accrued interest from their issuance date. The notes will bear interest at 7.7 percent per annum (such interest rate being based on the cost of the last public borrowings of Delmarva), but, at such time as Delmarva shall market its next issue of bonds, all notes thereafter issued by Virginia shall bear interest equal to the cost of money to Delmarva under such bond issue, rounded to the nearest higher one-tenth of 1 percent. The notes and stock will be pledged by Delmarva with Chemical Bank (formerly Chemical Bank New York Trust Co.), trustee, in accordance with the provisions of the indenture of mortgage and deed of trust of Delmarva to Chemical Bank, trustee, dated as of October 1, 1943, relating to Delmarva's first mortgage and collateral trust bonds.

Virginia will use the proceeds derived from the sale of the notes and stock for future capital expenditures and other corporate purposes. Proposed additions to Virginia's property and plant are estimated at $3,535,813 for 1972 and $1,594,154 for 1973.

It is stated that other than required filing fees in respect of the proposed transactions, miscellaneous expenses will be nominal. The filing states that the issuance and sale of promissory notes and common capital stock by Virginia, and the acquisition and pledge thereof by Delmarva, are subject to the jurisdiction of the State Corporation Commission of Virginia, the State Commission of the State in which Virginia is organized and doing business, and indicates 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 July 7, 1972, request in writing that a hearing be held on such matter, stating the nature of his interest, the reasons for such request, and the issues of fact or law raised by said application-declaration which he desires to controvert; or he may request that he be notified if the Commission should order a hearing thereon. Any such request should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request should be served personally or by mail (airmail if the person being served is located more than 500 miles from the point of mailing) upon the applicants-declarants at the above-stated addresses and proof of service (by affidavit or, in case of an attorney at law, by certificate) should be filed with the request. At any time after said date, the application-declaration, as filed or as it may be amended, may be granted and permitted to become effective as provided in Rule 23 of the general rules and regulations promulgated under the Act, or the Commission may grant exemption from such rules as provided in Rules 20(a) and 100 thereof or take such other action as it may deem appropriate. Persons who request a hearing or advice as to whether a hearing is ordered will receive notice of further developments in this matter, including the date of the 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.72-9554 Filed 6-23-72;8:46 am]

[812-3197]

INTERNATIONAL TELEPHONE & TELEGRAPH CORP. ET AL.

Notice of Filing of Application for Exemption and Temporary Order of Exemption Pending Determination of the Application

JUNE 20, 1972.

Notice is hereby given that International Telephone & Telegraph Corp. (ITT), Hamilton Management Corp. (Hamilton) and ITT Variable Annuity Insurance Co. (Variable), referred to collectively as Applicants, 320 Park Avenue, New York, NY 10005, have filed an application pursuant to section 9(c) of the Investment Company Act of 1940 (Act) for an order exempting Applicants from the provisions of section 9(a) of the Act and, without prejudice to the Commission's consideration of such application, Hamilton and Variable have applied for a temporary order of exemption from section 9(a) pending the Commission's determination of the application for permanent exemption. All interested persons are referred to the application on file with the Commission for a statement of the representations therein which are summarized below.

Hamilton is a wholly owned subsidiary of ITT and the investment adviser and principal underwriter of Hamilton Funds, Inc., Hamilton Growth Fund, Inc., and Hamilton Income Fund, Inc., open-end investment companies (the Funds). The Funds have net assets of approximately $700 million and have approximately 330,000 shareholders. Variable, a subsidiary of ITT, acts as investment adviser and principal underwriter to ITT Variable Annuity Insurance Co. Separate Account (the Separate Account), an open-end investment company and Hamilton is an adviser to Variable. Separate Account has net assets of approximately $4,800,000 and has approximately 6,000 contract holders.

On June 20, 1972, the U.S. District Court for the Southern District of New York entered a final judgment of permanent injunction against ITT, and others. The judgment among other things enjoins defendant ITT and certain of its officers from violating sections 5 and 17 (a) of the Securities Act of 1933 in connection with future sales of securities of ITT.

Section 9(a) of the Investment Company Act of 1940 (the Act), insofar as is pertinent here, makes it unlawful for any person, or any company with which such person is affiliated, to act in the capacity of employee, officer, director, member of an advisory board, investment adviser, principal underwriter, or distributor of any registered investment company if

such person is by reason of any misconduct enjoined by any court of competent jurisdiction from engaging in or continuing any conduct or practice in connection with the purchase or sale of any security.

Section 9(c) provides that upon application the Commission shall grant an exemption from the provisions of section 9(a) either unconditionally or on an appropriate temporary or other conditional basis, if it is established that the prohibitions of section 9(a), as applied to the applicant, are unduly or disproportionately severe or that the conduct of such person has been such as not to make it against the public interest or protection of investors to grant such application.

Applicants contend that the standards for exemption, specified in section 9(c) of the Act, are entirely satisfied by the facts in this case.

Applicants represent that the complaint filed by the Commission was based among other things upon alleged violations of the Securities Act of 1933 based on failure to disclose relevant information relating to settlement negotiations in connection with certain antitrust litigation at the time of the sale of securities and failure to register certain securities of defendant ITT sold by a third party.

Applicants represent that ITT and its officers, Howard J. Aibel and John J. Navin, have at all times acted in good faith and in the belief that they were complying with all relevant provisions of the securities laws and that except for such complaint, they have never been charged by the Commission or Government in either a formal administrative proceeding or court action with violation of any of the securities laws. Hamilton and Variable represent that they had no part in any of the activities which comprise the alleged violation of securities laws and, in point of fact, were not even referred to in the complaint. Applicants also allege that they have never been charged by the Commission or other Federal regulatory authorities in either formal administrative proceedings or a court action with violations of any of the securities laws, except for an administrative proceeding of the National Association of Securities Dealers, Inc., against Hamilton, referred to in its application, which relates to activities over 2 years ago.

Applicants also represent that the continued uninterrupted investment advisory and underwriting services rendered by Hamlton and Variable to the Funds and the Separate Account are essential for the protection and welfare of the Funds, the Separate Account, and their respective shareholders.

The Commission has considered the matter and finds that:

(1) The conduct of the applicants has been such as not to make it against the public interest or protection of investors to grant the application by Hamilton and Variable for a temporary exemption from section 9(a) pending determination of the application, and

(2) In order to maintain uninterrupted management of the investment companies under the management of Hamilton and Variable, it is necessary and appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act that the temporary order of exemption be issued forthwith.

Accordingly, it is ordered, Pursuant to section 9(c) of the Act that Hamilton and Variable be and they are hereby temporarily exempted from the provisions of section 9(a) of the Act pending determination by the Commission of applicants' application for an order exempting applicants from the provisions of section 9(a).

Notice is further given that any interested person may not later than July 28, 1972, at 5:30 p.m., submit to the Commission in writing a request for a hearing on the matter accompanied by a statement as to the nature of his interest, the reason for such request, and the issues of fact or law proposed to be controverted, or he may request that he be notified if the Commission shall order a hearing thereon. Any such communication should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request shall be served personally or by mail (airmail if the person being served is located more than 500 miles from the point of mailing) upon Applicants at the address set forth above. Proof of such service (by affidavit or in the case of an attorney at law by certificate) shall be filed contemporaneously with the request. At any time after said date, as provided in 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.

By the Commission.

[SEAL] RONALD F. HUNT,
Secretary.

[FR Doc.72-9591 Filed 6-23-72;8:49 am]

[7-4187]

CHICAGO MILWAUKEE CORP.

Notice of Application for Unlisted Trading Privileges and of Opportunity for Hearing

JUNE 20, 1972.

In the matter of application of the Philadelphia - Baltimore - Washington Stock Exchange for unlisted trading privileges in a certain security.

The above-named national securities exchange has filed an application with the Securities and Exchange Commission pursuant to section 12(f)(1)(B) of the Securities Exchange Act of 1934 and Rule 12f-1 thereunder, for unlisted trading privileges in the common stock of the following company, which security is listed and registered on one or more other national securities exchange:

Chicago Milwaukee Corporation, 7-4187.

Upon receipt of a request, on or before July 6, 1972, from any interested person, the Commission will determine whether the application shall be set down for hearing. Any such request should state briefly the nature of the interest of the person making the request and the position he proposes to take at the hearing, if ordered. In addition, any interested person may submit his views or any additional facts bearing on the said application by means of a letter addressed to the Secretary, Securities and Exchange Commission, Washington, D.C. 20549, not later than the date specified. If no one requests a hearing, this application will be determined by order of the Commission on the basis of the facts stated therein and other information contained in the official files of the Commission pertaining thereto.

For the Commission, by the Division of Trading and Markets (pursuant to delegated authority).

[SEAL] RONALD F. HUNT,
Secretary.

[FR Doc.72-9592 Filed 6-23-72;8:49 am]

[7-4175]

COMMONWEALTH EDISON CO.

Notice of Applications for Unlisted Trading Privileges and of Opportunity for Hearing

JUNE 20, 1972.

In the matter of application of the Philadelphia - Baltimore - Washington Stock Exchange for unlisted trading privileges in certain securities.

The above-named national securities exchange has filed application with the Securities and Exchange Commission pursuant to section 12(f)(1)(B) of the Securities Exchange Act of 1934 and Rule 12f-1 thereunder, for unlisted trading privileges in the warrants to purchase common stock of the following company which security is listed and registered on one or more other national securities exchanges:

Commonwealth Edison Co., 7-4175, Series B Purchase Warrants (Expiring April 30, 1981).

Upon receipt of the request, on or before July 6, 1972, for any interested person, the Commission will determine whether the application with respect to the company named shall be set down for hearing. Any such request should state briefly the title of the security in which he is interested, the nature of the interest of the person making the request, and the position he proposes to take at the hearing, if ordered. In addition, any interested person may submit his views or any additional facts bearing on any of the said applications by means of a letter addressed to the Secretary, Securities and Exchange Commission, Washington,

D.C. 20549, not later than the date specified. If no one requests a hearing with respect to any particular application, such application will be determined by order of the Commission on the basis of the facts stated therein and other information contained in the official files of the Commission pertaining thereto.

For the Commission, by the Division of Trading and Markets (pursuant to delegated authority).

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

[FR Doc.72-9593 Filed 6-23-72;8:49 am]

[7-4198]

TRANS WORLD AIRLINES, INC.

Notice of Applications for Unlisted Trading Privileges and of Opportunity for Hearing

JUNE 20, 1972.

In the matter of application of the Midwest Stock Exchange for unlisted trading privileges in certain securities.

The above-named national securities exchange has filed application with the Securities and Exchange Commission pursuant to section 12(f)(1)(B) of the Securities Exchange Act of 1934 and Rule 12f-1 thereunder, for unlisted trading privileges in the warrants to purchase common stock of the following company which security is listed and registered on one or more other national securities exchanges:

Trans World Airlines, Inc., 7-4198, warrants to purchase common stock.

Upon receipt of the request, on or before July 6, 1972, for any interested person, the Commission will determine whether the application with respect to the company named shall be set down for hearing. Any such request should state briefly the title of the security in which he is interested, the nature of the interest of the person making the request, and the position he proposes to take at the hearing, if ordered. In addition, any interested person may submit his views or any additional facts bearing on any of the said applications by means of a letter addressed to the Secretary, Securities and Exchange Commission, Washington, D.C. 20549, not later than the date specified. If no one requests a hearing with respect to any particular application, such application will be determined by order of the Commission on the basis of the facts stated therein and other information contained in the official files of the Commission pertaining thereto.

For the Commission, by the Division of Trading and Markets (pursuant to delegated authority).

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

[FR Doc.72-9594 Filed 6-23-72;8:49 am]

[7-4199]

WARNER COMMUNICATIONS, INC. (DELAWARE)

Notice of Application for Unlisted Trading Privileges and of Opportunity for Hearing

JUNE 20, 1972.

In the matter of application of the Philadelphia - Baltimore - Washington Stock Exchange for unlisted trading privileges in a certain security.

The above-named national securities exchange has filed an application with the Securities and Exchange Commission pursuant to section 12(f)(1)(B) of the Securities Exchange Act of 1934 and Rule 12f-1 thereunder, for unlisted trading privileges in the preferred stock of the following company, which security is listed and registered on one or more other national securities exchange:

Warner Communications, Inc. (Delaware), 7-4199, 5-cent Series C Convertible Preferred Stock.

Upon receipt of a request, on or before July 6, 1972, from any interested person, the Commission will determine whether the application shall be set down for hearing. Any such request should state briefly the nature of the interest of the person making the request and the position he proposes to take at the hearing, if ordered. In addition, any interested person may submit his views or any additional facts bearing on the said application by means of a letter addressed to the Secretary, Securities and Exchange Commission, Washington 25, D.C., not later than the date specified. If no one requests a hearing, this application will be determined by order of the Commission on the basis of the facts stated therein and other information contained in the official files of the Commission pertaining thereto.

For the Commission, by the Division of Trading and Markets (pursuant to delegated authority).

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

[FR Doc.72-9595 Filed 6-23-72;8:49 am]

[7-4200]

WARNER COMMUNICATIONS, INC. (DELAWARE)

Notice of Applications for Unlisted Trading Privileges and of Opportunity for Hearing

JUNE 20, 1972.

In the matter of application of the Philadelphia - Baltimore - Washington Stock Exchange for unlisted trading privileges in a certain security.

