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List of CFR Parts Affected

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

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

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Title 3—The President

MEMORANDUM OF OCTOBER 19, 1972

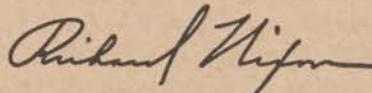
Delegation of Functions Under Section 602 of Public Law 92-436

Memorandum for the Secretary of State

THE WHITE HOUSE,
Washington, October 19, 1972.

You are hereby designated and empowered to exercise the functions vested in the President by Section 602 of the Act of September 26, 1972 (Public Law 92-436) without the approval, ratification, or other action of the President.

This memorandum shall be published in the FEDERAL REGISTER.



[FR Doc.72-21631 Filed 12-13-72;9:46 am]

Presidential Documents

Title 2, The President

Administrative or Official in 1917

Delegation of Functions Under

Section 602 of Public Law 92-138

Transmitted for the President's use

The White House

For the purpose of this document, the President is authorized to exercise the powers and functions of the President of the United States in the absence of the President.

The President is authorized to exercise the powers and functions of the President of the United States in the absence of the President.



The President of the United States

MEMORANDUM OF DECEMBER 5, 1972

[Presidential Determination No. 73-8]

Determination and Authorization for Offshore Procurement of Rice for Laos and Cambodia

Memorandum for the Honorable John A. Hannah, Administrator,
Agency for International Development

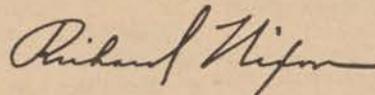
THE WHITE HOUSE,
Washington, December 5, 1972.

In accordance with the recommendations in your memorandum of October 30, 1972, I hereby:

A. Determine, pursuant to Section 614(a) of the Foreign Assistance Act of 1961, as amended (22 U.S.C. 2364), that the use of up to \$21 million of funds available in FY 1973 for the procurement of rice from outside the United States, for Laos and Cambodia, without regard to the requirement of Section 604(e) of the Act, is important to the security of the United States; and

B. Authorize, pursuant to Section 614(a) of the Act, such use of up to \$21 million of funds for the procurement of rice, from outside of the United States, for Laos and Cambodia, without regard to the requirements of Section 604(e) of the Act.

This determination shall be published in the FEDERAL REGISTER pursuant to Section 654 of the Act.



[FR Doc.72-21595 Filed 12-12-72;2:46 pm]

Journal of the
American Chemical Society
Vol. 71, No. 1, 1949
Determination and Interpretation
of Chlorine Content of Resin
for Lacc and Carbazole

Published by the American Chemical Society
Washington, D. C. 20008

The Journal of the American Chemical Society is published weekly, except during the summer months when it is published bi-weekly. The subscription price for 1949 is \$12.00 per volume (12 issues) in advance. Single copies are 1.00 each. The subscription price for institutions is \$24.00 per volume. The subscription price for libraries is \$36.00 per volume. The subscription price for foreign subscribers is \$18.00 per volume. The subscription price for foreign subscribers outside the British Isles is \$24.00 per volume. The subscription price for foreign subscribers in the British Isles is \$18.00 per volume. The subscription price for foreign subscribers in the British Isles is \$18.00 per volume. The subscription price for foreign subscribers in the British Isles is \$18.00 per volume.

[Handwritten signature]

Rules and Regulations

Title 5—ADMINISTRATIVE PERSONNEL

Chapter I—Civil Service Commission

PART 213—EXCEPTED SERVICE

Entire Executive Civil Service

Section 213.3102 is amended to extend from June 30, 1974, to June 30, 1975, the termination date on appointments to positions filled by persons designated as Fellows under the Brookings Institution's Economic Policy Fellowship Program. The change permits appointments to these positions under Schedule A for an additional Fellowship Program cycle.

Effective on publication in the FEDERAL REGISTER (12-14-72), § 213.3102(dd) is amended as set out below.

§ 213.3102 Entire Executive Civil Service.

(dd) Positions at this grade GS-12 through GS-15 levels when filled by persons designated as Fellows under the Brookings Institution's Economic Policy Fellowship Program. Appointments made under this authority may not exceed 2 years in duration and no appointment may extend beyond June 30, 1975.

(5 U.S.C. secs. 3301, 3302, E.O. 10577; 3 CFR 1954-58 Comp. p. 218)

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

[FR Doc.72-21514 Filed 12-13-72; 8:51 am]

PART 213—EXCEPTED SERVICE

Department of Justice

Section 213.3310 is amended to show that one position of Staff Assistant to the Deputy Attorney General is expected under Schedule C.

Effective on publication in the FEDERAL REGISTER (12-14-72), subparagraph (5) is added to paragraph (b) of § 213.3310 as set out below.

§ 213.3310 Department of Justice.

(b) *Office of the Deputy Attorney General.* * * *

(5) One Staff Assistant to the Deputy Attorney General.

(5 U.S.C. secs. 3301, 3302, E.O. 10577; 3 CFR 1954-58 Comp. p. 218)

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

[FR Doc.72-21517 Filed 12-13-72; 8:51 am]

PART 213—EXCEPTED SERVICE

Department of Agriculture

Section 213.3313 is amended to show that one position of Confidential Assistant to the Secretary is expected under Schedule C.

Effective on publication in the FEDERAL REGISTER (12-14-72), subparagraph (27) of paragraph (a) of § 213.3313 is added as set out below.

§ 213.3313 Department of Agriculture.

(a) *Office of the Secretary.* * * *

(27) One Confidential Assistant to the Confidential Assistant to the Secretary.

(5 U.S.C. secs. 3301, 3302, E.O. 10577; 3 CFR 1954-58 Comp. p. 218)

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

[FR Doc.72-21518 Filed 12-13-72; 8:51 am]

PART 213—EXCEPTED SERVICE

Environmental Protection Agency

Section 213.3318 is amended to show that one position of Assistant to the Deputy Administrator is no longer expected under Schedule C.

Effective on publication in the FEDERAL REGISTER (12-14-72), subparagraph (6) of paragraph (a) of § 213.3318 is revoked.

(5 U.S.C. secs. 3301, 3302, E.O. 10577; 3 CFR 1954-58 Comp. p. 218)

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

[FR Doc.72-21515 Filed 12-13-72; 8:51 am]

PART 213—EXCEPTED SERVICE

Equal Employment Opportunity Commission

Section 213.3377 is amended to show that one position of Special Assistant to

one of the members of the Commission is excepted under Schedule C.

Effective on publication in the FEDERAL REGISTER (12-14-72), paragraph (f) of § 213.3377 is amended as set out below.

§ 213.3377 Equal Employment Opportunity Commission.

(f) One Special Assistant to each of three members of the Commission.

(5 U.S.C. secs. 3301, 3302, E.O. 10577; 3 CFR 1954-58 Comp. p. 218)

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

[FR Doc.72-21516 Filed 12-13-72; 8:51 am]

PART 315—CAREER AND CAREER-CONDITIONAL EMPLOYMENT

Rights of Appeal

Part 315 is amended to clarify appeal rights of probationers who allege their separation is based on partisan political discrimination.

Effective on publication in the FEDERAL REGISTER (12-14-72), § 315.806(b)(2) is amended to add the word "partisan" before "political" as set out below.

§ 315.806 Appeal rights to the Commission.

(b) *On discrimination.* * * *

(2) An employee may appeal under this subparagraph a termination not required by statute which he alleges was based on partisan political reasons or marital status or a termination which he alleges resulted from improper discrimination because of physical handicap.

(5 U.S.C. 1302, 3301, 3302, E.O. 10577; 3 CFR 1954-1958 Comp., p. 218)

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

[FR Doc.72-21513 Filed 12-13-72; 8:51 am]

Chapter III—Office of Management and Budget

PART 1301—CLASSIFICATION AND DECLASSIFICATION OF INFORMATION AND MATERIAL

This new Part 1301 establishes procedures with respect to requests from the public for classification review of

classified information and materials in the Office of Management and Budget.

- Sec.
 1301.1 Introduction.
 1301.2 Authority to classify.
 1301.3 Downgrading and declassification.
 1301.4 Review of classified material for declassification purposes.
 1301.5 Burden of proof for administrative determinations.
 1301.6 Availability of material.
 1301.7 Access by historical researchers.

AUTHORITY: The provisions in this Part 1301 issued under EO 11652, 37 F.R. 5209; National Security Directive of May 17, 1972, 37 F.R. 10053.

§ 1301.1 Introduction.

The Office of Management and Budget has issued regulations relating to the classification and declassification of national security information and material under authority of Executive Order 11652 of March 9, 1972 (37 F.R. 5209), and National Security Council Directive of May 17, 1972 (37 F.R. 10053). These regulations were approved by the Interagency Classification Review Committee on October 17, 1972. Such parts of the regulations as affect the public are published herein as required by the above-cited Executive order and directive.

§ 1301.2 Authority to classify.

The authority to originally classify information or material under these regulations will be limited to those officials concerned with matters of national security. The following officials are granted authority by the Director to assign originally the top secret, secret, or confidential classifications to information relating to national security or foreign relations of the United States: Deputy Director; Associate Director; Assistant Director for Economic Science and Technological Affairs; and Assistant Director for National Security and International Affairs; Chief, International Programs Division; and Chief, National Security Programs Division. The Chief, Economic Science and Technology Programs Division is granted authority to assign originally the secret and confidential classifications to such information. The confidential classification may be assigned originally by the deputy chiefs of the above named program divisions, plus such assistant chiefs of those divisions as may be designated in writing by the Director. The classifier of information or material will insure that the information meets the test for that classification. If any substantial doubt exists as to which classification category is appropriate, or as to whether the material should be classified at all, he should designate the less restrictive category.

§ 1301.3 Downgrading and declassification.

Classified information and material will be downgraded or declassified as soon as there are no longer any grounds for continued classification within the classification categories set forth in the order. At the time of origin the classifier will, whenever possible, clearly mark on

the information or material a specific date or event upon which downgrading or declassification will occur. Whenever earlier dates or events cannot be determined, the general declassification schedule will apply.

(a) Declassification of classified material after 10 years. All information or material, classified before or after June 1, 1972, and exempted from the general declassification schedule, shall be subject to mandatory classification review at any time after the expiration of 10 years from the date of origin.

(b) Atomic energy material, restricted data, and intelligence and cryptography. Nothing in these regulations will supersede any requirements made by or under the Atomic Energy Act. Restricted data, and material designated formerly restricted data, will be handled, protected, classified, downgraded, and declassified in conformity with the provisions of the Atomic Energy Act and the regulations of the Atomic Energy Commission. Further, nothing in these regulations will prohibit compliance with any special requirements that another department or agency may impose as to classified material or information relating to communications intelligence, cryptography, and related matters originated by the department or agency.