The above-named national securities exchange has filed an application with the Securities and Exchange Commission pursuant to section 12(f)(1)(B) of the Securities Exchange Act of 1934 and Rule 12f-1 thereunder, for unlisted trading privileges in the common stock of the following company, which security is listed and registered on one or more other national securities exchange:

Warner Communications, Inc. (Delaware), 7-4200.

Upon receipt of a request, on or before July 6, 1972, from any interested person, the Commission will determine whether the application shall be set down for hearing. Any such request should state briefly the nature of the interest of the person making the request and the position he proposes to take at the hearing, if ordered. In addition, any interested person may submit his views or any additional facts bearing on the said application by means of a letter addressed to the Secretary, Securities and Exchange Commission, Washington, D.C. 20549, not later than the dates specified. If no one requests a hearing, this application will be determined by order of the Commission on the basis of the facts stated therein and other information contained in the official files of the Commission pertaining thereto.

For the Commission, by the Division of Trading and Marketing (pursuant to delegated authority).

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

[FR Doc.72-9596 Filed 6-23-72;8:50 am]

DEPARTMENT OF LABOR

Office of the Secretary

[TEA-W-49]

KRAMER SHOE COMPANY, INC.

Notice of Revised Certification of Eligibility of Workers To Apply for Adjustment Assistance

Following a Tariff Commission report under section 301(c)(2) of the Trade Expansion Act of 1962 (76 Stat. 884), the President's decision under section 330 (d)(1) of the Tariff Act of 1930, as amended, in respect thereto, and subsequent investigation as authorized under 29 CFR Part 90 and Notice in 34 F.R. 18342; 36 F.R. 7625, a certification under section 302(c) of the Trade Expansion Act was made on May 18, 1971, certifying that "all workers (hourly, salaried, and piecework) of the Kramer Shoe Co., Inc., plant located at Haverhill, Mass., who became unemployed or underemployed after June 19, 1969, are eligible to apply for adjustment assistance under title III, chapter 3, of the Trade Expansion Act of 1962." (36 F.R. 9483)

On the basis of a further showing and further investigation by the Acting Director of the Office of Foreign Economic Policy, and pursuant to the provisions of section 302(d) of such Act and 37 F.R. 2472, the certification issued by the Department on May 18, 1971, is hereby revised to change the date shown therein, and accordingly, to include within the coverage of the certification additional workers who became unemployed or underemployed.

Such revised certification is hereby made as follows:

All workers (hourly, salaried, and piecework) of the Kramer Shoe Co., Inc., plant located at Haverhill, Mass., who became unemployed or underemployed after February 2, 1969, are eligible to apply for adjustment assistance under title III, Chapter 3, of the Trade Expansion Act of 1962.

Signed at Washington, D.C., this 16th day of June 1972.

HERBERT N. BLACKMAN,
Deputy Assistant Secretary for Trade and Adjustment Policy.

[FR Doc. 72-9590 Filed 6-23-72;8:50 am]

INTERSTATE COMMERCE COMMISSION

[Notice 17]

ASSIGNMENT OF HEARINGS

JUNE 21, 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 129631, Pack Transport, Inc., now assigned July 10, 1972, at Salt Lake City, Utah, is postponed to August 21, 1972, in a hearing room to be later designated, at Salt Lake City, Utah.

MC 99208 Sub 9, Skyline Transportation, Inc., now being assigned hearing August 21, 1972 (1 week), at Lexington, Ky., in a hearing room to be later designated.

MC 127834 Sub 36, Cherokee Hauling & Rigging, Inc., now assigned July 17, 1972, at Memphis, Tenn., hearing is postponed indefinitely.

FD 26945, Colorado and Southern Railway Co.—Construction and Operation—Near Minnequa, Pueblo County, Colo., and FD 27022, The Colorado & Wyoming Railway Co.—Construction and Operation—Pueblo County, Colo., now assigned July 24, 1972, at Denver, Colo., will be held in Room 15036, Federal Building, 1961 Stout Street.

MC 74321 Sub 55, B. F. Walker, Inc., assigned July 24, 1972, and MC 134113 Sub 6, Hi-Ball Trucking, Inc., assigned July 26, 1972, at Denver, Colo., will be held in Room 15032, Federal Building, 1961 Stout Street.

Ex Parte No. 270 Sub 1, Investigation of Railroad Freight Rate Structure Export—Import Rates and Charges, heard June 5, 1972, at Seattle, Wash., and continued to June 26, 1972, in Room 1614, U.S. Court of Claims, Everett McKinley Dirksen Building, 219 South Dearborn Street, Chicago, IL.

MC 114273 Sub 110, Cedar Rapids Transportation, Inc., assigned August 1, 1972, MC 119493 Sub 88, Monkem Co., Inc., assigned August 3, 1972, and MC 119493 Sub 89, Monkem Co., Inc., assigned August 2, 1972, at Kansas City, Mo., will be held in Room 114, 601 East 12th Street.

MC 107295 Sub 589, Pre-Fab Transit Co., now assigned July 14, 1972, at Columbus, Ohio, is postponed to July 19, 1972, in Room 829, New Federal Building, Louisville, Ky.

[SEAL] ROBERT L. OSWALD,
Secretary.

[FR Doc.72-9622 Filed 6-23-72;8:50 am]

[Notice 18]

ASSIGNMENT OF HEARINGS

JUNE 21, 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.

CORRECTION

MC 61592 (Sub-No. 261), Jenkins Truck Line, Inc., now being assigned hearing August 17, 1972, at the Offices of the Interstate Commerce Commission, Washington, D.C., instead of MC 61592 (Sub-No.)

[FR Doc.72-9623 Filed 6-23-72;8:50 am]

FOURTH SECTION APPLICATIONS FOR RELIEF

JUNE 21, 1972.

Protests to the granting of an application must be prepared in accordance with Rule 1100.40 of the general rules of practice (49 CFR 1100.40) and filed within 15 days from the date of publication of this notice in the FEDERAL REGISTER.

LONG-AND-SHORT HAUL

FSA No. 42455—*Chlorine to Naheola, Ala.* Filed by Southwestern Freight Bureau, agent (No. B-329), for interested rail carriers. Rates on chlorine, in tank carloads, as described in the application, from specified points in Louisiana and Texas, to Naheola, Ala.

Grounds for relief—Market competition and rate relationship.

Tariffs—Supplements 371 and 9 to Southwestern Freight Bureau, agent, tariffs ICC 4668 and 5019, respectively. Rates are published to become effective on July 19, 1972.

FSA No. 42456—*General Commodities between ports in Japan, Korea, and Hong Kong and rail stations on the U.S. Atlantic Seaboard.* Filed by States Steamship Co. (No. 1), for itself and interested rail carriers. Rates on general commodities, between ports in Japan, Korea, and Hong Kong, on the one hand, and rail stations on the U.S. Atlantic Seaboard, on the other.

Grounds for relief—Water competition.

Tariffs—Rates as to which relief is requested, are to be published, filed and become effective as soon as the following tariffs are compiled and completed: States Steamship Co. tariffs Nos. 1, 2, and 3, ICC Nos. 1, 2, and 3.

By the Commission.

ROBERT L. OSWALD,
Secretary.

[FR Doc.72-9624 Filed 6-23-72;8:50 am]

[Notice 81]

MOTOR CARRIER BOARD TRANSFER PROCEEDINGS

Synopses of orders entered by the Motor Carrier Board of the Commission pursuant to sections 212(b), 206(a), 211, 312(b), and 410(g) of the Interstate Commerce Act, and rules and regulations prescribed thereunder (49 CFR Part 1132), appear below:

Each application (except as otherwise specifically noted) filed after March 27, 1972, contains a statement by applicants that there will be no significant effect on the quality of the human environment resulting from approval of the application. As provided in the Commission's special rules of practice any interested person may file a petition seeking reconsideration of the following numbered proceedings within 20 days from the date of publication of this notice. Pursuant to section 17(8) of the Interstate Commerce Act, the filing of such a petition will postpone the effective date of the order in that proceeding pending its disposition. The matters relied upon by petitioners must be specified in their petitions with particularity.

F.D. No. 27050. By order of June 20, 1972, the Motor Carrier Board approved the transfer to Stardust River Cruises, Inc., Ponca, Nebr., of the operating rights in the certificate and order issued February 26, 1972, in No. W-1246 to David L. Hogan and F. P. Davey, doing business as Stardust River Cruises, Ponca, Nebr., authorizing operations as a common carrier by self-propelled vessels, in interstate or foreign commerce, in the transportation of passengers and their baggage, during the season March through December, both inclusive, between specified points in South Dakota, Iowa, and Nebraska. Donald L. Stern, 7100 West Center Road, Omaha, NE 68106, attorney for applicants.

No. MC-FC-73474. By order of June 20, 1972, the Motor Carrier Board on reconsideration approved the transfer to Universal Transport System, Inc., Mountain View, Calif., of that portion of the operating rights in certificate No. MC-135615 issued September 28, 1971, to Merle Weber Transportation, Inc., Yuba City, Calif., authorizing the transportation of cement from Redwood City, Permanente, and Davenport, Calif., to points in that part of Nevada on and north of U.S. Highway 6; cement, in bulk, from West Sacramento and San Andreas, Calif., and points within 5 miles of San Andreas, to points in that part of Nevada on and north of U.S. Highway 6, and cement, in sacks, from West Sacramento, Calif., to points in that part

of Nevada on and north of U.S. Highway 6. Raymond A. Greene, Jr., 405 Montgomery Street, San Francisco, CA 94104, attorney for applicants.

No. MC–FC–73579. By order of June 20, 1972, the Motor Carrier Board approved the transfer to Dimon & Bacorn Inc., Elmira, N.Y., of the operating rights in certificate No. MC–43656 issued April 12, 1960, to Kenneth Dimon, doing business as Dimon & Bacorn, Elmira, N.Y., authorizing the transportation of household goods, between points in New York, on the one hand, and, on the other, points in Connecticut, Maryland, New York, Massachusetts, New Jersey, Ohio, Pennsylvania, Virginia, Rhode Island, New Hampshire, and the District of Columbia. James L. Burke, 315 Lake Street, Elmira, NY, attorney for applicants.

No. MC–FC–73623. By order of June 20, 1972, the Motor Carrier Board, on reconsideration, approved the transfer to Arnold E. Pilcher, doing business as Pilcher Truck Line, Clay Center, Kans., of certificates Nos. MC–70082 and MC–70082 (Sub-No. 5) issued April 2, 1951, and February 7, 1961, to Paul Kemnitz, Leonardville, Kans., authorizing the transportation of: General commodities, with the usual exceptions, and certain specifically named commodities, between specified points and areas in Kansas and Missouri. Leland M. Spurgeon, attorney, 308 Casson Building, Topeka, Kans. 66603.

No. MC–FC–73755. By order of June 20, 1972, the Motor Carrier Board approved the transfer to Callahan Bros., Inc., Cos Cob, Conn., of the operating rights in certificate No. MC–109946 issued November 19, 1956, to John C. Callahan, doing business as Callahan Brothers, Cos Cob, Conn., authorizing the transportation of household goods between Stamford, Conn., and points in Connecticut and New York within 15 miles thereof, on the one hand, and, on the other, points in New York, New Jersey, and Pennsylvania. John E. Fay, 342 North Main Street, West Hartford, CT 06117, attorney for applicants.

ROBERT L. OSWALD,
Secretary.

[FR Doc.72–9626 Filed 6–23–72;8:50 am]

[Notice 87]

MOTOR CARRIER TEMPORARY AUTHORITY APPLICATIONS [1]

JUNE 19, 1972.

The following are notices of filing of applications for temporary authority under section 210a(a) of the Interstate Commerce Act provided for under the new rules of Ex Parte No. MC–67 (49 CFR Part 1131) published in the FEDERAL REGISTER, issue of April 27, 1965, effective July 1, 1965. These rules provide that protests to the granting of an application must be filed with the field official named in the FEDERAL REGISTER publication, within 15 calendar days after the date of notice of the filing of the application is published in the FEDERAL REGISTER. One copy of such protests must be served on the applicant, or its authorized representative, if any, and the protests must certify that such service has been made. The protests must be specific as to the service which such protestant can and will offer, and must consist of a signed original and six copies.

A copy of the application is on file, and can be examined at the Office of the Secretary, Interstate Commerce Commission, Washington, D.C., and also in field office to which protests are to be transmitted.

MOTOR CARRIERS OF PROPERTY

No. MC 116763 (Sub-No. 222 TA), filed June 5, 1972. Applicant: CARL SUBLER TRUCKING, INC., North West Street, Versailles, Ohio 45380 (Legal Domicile), 906 Magnolia Avenue, Auburndale, FL 33823. Applicant's representative: H. M. Richters (same address as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Diatomaceous earth*, from the plantsite and/or warehouse facilities of Lipton Pet Foods, Inc., at or near Woburn, Mass., to points in Illinois, Indiana, Michigan, Minnesota, Ohio, and Wisconsin, for 180 days. Supporting shipper: Lipton Pet Foods, Inc., 209 New Boston Street, Woburn, MA 01801. Send protests to: Paul J. Lowry, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 5514–B Federal Building, 550 Main Street, Cincinnati, OH 45202.

No. MC 117613 (Sub-No. 8 TA), filed June 5, 1972. Applicant: DONALD M. BOWMAN, JR., Route 3, Box 26, Hagerstown, MD 21740, Residence: 5 North Clifton Drive, Williamsport, MD 21795. Applicant's representative: Charles E. Creager, Suite 523, 816 Easley Street, Silver Spring, MD 20910. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Brick*, from Rocky Ridge, Md. (at or near Thurmont, Md.), to points in Mineral County, W. Va., for 180 days. Supporting shipper: Baltimore Brick Co., a subsidiary of the Arundel Corp., 501 St. Paul Place, Baltimore, MD 21202. Send protests to: Robert D. Caldwell, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 12th and Constitution Avenue NW., Washington, D.C. 20423.

No. MC 123392 (Sub-No. 37 TA) (Correction), filed May 16, 1972, published in the FEDERAL REGISTER issue of May 31, 1972, corrected and republished as corrected this issue. Applicant: JACK B. KELLEY, INC., U.S. 66 West at Kelley Drive, Amarillo, TX 79106. Applicant's representative: Weldon M. Teague (same address as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Cryogenically liquefied argon gas*, in bulk, in cryogenic trailers, from a point on the United States-Canadian boundary at Detroit, Mich., to points in Illinois, Indiana, and Michigan, for 180 days. Supporting shipper: R. E. Bryant, Manager, Distribution, American Cryogenics Division of Liquid Air, Inc., San Francisco, Calif. 94111. Send protests to: Haskell E. Ballard, District Supervisor, Bureau of Operations, Interstate Commerce Commission, Box H–4395 Herring Plaza, Amarillo, Tex. 79101. NOTE: The purpose of this republication is to include the commodity description.

No. MC 123640 (Sub-No. 8 TA), filed June 6, 1972. Applicant: SUMMIT CITY ENTERPRISES, INC., 3200 Maumee Avenue, Fort Wayne, IN 46803. Applicant's representative: Joseph R. Higi (same address as above). Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Such commodities* as are sold or dealt in by wholesale hardware houses, between Cape Girardeau, Mo., on the one hand, and, on the other, points in Louisiana and Oklahoma, for 180 days. Supporting shipper: Hardware Wholesalers, Inc., Nash Road, Cape Girardeau, Mo. Send protests to: District Supervisor J. H. Gray, Bureau of Operations, Interstate Commerce Commission, 345 West Wayne Street, Room 204, Fort Wayne, IN 46802.

No. MC 136780 TA, filed June 5, 1972. Applicant: FAR WEST TRANSPORTATION, INC., Post Office Box 2544, Santa Fe Springs, CA 90670. Applicant's representative: Ernest D. Salm, 3846 Evans Street, Los Angeles, CA. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Drugs, medicines, chemicals, cosmetics, toilet preparations, shaving cream, shampoo, soap, printed matter, books, games, picture puzzles, playing cards; and promotional and advertising materials relating the foregoing commodities*, from Reno and Sparks, Nev., to points in Kern, Los Angeles, Orange, Riverside, San Bernardino, San Diego, San Barbara, and Ventura Counties, Calif., for 180 days. Supporting shippers: Shulton, Inc., 200 18th Street, Sparks, NV 89431; Smith Kline & French Laboratories, 201 Edison Way, Reno, NV 89510; Western Publishing Co., Inc., 1220 Mound Avenue, Racine, WI 53404; Same Day Delivery Service, 12133 Greenstone Avenue, Santa Fe Springs, CA 90670. Send protests to: Walter W. Strakosch, District Supervisor, Interstate Commerce Commission, Bureau of Operations, Room 7708, Federal Building, 300 North Los Angeles Street, Los Angeles, CA 90012.

No. MC 136781 TA, filed June 5, 1972. Applicant: SMITH HAULING & RIGGING CO., INC., 130 South Floyd Street, Louisville, KY 40202. Applicant's representative: George M. Catlett, Suite 703–706, McClure Building, Frankfort, Ky. 40601. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Telephone equipment, material, and supplies, including tools* used in the construction

[1] Except as otherwise specifically noted, each applicant states that there will be no significant effect on the quality of the human environment resulting from approval of its application.

and maintenance of telephone systems and communication, between Louisville, Ky., and points in Anderson, Bullitt, Carroll, Franklin, Gallatin, Hardin, Henry, Jefferson, Larue, Meade, Nelson, Oldham, Owen, Shelby, Spencer, and Trimble Counties, Ky., for 180 days. Supporting shipper: J. F. Ballard, Resident Transportation Manager, Southern Region, Western Electric, 6701 Roswell Road NE., Atlanta, GA 30328. Send protests to: Wayne L. Merilatt, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 426 Post Office Building, Louisville, Ky. 40202.

By the Commission.

[SEAL] ROBERT L. OSWALD,
Secretary.

[FR Doc.72-9625 Filed 6-23-72;8:50 am]

[Revised SO 994; ICC Order 16; Amdt. 11]

PENN CENTRAL TRANSPORTATION CO.

Rerouting or Diversion of Traffic

Upon further consideration of ICC Order No. 16 (Penn Central) and good cause appearing therefor:

It is ordered, That: ICC Order No. 16 be, and it is hereby, amended by substituting the following paragraph (g) for paragraph (g) thereof:

(g) *Expiration date.* This order shall expire at 11:59 p.m., December 31, 1972, unless otherwise modified, changed, or suspended.

It is further ordered, That this amendment shall become effective at 11:59 p.m., June 30, 1971, and 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., June 19, 1972.

[SEAL] INTERSTATE COMMERCE COMMISSION,
R. D. PFAHLER,
Agent.

[FR Doc.72-9627 Filed 6-23-72;8:50 am]

[Revised SO 994; ICC Order 49; Amdt. 5]

PENN CENTRAL TRANSPORTATION CO.

Rerouting or Diversion of Traffic

Upon further consideration of ICC Order No. 49 (Penn Central Transportation Co.) and good cause appearing therefor:

It is ordered, That: ICC Order No. 49 be, and it is hereby, amended by substituting the following paragraph (g) for paragraph (g) thereof:

(g) *Expiration date.* This order shall expire at 11:59 p.m., December 31, 1972, unless otherwise modified, changed, or suspended.

It is further ordered, That this amendment shall become effective at 11:59 p.m., June 30, 1971, and 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., June 19, 1972.

[SEAL] INTERSTATE COMMERCE COMMISSION,
R. D. PFAHLER,
Agent.

[FR Doc.72-9628 Filed 2-23-72;8:51 am]

[Revised S.O. 994; ICC Order 57; Amdt. 8]

PENN CENTRAL TRANSPORTATION CO.

Rerouting or Diversion of Traffic

Upon further consideration of ICC Order No. 57 (Penn Central Transportation Co., George P. Baker, Richard C. Bond, Jervis Langdon, Jr., and Willard Wirtz, trustees), and good cause appearing therefor:

It is ordered, That: ICC Order No. 57 be, and it is hereby, amended by substituting the following paragraph (g) for paragraph (g) thereof:

(g) *Expiration date.* This order shall expire at 11:59 p.m., December 31, 1972, unless otherwise modified, changed, or suspended.

It is further ordered, That this amendment shall become effective at 11:59 p.m., June 30, 1972, and 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., June 19, 1972.

[SEAL] INTERSTATE COMMERCE COMMISSION,
R. D. PFAHLER,
Agent.

[FR Doc.72-9629 Filed 6-23-72;8:51 am]

[Revised SO 994; ICC Order 61; Amdt. 5]

SUSQUEHANNA AND WESTERN RAILROAD CO.

Rerouting or Diversion of Traffic

JUNE 16, 1972.

Upon further consideration of ICC Order No. 61 (New York, Susquehanna, and Western Railroad Co.) and good cause appearing therefor:

It is ordered, That: ICC Order No. 61 be, and it is hereby, amended by substituting the following paragraph (g) for paragraph (g) thereof:

(g) *Expiration date.* This order shall expire at 11:59 p.m., December 31, 1972, unless otherwise modified, changed, or suspended.

It is further ordered, That this amendment shall become effective at 11:59 p.m., June 30, 1972, and 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., June 15, 1972.

[SEAL] INTERSTATE COMMERCE COMMISSION,
R. D. PFAHLER,
Agent.

[FR Doc.72-9618 Filed 6-23-72;8:50 am]

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PART II

DEPARTMENT OF THE INTERIOR

■

Special Rules Applicable to Public Land Hearings and Appeals

■

Notice of Proposed Rule Making

DEPARTMENT OF THE INTERIOR

Office of the Secretary

[43 CFR Part 4]

PUBLIC LAND HEARINGS AND APPEALS

Notice of Proposed Rule Making

Notice is hereby given that, under the authority cited in the proposed regulations set forth below and the authority contained in R.S. 2478, as amended, 43 U.S.C. sec. 1201 (1970), the Secretary of the Interior is proposing to amend Department Hearings and Appeals Procedures in Part 4 of Title 43 of the Code of Federal Regulations by revising the procedural rules in Subpart E—Special Rules Applicable to Public Land Hearings and Appeals, which pertain to proceedings which involve a hearing or opportunity for a hearing and which involve appeals before hearing examiners of the Hearings Division and before the Board of Land Appeals in the Office of Hearings and Appeals, Office of the Secretary. The purpose of the revision is to improve the procedures by clarifying and standardizing requirements and providing modern and equitable rules, to the end that issues raised on appeal and in hearings proceedings may be resolved as expeditiously as possible, consistent with due process. The revision will not alter any substantive legal rights.

Principal changes include streamlining the arrangement of the rules and filling in omissions in the existing regulations. For example, providing procedural rules for the taking of appeals to the Board of Land Appeals from decisions of the Director, Geological Survey, rules for third party participation in hearings and appeals proceedings, procedures regarding depositions and interrogatories (applicable to the Government and to the other interested parties), requirements for the filing of motions, briefs, and other pleadings, rules of evidence, provisions for settlements and for summary decisions. The revised regulations provide also for default decisions in contest proceedings without the scheduling or holding of a hearing where that action is indicated as appropriate because of the failure of a party to file a timely answer or to appear at the hearing ordered. The strict time limitation for filing a notice of appeal has been retained. The regulations provide that the timely filing of a notice of appeal is a jurisdictional requirement. However, the rules provide for the exercise of discretion by the hearing examiners and the Board of Land Appeals in excusing delays in filing or serving of other required documents in support of appeals, such as statements of reasons, where good cause is shown.

Procedural regulations applicable to the initiation of contest and protest proceedings and other actions in such matters which are accomplished by Bureau of Land Management personnel prior to the reference of cases to the Office of Hearings and Appeals, have been retained in the revised regulations for reasons of administrative convenience and because the functions of the Bureau officers in these matters are generally ministerial in nature. The revised regulations clearly show, however, when the functions of the Office of Hearings and Appeals attach in these proceedings and in other hearings matters.

Appropriate editorial changes will be made in references to procedures concerned herein which appear in other titles or chapters of the Code of Federal Regulations upon issuance of the final revised regulations pertaining to such procedures.

It is the policy of the Department of the Interior, whenever practicable, to afford the public an opportunity to participate in the rule making process. Accordingly, interested persons are invited to submit written comments, suggestions, or objections. Communications should be addressed to the Director, Office of Hearings and Appeals, 4015 Wilson Boulevard, Arlington, VA 22203. All communications received on or before August 25, 1972, will be considered before action is taken on the proposed revised regulations. The proposals contained in this notice may be changed in light of comments received.

Because of the wide range of persons and interests affected by the proposed revision of the regulations and the great value of public participation in developing rules which will improve the procedural processes in public land hearings and appeals, the Director of the Office of Hearings and Appeals has scheduled public hearings to encourage the attendance and participation of the interested public in this proposed rule making by submission of comments, suggestions, or objections. Notice is hereby given that said hearings will be held on the days and at the locations indicated:

July 31, 1972—Reclamation Auditorium, Building 56, Denver Federal Center, Denver, Colo.

August 2, 1972—Phoenix Indian School Auditorium, 45 East Midway, Phoenix, AZ.

August 4, 1972—Bonneville Auditorium, No. 1002 Northeast Holladay, Portland, OR.

All hearings will commence at 9:30 a.m. Interested individuals, representatives of organizations and public officials wishing to appear at the hearings should contact the Director, Office of Hearings and Appeals, at the aforesaid address or telephone number 703-557-1500, not later than July 26, 1972. Written comments from those unable to attend, and from those wishing to supplement their oral presentations at the hearings, should be received by the Director, Office of Hearings and Appeals, at the aforesaid address on or before August 25, 1972. All written statements received pursuant to this notice will be included in the hearings record.

Oral statements at the hearings will be limited to a period of 10 minutes. To the extent that time is available after presentation of oral statements by those who have given advance notice, the hearing officer will give others present an opportunity to be heard.

Effective date. If adopted, the revised procedural rules would be effective as of the date of publication in final form in the FEDERAL REGISTER and would govern all proceedings commenced after the effective date and all pending proceedings except to the extent that application of the amendments or any portion thereof in a pending proceeding would not be feasible or would work injustice, in which case the appropriate former rule or rules would apply.

Dated: June 21, 1972.

JAMES M. DAY,
Director, Office of Hearings and Appeals.

The text of Subpart E—Special Rules Applicable to Public Land Hearings and Appeals, as proposed to be revised, is as follows:

Subpart E—Special Rules Applicable to Public Land Hearings and Appeals

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PREHEARING

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AUTHORITY: The provisions of this subpart also issued under authority of sec. 2, 48 Stat. 1270, 43 U.S.C. sec. 315a; sec. 7, 68 Stat. 711, as amended, 30 U.S.C. sec. 527; sec. 5, 69 Stat. 369, as amended, 30 U.S.C. sec. 613; sec. 2, 69 Stat. 682, as amended, 30 U.S.C. sec. 621; and sec. 24, 84 Stat. 1566, 30 U.S.C. sec. 1023.