§ 1301.4 Review of classified material for declassification purposes.

(a) *Systematic reviews.* All information and material classified by the Office after June 1, 1972 and evaluated under 44 U.S.C. 2101-2144 as being of sufficient historical or other value to warrant preservation, will be systematically reviewed on a timely basis for the purpose of making such information and material publicly available in accordance with the declassification determination made by the classifying authority. During each year each division and major organizational element within the Director's office will segregate to the maximum extent possible all such information and material warranting preservation and becoming declassified at or prior to the end of such year. Promptly after the end of such year, the records officer will make the declassified information and material available to the public to the extent permitted by law.

(b) *Mandatory review of material over 10 years old.* All classified information and material specified in § 1301.3(a), above, will be subject to a classification review provided:

(1) A department or agency of the Government, or a member of the public requests the review;

(2) The request is in writing and describes the classified information or material sufficiently to enable the Office to identify it;

(3) The classified information or material can be obtained with only a reasonable amount of effort.

(i) *Deficient requests.* When the description in a request is deficient the requester should be asked to provide as much additional information as possible.

Before denying a request on the grounds that the information or material is not available with a reasonable amount of effort, the requester should be asked to limit his request to information or material that is reasonably obtainable. If the requester then fails to describe the information or material he seeks sufficiently to enable identification, or it cannot be obtained with a reasonable amount of effort, the requester will be notified of the reasons why no action can be taken and of his right to appeal the decision to the Office Review Committee.

(ii) *Procedure.* Requests for classification review under this section should be directed to the Records Officer, Office of Management and Budget, Washington, D.C. 20503. The Records Officer will assign the request to the appropriate office or division within the Office for action, and the latter will immediately acknowledge receipt of the request to the requester in writing. The action office or division will thereafter make a determination within 30 days of receipt of the request or explain to the requester the reasons why further time is necessary. If at the end of 60 days from receipt of the request for review no determination has been made, the requester may apply to the Office Review Committee, Office of Management and Budget, Washington, D.C. 20503, for a determination. If the action office or division determines that continued classification is required, the requester will promptly be notified, and, whenever possible, provided with a brief statement as to why the requested information or material cannot be declassified. The requester may appeal any such determination to the Office Review Committee and the notice of determination will advise him of this right. If, after appeal, the Office Review Committee determines that continued classification is required, it will promptly so notify the requester and advise him that he may appeal the denial to the Interagency Review Committee.

§ 1301.5 Burden of proof for administrative determinations.

In making its determinations concerning requests for declassification of information or material, the burden of proof rests with the originating agency to show that continued classification is warranted under the terms of the order.

§ 1301.6 Availability of declassified material.

Upon a determination under these regulations that the requested material no longer warrants classification, it shall be declassified and made promptly available to the requester, if not otherwise exempt from disclosure under section 552(b) of title 5 U.S.C. (Freedom of Information Act) or other provisions of law.

§ 1301.7 Access by historical researchers.

(a) Persons outside the executive branch engaged in historical research projects may be authorized access to classified information or material provided the Director determines that:

(1) Access is clearly consistent with the interests of national security;

(2) The information or material requested is reasonably accessible and can be located and compiled with a reasonable amount of effort; and

(3) The researcher agrees to adequately safeguard the information and to authorize a review of his notes and manuscript for the sole purpose of determining that no classified information is contained therein.

(b) Requests from historical researchers to Office of Management and Budget for classified information or material will be directed to the Records Officer.

VELMA N. BALDWIN,
Assistant to the Director
for Administration.

DECEMBER 1, 1972.

[FR Doc. 72-21552 Filed 12-13-72; 8:51 am]

Title 6—ECONOMIC STABILIZATION

Rulings—Internal Revenue Service,
Department of the Treasury

[Pay Board Ruling 1972-123]

WAGE PROGRESSION SCHEDULES

Pay Board Ruling

Facts. Corporation A and the union representing A's employees in a unit of less than 1,000 employees included in their 2-year collective bargaining agreement, signed and effective August 1, 1970, wage progression schedules for the four job-classifications in the collective bargaining unit. Each classification has a different starting rate. Within each classification there are five annual increments occurring on the employee's anniversary date for work performed in the classification.

There is no performance evaluation involved. The four classifications each have different increment schedules as follows:

	Class I	Class II	Class III	Class IV
1 year.....	2.70	3.00	3.25	4.10
2 years.....	3.00	3.24	3.40	4.60
3 years.....	3.30	3.50	3.70	4.80
4 years.....	3.60	3.78	4.30	5.20
5 years.....	3.90	4.09	4.90	5.70

Corporation A and the union negotiate a general wage increase of 4.5 percent. It is allocated among the four classifications in varying amounts but within each classification the steps are increased equally, either in absolute dollars or in percentage terms. In the case of Classifications II and III, the increase consistent with past practice is a flat amount for

the bottom step and an increase in higher steps so that the ratio between steps remains as it was under the previous contract. The Classification II and III schedules are now:

	Class II	Class III
1 year.....	3.10	3.40
2 years.....	3.35	3.67
3 years.....	3.62	3.89
4 years.....	3.91	4.60
5 years.....	4.26	5.15

Classifications I and IV received a 15 cent increase applicable to each step, again consistent with past practice.

Increases in "includible" fringe benefits equal 1 percent of total compensation. Corporation A, based on prior experience, projects that progression increases between August 1, 1972 and July 31, 1973, will amount to an additional increase of 1.45 percent in average hourly compensation, including secondary effects on fringe benefits.

Issue. Must Corporation A and the union request an exception to the wage and salary standard because the total projected wage increase exceeds 5.5 percent?

Ruling. No. These progression increases meet the criteria for automatic in-grade progression increases set forth in Economic Stabilization Regulations, § 201.60(c) 37 F.R. 24977 (1972). The increases are solely related to the employee's length of service in a particular job classification and operate without significant affirmative exercise of employer discretion or subjective evaluation of the employee's work performance. Consequently, § 201.60(c) excludes these progression increases from adjustment computations as they were contained in a contract in effect on November 14, 1971, and continued without significant change in a successor contract negotiated after November 14, 1971. The increases as applied to Classifications I and IV preserved the historical cents per hour differential between increments (30 cents in Class I; 50 cents, 20 cents, 40 cents, and 50 cents in Class IV); with respect to Classifications II and III, the traditional practice of applying the increase so that the ratio between increments remains the same, was preserved. (This practice has the effect of giving every step the same percentage increment.)

Since the progression schedules have each preserved their former pre-November 14, 1971 structure, the increases under those schedules which will occur during the control year and the secondary effect on fringes of those increases are not chargeable.

Since the 1.45 percent increase attributable to increased years of service during the control year is not chargeable to either the average straight-time hourly rate or the average hourly bene-

fit rate, a request for an exception to the 5.5 percent standard is not required.

This ruling has been approved by the General Counsel of the Pay Board.

Dated: December 8, 1972.

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

Approved: December 8, 1972.

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

[FR Doc. 72-21494 Filed 12-13-72; 8:49 am]

Title 7—AGRICULTURE

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

[Navel Orange Reg. 279]

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

Limitation of Handling

§ 907.570 Navel Orange Regulation 279.

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

(2) It is hereby further found that it is impracticable and contrary to the public interest to give preliminary notice, engage in public rule-making procedure, and postpone the effective date of this section until 30 days after publication hereof in the FEDERAL REGISTER (5 U.S.C. 553) because the time intervening between the date when information upon which this section is based became available and the time when this section must become effective in order to effectuate the declared policy of the act is insufficient, and a reasonable time is permitted, under the circumstances, for preparation for such effective time; and good cause exists for making the provisions hereof effective as hereinafter set forth. The committee held an open meeting during the current week, after giving due

notice thereof, to consider supply and market conditions for Navel oranges and the need for regulation; interested persons were afforded an opportunity to submit information and views at this meeting; the recommendation and supporting information for regulation during the period specified herein were promptly submitted to the Department after such meeting was held; the provisions of this section, including its effective time, are identical with the aforesaid recommendation of the committee, and information concerning such provisions and effective time has been disseminated among handlers of such Navel oranges; it is necessary, in order to effectuate the declared policy of the act, to make this section effective during the period herein specified; and compliance with this section will not require any special preparation on the part of persons subject hereto which cannot be completed on or before the effective date hereof. Such committee meeting was held on December 12, 1972.

(b) *Order.* (1) The respective quantities of Navel oranges grown in Arizona and designated part of California which may be handled during the period December 15, through December 21, 1972, are hereby fixed as follows:

(i) District 1: 588,000 cartons.

(ii) District 2: 56,000 cartons.

(iii) District 3: 56,000 cartons.

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

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

Dated: December 13, 1972.

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

[FR Doc.72-21651 Filed 12-13-72; 11:54 am]

Title 9—ANIMALS AND ANIMAL PRODUCTS

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

SUBCHAPTER C—INTERSTATE TRANSPORTATION OF ANIMALS (INCLUDING POULTRY) AND ANIMAL PRODUCTS; EXTRAORDINARY EMERGENCY REGULATION OF INTRASTATE ACTIVITIES

[Docket No. 72-593]

PART 76—HOG CHOLERA AND OTHER COMMUNICABLE SWINE DISEASES

Release of Areas Quarantined

Pursuant to provisions of the Act of May 29, 1884, as amended, the Act of February 2, 1903, as amended, the Act of March 3, 1905, as amended, the Act of September 6, 1961, and the Act of July 2,

1962 (21 U.S.C. 111-113, 114g, 115, 117, 120, 121, 123-126, 134b, 134f), Part 76, Title 9, Code of Federal Regulations, restricting the interstate movement of swine and certain products because of hog cholera and other communicable swine diseases, is hereby amended in the following respects:

1. In § 76.2, paragraph (e) (1) relating to the State of Georgia is amended to read:

(1) *Georgia.* That portion of Jefferson County bounded by a line beginning at the junction of State Highway 24 and the Jefferson-Washington County line; thence, following the Jefferson-Washington County line in a generally southeasterly direction to the junction of the Jefferson-Washington-Johnson County lines; thence, following the Jefferson-Johnson-Emanuel County lines; thence, following the Jefferson-Emanuel County line in a generally northeasterly direction to the junction of the Jefferson-Emanuel-Burke County lines; thence, following the Jefferson-Burke County line in a northeasterly, then northwesterly direction to State Highway 24; thence, following State Highway 24 in a southwesterly direction to its junction with the Jefferson-Washington County line.

2. In § 76.2, paragraph (e) (2) relating to the State of Indiana is deleted.

3. In § 76.2, paragraph (e) (7) relating to the State of Ohio is deleted.

(Secs. 4-7, 23 Stat. 32, as amended; secs. 1 and 2, 32 Stat. 791-792, as amended; secs. 1-4, 33 Stat. 1264, 1265, as amended; sec. 1, 75 Stat. 481; secs. 3 and 11, 76 Stat. 130, 132; 21 U.S.C. 111-113, 114g, 115, 117, 120, 121, 123-126, 134b, 134f; 29 F.R. 16210, as amended, 36 F.R. 20707, 21529, 21530, 37 F.R. 6327, 6505)

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

The amendments exclude portions of Washington and Johnson Counties in Georgia; portions of Fayette, Clinton, and Highland Counties in Ohio; and portions of Carroll and Wells Counties in Indiana, from the areas quarantined because of hog cholera. Therefore, the restrictions pertaining to the interstate movement of swine and swine products from or through quarantined areas contained in 9 CFR Part 76, as amended, do not apply to the excluded areas, but will continue to apply to the quarantined areas described in § 76.2(e). Further, the restrictions pertaining to the interstate movement of swine and swine products from nonquarantined areas contained in said Part 76 apply to the excluded areas. No area in Indiana and Ohio remains under quarantine.

The amendments relieve restrictions presently imposed but no longer deemed necessary to prevent the spread of hog cholera and must be made effective promptly in order to be of maximum benefit to affected persons. It does not appear that public participation in this rule making proceeding would make ad-

ditional relevant information available to this Department.

Accordingly, under the administrative procedure provisions in 5 U.S.C. 553, it is found upon good cause that notice and other public procedure with respect to the amendments are impracticable and unnecessary, and good cause is found for making them effective less than 30 days after publication in the FEDERAL REGISTER.

Done at Washington, D.C., this 8th day of December 1972.

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

[FR Doc.72-21548 Filed 12-13-72; 8:50 am]

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

Release of Areas Quarantined

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

In § 82.3, in paragraph (a) (1) relating to the State of California, subdivision (i) relating to Ventura County and (ii) relating to Riverside and San Bernardino Counties are amended to read:

(i) That portion of Ventura County bounded by a line beginning at the junction of the 119° meridian and the south bank of the Santa Clara River; thence, following the south bank of the Santa Clara River in a generally northeasterly direction to the dividing line between R. 18 W. and R. 19 W. of the San Bernardino Meridian; thence, following the dividing line between R. 18 W. and R. 19 W. of the San Bernardino Meridian in a southerly direction to the dividing line between T. 2 N. and T. 1 N. of the San Bernardino Baseline; thence, following the dividing line between T. 2 N. and T. 1 N. in a westerly direction to the northern edge of U.S. Highway 101; thence, following the northern edge of U.S. Highway 101 in a northwesterly direction to the 119° meridian; thence, following the 119° meridian in a northerly direction to its junction with the south bank of the Santa Clara River.

(iii) That portion of San Bernardino and Riverside Counties bounded by a line beginning at the junction of the San Bernardino-Los Angeles County line and the dividing line between T. 2 N. and T. 1 N. of the San Bernardino Baseline; thence, following the dividing line between T. 2 N. and T. 1 N. in an easterly direction to the San Bernardino Meridian in San Bernardino County; thence, following the San Bernardino Meridian

in a southerly direction to the San Bernardino-Riverside County line; thence, following the San Bernardino-Riverside County line in an easterly direction to the dividing line between R. 3 E. and R. 4 E. of the San Bernardino Meridian in San Bernardino County; thence, following the dividing line between R. 3 E. and R. 4 E. in a southerly direction to the dividing line between T. 3 S. and T. 4 S. of the San Bernardino Baseline; thence, following the dividing line between T. 3 S. and T. 4 S. of the San Bernardino Baseline in a westerly direction to the dividing line between R. 1 W. and R. 2 W. of the San Bernardino Meridian; thence, following the dividing line between R. 1 W. and R. 2 W. of the San Bernardino Meridian in a southerly direction to the dividing line between T. 5 S. and T. 6 S. of the San Bernardino Baseline; thence, following the dividing line between T. 5 S. and T. 6 S. of the San Bernardino Baseline in a westerly direction to the western edge of U.S. Highway 395; thence, following the western edge of U.S. Highway 395 in a northwesterly direction to the Riverside-San Bernardino County line; thence, following the Riverside-San Bernardino County line in a westerly, then southwesterly direction to the junction of the Riverside-San Bernardino-Orange County lines; thence, following the San Bernardino-Orange County line in a northwesterly direction to the junction of the San Bernardino-Orange-Los Angeles County lines; thence, following the San Bernardino-Los Angeles County line in a northeasterly direction to its junction with the dividing line between T. 2 N. and T. 1 N. of the San Bernardino Baseline.

(Secs. 4-7, 23 Stat. 32, as amended; secs. 1 and 2, 32 Stat. 791-792, as amended; secs. 1-4, 33 Stat. 1264, 1265, as amended; sections 3 and 11, 76 Stat. 130, 132; 21 U.S.C. 111-113, 115, 117, 120, 123-126, 134b, 134f; 29 F.R. 16210, as amended, 36 F.R. 20707, 21529, 21530, 37 F.R. 6327, 6505)

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

The amendments exclude portions of Ventura and Riverside Counties in California from the areas quarantined because of exotic Newcastle disease. Therefore, the restrictions pertaining to the interstate movement of poultry, mynah, and psittacine birds, and birds of all other species under any form of confinement, and their carcasses and parts thereof, and certain other articles from quarantined areas, as contained in 9 CFR Part 82, as amended, will not apply to the excluded areas, but will continue to apply to the quarantined areas described in § 82.3. Further, the provisions of the regulations relating to movements from nonquarantined areas apply with respect to the dequarantined areas.

The amendments relieve certain restrictions presently imposed but no longer deemed necessary to prevent the spread of exotic New castle disease, and must be made effective immediately to be of maximum benefit to affected persons. It does not appear that public participation

in this rule making proceeding would make additional relevant information available to this Department. Accordingly, under the administrative procedure provisions in 5 U.S.C. 553, it is found upon good cause that notice and other public procedure with respect to the amendments are impracticable and unnecessary, and good cause is found for making the amendments effective less than 30 days after publication in the FEDERAL REGISTER.

Done at Washington, D.C., this 8th day of December 1972.

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

[FR Doc. 72-21549 Filed 12-13-72; 8:50 am]

Title 12—BANKS AND BANKING

Chapter V—Federal Home Loan Bank Board

SUBCHAPTER D—FEDERAL SAVINGS AND LOAN INSURANCE CORPORATION

[No. 72-1415]

PART 563—OPERATIONS

PART 571—STATEMENTS OF POLICY

Federal Insurance Reserve and Net Worth Requirements of Insured Institutions

DECEMBER 1, 1972.

The Federal Home Loan Bank Board, in Document No. 72-951, dated August 10, 1972, proposed to amend Parts 563 and 571 of the rules and regulations for Insurance of Accounts (12 CFR Parts 563, 571) for the purpose of revising the regulatory provisions regarding the Federal insurance reserve and net worth requirements of insured institutions. Notice of such proposed rule making was duly published in the FEDERAL REGISTER on August 25, 1972 (37 F.R. 17216), with an invitation for interested persons to submit written comments by September 29, 1972.

The Board, in Document No. 72-1324, dated November 9, 1972, thereafter proposed revised amendments to said Parts 563 and 571. Notice of such proposed rule making was duly published in the FEDERAL REGISTER on November 15, 1972 (37 F.R. 24196), with an invitation for interested persons to submit written comments by December 1, 1972.

On the basis of its consideration of all relevant material presented by interested persons or otherwise available, the Board on December 1, 1972, amended said Parts 563 and 571 as set forth below.

Revised § 563.11 requires each insured institution to set up a Federal insurance reserve account and limits the use of such account to the absorption of losses. That section permits an insured institution to use certain other reserve accounts as part of its Federal insurance reserve account. The whole of any reserve account

established under State law solely to absorb losses may be designated for this purpose. In addition, an insured institution may, with Corporation approval, earmark as part of its Federal insurance reserve account any portion of other net worth accounts—capital stock (if permitted by State law to absorb losses), capital surplus, contributed surplus, or retained earnings—and it may also pledge saving accounts for this purpose.

Paragraph (a) (1) of § 563.13 requires that Federal insurance reserve accounts be built up to annual minimum levels which increase with the length of time an institution has been insured by the Corporation. Two alternative methods for computing these annual minimum levels are provided. A Federal insurance reserve account must at least equal the "benchmark" percentage of either the closing-date savings account balance or an average of up to five closing-date savings account balances. The "benchmark" percentage increases with the length of time an association has been insured, up to 5 percent at 20 years. The section has been revised to require each insured institution to have a Federal insurance reserve account equal to at least 5 percent of its savings account balance on any one annual closing date prior to its 26th anniversary of insurance of accounts. For all other closing dates, insured institutions may elect to use the averaging method. Paragraph (a) (2) has been rewritten to make it clear that insured institutions must maintain their Federal insurance reserve dollar minimums until the next annual closing date.

Revised paragraph (b) (1) requires each insured institution to build up its net worth to an amount at least equal to the greater of (1) the applicable Federal insurance reserve requirement plus 20 percent of scheduled items, or (2) the amount determined under the Asset Composition and Net Worth Index set forth in § 563.13(b) (2), adjusted according to the length of time an institution has been insured. This sliding-scale adjustment is an addition to the initial proposal.

Several changes have been made in both the categories of assets in the Asset Composition and Net Worth Index and in the minimum net worth percentages applicable to particular kinds of assets. For example, the percentage applicable to "unsecured consumer loans" has been set at 15 percent. Also, fixtures are now included in the same category (10 percent) as furniture and equipment (under "Other Assets"). Several kinds of assets, such as securities guaranteed by GNMA and FHLMC, are now excluded from the Asset Composition and Net Worth Index; these excluded items are in addition to those specified in the revised proposed amendments.

Paragraph (c) of § 563.13 has been revised to make it clear that the Corporation may require an insured institution which fails to meet or maintain either its Federal insurance reserve or net worth requirements to take one or more specified corrective actions.

The initial proposal set forth a detailed procedure for the determination of net worth and Federal insurance reserve deficiencies. This section was eliminated from the revised proposal and is also absent from the amendments as adopted, since adequate procedural safeguards are already provided in Parts 509 and 512 of the general regulations.

The revised proposed version of § 563.14 was adopted unchanged. That section permits an insured institution with recognized losses "chargeable" to its Federal insurance reserve account to declare dividends and to pay interest on savings accounts only if prior written approval is obtained from the Corporation. The section does preapprove declarations and payments by an insured institution which meets certain qualifications. Declaration of dividends or payment of savings account interest is also preapproved for an insured institution if the amount of reserves remaining after the deduction of its losses chargeable to such account at least equals the minimum reserve requirement applicable to such institution under § 563.13. The initial proposal restricted an insured institution from declaring dividends and paying savings account interest when it had "charged losses" to its Federal insurance reserve account. The revised proposal and the final version use the standard of "losses chargeable" to such reserves, in conformity with the language of section 403(b) of the National Housing Act, as amended.