CROSS REFERENCE: See Subpart A for the authority, jurisdiction, and membership of the Board of Land Appeals within the Office of Hearings and Appeals. For general rules applicable to proceedings before the Board of Land Appeals as well as the other Appeals Boards of the Office of Hearings and Appeals, see Subpart B.

NOTE: §§ 4.430 through 4.439 include special procedural rules applicable to contest and protest proceedings which are preliminary to commencement of functions of the Office of Hearings and Appeals, as indicated in § 4.453 of this subpart.

HEARINGS AND APPEALS PROCEDURES

GENERAL

§ 4.400 Scope and construction.

(a) The procedures and rules of practice set forth herein are applicable to (1) appeals from decisions or orders of the Director of the Geological Survey, Bureau of Land Management officers, or hearing examiners, within the jurisdiction of the Board of Land Appeals, and to (2) proceedings involving adjudicative hearings in public land matters, including, but not limited to, such hearings in both Government and private contest proceedings, hearings under the Multiple Mineral Development Act of 1954, as amended, 30 U.S.C. 521, hearings under the Surface Resources Act of 1955, as amended, 30 U.S.C. 601, hearings under the Mining Claims Rights Restoration Act of 1955, 30 U.S.C. 621, hearings under the Geothermal Steam Act of 1970, 30 U.S.C. 1001, hearings on appeals to hearing examiners in grazing cases within grazing districts established under the Taylor Grazing Act of June 28, 1934, as amended, 43 U.S.C. 315, and hearings on appeals within the jurisdiction of the Board of Land Appeals involving questions of fact. To the extent they are not inconsistent with these special rules, the general rules of the Office of Hearings and Appeals in Subpart B of this part are also applicable to hearings procedures in public lands matters.

(b) These regulations shall be construed to secure the just, prompt and inexpensive determination of all proceedings consistent with adequate consideration of the issues involved and full protection of the rights of all interested parties including the Government.

§ 4.401 Definitions.

As used in this subpart:

(a) "Secretary" means the Secretary of the Interior or his authorized representative.

(b) "Board" means the Board of Land Appeals in the Office of Hearings and Appeals, Office of the Secretary. The terms "office" or "officer" as used in this subpart include "Board" where the context requires.

(c) "Examiner" means a hearing examiner designated by the Office of Hearings and Appeals, Office of the Secretary.

(d) Director of the Bureau of Land Management means the Director of the Bureau of Land Management in the U.S. Department of the Interior, or his authorized representative.

(e) Director of the Geological Survey means the Director of the Geological Survey in the U.S. Department of the Interior, or his authorized representative.

(f) "Bureau" means the Bureau of Land Management.

(g) "State Director" means the supervising Bureau of Land Management officer for the State, or his authorized agent.

(h) "District manager" means the supervising Bureau of Land Management officer of the district, or his authorized agent.

§ 4.402 Documents.

(a) *Grace period for filing.* Whenever a document is required under this subpart to be filed within a certain time and it is not received in the proper office during that time, the delay in filing will be waived if the document is filed not later than 10 days after it was required to be filed and it is determined that the document was transmitted or probably transmitted to the office in which the filing is required before the end of the period in which it was required to be filed. Determinations under this paragraph shall be made by the officer before whom is pending the appeal, contest, or other proceeding in connection with which the document is required to be filed.

(b) *Service of documents.* (1) Whereever the regulations in this subpart require that a copy of a document be served upon a person, service may be made by delivering the copy personally to him or by sending the document by registered or certified mail, return receipt requested, to his address of record in the Bureau, the Geological Survey, or in the Office of Hearings and Appeals, as appropriate.

(2) In any case service may be proved by an acknowledgement of service signed by the person to be served. Personal service may be proved by a written statement of the person who made such service. Service by registered or certified mail may be proved by a post office return receipt showing that the document was delivered at the person's record address or showing that the document could not be delivered to such person at his record address because he had moved therefrom without leaving a forwarding address or because delivery was refused at that address or because no such address exists. Proof of service of a copy of a document should be filed in the same office in which the document is filed except that proof of service of a notice of appeal must be filed with the Board if the proof of service is filed later than the notice of appeal.

(3) A document will be considered to have been served at the time of personal service, of delivery of a registered or certified letter, or of the return by the post office of an undelivered registered or certified letter.

§ 4.403 Extensions of time.

(a) The Board or the examiner, as appropriate, may rule ex parte on requests for extensions of time to file documents in proceedings before them. Such requests may be granted upon a showing of good cause, except for the time fixed for filing a notice of appeal, as specified

in §§ 4.410 and 4.418, which may not be extended, and except where such extension is contrary to law or regulation. Where the request is made after the expiration of the specified period for the filing of the document, the filing may be permitted where reasonable grounds are found for the failure to file.

(b) Extensions of time in any case may be had by stipulation of the parties, subject to approval by the Board or the examiner, as appropriate, sufficient cause being shown for such extension, except for the time for filing a notice of appeal, which may not be enlarged, and except where such extension is contrary to law or regulation.

§ 4.404 Notice to transferees and encumbrancers.

Transferees and encumbrancers of land, the title to which is claimed or is in the process of acquisition under any public land law shall, upon filing notice of the transfer or encumbrance in the proper office of the Bureau, become entitled to receive and be given the same notice of any appeal, or other proceeding thereafter initiated affecting such interest which is required to be given to a party to the proceeding. Every such notice of a transfer or encumbrance will be noted upon the records of the Bureau office. Thereafter such transferee or encumbrancer must be made a party to any proceedings thereafter initiated adverse to the entry.

§ 4.405 Intervention.

A petition for leave to intervene may be filed at any stage of a proceeding. In the discretion of the examiner or the Board a person may be denied intervention in a matter in which he could have participated as a party but failed to avail himself of the opportunity to do so. The petition must set forth the interest of the petitioner in the proceeding. The examiner or the Board may grant or deny petitions for intervention or may permit intervention limited to a particular stage of the proceeding.

§ 4.406 Participation by Director, Bureau of Land Management, and Director, Geological Survey.

The Director of the Bureau of Land Management and the Director of the Geological Survey, as appropriate, may participate as a party or by the submission of written comments served on all parties in all proceedings governed by the rules in this subpart without making a specific request to participate, except that in private contest proceedings initiated under procedures in Chapter II of this title the Director of the Bureau of Land Management shall become a party only upon intervention as permitted by the examiner. All active participation by the Director of the Bureau of Land Management and the Director of the Geological Survey shall be through the Office of the Solicitor, as provided in § 4.3.

§ 4.407 Requests for reconsideration.

(a) Reconsideration of a final decision or order of the Board, which may include a hearing or rehearing, may be granted only in extraordinary circumstances where, in the judgment of the Board, sufficient reason therefor appears. Requests for reconsideration to be timely shall be filed within 30 days from the date of the Board's decision or order, and must state with particularity the material error claimed. Where a hearing has been held in the proceeding upon which the Board's decision or order is based, only newly discovered evidence, evidence which has become available only since the close of the hearing, or evidence which the Board believes should have been taken at the hearing, will be taken at any further hearing. Within the same 30-day period, the moving party shall serve a copy of any such request for reconsideration on any opposing party in the case, who may file an answer thereto within 30 days after service upon him of the request.

(b) Successive requests for reconsideration, hearing or rehearing, filed by the same party or parties, and upon substantially the same ground as a former request which has been considered or denied by the Board, will not be entertained.

(c) Unless otherwise permitted by the Board upon a showing of unusual or exceptional circumstances, requests for reconsideration, hearing or rehearing, or answers thereto, which exceed 25 pages, including appendices, in length, in typewritten (double-spaced), printed or duplicated form, shall not be accepted for filing.

APPEALS TO THE BOARD OF LAND APPEALS

§ 4.410 Who may appeal: mandatory time limit.

(a) *Who may appeal.* (1) Any party to a case who is adversely affected by a final decision or order of an officer of the Bureau of Land Management or of an examiner, issued under authority of regulations in this title, shall have a right to appeal to the Board, except as otherwise provided in Group 2400 of Chapter II of this title, except to the extent that decisions of Bureau of Land Management officers must first be appealed to an examiner under § 4.418 and Part 4110 of this title, and except where such decision or order has been approved by the Secretary prior to promulgation: *Provided,* That within 30 days after service of the decision or order upon him, such party files a notice that he wishes to appeal.

(2) Any party to a case who is adversely affected by a final decision or order of the Director of the Geological Survey, issued under authority of regulations in 30 CFR Ch. II, and this title, shall have a right to appeal to the Board, unless such decision or order was approved by the Secretary prior to promulgation: *Provided,* That within 30 days after service of the decision or order upon him, such party files a notice that he wishes to appeal.

(b) *Mandatory time limit.* No extension of time will be granted for filing the notice of appeal. If a notice of appeal is filed after the grace period provided in § 4.402(a), the notice of appeal will not be considered and the case will be closed by the officer from whose decision or order the appeal is taken. If the notice of appeal is filed during the grace period provided in § 4.402(a) and the delay in filing is not waived, as provided in that section, the notice of appeal will not be considered and the case will be closed by the Board.

§ 4.411 Manner of taking appeal; service on other parties.

(a) *Notice of appeal; statement of reasons and written arguments.* A notice of appeal shall be in writing, signed by the appellant or by his attorney of record or other qualified representative, and shall be transmitted to the office of the officer who made the decision or order from which the appeal is taken (not with the Board) in time to be filed in the office where it is required to be filed within 30 days after the person taking the appeal is served with the decision or order he is appealing. The notice of appeal should contain the serial number or other identification of the case. It may include a concise and complete statement of the points of fact and law relied upon in support of the position taken on the issues involved. If it does not, such statement of reasons and any written arguments in support of the appeal must be filed with the Board (address: Board of Land Appeals, Office of Hearings and Appeals, 4015 Wilson Boulevard, Arlington, VA 22203), within 30 days after the filing of the notice of appeal. In any case the appellant may file with the Board additional statements of reasons and written arguments within the 30-day period after he filed the notice of appeal.

(b) *Service of notice of appeal, and of other documents.* The appellant must serve a copy of the notice of appeal and of any statement of reasons and written arguments in support of the appeal upon each adverse party named in the decision appealed from, and upon any interveners and amici named in the proceeding, in the manner provided in § 4.402(b), not later than 15 days after filing the document. Proof of such service, as required by § 4.402(b), must be filed with the Board within 15 days after service unless filed with the notice of appeal.

§ 4.412 Transmittal of appeal file.

Within 5 days after receipt of the notice of appeal, the officer whose decision or order is being appealed shall transmit to the Board the entire official file in the matter, or copies thereof, including all records, documents, transcripts of testimony, and other information compiled during the proceedings leading to the decision or order being appealed.

§ 4.413 Answers; service on appellant; failure to answer.

(a) *Answers.* If any party served with a notice of appeal wishes to participate in the proceeding on appeal, he must file an answer, signed by him or by his attorney of record or other qualified representative, with the Board (address:

Board of Land Appeals, Office of Hearings and Appeals, 4015 Wilson Boulevard, Arlington, VA 22203), within 30 days after service upon him or his attorney of record or other qualified representative of the notice of appeal or statement of reasons and written arguments where such statement and arguments were not included in the notice of appeal. If additional reasons or written arguments are filed by the appellant, the answering party shall have 30 days after service thereof upon him within which to answer them.

(b) *Service on appellant.* The answering party shall serve a copy of the answer on the appellant, in the manner prescribed in § 4.402(b) not later than 15 days after filing the answer. Proof of such service as required by § 4.402(b) must be filed with the Board within 15 days after service unless filed with the answer.

(c) *Failure to answer.* Failure to answer will not result in a default. If an answer is not filed and served within the time required, it may be disregarded in deciding the appeal.

§ 4.414 Statements of reasons or briefs on appeal.

Unless otherwise permitted by the Board upon a showing of unusual or exceptional circumstances, statements of reasons, briefs or other written comments which exceed 50 pages, including appendices, in length, in typewritten (double-spaced), printed or duplicated form, shall not be accepted for filing.

§ 4.415 Requests for hearings on appeals involving questions of fact.

Either an appellant or an adverse party may, if he desires a hearing to present evidence on a genuine issue of a material fact, request that the case be assigned to an examiner for such a hearing. Such a request must be made in writing and filed with the Board within 30 days after answer is due and a copy of the request must be served on the opposing party in the case. The allowance of a request for a hearing is within the discretion of the Board, and the Board may, on its own motion, refer any case to an examiner for a hearing on an issue of fact. If a hearing is ordered, the Board will specify the issues upon which the hearing is to be held and the hearing will be held in accordance with applicable hearings procedures in this subpart and in the general rules in Subpart B of this part.

§ 4.416 Decisions on appeals.

(a) In rendering its decision the Board may affirm, reverse, modify, vacate, and set aside, or remand for further proceedings, in whole or in part, the decision or order from which the appeal is taken, and will include in its decision a statement of the reasons or basis for its action and any concurring and dissenting opinions.

(b) Where the record shows that there is no genuine issue as to any material fact and that the decision on the appeal rests entirely on a matter of law, an appropriate summary decision may be made by the Board on the legal issue.

(c) Failure of an appellant to state any reasons or basis for the appeal or to timely serve adverse parties as required under this subpart will not affect the validity of the appeal but shall be ground only for such action as the Board deems appropriate, which may include summary dismissal of the appeal.