Section 571.3, a Statement of Policy concerning institutions failing to meet the old Federal insurance reserve requirements, is rescinded, as initially proposed.

The Board considers it to be in the public interest that the above amendments be made applicable to insured institutions for closings at the end of the current fiscal year. Accordingly, the Board found, pursuant to 12 CFR 508.14 and 5 U.S.C. 553(d), that there was good cause for not delaying the effective date of the amendments for the 30-day period following publication specified in those provisions, and the Board provided that the amendments will become effective on December 15, 1972.

1. Part 563 is amended by revising §§ 563.11, 563.13 and 563.14 thereof to read as follows:

§ 563.11 Federal insurance reserve; establishment of and earmarking to.

(a) *Establishment of account.* Each insured institution shall set up a Federal insurance reserve account which shall be used solely for the purpose of absorbing losses. No insured institution may pay dividends or interest on savings accounts from its Federal insurance reserve account. Any insured State-chartered institution, by specific and appropriate corporate action, may permanently designate as part of its Federal insurance reserve account all of any reserve account which under the provisions of State law is established for the sole purpose of absorbing losses. Evidence of such action shall be filed promptly with the Corporation.

(b) *Earmarking of net worth accounts.* Any insured institution, by specific and appropriate corporate action, and with the prior written approval of the Corporation, may earmark as part of its Federal insurance reserve account (1) any portion of any other reserve account which, by such corporate action, is made subject to charges for losses only, or (2) any amount of pledged savings accounts, capital stock (where permitted by State law to be used for absorbing losses), capital surplus, contributed surplus, or retained earnings. Such Corporation approval may set forth the conditions under which such earmarked amounts may be released.

(c) *Reserves of Federal associations.* The general reserves of Federal savings and loan associations are deemed to meet the requirements of paragraph (a) of this section.

(d) *Adjustment for negative net worth account balances.* In determining the amount of the Federal insurance reserve account, any net negative balance in the aggregate of all other net worth accounts shall be deducted from the Federal insurance reserve account.

§ 563.13 Required amounts and maintenance of Federal insurance reserve and net worth.

(a) *Federal insurance reserve requirements—(1) Minimum required amounts.* After the fiscal year in which a certificate of insurance is issued, each insured institution shall build up its Federal insurance reserve account so that, as of the close of business on the annual closing date following each anniversary of the date of insurance of accounts, such account shall be at least equal to the amount obtained by multiplying the percentage corresponding to such anniversary date, as set forth in the table below, by either: (i) The amount of the institution's savings account balance on such closing date, or (ii) the average of the savings account balance on such closing date and on one or more of the four immediately preceding annual closing dates, provided all such dates are consecutive. In any event, unless otherwise permitted in writing by the Corporation, each insured institution shall build up its Federal insurance reserve account so that, at any one annual closing date prior to the 26th anniversary of its insurance of accounts, such account shall be at least equal to 5 percent of the institution's savings account balance on such closing date.

Anniversary	Percentage
2	0.50
3	0.75
4	1.00
5	1.25
6	1.50
7	1.75
8	2.00
9	2.25
10	2.50
11	2.75
12	3.00
13	3.25
14	3.50
15	3.75
16	4.00

Anniversary	Percentage
17	4.25
18	4.50
19	4.75
20 and thereafter	5.00

(2) *Maintenance of minimum level.* Each insured institution must maintain in its Federal insurance reserve account (until the next annual closing date) at least the dollar amount required at any annual closing date under the provisions of the first sentence of subparagraph (1) of this paragraph.

(b) *Net worth requirements—(1) Minimum required amounts.* After the fiscal year in which a certificate of insurance is issued, each insured institution shall build up its net worth so that, as of the close of business on the annual closing date following each anniversary of the date of insurance of accounts, such net worth shall be at least equal to the greater of (i) the applicable Federal insurance reserve account requirement plus an amount equal to 20 percent of the institution's scheduled items, or (ii) the amount determined under the Asset Composition and Net Worth Index set forth in subparagraph (2) of this paragraph, as adjusted by multiplying such amount by a fraction of which the numerator is the applicable Federal insurance reserve percentage (from the table set forth in paragraph (a) (1) of this section) and the denominator is 5.

(2) *Asset Composition and Net Worth Index.* (i) The Asset Composition and Net Worth Index referred to in subparagraph (1) of this paragraph shall be as follows:

Asset category	Minimum net worth percentage
ASSET COMPOSITION AND NET WORTH INDEX	
First Mortgage Loans and Contracts:	
Insured or guaranteed mortgage loans	2
Mortgage loans, participations, and mortgage-backed certificates insured or guaranteed by an agency or instrumentality of the United States (except excluded assets)	2
Conventional mortgage loans	
Single-family dwellings	3
Homes—2-4 dwelling units	5
Multifamily—more than 4 dwelling units	6
Other improved real estate—commercial and industrial	7
Developed building lots and sites.	6
Acquisition and development of land	8
Undeveloped land	8
Nonconforming mortgage loans and contracts to facilitate sale of real estate owned	8
Other loans:	
Property improvement, alteration, or repair	
Insured or guaranteed loans	3
Other than insured or guaranteed loans	5
Educational loans	
Insured or guaranteed loans	2
Other than insured or guaranteed loans	6
Mobile home chattel paper	
Insured or guaranteed	3
Other than insured or guaranteed	6
Equipping and consumer loans	6
Unsecured consumer loans	15

ASSET COMPOSITION AND NET WORTH INDEX—
Continued

Asset category	Minimum net worth percentage
<i>Real estate:</i>	
Foreclosed and in judgment.....	10
Held for development or investment..	7
Office premises—	
Land and buildings.....	3
Leasehold and leasehold improvements	3
<i>Investment securities—Non-liquid:</i>	
Securities other than those that qualify as liquid assets under § 523.10(g) or would so qualify except for maturity (except excluded assets) ..	3
<i>Other assets:</i>	
Furniture, fixtures, and equipment....	10
Investment in service corporations and other subsidiaries.....	5
All other (except excluded assets)	3

(ii) The following rules shall apply in making determinations under such Index.

(a) Before a minimum net worth percentage is applied to an asset item, the amount of such asset item may be reduced by the amount of (1) any applicable allowance or reserve for depreciation, valuation allowance or reserve, specific reserve, or loss reserve, and (2) any applicable loans-in-process.

(b) The following are "excluded assets" and shall not be included in any asset category under such Index:

(1) Cash on hand and demand deposits in banks;

(2) Loans on the security of savings accounts;

(3) Prepaid FSLIC insurance premiums and secondary reserve prepayments;

(4) Securities that qualify as liquid assets under § 523.10(g) of this chapter or would so qualify except for maturity;

(5) Other securities fully guaranteed as to principal and interest by the United States, including any securities guaranteed by the Government National Mortgage Association;

(6) Any obligations of, or participations or other instruments fully guaranteed as to principal and interest by the Federal Home Loan Mortgage Corporation;

(7) Time deposits and bankers' acceptances that qualify as liquid assets under § 523.10(g) of this chapter;

(8) Stock of a Federal Home Loan Bank or the Federal National Mortgage Association; and

(9) Prepaid expenses.

(c) Deferred income (in any form) may not be deducted from any asset item.

(d) Accrued interest with respect to any asset shall be included in the same asset category as such asset.

(3) *Maintenance of minimum level.* Each insured institution must maintain (until the next annual closing date) at least the dollar amount of net worth required at any annual closing date under the provisions of subparagraph (1) of this paragraph.

(c) *Failure to meet or maintain Federal insurance reserve or net worth requirements.* If any insured institution

fails to meet or thereafter maintain the Federal insurance reserve requirements set forth in paragraph (a) of this section or the net worth requirements set forth in paragraph (b) of this section, the Corporation may, whether through enforcement proceedings (as provided in Parts 565 and 566 of this subchapter) or otherwise, require such institution to take any one or more of the following corrective actions:

(1) Increase the amount of its Federal insurance reserve account and/or net worth to a specified level or levels;

(2) Convene a meeting or meetings of its board of directors with the Director, Office of Examinations and Supervision, or his designee, for the purpose of accomplishing the objectives of this section;

(3) Reduce the rate of earnings that may be paid on savings accounts;

(4) Limit the receipt of savings to deposits to existing savings accounts;

(5) Cease or limit the issuance of new savings accounts of any or all classes or categories, except in exchange for existing savings accounts;

(6) Cease or limit lending or the making of a particular type or category of loan;

(7) Cease or limit the purchase of loans or the making of specified other investments;

(8) Limit operational expenditures to specified levels;

(9) Increase liquid assets and maintain such increased liquidity at specified levels; or

(10) Take such other action or actions as the Corporation may deem necessary or appropriate for the protection of the Corporation, the insured institution, or depositors or investors in the insured institution.

§ 563.14 *Payment of dividends and interest where losses are chargeable to the FIR.*

No insured institution which has recognized losses chargeable to its Federal insurance reserve account may declare any dividends or pay any interest on savings accounts unless the amount standing to the credit of such account, after deduction of all such losses, is equal to at least the amount required under § 563.13. However, for any period when recognized losses are chargeable to such reserve and the amount remaining to the credit of such account after deduction of all such losses is less than the amount required under § 563.13, the declaration of such dividends or the payment of such interest on savings may be made if prior written approval is obtained from the Corporation. The Corporation hereby approves, for any such insured institution which has been insured for a period of 20 years or more and whose Federal insurance reserve account, prior to the charging of such losses, equalled at least 5 percent of all savings accounts, the declaration of dividends or the payment of interest on savings accounts, if such insured institution provides for the transfer to its Federal insurance reserve

account of not less than 25 percent of its net income (as defined in § 572.3 of this subchapter) for such distribution period.

§ 571.3 [Rescinded]

2. Part 571 is amended by rescinding § 571.3 thereof.

(Secs. 402, 403, 48 Stat. 1256, 1257, as amended; 12 U.S.C. 1725, 1726. Reorg. Plan No. 3 of 1947, 12 F.R. 4981, 3 CFR, 1943-48 Comp., p. 1071)

By the Federal Home Loan Bank Board.

[SEAL]

JACK CARTER,
Secretary.

[FR Doc.72-21555 Filed 12-13-72; 8:51 am]

Title 14—AERONAUTICS
AND SPACE

Chapter I—Federal Aviation Administration, Department of Transportation

[Docket No. 12427, Amdt. 842]

PART 97—STANDARD INSTRUMENT APPROACH PROCEDURES

Miscellaneous Amendments

This amendment to Part 97 of the Federal Aviation Regulations incorporates by reference therein changes and additions to the Standard Instrument Approach Procedures (SIAPs) that were recently adopted by the Administrator to promote safety at the airports concerned.

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

SIAPs are available for examination at the Rules Docket and at the National Flight Data Center, Federal Aviation Administration, 800 Independence Avenue SW., Washington, DC 20591. Copies of SIAPs adopted in a particular region are also available for examination at the headquarters of that region. Individual copies of SIAPs may be purchased from the FAA Public Document Inspection Facility, HQ-405, 800 Independence Avenue SW., Washington, DC 20591, or from the applicable FAA regional office in accordance with the fee schedule prescribed in 49 CFR 7.85. This fee is payable in advance and may be paid by check, draft or postal money order payable to the Treasurer of the United States. A weekly transmittal of all SIAP changes and additions may be obtained by subscription at an annual rate of \$150 per annum from the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402. Additional copies mailed to the same address may be ordered for \$30 each.

Since a situation exists that requires immediate adoption of this amendment,

I find that further notice and public procedure hereon is impracticable and good cause exists for making it effective in less than 30 days.

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

1. Section 97.25 is amended by originating, amending, or canceling the following SDF-LOC-LDA SIAPs, effective December 21, 1972.

Philadelphia, Pa.—Philadelphia International Airport, LOC (BC) Runway 27, Original.

2. Section 97.27 is amended by originating, amending, or canceling the following NDB/ADF SIAPs, effective December 28, 1972.

DeLand, Fla.—DeLand Municipal/Sidney H. Taylor Field, NDB Runway 23, Original.

Jackson, Tenn.—McKellar Field, NDB Runway 2, Original.

3. Section 97.29 is amended by originating, amending, or canceling the following ILS SIAPs, effective December 28, 1972.

Jackson, Tenn.—McKellar Field, ILS Runway 2, Original.

Effective December 21, 1972.

Philadelphia, Pa.—Philadelphia International Airport, ILS Runway 9, Amendment 21; canceled.

Philadelphia, Pa.—Philadelphia International Airport, ILS Runway 9R, Original.

4. Section 97.33 is amended by originating, amending, or canceling the following RNAV SIAPs, effective January 25, 1973.

Philadelphia, Pa.—Philadelphia International Airport, RNAV Runway 17, Amendment 1.

Philadelphia, Pa.—Philadelphia International Airport, RNAV Runway 35, Amendment 2.

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

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

JAMES F. RUDOLPH,
Director,
Flight Standards Service.

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

[FR Doc. 72-21493 Filed 12-13-72; 8:45 am]

Chapter II—Civil Aeronautics Board

SUBCHAPTER B—PROCEDURAL REGULATIONS

[Reg. PR-132]

PART 311—CLASSIFICATION AND DECLASSIFICATION OF NATIONAL SECURITY INFORMATION AND MATERIAL

Adopted by the Civil Aeronautics Board at its office in Washington, D.C., on the 7th day of December 1972.

A new Part 311 is added to Title 14 of the Code of Federal Regulations to im-

plement Executive Order 11652 (37 F.R. 5209, March 10, 1972), and the National Security Council Directive of May 17, 1972 (37 F.R. 10053, May 19, 1972) pertaining to classification and declassification of national security information.

As required by the above-cited Executive order and directive, the Civil Aeronautics Board's security regulations affecting the public, having been approved by the Interagency Classification Review Committee, are published herewith.

Since this regulation constitutes a rule of agency procedure, notice and public procedure thereon are not required and the rule may be made effective upon less than 30 days' notice.

In consideration of the foregoing, the Civil Aeronautics Board hereby issues Part 311 of the Procedural Regulations (14 CFR Part 311), effective December 14, 1972, as follows:

GENERAL

- Sec.
311.1 Background.
311.2 Essential elements of the security program.

CLASSIFICATION

- 311.21 Classification categories.
311.22 Authority to classify, declassify, and downgrade.

ACCESS TO CLASSIFIED MATERIALS

- 311.31 Historical researchers.
311.32 Former Presidential appointees.

DOWNGRADING AND DECLASSIFICATION

- 311.41 General.
311.42 Downgrading and declassification.
311.43 Review of classified material for declassification.

AUTHORITY: The provisions of this Part 311 issued under sec. 204(a), Federal Aviation Act of 1958, as amended, 72 Stat. 743; 49 U.S.C. 1324; E.O. 11652, 37 F.R. 5209; and the National Security Council Directive Governing the Classification, Downgrading, Declassification and Safeguarding of National Security Information, 37 F.R. 10053.

GENERAL

§ 311.1 Background.

(a) The interests of the United States and its citizens are best served by making information regarding the affairs of Government readily available to the public. This concept of an informed citizenry is reflected in the Freedom of Information Act and in the current public information policies of the executive branch.

(b) Within the Federal Government there is some official information and material which, because it bears directly on the effectiveness of our national defense and the conduct of our foreign relations, must be subject to some constraints for the security of our Nation and the safety of our people and our allies. To protect against actions hostile to the United States of both an overt and covert nature, it is essential that such official information and material be given only limited dissemination.

(c) This official information or material, referred to as classified information or material in this regulation, is ex-

pressly exempted from public disclosure by section 552(b)(1) of title 5, United States Code. Wrongful disclosure of such information or material is recognized in the Federal Criminal Code as providing a basis for prosecution.

§ 311.2 Essential elements of the security program.

An effective program to protect national security information from unauthorized disclosure consists of the following elements:

(a) Information or material requiring limited and controlled dissemination be identified and marked;

(b) The number of persons authorized to classify information be limited;

(c) The amount of information classified as national security information be held to the minimum and that such information be declassified as rapidly as possible;

(d) The right of access to national security information and material be limited to the minimum number of persons found to be trustworthy (and then only on a case-by-case "need to know" basis);

(e) Procedures be established to protect such information so long as it is classified; and

(f) All employees be fully aware at all times of the policies and procedures respecting the classification and declassification of information and material.

CLASSIFICATION

§ 311.21 Classification categories.

Official information or material which requires protection against unauthorized disclosure shall be classified in one of three categories, namely, "Top Secret," "Secret," or "Confidential," depending upon the degree of its significance to national security. No other categories shall be used to identify official information or material as requiring protection in the interest of national security, except as otherwise expressly provided by statute. These classification categories are defined as follows:

(a) "Top Secret." "Top Secret" refers to that national security information or material which requires the highest degree of protection. The test for assigning "Top Secret" classification shall be whether its unauthorized disclosure could reasonably be expected to cause exceptionally grave damage to the national security. Examples of "exceptionally grave damage" include armed hostilities against the United States or its allies; disruption of foreign relations vitally affecting the national security; the compromise of vital national defense plans or complex cryptologic and communications intelligence systems; the revelation of sensitive intelligence systems; the revelation of sensitive intelligence operations; and the disclosure of scientific or technological developments vital to national security.

(b) "Secret." "Secret" refers to that national security information or material which requires a substantial degree of protection. The test for assigning

"Secret" classification shall be whether its unauthorized disclosure could reasonably be expected to cause serious damage to the national security. Examples of "serious damage" include disruption of foreign relations significantly affecting the national security; significant impairment of a program or policy directly related to the national security; revelation of significant military plans or intelligence operations; and compromise of significant scientific or technological developments relating to national security.

(c) "Confidential." "Confidential" refers to that national security information or material which requires protection. The test for assigning "Confidential" classification shall be whether its unauthorized disclosure could reasonably be expected to cause damage to the national security.

§ 311.22 Authority to classify, declassify, and downgrade.

(a) *Top Secret.* No Board official is authorized to classify information or material as "Top Secret."

(b) *Secret and confidential.* The Chairman and the Managing Director each has sole and nondelegable authority to classify national security information originated by the Board.

ACCESS TO CLASSIFIED MATERIALS

§ 311.31 Historical researchers.

Persons outside the executive branch performing functions in connection with historical research projects may have access to classified information within the Board for the period required (but no longer than 2 years unless renewed for an additional period of less than 2 years) if the Security Officer, designated by the Managing Director in writing, determines that access to the information will be clearly consistent with the interests of national security and the person to be granted access is trustworthy. The Security Officer shall insure that classified information is not published or otherwise compromised. The Security Officer shall insure that each person seeking access to classified information is, as a minimum, subject to a national agency check, that he agree in writing to protect classified information made available to him in accordance with the provisions of the Executive order and the Directive and certify, in writing, that he is aware of the provisions of the espionage laws of the United States. Each such person seeking access shall also agree to a review of his notes and the retention or excision by the Security Officer of any parts thereof containing classified information and a review of his manuscript and excision of parts thereof, whenever such retention and/or excision is deemed necessary by the Security Officer, and not to reveal or otherwise disclose to unauthorized persons any information so retained and/or excised.

§ 311.32 Former Presidential appointees.

Former Board Members may have access to classified information or material which they originated, reviewed, signed, or received while in public office. Upon the request of any such former official, such information and material as he may identify shall be reviewed by the Security Officer for declassification.

DOWNGRADING AND DECLASSIFICATION

§ 311.41 General.

Unnecessary classification, overclassification, and unnecessarily lengthy periods of continued classification should be avoided. Classification shall be solely on the basis of national security considerations. In no case shall information be classified in order to conceal inefficiency or administrative error, to prevent embarrassment to a person or agency, to restrain competition or independent initiative, or to prevent for any other reason the release of information which does not require protection. Doubts concerning the proper classification level to be assigned, or whether any level of classification is appropriate, should be resolved in favor of the less restrictive classification.

§ 311.42 Downgrading and declassification.

Classified material and information shall be downgraded and declassified as soon as there are no longer grounds for continued classification.

(a) The earliest possible date, or event, should be determined after which the information can be downgraded or declassified without damage to the national security and shown, along with the level of classification, on the document.

(b) Unless downgraded and declassified earlier, in accordance with the determination of the classifying authority, the time periods prescribed by the Executive order, and designated as the General Declassification Schedule, shall apply:

GENERAL DECLASSIFICATION SCHEDULE
FULL YEARS FOLLOWING YEAR OF ORIGINATION

Original level	Top secret	Secret	Confidential
Top secret.....	2	4	10
Secret.....		2	8
Confidential.....			6

AND THEN DECLASSIFIED COMPLETELY

(c) No Board official is authorized to fix a period of protection longer than the period fixed by the General Declassification Schedule.

(d) Information or material classified before June 1, 1972, and which is assigned to Group 4 under Executive Order No. 10501, as amended, shall be subject to the General Declassification Schedule. All other information or material classified before June 1, 1972, shall be excluded

from the General Declassification Schedule. However, at any time after the expiration of 10 years from the date of origin, it shall be subject to a mandatory classification review and disposition under the same conditions and criteria that apply to classified information and material created after June 1, 1972.