ACTIONS BEFORE HEARING EXAMINERS IN GRAZING PROCEEDINGS (INSIDE GRAZING DISTRICTS)

§ 4.418 Who may appeal; mandatory time limit.

(a) *Who may appeal.* Any applicant for grazing privileges and any licensee or permittee who is adversely affected by a final decision or order of an officer of the Bureau of Land Management, issued under authority of regulations in Part 4110 of Chapter II of this title, shall have a right to appeal to an examiner of the Hearings Division, Office of Hearings and Appeals, and request a hearing, except as otherwise provided in Group 2400 of Chapter II of this title: *Provided,* That within 30 days after service of the decision or order upon him, such applicant, licensee or permittee files a notice that he wishes to appeal.

(b) *Mandatory time limit.* No extension of time will be granted for filing the notice of appeal. If a notice of appeal is filed after the grace period provided in § 4.402(a), the notice of appeal will not be considered and the case will be closed by the officer of the Bureau of Land Management from whose decision or order the appeal is taken. If the notice of appeal is filed during the grace period provided in § 4.402(a) and the delay in filing is not waived, as provided in that section, the notice of appeal will not be considered and the case will be closed by the examiner.

§ 4.419 Manner of taking appeal; service on other parties.

(a) *Notice of appeal; statement of reasons and written arguments.* A notice of appeal shall be in writing, signed by the appellant or by his attorney of record or other qualified representative, and shall be transmitted to the office of the officer of the Bureau of Land Management who made the decision or order from which the appeal is taken (not with the Hearings Division of the Office of Hearings and Appeals) in time to be filed in the office where it is required to be filed within 30 days after the person taking the appeal is served with the decision or order he is appealing from. The notice of appeal should contain the serial number or other identification of the case. It may include a concise and complete statement of the points of fact and law relied upon in support of the position taken on the issues involved. If it does not, such statement of reasons and any written arguments in support of the appeal must be filed with the examiner at the address furnished in the decision or order appealed from within 30 days after the filing of the notice of appeal. In any case the appellant may file with the examiner additional statements of reasons and written arguments within the 30-day period after he filed the notice of appeal.

(b) *Service of notice of appeal, and of other documents.* The appellant must serve a copy of the notice of appeal and of any statement of reasons and written arguments in support of the appeal upon each adverse party named in the decision appealed from, in the manner provided in § 4.402(b), not later than 15 days after filing the document. Proof of such service, as required by § 4.402(b), must be filed with the examiner within 15 days after service unless filed with the notice of appeal.

§ 4.420 Transmittal of appeal file.

Within 5 days after receipt of the appeal, the officer of the Bureau whose decision or order is being appealed shall transmit the appeal and all supporting documents to the examiner.

§ 4.421 Answers; service on appellant; failure to answer.

(a) *Answers.* If any party served with a notice of appeal wishes to participate in the proceeding on appeal, he must file an answer, signed by him or by his attorney of record or other qualified representative, in the Office of Hearing Examiners, 6432 Federal Building, Salt Lake City, Utah 84111, within 30 days after service upon him or his attorney of record or other qualified representative of the notice of appeal or statement of reasons and written arguments where such statement and arguments were not included in the notice of appeal. If additional reasons or written arguments are filed by the appellant, the answering party shall have 30 days after service thereof upon him within which to answer them.

(b) *Service on appellant.* The answering party shall serve a copy of the answer on the appellant, in the manner prescribed in § 4.402(b) not later than 15 days after filing the answer. Proof of such service as required by § 4.402(b) must be filed with the examiner within 15 days after service unless filed with the answer.

(c) *Failure to answer.* Failure to answer will not result in a default. If an answer is not filed and served within the time required, it may be disregarded in deciding the appeal.

§ 4.422 Interveners.

At least 30 days before the date set for the hearing before the examiner, applicants for grazing privileges, licensees and permittees, who in the opinion of the authorized official of the Bureau may be directly affected by the decision on appeal but who were not named in his decision as parties, will be notified by that Bureau official of the time and place of any hearing on the appeal. Such persons may appear at the hearing personally or by their attorneys of record or other qualified representatives and, upon a proper showing of interest, may be recognized by the examiner as interveners in the appeal proceeding.

§ 4.423 Decisions on appeals.

(a) In rendering his decision the examiner may affirm, reverse, modify, vacate, or set aside, or remand for further proceedings, in whole or in part, the decision or order from which the appeal is taken, and will include in his decision a statement of the reasons or basis for his action. However, no adjudication of grazing privileges will be set aside on appeal, if it appears that it is reasonable and that it represents a substantial compliance with the provisions of Part 4110 of this title.

(b) Decisions shall be rendered upon a consideration of the whole record or such portions thereof as may be cited by any party and as supported by and in accordance with the reliable, probative and substantial evidence. The transcript of testimony and exhibits, together with all papers and requests filed in the proceeding, shall constitute the exclusive record for decision. However, where the record shows that there is no genuine issue as to any material fact and that the decision on the appeal rests entirely on a matter of law, an appropriate summary decision may be made by the examiner on the legal issue without stated findings of fact.

(c) Failure of an appellant to state any reasons or basis for the appeal will not affect the validity of the appeal but shall be ground only for such action as the examiner deems appropriate, which may include summary dismissal of the appeal.

(d) An appeal shall be dismissed by the examiner where all issues involved therein have been included in a prior final decision of the authorized officer of the Bureau from which no timely appeal was made or where all issues therein have been previously adjudicated in an appeal involving the same grazing privileges and the same parties or their predecessors in interest.

§ 4.424 Appeal to the Board.

Any party, including the Government, adversely affected by the final decision or order of the examiner may appeal to the Board, as provided in § 4.410, and the general rules in Subpart B of this part.

§ 4.425 Effect of Bureau decision suspended during appeal to examiner.

(a) An appeal shall suspend the effect of the decision or order from which it is taken pending final action on the appeal. Where the appeal is concerned with the grazing privileges to be granted under the current application, an appellant who was granted privileges in the preceding year may continue to use such privileges pending final action on the appeal, unless the decision or order appealed from is made immediately effective, as herein next provided.

(b) When the orderly administration of the range or other public interest so requires, the authorized officer of the Bureau or the examiner may provide initially in his decision or order that it shall be in full force and effect pending decision on any further appeal.

CONTEST AND PROTEST PROCEEDINGS

PRIVATE CONTESTS AND PROTESTS

§ 4.430 By whom private contest may be initiated.

Any person who claims title to or an interest in land adverse to any other person claiming title to or an interest in such land or who seeks to acquire a preference right pursuant to the act of May 14, 1880, as amended, 43 U.S.C. 185, or the act of March 3, 1891, 43 U.S.C. 329, may initiate proceedings to have the claim of title or interest adverse to his claim invalidated for any reason not shown by the records of the Bureau. Such a proceeding will constitute a private contest and will be governed by the regulations herein.

§ 4.431 Protests.

Where the elements of a contest are not present, any objection raised by any person to any action proposed to be taken in any proceeding before the Bureau will be deemed to be a protest and such action thereon will be taken as is deemed to be appropriate in the circumstances.

§ 4.432 Initiation of contest.

Any person desiring to initiate a private contest must file a complaint in the proper office of the Bureau (see § 1821.2–1 of this title). The contestant must serve a copy of the complaint on the contestee not later than 30 days after filing the complaint and must file proof of such service, as required by § 4.402(b), in the office where the complaint was filed within 30 days after service.

§ 4.433 Complaints.

(a) *Contents of complaint.* The complaint shall contain the following information, under oath:

(1) The name and address of each party interested;

(2) A legal description of the land involved;

(3) A reference, so far as known to the contestant, to any proceedings pending for the acquisition of title to, or an interest, in such land;

(4) A statement in clear and concise language of the facts constituting the grounds of contest;

(5) A statement of the law under which contestant claims or intends to acquire title to, or an interest in, the land and of the facts showing that he is qualified to do so;

(6) A statement that the proceeding is not collusive or speculative but is instituted and will be diligently pursued in good faith;

(7) A request that the contestant be allowed to prove his allegations and that the adverse interest be invalidated;

(8) The office in which the complaint is filed and the address to which papers shall be sent for service on the contestant; and

(9) A notice that failure of the contestee to file an answer to the complaint in such office within the 30-day period following his receipt of the complaint may be deemed an admission of all facts recited in the complaint.

(b) *Corroboration required.* All allegations of fact in the complaint which are not matters of official record or capable of being judicially noticed and which, if proved, would invalidate the adverse interest must be corroborated under oath by the statement of witnesses. Each such allegation of fact must be corroborated by the statement of at least one witness having personal knowledge of the alleged fact and such fact must be set forth in the statement. All statements by witnesses shall be attached to the complaint.

(c) *Filing fee.* Each complaint must be accompanied by a filing fee of $10 and a deposit of $50 toward reporter's fees. Any complaint which is not accompanied by the required fee and deposit will not be accepted for filing.

§ 4.434 Service.

The complaint must be served upon every contestee. If the contestee is of record in the Bureau office in which the complaint was filed, service may be made and proved as provided in § 4.402(b). If the person to be served is not of record in that office, proof of service may be shown by a written statement of the person who made personal service, by post office return receipt showing personal delivery, or by an acknowledgment of service. In certain circumstances, service may be made by publication as provided in paragraph (b)(1) of this section. When the contest is against the heirs of a deceased entryman, the notice shall be served on each heir. If the person to be personally served is an infant or a person who has been legally adjudged of unsound mind, service of notice shall be made by delivering a copy of the notice to the legal guardian or committee, if there be one, of such infant or person of unsound mind; if there be none, then by delivering a copy of the notice to the person having the infant or person of unsound mind in charge.

(a) *Summary dismissal; waiver of defect in service.* If a complaint when filed does not meet all the requirements of § 4.433, or if the complaint is not served upon each contestee as required by this section, the complaint will be summarily dismissed by the authorized Bureau officer and no answer need be filed. However, where prior to the summary dismissal of a complaint a contestee answers without questioning the service or proof of service of the complaint, any defect in service will be deemed waived as to such answering contestee.

(b) *Service by publication*—(1) *When service may be made by publication.* When the contestant has made diligent search and inquiry to locate the contestee, and cannot locate him, the contestant may proceed with service by publication after first filing in the proper Bureau office (see § 1821.2–1 of this title) an affidavit which shall:

(i) State that the contestee could not be located after diligent search and inquiry made within 15 days prior to the filing of the affidavit;

(ii) Be corroborated by the affidavits of two persons who live in the vicinity of the land which state that they have no knowledge of contestee's whereabouts or which give his last known address;

(iii) State the last known address of the contestee; and

(iv) State in detail the efforts and inquiries made to locate the party sought to be served.

(2) *Contents of published notice.* The published notice must give the names of the parties to the contest, legal description of the land involved, the substance of the charges contained in the complaint, the office in which the contest is pending, and a statement that failure to file an answer in such office within 30 days after the completion of publication of such notice may be deemed an admission of all facts recited in the complaint. The published notice shall also contain a statement of the dates of publication.

(3) *Publication, mailing, and posting of notice.* (i) Notice by publication shall be made by publishing notice at least once a week for 5 successive weeks in some newspaper of general circulation in the county in which the land in contest lies.

(ii) Within 15 days after the first publication of a notice, the contestant shall send a copy of the notice and the complaint by registered or certified mail, return receipt requested, to the contestee at his last known address and also to the contestee in care of the post office nearest the land. The return receipts shall be filed in the office in which the contest is pending.

(iii) A copy of the notice as published shall be posted in the office where the contest is pending and also in a conspicuous place upon the land involved. Such postings shall be made within 15 days after the first publication of the notice.

(c) *Proof of service.* (1) Proof of publication of the notice shall be made by filing in the office where the contest is pending a copy of the notice as published and the affidavit of the publisher or foreman of the newspaper publishing the same showing the publication of the notice in accordance with paragraph (b)(3) of this section.

(2) Proof of posting of the notice shall be by affidavit of the person who posted the notice on the land and by the certificate of the authorized Bureau officer as to posting in his office.

(3) Proof of the mailing of notice shall be by affidavit of the person who mailed the notice to which shall be attached the return receipt.

§ 4.435 Answer to complaint.

(a) *When required; service upon complainant.* A party directed to file an answer as contestee, or any party who elects to file an answer, in a contest proceeding, shall file the same in the office where the proceeding is pending within 30 days after service of the complaint or after the last publication of the notice, together with proof of service of a copy thereof upon the contestant as provided in § 4.434(b)(3). The answer shall contain or be accompanied by the address to which all notices or other papers shall be sent for service upon such party.

(b) *Requirements of answer; effect of failure to deny.* An answer filed under this section shall specifically admit, deny, or state that the party does not have sufficient information to admit or deny each allegation in the complaint. A statement of lack of information shall have the effect of a denial. Any allegation not denied shall be deemed to be admitted. When a party intends to deny only a part or a qualification of an allegation, he shall specify so much of it as is true and shall deny only the remainder.

(c) *Admitted allegation.* If a party filing an answer under this section elects not to contest any of the allegations of fact set forth in the complaint, his answer shall consist of a statement that he admits all of the allegations to be true. Such an answer shall constitute a waiver of hearing as to the facts alleged in the complaint, and together with the complaint will provide a record basis on which the examiner shall issue his decision containing findings of fact and appropriate conclusions of law.