(e) All classified information or material 30 years old or more shall be declassified under the following conditions:

(1) All information and material classified after June 1, 1972, shall, whether or not declassification has been requested, become automatically declassified at the end of 30 full calendar years after the date of its original classification except for such specifically identified information or material which the Chairman personally determines in writing at that time to require continued protection because such continued protection is essential to national security or disclosure would place a person in immediate jeopardy. In such case, the Chairman shall also specify the period of continued classification.

(2) All information and material classified before June 1, 1972, shall be systematically reviewed or declassification by the Archivist of the United States by the end of the 30th full calendar year following the year in which it was originated. In his review, the Archivist will separate and keep protected only such information or material as is specifically identified by the Chairman in accordance with subparagraph (1) of this paragraph. In such case, the Chairman shall also specify the period of continued classification.

§ 311.43 Review of classified material for declassification.

(a) All information and material classified after June 1, 1972, and determined in accordance with 44 U.S.C. Chapter 21 (82 Stat. 1287) to be of sufficient historical or other value to warrant preservation shall be systematically reviewed on a timely basis by the Security Officer for the purpose of making such information and material publicly available in accordance with the determination regarding declassification made by the classifier. During each calendar year the Security Officer shall segregate to the maximum extent possible all such information and material warranting preservation and becoming declassified at or prior to the end of such year. Promptly after the end of such year the Security Officer, or the Archivist of the United States, if transferred thereto, shall make the declassified information and material available to the public to the extent permitted by law.

(b) Members of the public or agencies may direct requests for mandatory review for declassification to the Security Officer, at the offices of the Board, at 1825 Connecticut Avenue NW., Washington, DC 20428, who shall in turn assign the request to the appropriate office for action. In addition, the office which has

been assigned action shall immediately acknowledge receipt of the request in writing. If the request requires the rendering of services for which fair and equitable fees should be charged pursuant to title 5 of the Independent Office Appropriations Act, 1952, 65 Stat. 290 (31 U.S.C. 483a) the requester shall be so notified. The office which has been assigned action shall thereafter make a determination within 30 days of receipt or shall explain the reasons why further time is necessary. If at the end of 60 days from receipt of the request for review no determination has been made, the requester may apply to the Intra-agency Committee (established by the Chairman and chaired by the Managing Director) for a determination. Should the office assigned action on a request-for-review determine that continued classification is required, the requester shall promptly be notified and whenever possible, provided with a brief statement as to why the requested information or material cannot be declassified. The requester may appeal any such determination to the Intra-agency Committee and the notice of determination shall advise him of this right.

(c) The Intra-agency Committee shall establish procedures to review and act within 30 days upon all applications and appeals regarding requests for declassification. The Chairman, acting through the Intra-agency Committee, is authorized to overrule previous determinations in whole or in part when, in his judgment, continued protection is no longer required. If the Intra-agency Committee determines that continued classification is required it shall promptly so notify the requester and advise him that he may appeal the denial to the Interagency Classification Review Committee, established pursuant to Executive Order 11652.

(d) A request by a member of the public or by an agency to review for declassification documents more than 30 years old shall be referred directly to the Archivist of the United States, and he shall have the requested documents reviewed for declassification. If the information or material requested has not been transferred to the General Services Administration for accession into the Archives, the Archivist shall, together with the Chairman, have the requested documents reviewed for declassification. Classification shall be continued in either case only where the Chairman makes at that time the personal determination that continued classification is required. The Archivist shall promptly notify the requester of such determination and of his right to appeal the denial to the Interagency Classification Review Committee.

(e) For purposes of administrative determinations, the burden of proof is on the Chairman to show that continued classification is warranted within the terms of the Executive order.

(f) Upon a determination that the requested material no longer warrants classification, it shall be declassified and made promptly available to the re-

quester, if not otherwise exempt from disclosure under section 552(b) of title 5 U.S.C. (Freedom of Information Act) or other provision of law.

(g) A request for classification review must describe the document with sufficient particularity to enable it to be identified and to be obtained with a reasonable amount of effort. Whenever a request is deficient in its description of the record sought, the requester should be asked to provide additional identifying information whenever possible. Before denying a request on the ground that it is unduly burdensome, the requester should be asked to limit his request to records that are reasonably obtainable. If nonetheless the requester does not describe the records sought with sufficient particularity, or the record requested cannot be obtained with a reasonable amount of effort, the requester shall be notified of the reasons why no action will be taken and of his right to appeal such decision.

By the Civil Aeronautics Board.

[SEAL] HARRY J. ZINK,
Secretary.

[FR Doc. 72-21496 Filed 12-13-72; 8:49 am]

Title 16—COMMERCIAL PRACTICES

Chapter I—Federal Trade Commission

[Docket No. C-2313]

PART 13—PROHIBITED TRADE PRACTICES

Davis Felt and Carpet Co.

Subpart—Importing, manufacturing, selling, or transporting flammable wear: § 13.1060 *Importing, manufacturing, selling, or transporting flammable wear.*

(Sec. 6, 38 Stat. 721; 15 U.S.C. 46, Interpret or apply sec. 5, 38 Stat. 719, as amended, 67 Stat. 111, as amended; 15 U.S.C. 45, 1191) [Cease and desist order, Davis Felt and Carpet Co., Philadelphia, Pa., Docket No. C-2313, Nov. 6, 1972]

Consent order requiring a Philadelphia, Pa., manufacturer and retailer of carpets and rugs, among other things to cease selling and manufacturing carpeting which does not meet the acceptable criteria for carpeting under the Flammable Fabrics Act.

The order to cease and desist, including further order requiring report of compliance therewith, is as follows:

It is ordered, That respondent Davis Felt and Carpet Co., a corporation, its successors and assigns, and its officers and respondent's agents, representatives, and employees directly or through any corporation, subsidiary, division, or other device, do forthwith cease and desist from manufacturing for sale, selling, offering for sale, in commerce, or importing into the United States, or introducing, delivering for introduction, trans-

porting or causing to be transported in commerce or selling or delivering after sale or shipment in commerce, any product, fabric, or related material; or manufacturing for sale, selling, or offering for sale, any product made of fabric or related material which has been shipped or received in commerce, as "commerce," "product," "fabric," and "related material" are defined in the Flammable Fabrics Act, as amended, which product, fabric or related material fails to conform to any applicable standard or regulation continued in effect, issued or amended under the provisions of the aforesaid Act.

It is further ordered, That respondent notify all of its customers who have purchased or to whom have been delivered the products which gave rise to this complaint, of the flammable nature of said products and effect the recall of said products from such customers.

It is further ordered, That the respondent herein either process the products which gave rise to the complaint so as to bring them into conformance with the applicable standard of flammability under the Flammable Fabrics Act, as amended, or destroy said products.

It is further ordered, That the provisions of this order with respect to customer notification, recall and processing or destruction shall be applicable to carpets and rugs in style "Needletone, Color 201" as designated in subparagraph 1 of paragraph 2 of the complaint giving rise to this order, and any other colors determined to be in violation of the Flammable Fabrics Act, as amended, prior to the date of acceptance by the Commission of the final compliance report.

It is further ordered, That respondent herein shall, within ten (10) days after service upon it of this order, file with the Commission a special report in writing setting forth the respondents' intentions as to compliance with this order. This special report shall also advise the Commission fully and specifically concerning (1) the identity of the products which gave rise to the complaint, (2) the identity of the purchasers of said products, (3) the amount of said products on hand and in the channels of commerce, (4) any action taken and any further actions proposed to be taken to notify customers of the flammability of said products and effect the recall of said products from customers, and the results thereof, (5) any disposition of said products since March 29, 1972 and (6) any action taken or proposed to be taken to bring said products into conformance with the applicable standard of flammability under the Flammable Fabrics Act, as amended, or to destroy said products, and the results of such action. Respondent will submit with its report, a complete description of each style of carpet or rug currently in inventory or production. Upon request, respondent will forward to the Commission for testing, a sample of any such carpet or rug.

It is further ordered, That respondent notify the Commission at least 30 days

prior to any proposed change in the corporate respondent such as dissolution, assignment or sale resulting in the emergence of a successor corporation, the creation or dissolution of subsidiaries or any other change in the corporation which may affect compliance obligations arising out of the order.

It is further ordered, That the respondent corporation shall forthwith distribute a copy of this order to each of its operating divisions.

It is further ordered, That the respondent herein shall, within sixty (60) days after service upon it of this order, file with the Commission a report in writing setting forth in detail the manner and form in which it has complied with this order.

Issued: November 6, 1972.

By the Commission.

[SEAL] CHARLES A. TOBIN,
Secretary.

[FR Doc.72-21394 Filed 12-13-72;8:49 am]

Title 17—COMMODITY AND SECURITIES EXCHANGES

Chapter II—Securities and Exchange Commission

PART 200—ORGANIZATION; CONDUCT AND ETHICS; AND INFORMATION AND REQUESTS

General Counsel; Correction

A typographical error was inadvertently overlooked in F.R. Document 72-20999 filed 12-6-72, which was published in the FEDERAL REGISTER for Thursday, December 7, 1972, at 37 F.R. 26004, in that the word "officers" in the last clause of the third sentence of § 200.21 as amended should have read "offices". Such clause should read as follows:

§ 200.21 The General Counsel.

*** In addition, in appropriate cases he is responsible ***; and for the drafting, in conjunction with appropriate divisions and offices, of proposed legislation to be sponsored by the Commission. ***

For the Commission.

[SEAL] GLADYS E. GREER,
Assistant Secretary.

DECEMBER 8, 1972.

[FR Doc.72-21477 Filed 12-13-72;8:46 am]

Title 32—NATIONAL DEFENSE

Chapter VI—Department of the Navy

PART 701—AVAILABILITY OF OFFICIAL RECORDS

Policies and Procedures

Part 701 of Title 32 is revised to read as follows:

§ 701.1 Policies and procedures for making records available to the public.

(a) *Purpose.* This section implements 5 U.S.C. 552 and DOD Instruction 5400.7 of June 23, 1967 (32 F.R. 9666), and sets forth policies and procedures for making Department of the Navy records available to the public.

(1) *Records available.* It describes the kinds of documentary material or records that:

(i) Must be made available to the public, and procedures to be used in making them available, by (a) publishing them in the FEDERAL REGISTER, (b) providing the opportunity to read and copy them, with current indexes, and (c) providing copies when they are identified adequately.

(ii) Do not need to be made available to the public under the exemptions of 5 U.S.C. 552 and DOD Instruction 5400.7 of June 23, 1967 (32 F.R. 9666), and procedures for identifying them. Except for security classification markings (OPNAV Instruction 5510.1C, Department of the Navy Security Manual for Classified Information) which are used to identify material or records not releasable for reasons of national defense or foreign policy, the term "For Official Use Only" (FOUO) is the only designation, other than distribution statements (NAVMAT Instruction 5200.29, Distribution Statements (Other than Security) on Technical Documents), which may be used to identify material or records not to be released to the general public.

(2) *Reviews to preclude unnecessary withholding.* It provides for review of refusals to release documentary material or records, to preclude unnecessary or unauthorized withholding, and for responding to court actions taken to compel release of documentary material or records determined by proper authority to be within the exemptions stated in paragraph (h) of this section and authorized by 5 U.S.C. 552 and DOD Instruction 5400.7 of June 23, 1967 (32 F.R. 9666).

(b) *Supersession.* SECNAVINST 5720.42 of November 6, 1967, is hereby canceled and superseded.

(c) *Scope and applicability—(1) Intent.* This section applies to requests for Department of the Navy records, and access thereto, received from any member of the public. It is not intended to limit release of information to the Congress, or to Federal agencies, or to Federal Government employees whose official duties entitle them to the records or information. Requests from Members of Congress are governed by SECNAV INST 5730.12B, Provisions of Information to Congress, and by § 1-1006.1 of the Armed Services Procurement Regulation. The furnishing of information for General Accounting Office audits is governed by SECNAVINST 5741.2E, Relations with the General Accounting Office. Receipt of service of process is governed by DOD Directive 5530.1 (Acceptance of Service of Process, and FEDERAL REGISTER of 9 May 1967 (32 F.R. 7019)). National Security Agency (NSA) official records and information are exempted from the

provisions of this section by Public Law 86-36 (50 U.S.C. 402 note).

(2) *Other authorities.* Directives or other authorities providing more detailed procedures for specific categories of records or information, to the extent consistent with 5 U.S.C. 552 and DOD Instruction 5400.7 of June 23, 1967 (32 F.R. 9666) and this section, include but are not limited to:

(i) Public Affairs Regulations, NAVSO P1035—release to news and other public information media.

(ii) BUPERSINST 1070.12A and Marine Corps Manual, paragraph 1070 (also, for Headquarters, Marine Corps, HQO 5000.12, chapter 6)—release of information from the personnel records of members and former members of the Navy and Marine Corps.

(iii) Federal Personnel Manual, chapters 293, 294, and 339—release of information from active and inactive civilian personnel records.

(iv) Manual of the Medical Department, U.S. Navy, NAVMED P-117, chapter 23, section III—release of information from active and inactive medical records.

(v) Armed Services Procurement Regulations (ASPR) 1-329 and Navy Procurement Directives (NPDs)—release of procurement records and information.

(vi) U.S. Navy Regulations, JAGINST 5800.7 (JAG Manual), and SECNAVINST 5602.1A—litigation matters, and release and authentication of records to the courts and other Government agencies.

(d) *Policy—(1) General.* It is the policy of the Department of the Navy, consistent with 5 U.S.C. 552 and DOD Instruction 5400.7 of June 23, 1967 (32 F.R. 9666), to make available to the public the maximum amount of information concerning its operations and activities. Exceptions to the requirement for disclosure shall be made in accordance with paragraph (h) of this section, and the release procedures prescribed in paragraph (j) of this section.

(2) *Availability of exempt information.* Information exempt from public disclosure under the provisions of paragraph (h) of this section should be made available to the public when its disclosure is not inconsistent with statutory requirements (see paragraph (h) (3) of this section) or with OPNAVINST 5510.1C, Department of the Navy Security Manual for Classified Information, and when appropriate officials of the Department of the Navy determine that no significant purpose would be served by withholding the information. The determination of whether a significant purpose is served by withholding information under the provisions of paragraph (h) of this section is within the sole discretion of the Department of the Navy.

(3) *Withholding information.* Records, including all types of documents or related material, may be withheld from the public only as authorized by 5 U.S.C. 552 and DOD Instruction 5400.7 of June 23, 1967 (32 F.R. 9666) and this section. In no event shall the determination that requested information comes within any of the specific exemptions of 5 U.S.C. 552 and DOD Instruction

5400.7 of June 23, 1967 (32 F.R. 9666) or this section, or that the information has not been properly requested, be influenced by the possibility that its release might suggest administrative error or inefficiency, or might embarrass the Department of the Navy or one of its military or civilian officials.

(e) **FEDERAL REGISTER publications.** Subject to the exemptions set forth in paragraph (h), a current description of where, how, and by what authority the Department of the Navy performs its functions will be published in the FEDERAL REGISTER, for guidance of the public.

(1) **Insuring publication.** Responsibilities for insuring publication of this material are assigned to the heads of Navy Department components, commanders of naval systems commands, and the Commander, Military Sealift Command by SECNAVINST 5800.4B which designates the Judge Advocate General of the Navy as the Department's representative regarding FEDERAL REGISTER publication matters. In deciding which information to publish, responsible officials will consider the fundamental objectives of informing all interested persons how to deal effectively with the Department of the Navy. They will review information of the type described to insure that it, together with each change, revision, or cancellation, is sent to the Judge Advocate General for publication on an up-to-date basis in the FEDERAL REGISTER.

(2) **Information to be published.** Subject to the exemptions set forth in paragraph (h) of this section, information published in the FEDERAL REGISTER will include:

(i) **Organization, places, and methods.** The central and field organization of the Department of the Navy, and the established places at which, the officers from whom, and the methods whereby the public may secure information, make submittals or requests, and obtain decisions.

(ii) **Procedures and related rules.** The procedures by which the Department of the Navy conducts its business with the public, both formally and informally, including procedural rules which must be followed, descriptions of forms which must be completed or the sources from which they may be obtained, and instructions on the scope and content of any papers, reports, or examinations required to be submitted pursuant to such rules.

(iii) **Policy direction.** Directives (Navy Instructions and Notices; Marine Corps Orders and Bulletins), regulations, manuals, policy memoranda, statements or interpretations of policies, and other substantive rules of general applicability affecting the public.

(3) **Referencing information published elsewhere.** With the approval of the Director of the FEDERAL REGISTER, the requirement for publication in the FEDERAL REGISTER (1 CFR, Part 20, Dec. 1, 1969, 32 F.R. 19115) may be satisfied by reference in the FEDERAL REGISTER to other publications readily available to the class of persons affected, and containing the information which must otherwise be

published in the FEDERAL REGISTER. In such cases, the following apply:

(i) In order to be eligible for incorporation by reference, the matter must be in the nature of published data, criteria, standards, specifications, techniques, illustrations, or other published information reasonably available to members of the class affected thereby.

(ii) Incorporation by reference is not acceptable as a complete substitute for promulgating, in full text, material required to be published by 5 U.S.C. 552 and DOD Instruction 5400.7 of June 23, 1967, (32 F.R. 9666) and this section.

(iii) Incorporation by reference is acceptable as a means of avoiding unnecessary repetition, within the promulgated document, of published information already reasonably available to the class affected. Examples include:

(a) Construction standards promulgated by a professional association of architects, engineers, or builders.

(b) Codes of ethics promulgated by professional organizations.

(c) Forms and formats publicly or privately published and readily available to the persons required to use them.

(4) **Actual and timely notice.** No member of the general public can be required to resort to, or be adversely affected by, any matter that is required to be published in the FEDERAL REGISTER, unless the material has been published in the FEDERAL REGISTER, or he has otherwise received actual and timely notice of the contents of that material.

(f) **Inspection and copying of opinions, orders, and manuals—**(1) *Types of information made available.* Subject to the exemptions set forth in paragraph (h) of this section, the Department of the Navy will make available for public inspection and copying the categories of information listed in subdivision (ii) of this subparagraph, unless such materials are published and offered for sale.

(i) **Responsibilities.** It is the responsibility of Department of the Navy officials who create or issue these materials to insure their availability to members of the public, by providing copies of any such materials to the appropriate facility specified in subparagraph (2) of this section. The Chief of Naval Operations will establish such additional procedures as are necessary to insure their availability and provide for the preparation and maintenance of a current index, or indexes, of all such materials.

(ii) **Categories.** The following will be made available:

(a) All final opinions (including concurring and dissenting opinions and orders made in adjudications (as defined in 5 U.S.C. 551) that may be used, cited, or relied upon as precedent in future adjudications.

(b) Statements of policy and interpretations of less than general applicability, which affect the public but are not published in the FEDERAL REGISTER.

(c) Administrative staff manuals and instructions, or portions thereof, which establish Department of the Navy policy, or interpretations of policy that are determinative of the rights of members of

the public. This provision does not apply to instructions for employees on the methods and techniques, or tactics, to be used in performing their duties, or to instructions relating only to the internal management of the Department. Examples of manuals and instructions not normally made available are:

(1) Those issued for audit and inspection purposes, or those which prescribe operational tactics, standards of performance, or criteria for defense, prosecution, or settlement of cases.

(2) Operations and maintenance manuals, and technical information concerning munitions, equipment, and systems.

(d) Materials that are published in the FEDERAL REGISTER, when such action is feasible.

(iii) **Examples.** The following are illustrative of the information that normally will be made available for public inspection and copying:

(a) Navy Regulations, Department of the Navy directives and manuals of public interest, Navy Procurement Directives, and the Armed Services Procurement Regulation.

(b) Final decisions of the Boards of Review and Military Courts of Review created under the Uniform Code of Military Justice, decisions of the Armed Services Board of Contract Appeals, and decision of the Navy Contract Adjustment Board.

(iv) **Technical manuals and related information.** Technical manuals and data will be made available to Department of the Navy contractors, to bidders on Department of the Navy contracts, and to purchasers of surplus or obsolete military equipment or weapons, for inspection and copying or for purchase, in accordance with OPNAV Instruction 5510.1C Department of the Navy Security Manual for Classified Information, NAV MAT Instruction 5200.29, Distribution Statements (Other than Security) on Technical Documents, and Navy Comptroller Manual paragraphs 035885 through 035888 and paragraph 043145, with the Armed Services Procurement Regulations, and with directives issued by the sponsoring systems command.

(v) **Cost.** The cost to the Department of the Navy of copying any of the foregoing materials will be imposed on the person requesting the copy, in accordance with paragraph (g) (3) (i) (b) of this section.

(vi) **Deletion of identifying details.** Identifying details, which if revealed would be a clearly unwarranted invasion of privacy (see paragraph (h) (6) of this section), may be deleted from a final opinion, order, statement of policy, interpretation, staff manual, instruction, or record made available for inspection and copying. In every such case, the justification for the deletion must be fully documented. Reasons for the deletion include the protection of privacy in a person's (a) business affairs, (b) medical matters, and (c) private family matters, including humanitarian considerations. "Person," as appropriate, includes an individual, partnership, association,

or public or private organization. Under no circumstances should there be given any written or oral justification for the deletion of details which, by raising inferences, could be even more injurious than the invasion of privacy which the deletion of the details is intended to avoid. A rubber stamp, reading substantially as follows, may be used for the purpose of documenting the justification for the deletion.