(d) *Effect of failure to answer.* Failure of a party to file an answer required by this section within the time provided shall be deemed to constitute a waiver of his right to appear and contest the allegations of the complaint and to authorize the hearing examiner, without further notice to the party, to find the facts to be as alleged in the complaint and to issue a decision containing such findings and appropriate conclusions. The examiner may, for good cause shown, permit the filing of a delayed answer after the time for filing the answer has expired.

§ 4.436 Amendments.

The contestant may amend his complaint once as a matter of course before an answer is filed by a contestee, and the contestee may amend his answer once as a matter of course not later than 15 days after it is filed. Other amendments of the complaint or of the answer to the complaint shall be made only by leave of the examiner. An amended complaint shall be answered within 10 days of its service, or within the time for filing an answer to the original notice, whichever period is longer.

§ 4.437 Extensions of time.

The time for filing or serving any document in a contest may be extended by the examiner or the authorized Bureau officer before whom is pending the contest in connection with which the document is required to be filed.

GOVERNMENT CONTESTS

§ 4.438 How initiated.

The Government may initiate contests for any cause affecting the legality or validity of any entry or settlement or mining claim.

§ 4.439 Proceedings in Government contests.

The proceedings in Government contests shall be governed by the rules relating to proceedings in private contests with the following exceptions:

(a) No corroboration shall be required of a Government complaint and the complaint need not be under oath.

(b) A Government contest complaint will not be insufficient and subject to dismissal for failure to name all parties interested, or for failure to serve every party who has been named.

(c) No filing fee or deposit toward reporter's fees shall be required of the Government.

(d) Any action required of the contestant may be taken by any authorized Government employee.

(e) The statements required by § 4.433 (a) (5) and (6) need not be included in the complaint.

(f) No posting of notice of publication on the land in issue shall be required of the Government.

(g) Where service is by publication, the affidavits required by § 4.434(b)(1) need not be filed. The contestant shall file in the proper Bureau office a statement of diligent search which shall state the contestee could not be located after diligent search and inquiry, the last known address of the contestee and the detail of efforts and inquiries made to locate the party sought to be served. The diligent search shall be concluded not more than 15 days prior to the filing of the statement.

(h) In lieu of the requirements of § 4.434(b)(3)(ii) the contestant shall, as part of the diligent search before the publication or within 15 days after the first publication send a copy of the complaint by certified mail, return receipt requested, to the contestee at the last address of record. The return receipts shall be filed in the office in which the contest is pending.

(i) The affidavit required by § 4.434 (c)(3) need not be filed.

HEARING PROCEDURES

GENERAL

§ 4.450 Commencement of functions.

In proceedings handled by examiners of the Hearings Division, Office of Hearings and Appeals, functions of the Hearings Division shall attach:

(a) In both Government and private contest proceedings initiated in accordance with provisions in Chapter II of this title, on the date of service of a complaint pursuant to procedures outlined in §§ 4.430–4.439;

(b) In hearings proceedings on appeals involving grazing privileges within grazing districts established under the Taylor Grazing Act of June 28, 1934, as amended, on the date of filing of the appeal to the examiner in his office;

(c) In hearings proceedings involving show cause orders to grazing licensees and permittees and disciplinary actions for violations of the Taylor Grazing Act of June 28, 1934, as amended, regulations

thereunder, or of any approved special rules, on the date of the Bureau's request to the Hearings Division or an examiner of that Division that a hearing be held;

(d) In proceedings under the Multiple Mineral Development Act of 1954, as amended, the Surface Resources Act of 1955, as amended, and the Mining Claims Rights Restoration Act of 1955, on the date of the Bureau's request to the Hearings Division or an examiner of that Division that a hearing be held;

(e) In proceedings under the Geothermal Steam Act of 1970, for termination of lease for noncompliance with regulations or lease terms, on the date of the request by the Bureau or the Geological Survey, as appropriate, to the Hearings Division or an examiner of that Division that a hearing be held; and

(f) In all other proceedings, including protest proceedings and requests by the Board for hearings on issues of fact involved in appeals proceedings before the Board, on the date of issuance of the document or other action in which the determination is made to refer the matter to the Hearings Division or an examiner of that Division for a hearing.

§ 4.451 Termination of functions.

Except where proceedings are remanded by the Board to the examiner, functions of the Hearings Division and authority of the designated examiner over the proceedings shall terminate upon the filing of an appeal from an initial decision or other order dispositive of the proceeding or upon the expiration of the period within which an appeal to the Board may be filed, when the examiner has filed a recommended decision and thereupon referred the record and such decision to the Board, or, if the proceeding is one in which he is to file no decision, when he has certified the case for decision: *Provided, however,* That the examiner shall retain limited jurisdiction over the proceedings for the purpose of effecting any necessary corrections to the transcript as provided in § 4.491.

Designation and Responsibilities of Hearing Examiner

§ 4.454 Designation.

Hearings shall be presided over by an examiner of the Hearings Division, Office of Hearings and Appeals, designated by the Chief Hearing Examiner or the Assistant Chief Hearing Examiners and shall be open to the public unless otherwise provided by the examiner. The examiner for prehearing matters need not be the same as the examiner who presides over the hearing.

§ 4.455 Conduct of hearings.

All hearings governed by this subpart shall be conducted in accordance with the administrative procedure provisions of chapter 5 of title 5 of the United States Code.

Appearance and Practice

§ 4.456 Participation by a party.

(a) Subject to the provisions contained in Part 1 of this subtitle, a party may appear in person, by counsel or other qualified representative, and participate fully in any proceeding held pursuant to these regulations. Except insofar as the participation of any party may be limited to the extent permitted by the examiner, all parties shall have the right to:

(1) Appear at the hearing in person, by counsel, or by other qualified representative;

(2) Participate in any prehearing conference held by the examiner;

(3) Agree to stipulations as to facts which will be made a part of the record;

(4) Make opening and closing statements at the hearing;

(5) Call and examine witnesses, who then must be available for cross-examination by all other parties;

(6) Introduce into the record documentary and other evidence relevant to the issues at the hearing;

(7) Submit, after the hearing, proposed findings of fact, conclusions of law, and forms of order, which may be accompanied by a brief or memorandum in support thereof;

(8) Submit, after service of any recommended decision, findings, conclusions and proposed order of the examiner, exceptions thereto in accordance with § 4.496;

(9) Appeal to the Board from the initial decision of the examiner, as provided in §§ 4.410 and 4.424.

§ 4.457 Determination of parties.

(a) The initial parties to the proceeding shall include any person to whom a notice of hearing or opportunity for hearing has been mailed naming him as a party. The term "person" shall include any natural person, corporation, association, firm, partnership, guardian, trustee, receiver, agency, public or private organization, or governmental agency.

(b) Other persons shall have the right to participate as parties if the final decision could directly and adversely affect them or the class they represent, and if they may contribute materially to the disposition of the proceedings.

(c) Any person wishing to participate as a party under this section shall submit a petition to the examiner. The petition shall be filed with the examiner and served on the initial parties to the proceeding and on any other person who has been made a party at the time of issuance of the notice of hearing. Such petition shall concisely state: (1) Petitioner's interest in the proceeding, (2) how his participation as a party will contribute materially to the disposition of the proceeding, (3) who will appear for petitioner, (4) the issues on which petitioner wishes to participate, and (5) whether petitioner intends to present witnesses.

(d) The examiner shall promptly ascertain whether there are objections to the petition. He shall then determine whether petitioners have the requisite interest to be a party in the proceedings, as defined in paragraph (c) of this section, and shall permit or deny participation accordingly. Where petitions to participate as parties are made by individuals or groups with common interests, the examiner may request all such petitioners to designate a single representative, or he may recognize one or more of such petitioners to represent all such petitioners. The examiner shall give each such petitioner written notice of the decision on his petition. If the petition is denied, he shall briefly state the grounds for denial. The examiner shall give written notice to each party of each petition granted.

(e) Decisions on petitions for party participation must be appealed to the Board within 7 days of notice thereof or the examiner's decision is final.

§ 4.458 Determination and participation of amici.

(a) Any interested person wishing to participate as amicus curiae in the proceeding shall file a petition before the commencement of the hearing. Such petition shall concisely state the petitioner's interest in the hearing and who will represent petitioner.

(b) The examiner may grant the petition if he finds that the petitioner has an interest in the proceedings and may contribute materially to the disposition of the proceedings. The examiner shall give the petitioner written notice of the decision on his petition.

Form and Filing of Documents

§ 4.459 Form.

Documents filed with an examiner shall show the serial number or other docket description and title of the proceeding, the party or amicus submitting the document, the date signed, and the title, if any, and address of the signatory. The original will be signed by the party or his representative. Copies need not be signed, but the name of the person signing the original shall be reproduced.

§ 4.460 Filing and service.

(a) All documents submitted in a proceeding before an examiner shall be served on all other parties. The original shall be filed with the examiner, at the address stated in the notice.

(b) Service of notice or other documents required under this subpart shall be governed by § 4.402 and the general rules in Subpart B of this part. Proof of such service shall be filed in the same office where the notice or document was filed within 15 days after such service, unless filed with the notice or document.

Procedures

§ 4.461 Amendments to pleadings.

(a) *Amendments, by leave.* The examiner may, in his discretion, in the interests of justice, to facilitate the determination in a proceeding, and upon such terms as are just, allow amendments to the pleadings.

(b) *Amendments conforming pleadings to evidence.* When issues not raised by the pleadings but reasonably within the scope thereof are tried by express or implied consent of the parties, they shall be treated in all respects as though they had been raised by the pleadings. Amendments necessary to make the pleadings conform to the evidence and

the raising of such issues shall be allowed at any time.

(c) *Supplemental pleadings.* The examiner may, in his discretion, in the interests of justice, to facilitate the determination in a proceeding, and upon such terms as are just, allow service of supplemental pleadings setting forth transactions, occurrences of events which occurred or were discovered since the date of the initial or other pleadings sought to be supplemented and which are relevant to any of the issues involved in the proceeding.

§ 4.462 Withdrawal of pleading.

A party may withdraw a pleading at any stage of a proceeding.

§ 4.463 Consolidation of proceedings.

After due notice to all parties, the examiner may at any time order a proceeding described in these rules consolidated with any other such proceeding then pending before the Hearings Division of the Office of Hearings and Appeals which involves the same parties or similar issues of law or fact.

§ 4.464 Motions.

(a) While a proceeding is before an examiner all motions must be addressed to him. Copies of all written motions must be served upon all parties to the proceedings.

(b) Motions shall state the particular order, ruling, or action desired, the grounds therefor, and the authority relied upon. If made before or after the hearing itself, these matters shall be in writing. If made at the hearing, they may be stated orally but the examiner may require that they be reduced to writing and filed and served on all parties.

(c) (1) An immediate oral response may be made to an oral motion. Oral argument on motions will be at the discretion of the examiner. (2) Within 10 days after service of any written motion, or within such longer or shorter time as may be fixed by the examiner, the opposing party may respond. The moving party will ordinarily have no right to reply.

(d) As a matter of discretion, the examiner may waive the requirements of paragraphs (a) through (c) of this section as to motions for extensions of time and he may rule upon such motions ex parte.

(e) The examiner shall rule, either in writing or upon the record, upon all motions presented to him. No formal opinion or findings are required on any motion.

§ 4.465 Disposition of motions.

The examiner may not grant a written motion or petition prior to expiration of the time for filing responses thereto, but may overrule or deny such motion or petition without awaiting response: *Provided, however,* That prehearing conferences, hearings, and decisions need not be delayed pending disposition of motions or petitions.

§ 4.466 Settlements.

If all parties agree, settlement will be allowed at any stage of the proceeding, subject to approval of the examiner upon a determination that such settlement is consistent with applicable law. Settlement agreements submitted by the parties shall be accompanied by an appropriate proposed order. Unless otherwise agreed to by the parties, offers of settlement which are not approved by the examiner shall be deemed withdrawn, and such offers and any documents relating thereto shall not constitute a part of the record.

§ 4.467 Admissions as to facts and documents.

Not later than 20 days prior to the scheduled date of the hearing any party may serve upon an opposing party a written request for the admission of the genuineness and authenticity of any relevant documents described in, and exhibited with, the request, or for the admission of the truth of any relevant matters of fact stated in the request. Each of the matters as to which an admission is requested shall be deemed relevant matters of fact stated in the request. Each of the matters as to which an admission is requested shall be deemed admitted, unless within a period of 15 days of service, the party to whom the request is directed serves upon the requesting party a statement either: (a) Denying specifically the matters as to which an admission is requested, or (b) setting forth in detail the reasons why he cannot truthfully either admit or deny such matters. Any admission made by a party to such request is only for the purposes of the pending proceeding, or any proceeding or action instituted for the enforcement of any order entered therein, and shall not constitute an admission by him for any other purpose or be used against him in any other proceeding or action.

§ 4.468 Subpena power and witness provisions.

(a) *Authority of the examiner.* The examiner is authorized to issue subpenas directing the attendance of witnesses at hearings to be held before him or at the taking of depositions to be held before himself or other officers. The issuance of subpenas, service, attendance fees, and similar matters shall be governed by the Act of January 31, 1903 (43 U.S.C. 102–106), and 28 U.S.C. 1821, or other applicable statute.

(b) *Time limit.* The taking of depositions will be completed within such time as the examiner directs.

(c) *Enforcement.* If a party or an authorized agent of a party refuses to obey an order made pursuant to paragraphs (a) and (b) of this section, the affected party may petition the appropriate U.S. District Court for the issuance of an order requiring the appearance and testimony of the witness.

§ 4.469 Depositions.

(a) A party may take the testimony of any person, including a party, by deposition upon oral examination. This may be done by stipulation or by notice, as set forth in paragraph (b) of this section. On motion of any party or other person upon whom the notice is served, the examiner may for cause shown enlarge or shorten the time for the deposition, change the place of the deposition, limit the scope of the deposition or quash the notice. Depositions of persons other than parties or their representatives shall be upon consent of the deponent.

(b) (1) The party will give reasonable notice in writing to every other party of the time and place for taking depositions, the name and address of each person to be examined, if known, or a general description sufficient to identify him or the particular class or group to which he belongs.

(2) A party may name as the deponent a corporation, partnership, association, or governmental agency and may designate a particular person within the organization whose testimony is desired and the matters on which examination is requested. If no particular person is named, the organization shall designate one or more agents to testify on its behalf, and may set forth the matters on which each will testify. The persons so designated shall testify as to matters known or reasonably available to the organization.

(c) Examination and cross-examination of witnesses may proceed as permitted at the hearing. The witness shall be placed under oath by a disinterested person qualified to administer oaths by the laws of the United States or of the place where the examination is held, and the testimony taken by such person shall be recorded verbatim.

(d) During the taking of a deposition a party or deponent may request suspension of the deposition on grounds of bad faith in the conduct of the examination, annoyance, embarrassment, oppression of a deponent or party or improper questions propounded. The deposition will then be adjourned. However, the objecting party or deponent must immediately move the examiner for a ruling on his objections to the deposition conduct or proceedings. The examiner may then limit the scope or manner of the taking of the deposition.

(e) When the testimony is fully transcribed, the deposition shall be submitted to the witness for examination and shall be read to or by him, unless such examination and reading are waived by the witness and by the parties. Any changes in form or substance which the witness desires to make shall be entered upon the deposition by the officer with a statement of the reasons given by the witness for making them. The deposition shall then be signed by the witness unless the parties by stipulation waive the signing or the witness is ill or cannot be found or refuses to sign. If the deposition is not signed by the witness, the officer shall sign it and state on the record the fact of the waiver or of the illness or absence of the witness or the fact of the refusal to sign together with the reason, if any, given therefor; and the deposition may then be used as fully as though signed, unless upon objection, the officer holds that the reasons given for the refusal to sign require rejection of the deposition in whole or in part.

(f) The officer taking the deposition shall certify on the deposition that the witness was duly sworn by him and that the deposition is a true record of the testimony given by the witness, and shall promptly file it with the examiner.

(g) The party taking the deposition shall give prompt notice of its filing to all other parties.

§ 4.470 Use of depositions at hearing.

(a) Any part or all of a deposition, so far as admissible under § 4.485 applied as though the witness were then present and testifying, may be used against any party who was present or represented at the taking of the deposition or who had reasonable notice thereof as follows:

(1) Any deposition may be used for contradiction or impeachment of the deponent as a witness.

(2) The deposition of a party, or of an agent designated to testify on behalf of a party, may be used by an adverse party for any purpose.

(3) The deposition of any witness may be used for any purpose if the party offering the deposition has been made unable to procure the attendance of the witness because he is dead; or if the witness is at a greater distance than 100 miles from the place of hearing, or is out of the United States or the county in which the hearing is required to be held under applicable law, unless it appears that the absence of the witness was procured by the party offering the deposition; or if the witness is unable to attend or testify because of age, illness, infirmity, or imprisonment; or, upon application and notice, that such exceptional circumstances exist as to make it desirable, in the interest of justice and with due regard to the importance of presenting the testimony of witnesses orally in open hearing, to allow the deposition to be used.

(b) If only part of a deposition is offered in evidence, the remainder becomes subject to introduction by any party.

(c) Objection may be made at the hearing to receiving in evidence any deposition or part thereof for any reason which would require the exclusion of the evidence if the witness were then present and testifying.

§ 4.471 Interrogatories to parties.

(a) Any party may serve upon any other party written interrogatories after the notice of hearing has been issued. If the party served is a corporation, partnership, association, or governmental agency, an agent shall furnish such information as is available to the party.

(b) Each interrogatory shall be answered separately and fully in writing under oath, unless it is objected to, in which event the objection shall be stated in lieu of an answer. The answers are to be signed by the person making them, and the objections signed by the attorney or other representative making them. Answers and objections shall be made within 20 days after the service of the interrogatories. The party submitting the interrogatories may move for an order under § 4.472 with respect to any objection to or other failure to answer an interrogatory.

(c) Interrogatories shall relate to any matter not privileged which is relevant to the subject matter of the hearing.

§ 4.472 Sanctions.

(a) A party, upon reasonable notice to other parties and all persons affected thereby, may move for an order as follows:

(1) If a deponent fails to answer a question propounded or submitted under § 4.469(d), or a corporation or other entity fails to make a designation under § 4.469(b)(2), or a party fails to answer an interrogatory submitted under § 4.471, the affected party may move for an order compelling an answer or a designation.

(2) An evasive or incomplete answer is to be treated as a failure to answer.

(b) If a party or an agent designated to testify fails to obey an order to furnish testimony, the examiner may make such orders as are just, including:

(1) That the matters regarding which the order was made or any other designated facts shall be established in accordance with the claim of the party obtaining the order;

(2) Refusing to allow the disobedient party to support or oppose designated claims or defenses, or prohibiting him from introducing designated matters in evidence.

(c) If a party or an agent designated to testify fails after proper service (1) to appear for his deposition, or (2) to serve answers or objections to interrogatories submitted under § 4.471, the examiner on motion may make such orders as are just, including those authorized under subparagraphs (1) and (2) of paragraph (b) of this section.

§ 4.473 Summary decision of examiner.

(a) *Filing.* At any time after commencement of a proceeding and before the scheduling of a hearing on the merits, a party to the proceeding may move the examiner to render summary decision disposing of all or part of the proceeding.

(b) *Grounds.* A motion for summary decision shall be granted only if the entire record, including the pleadings, depositions, answers to interrogatories, admissions and affidavits, shows (1) that there is no genuine issue as to any material fact and (2) that the moving party is entitled to summary decision as a matter of law.

(c) *Form of motion and affidavits.* The motion may be supported by affidavits or other verified documents, and shall specify the grounds showing the party's right to the relief sought. Supporting and opposing affidavits shall be made on personal knowledge, shall show affirmatively that the affiant is competent to testify to the matters stated therein. Sworn or certified copies of all papers or parts thereof referred to in an affidavit shall be attached thereto or be incorporated if not otherwise a matter of record. The examiner may permit affidavits to be supplemented or opposed by testimony, depositions, answers to interrogatories, admissions or further affidavits. When a motion for summary decision is made and supported as provided in this section, an adverse party may not rest upon the mere allegations or denials of his pleadings, but his response, by affidavits or as otherwise provided in this section, must set forth specific facts showing that there is a genuine issue for hearing. If he does not so respond, summary decision, if appropriate, shall be entered against him.

(d) *Case not fully adjudicated on motion.* If a motion for summary decision is denied in whole or in part, and the examiner determines that an evidentiary hearing of the case is necessary, he shall, if practicable, and upon examination of all relevant documents and evidence before him, and upon interrogating counsel or the parties, ascertain what material facts are actually and in good faith controverted. He shall thereupon make an order specifying the facts that appear without substantial controversy, and direct such further proceedings as deemed appropriate.

§ 4.474 Certification of interlocutory ruling.

In making a ruling which does not finally dispose of a proceeding, the examiner shall at the request of a party or may on his own motion certify his ruling to the Board if he determines that such ruling involves a controlling question of law and that an immediate appeal therefrom may materially advance the ultimate disposition of the matter before him.

§ 4.475 Default.

Where the elements of an adversary proceeding appear not to have been established by the pleadings because of the failure of the answerer to file an answer within the time provided which denies the allegations of the complaint or other document or order on which the proceeding was initiated, or where a party fails to appear at the hearing ordered without showing good cause therefor, such failure will be deemed a waiver, by such answerer or party, of the right to an evidentiary hearing or to appear at such a hearing and shall authorize the examiner, without further notice, to find the facts to be as alleged in the complaint or other document or order on which the proceeding was based, and to make his findings of fact, conclusions of law, and decision thereon without the scheduling or holding of a hearing in the matter.

PREHEARING

§ 4.480 Prehearing conferences.

(a) The examiner may, on his own initiative or at the request of any party, direct the parties of their counsel or other qualified representatives, to appear

at a specified time and place for a prehearing conference, or to submit suggestions to him in writing, for the purpose of considering any or all of the following:

(1) The simplification and clarification of the issues;

(2) The necessity of amendments to the pleadings;

(3) The possibility of obtaining stipulations, admissions of fact and of the contents and authenticity of documents, which will avoid unnecessary proof;

(4) The possibility of agreement disposing of all or any of the issues in dispute;

(5) The limitation of the number of expert witnesses;

(6) Matters of which official notice will be taken; and

(7) Such other matters as may aid in the orderly disposition of the proceedings, including disclosure of the names of witnesses who will be called to testify in the course of the proceedings.

(b) Such conference shall, in the discretion of the examiner, be recorded. At the conclusion thereof the examiner shall enter in the record an order which recites the results of the conference. Such order shall include the examiner's rulings upon matters considered at the conference, together with appropriate directions to the parties, if any; and such order shall control the subsequent course of the proceedings, unless modified by the examiner at the hearing or later on the basis of the hearings record to prevent manifest injustice.

HEARING

§ 4.481 Notice of hearing.

Written notice of the time, place, and nature of the hearing, the legal authority and jurisdiction under which the hearing is to be held, and the matters of fact and law asserted, shall be given by the examiner, at least 15 days prior to the date set for hearing, to all persons made parties to the proceeding.

§ 4.482 Postponements.

(a) Postponements of hearings will not be allowed at the request of any party except upon a showing of good cause and proper diligence. A request for a postponement must be served upon all parties to the proceeding and filed in the office of the examiner at least 5 days prior to the date of the hearing. In no case will a request for postponement served or filed less than 5 days in advance of the hearing or made at the hearing be granted unless the party requesting it demonstrates that an extreme emergency occurred which could not have been anticipated and which justifies beyond question the granting of a postponement. In any such emergency, if time does not permit the filing of such request prior to the hearing, it may be made orally at the hearing.

(b) The request for a postponement must state in detail the reasons why a postponement is necessary. If a request is based upon the absence of witnesses, it must state what the substance of the testimony of the absent witnesses would be. No postponement will be granted if the other parties file with the examiner within 5 days after the service of the request a statement admitting that the witnesses on account of whose absence the postponement is desired would, if present, testify as stated in the request. If time does not permit the filing of such statement prior to the hearing, it may be made orally at the hearing.

(c) Only one postponement will be allowed to a party on account of the absence of witnesses unless the party requesting a further postponement shall at the time apply for an order to take testimony of the alleged absent witness by deposition.

§ 4.483 Hearing.

Hearings for the reception of evidence are held only in cases where issues of fact must be resolved upon the basis of an evidentiary hearings record. Where issues are properly resolved only by resort to matters of official record in the Department (such as were the lands in question open to mineral location at the time of purported mineral locations), no hearing for the examination of witnesses and production of evidence is necessary.

§ 4.484 Burden of proof; order of procedure.

(a) The complainant or other party initiating the proceeding shall have the burden of going forward with evidence to show prima facie the truth of the allegations contained in the complaint or other document or order upon which the proceeding is based, but the proponent of any proposition shall bear the risk of non-persuasion. In any hearing in a show cause proceeding under the Taylor Grazing Act of June 28, 1934, as amended, the burden of proof to show that the action proposed is just and reasonable shall be upon the Bureau.

(b) Unless the examiner directs otherwise, in hearings in both Government and private contest cases, and in other public land hearings where contest procedures are followed, the contestant will present his case following which the other parties (and in private contests the Bureau, if it intervenes) will present their cases. In hearings on appeals to the Board involving issues of fact and in hearings under the Mining Claims Rights Restoration Act of 1955, as amended, the appellant or mining claimant shall present his evidence on the facts at issue following which the other parties and the Bureau will present their evidence on such issues. In cases involving hearings on appeals in grazing cases within grazing districts established under the Act of June 28, 1934, as amended, the State Director or his representative will open, setting forth the facts leading to the appeal (or issuance of the show cause order where that is involved), and the appellant shall then present his case. In hearings under the Geothermal Steam Act of 1970, for termination of lease for noncompliance with regulations or lease terms, the Bureau or the Geological Survey, as appropriate, will present its case following which the lessee or other proper parties will present their cases. Interveners shall follow the parties in whose behalf the intervention is made; where the intervention is not in support of an original party, the examiner shall designate at what stage such intervener shall be heard.

§ 4.485 Evidence.

(a) *Testimony.* The testimony of witnesses shall be given orally under oath or affirmation administered by the examiner. Witnesses shall be available at the hearing for cross-examination by all parties, and the examiner may question any witness. Any witness may, in the discretion of the examiner, be examined separately and apart from all other witnesses except those who may be parties to the proceeding.

(b) *Affidavits.* Affidavits may be admitted in the discretion of the examiner if the evidence is otherwise admissible and the parties agree that affidavits may be used in lieu of oral testimony by a witness, either depositional or by personal appearance. Affidavits admitted into evidence shall be considered in light of the lack of opportunity for cross-examination in determining the weight to be attached to statements made therein.

(c) *Stipulations.* The parties may stipulate as to any relevant matters of fact or the authenticity of any relevant documents. Such stipulations may be received in evidence at a hearing in the discretion of the examiner, and when so received shall be binding on the parties with respect to the matters therein stipulated, except that the Department will not be bound by any stipulation entered into by employees of the Department and other interested parties to the proceeding which may preclude the Department from requiring of applicants or entrymen such proofs or evidence in support of their claims or entries as may be required or necessary under the law and applicable regulations.

(d) *Rules of evidence.* Technical rules of evidence shall not apply to hearings conducted pursuant to this subpart; all evidence which is relevant, material, reliable, and probative, and not unduly repetitious or cumulative, shall be admissible. A witness may be cross-examined on any matter material to the proceeding without regard to the scope of his direct examination. All documents and other evidence offered or other evidence offered or taken for the record shall be open to examination by the parties and opportunity shall be given to refute facts and arguments advanced on either side of the issues.

(e) *Samples.* Samples may be admitted in evidence as exhibits but must be described for purposes of the record. Upon proof of their authenticity, assay certificates relating to samples shall be admissible in evidence without the production of the person who made or prepared the same.

(f) *Further evidence required by examiner during hearing.* At any time during the hearing the examiner may call for the production of further evidence upon any issue, and require such evidence where available to be presented by the party or parties concerned, either at the hearing or adjournment thereof.

(g) *Official notice of public document items or facts.* (1) Whenever a party offers a public document, or part thereof, in evidence and such document has been shown by the offeror to be available to the public, such document need not be produced or marked for identification, but may be offered for official notice as a public document item by specifying the document or relevant part thereof.

(2) Where official notice is taken or is to be taken of a material fact not appearing in the evidence of record, any party, on timely request, shall be afforded opportunity to controvert such fact.

§ 4.486 Objections; offer of proof.

If any party objects to the admission or rejection of any evidence or to other limitation of the scope of any examination or cross-examination, he shall state briefly the grounds for such objection without extended argument or debate thereon except as permitted by the hearing examiner. A ruling of the examiner on any such objection shall be a part of the transcript, together with such offer of proof as has been made. An offer of proof made in connection with an objection taken to any ruling of the examiner rejecting or excluding proffered oral testimony shall consist of a statement of the substance of the evidence which would be adduced by such testimony; and, if the excluded evidence consists of evidence in documentary or written form a copy of such evidence shall be marked for identification and shall accompany the record as the offer of proof. Written offer of proof may be required in the discretion of the examiner.

§ 4.487 Exceptions to rulings.

Exceptions to rulings of the examiner are unnecessary. It is sufficient that a party, at the time the ruling of the examiner is sought, makes known the action that he desires the examiner to take, or his objection to an action taken, and his grounds therefor.

§ 4.488 Interlocutory appeals.

(a) *Requests for permission.* Interlocutory appeals from rulings and orders of an examiner may be filed only after permission is granted by the Board. The Board shall not entertain a request unless a party has first sought certification of the ruling by the examiner pursuant to § 4.474. Any request for permission from the Board shall be in writing, not to exceed 10 pages in length, and shall be granted only in such cases where the issue presented is a controlling question of law which will materially advance the final disposition of the case.

(b) *Briefs.* Unless the Board directs otherwise, a brief shall be filed by each party permitted by the Board to take an interlocutory appeal within 5 days after notice of such permission. Within 5 days after service of any appellant's brief, any other party to the proceeding may file a brief as appellee.

(c) *Effect.* An interlocutory appeal shall not operate to suspend the hearing unless otherwise ordered by the Board or the Examiner.

(d) *Jurisdiction.* If an interlocutory appeal is permitted, the Board's jurisdiction shall be confined to review of the ruling or order of the examiner on the legal issue raised by the appeal, and shall not extend to any other issues.

§ 4.489 Payment of witness fees and mileage; fees of persons taking depositions.

Witnesses summoned before the examiner shall be paid the same fees and mileage that are paid witnesses in the courts of the United States, and witnesses whose depositions are taken shall be entitled to the same fees as are paid for like services in the courts of the United States. Witness fees and mileage shall be paid by the party at whose instance the witness appears, and all costs of depositions shall be paid by the party at whose instance the deposition is taken.

§ 4.490 Reporter's fees.

(a) The Government will pay all reporting fees in hearings in Government contest proceedings, in hearings on appeals involving grazing privileges within grazing districts established under the Act of June 28, 1934, as amended, in hearings under the Surface Resources Act of 1955, as amended, in hearings under the Multiple Mineral Development Act of 1954, as amended, where the United States is a party, in hearings under the Mining Claims Rights Restoration Act of 1955, regardless of which party is ultimately successful, in hearings under the Geothermal Steam Act of 1970, and in hearings arising out of protest proceedings or concerning issues of fact involved in appeals before the Board.

(b) In the case of a private contest, each party will be required to pay the reporter's fees covering the party's direct evidence and cross-examination of witnesses, except that if the ultimate decision is adverse to the contestant, he must in addition pay all the reporter's fees otherwise payable by the contestee.

(c) Each party to a private contest shall be required by the examiner to make reasonable deposits for reporter's fees from time to time in advance of taking testimony. Such deposits shall be sufficient to cover all reporter's fees for which the party may ultimately be liable under paragraph (b) of this section. Any part of a deposit not used will be returned to the depositor upon the final determination of the case except that deposits which are required to be made when a complaint is filed will not be returned if the party making the deposit does not appear at the hearing, but will be used to pay the reporter's fee. Reporter's fees will be at the rates established for the local courts, or, if the report ing is done pursuant to a contract, at rates established by the contract.

§ 4.491 Corrections of transcript.

Motions made at the hearing to correct the transcript will be acted upon by the examiner. Motions made after the hearing to correct the transcript shall be filed with the examiner within 10 days after receipt of the transcript, unless otherwise directed by the examiner, and shall be served on all parties. Such motions may be in the form of a letter and shall state the date when the transcript was received. If no objections are received within 10 days after date of service, the transcript will, upon approval of the examiner, be changed to reflect such corrections. If objections are received, the motion will be acted upon with due consideration of the recorded transcript of the hearing.

§ 4.492 Record.

The record shall include the pleadings, all motions, all orders of the examiner, the original transcripts, all exhibits offered in evidence by any party, all proposed findings of fact, conclusions, and orders, and the decision or order recommended or issued by the examiner.

POSTHEARING PROCEDURES

§ 4.493 Submission by the parties of proposed findings, conclusions, and order.

(a) At the close of the oral presentations at the hearing, or within a reasonable time thereafter fixed by the examiner considering the number and complexity of the issues and the amount of testimony, any party at the hearing may file with the examiner for his consideration proposed findings of fact, conclusions of law, and forms of order, together with briefs in support thereof. Answering briefs may be filed within a reasonable time thereafter, as fixed by the examiner. The examiner, in his discretion, may vary the sequence of filing documents following the close of the oral presentations at the hearing.

(b) Such proposed findings, conclusions, and orders, and any briefs or other papers, shall be in writing, served upon all parties to the case, and contain adequate references to the record and authorities relied upon.

§ 4.494 Initial decision by examiner.

(a) The examiner will render a written decision upon the record in the case, which shall set forth his findings of fact and conclusions of law, as well as the reasons or basis therefor, upon all of the material issues of fact, law, or discretion presented on the record, and the examiner's rulings upon the findings and conclusions proposed by the parties if such rulings do not appear elsewhere in the record. The decision shall recite all facts officially noticed, pursuant to § 4.24(b), relied upon in the decision. The examiner may adopt the findings of fact and conclusions of law proposed by one or more of the parties if they are correct. The decision shall become final unless appealed to the Board, as provided in §§ 4.410 and 4.424.

(b) A copy of the decision shall be sent to all parties to the case by certified mail and to any amici by regular mail.

§ 4.495 Submission by the examiner of proposed findings, conclusions and recommended decision.

(a) When the examiner has been ordered to make proposed findings of fact only, or proposed findings of fact and conclusions of law and a recommended decision, he shall make his proposed findings of fact only, or proposed findings of fact and conclusions of law in a recommended decision and give the reasons or basis therefor. Such findings or recommended decision shall be certified, together with the record, for final decision, to the Board.

(b) A copy of the findings or recommended decision shall be sent to all parties to the case by certified mail and to any amici by regular mail.

§ 4.496 Exceptions to proposed findings of fact or recommended decision by examiner.

(a) *Filing.* Within 30 days after service of the recommended decision of the examiner, or of proposed findings of fact of the examiner, any party may file with the Board exceptions thereto or any part thereof, or to the failure of the examiner to make any recommendation, finding, or conclusion, or to the admission or exclusion of evidence, or other ruling of the examiner, supported by such brief as may appear advisable.

(b) *Waiver.* Failure of a party who appeared at the hearing to file exceptions to the recommended decision, findings, conclusions, and proposed order of the examiner or any portion thereof, or to his failure to adopt a proposed finding or conclusion, or to the admission or exclusion of evidence or other ruling of the examiner, or within such time as the Board shall for good cause determine, shall be deemed a waiver of objection thereto.

§ 4.497 Briefs and exceptions to proposed findings of fact or recommended decision of examiner.

(a) *Contents.* All briefs and exceptions shall be confined to the particular matters in issue. Each exception or proposed finding or conclusion which is briefed shall be supported by a concise argument or by citation of such statutes, decisions, or other authorities and by page references to such portions of the record or recommended decision of the examiner as may be relevant. If the exception relates to the admission or exclusion of evidence, the substance of the evidence admitted or excluded shall be set forth in the brief with appropriate references to the transcript.

(b) *Reply briefs.* Reply briefs may be filed with the Board within 10 days after service of briefs and shall be confined to matters in original briefs of opposing parties. Further briefs may be filed only with permission of the Board.

(c) *Late filing.* Briefs not filed on or before the time fixed in this subpart will be received only upon special permission of the Board.

(d) *Length of briefs.* Unless otherwise permitted by the Board upon a showing of unusual or exceptional circumstances, briefs which exceed 50 pages, including appendices, in length, in typewritten (double-spaced), printed or duplicated form, shall not be accepted for filing.

§ 4.498 Decision by Board.

As soon as practicable after the examiner has certified the record, the Board will issue a final decision in the proceedings, which shall set forth findings of fact and conclusions of law, as well as the reasons or basis therefor, upon all of the material issues of fact, law or discretion presented on the record. This decision shall include such additional findings and conclusions as do not appear in the recommended decision and such rulings on proposed findings and conclusions submitted by the parties as have not been made by the examiner. This decision may adopt, modify or set aside any finding, conclusion, or order of the examiner.

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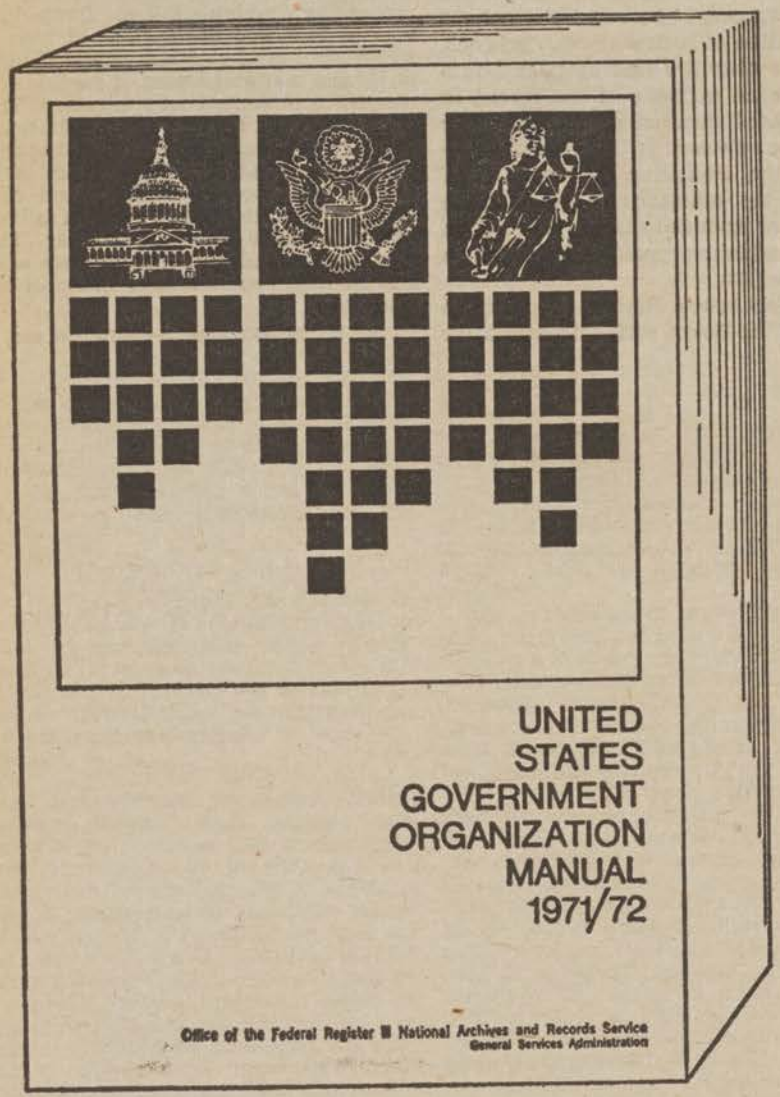

The Manual describes the creation and authority, organization, and functions of the agencies in the legislative, judicial, and executive branches.

Most agency statements include new "Sources of Information" listings which tell you what offices to contact for information on such matters as:

- Consumer activities
- Environmental programs
- Government contracts
- Employment
- Services to small businesses
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