Activity, Location
Date

Identifying details have been deleted, pursuant to 5 U.S.C. 552, for one or more of the reasons indicated in paragraph 6a(6) of SECNAVINST 5720.42A to prevent a clearly unwarranted invasion of personal privacy which would result from disclosure of those details.

Signature
Title of Cognizant Officer/Official

(2) Where information may be inspected—(i) *In the Navy Department Libraries.* Information described in subparagraph (1)(ii) of this paragraph (other than unpublished decisions of Boards of Review and Military Courts of Review covered in subdivision (1)(b) of this paragraph) is available for public inspection and copying at the Navy Department Library, or at the Law Library of the Office of the Judge Advocate General, as outlined below. The libraries are open from 0800 to 1630 (8 a.m. to 4:30 p.m.), Mondays through Fridays, except holidays.

(a) *Navy Department Library.* Located at Building 220, Second Floor, Washington Navy Yard, Washington, D.C. 20390, this facility maintains an index system by subject matter to materials available. The following are examples of indexes it will maintain for reference by members of the public.

(1) The Marine Corps Directives System Quarterly Checklist, and an index to administrative directives in the Navy Directives System Consolidated Subject Index of Unclassified Instructions.

(2) An index to the Armed Services Procurement Regulation.

(3) An index to the decisions of the Armed Services Board of Contract Appeals.

(4) An index to the decisions of the Navy Contract Adjustment Board issued after July 4, 1967.

(5) Any other indexes prepared pursuant to subparagraph (1)(i) of this paragraph, and a master list of available indexes.

(b) *Law Library of the Office of the Judge Advocate General.* Located in room 2527 of the Navy Arlington Annex (Federal Office Building No. 2), Southgate Road and Columbia Pike, Arlington, Va. 20370, this facility maintains, and will make available, both published and unpublished decisions of Boards of Review and Military Courts of Review created under the Uniform Code of Military Justice. (Published decisions are available also at naval bases, as indicated in subdivision (ii)(b) of this subparagraph.)

(ii) *In the field.* To the extent the

material described in subparagraph (1) of this paragraph is received by Navy and Marine Corps field activities ashore, for the regular conduct of their business, it will be made available locally to members of the public, for inspection and copying, under paragraph (j) of this section procedures.

(a) *All Navy and Marine Corps shore activities.* All naval shore activities maintain a current file of Department of the Navy directives of general applicability, and related indexes; also, directives of less than general applicability pertinent to their operations.

(b) *Naval bases and Marine Corps bases.* Published decisions of the Boards of Review and Military Courts of Review created under the Uniform Code of Military Justice can be found in "Courts-Martial Reports" maintained by these bases.

(c) *Naval Publications and Printing Service Office.* Technical manuals and data at field activities will be available as indicated in procurement documents. In some instances they will be made available under clearance procedures prescribed by the sponsoring naval systems command, at the Navy Publications and Printing Service Office, Washington Navy Yard, Building 157-1, Washington, D.C. 20390. A priced listing of technical manuals and data will be compiled and maintained at the NPPSO for reference by Department of the Navy personnel, contractors, bidders on contracts, and purchasers of surplus or obsolete military equipment or weapons.

(3) *Indexing and availability.* No order, opinion, statement of policy, interpretation, staff manual, or instruction issued, promulgated, or adopted after July 4, 1967, which is not indexed and either made available or published, may be relied upon, used, or cited as a precedent against any member of the public unless he has actual and timely notice of its terms. If the order, opinion, statement of policy, interpretation, staff manual, or instruction was issued, promulgated, or adopted before July 4, 1967, it need not be indexed, but must be made available in accordance with this paragraph.

(i) In determining whether an order, opinion, statement of policy, interpretation, staff manual, or instruction is likely to be used or relied upon as precedent, the primary test shall be whether it is intended to provide binding guidance for decisions or evaluations by subordinates, or for future decisions by the same authority in adjudications of cases affecting the public, where similar facts or issues are presented.

(ii) With regard to the precedential effect of an adjudication, opinions and orders of the Boards of Review and Military Courts of Review exemplify the type that shall be made available for inspection and copying, since they may be relied upon, used, or cited in future adjudications. By contrast, orders and opinions resulting from adjudications, such as those involving internal personnel (including military personnel) proceedings, and security proceedings, are not re-

quired to be made available to the general public for inspection and copying, since they are not relied upon, used, or cited in future adjudications.

(g) *Availability of records.* Subject to the exemptions set forth in paragraph (h) of this section and the procedural requirements of paragraph (j) of this section, any record in the possession of the Department of the Navy shall be made available upon the request of any person. Copies of records which are published, in accordance with paragraph (e) of this section, or made available for inspection and copying in accordance with paragraph (f) of this section, also should be made available to those who request them, when practicable.

(1) *Definition and interpretation of record.* In determining whether documentary material qualifies as a record, consideration should be given to the following:

(i) *Record defined.* The definition of the word "record" for records disposal purposes is contained in 44 U.S.C. 366, which reads: "[It] includes all books, papers, maps, photographs, or other documentary materials, regardless of physical form or characteristics, made or received by any agency of the U.S. Government in pursuance of Federal law or in connection with the transaction of public business and preserved or appropriate for preservation by that agency or its legitimate successor as evidence of the organization, functions, policies decisions, procedures, operations, or other activities of the Government or because of the informational value of data contained therein."

(ii) *Items included.* Records are not limited to permanent or historical documents, but include contemporaneous documents, as well.

(iii) *Items excluded.* The term "record" does not include objects or articles such as structures, furniture, paintings, sculpture, three-dimensional models, vehicles, equipment, etc., whatever their historical value or value as "evidence."

(2) *Identifiable record.* To be "identifiable" a record must exist as documentary material at the time it is requested. The Department of the Navy need not "create" a record to satisfy requests for information.

(3) *Requests for records.* Upon proper request, any identifiable Navy or Marine Corps record in the possession of a Department of the Navy activity will be made available to any person, subject to paragraph (h) of this section exemptions and paragraph (j) of this section procedural requirements.

(i) *Proper request.* A request for a record is proper and will be honored if the requester:

(a) *Describes the record.* The record sought shall be described with sufficient particularity to enable the Department of the Navy to identify and locate the record with a reasonable amount of effort. The request may be for more than one record, but each should be identified separately. Permission will not be granted for a requester to search or

browse through a file or record series to locate a record he then may want to identify and request. However, reasonable effort will be made to locate existing records properly identified.

(b) *Pays the cost.* The cost associated with locating and providing a copy of the record requested, as determined by Navy Comptroller Manual par. 035885 through 035888 and par. 043145, shall be tendered by the requester, who should be informed in advance of the estimated cost. Exemptions from charging for such services may apply when a predominant Government interest will be served in releasing the requested record. There is no fee for merely examining records that are readily available to the general public for inspection.

(c) *Complies with requirements.* The requirements contained in this section, including time, place, and procedures for obtaining a record, shall be followed.

(ii) *Referring requests and assisting requesters.* The placing of procedural obstacles in the way of the requester should be avoided, particularly where reorganization or transfer of functions contributes to an improperly directed request.

(a) *Other agency or activity records.* When a request is received for a record originated within another agency or activity and the request is in writing, it will be referred promptly and directly to that agency or activity for disposition, and the requester so advised. If the request is oral, the requester will be similarly referred. If the particular agency or activity is not known, reasonable effort will be made to determine the proper agency or activity, or otherwise assist in satisfying or properly channeling the request.

(b) *Requests relating to litigation.* When a request is received that concerns matters relating to actual or potential litigation involving the United States, the request will be referred to the Judge Advocate General or the General Counsel, as appropriate.

(c) *Records concerning the Congress.* When a request from the public is for a copy of material that concerns primarily a Member of Congress or a congressional committee, or a copy of a transcript of testimony given before a congressional committee, the requester will be advised to direct his request to the member or committee concerned.

(d) *Other sources.* When the information sought exists in the form of several records at several Department of the Navy locations, the applicant should be referred to these other sources, if gathering the information would be burdensome.

(iii) *Coordinating requests—(a) With other agencies or activities.* When other agencies or other Department of the Navy components have a significant interest in the contents of a requested document, they should be consulted before determining whether to make the document available to the requester.

(b) *With legal authorities.* Advice of the Judge Advocate General or General Counsel, within their respective areas of

responsibility, will be sought in all cases in which release or availability is questionable.

(c) *With public affairs officers.* Public affairs officers should be consulted on newsworthy matters, and advised of all requests from news media representatives. In addition, public affairs officers also should be informed in advance whenever it is intended to release a document containing potentially newsworthy material, or to withhold such a document from release.

(h) *Exemptions.* Documentary material may be withheld from public disclosure if it comes within a specific exemption. Even exempted material, however, should be made available upon the request of any member of the public if, in the judgment of the releasing authority, no significant purpose would be served by withholding it from him, and its release is not inconsistent with OPNAVINST 5510.1C, Department of the Navy Security Manual for Classified Information; or statutory requirements. When a request is received for a copy of a document properly marked "For Official Use Only," or otherwise of a character which contains information exempt from disclosure, review thereof should be made to determine which portions, if any, may be disclosed; those portions should then be released. The following are types of records that may be withheld from public disclosure:

(1) *Security classified records.* Those security classified records in the interest of national defense or foreign policy in accordance with OPNAVINST 5510.1C, Department of Navy Security Manual for Classified Information; or Executive Order.

(2) *Internal rules and practices.* Those containing rules, regulations, orders, manuals, directives, and instructions relating to internal personnel guides and directions, or to the internal practices of the Department of the Navy. Examples include:

(i) Operating rules, guidelines, and manuals for Department of the Navy investigators, inspectors, auditors, and examiners, and schedules or methods which cannot be disclosed to the public without substantial prejudice to the effective performance of a significant function of the Department of the Navy. Some of these materials would reveal:

(a) Negotiating and bargaining techniques.

(b) Bargaining limitations and positions.

(c) Inspection schedules and methods.

(d) Audit schedules and methods.

(ii) Personnel and other administrative matters, including items such as, but not limited to, examination questions and answers used in training courses or in the determination of the qualifications of candidates for employment, entrance to duty, advancement, or promotion.

(3) *Statutory exemptions.* Those containing information authorized or required by statute to be withheld from the public. The authorization or requirement may be found in the terms of the statute

itself, or in Executive Orders or regulations authorized by, or in implementation of, the statute. Examples include:

(i) Trade and financial information provided in confidence by businesses (18 U.S.C. 1905).

(ii) National Security Agency information (50 U.S.C. 402).

(iii) Any records containing information relating to inventions which are the subject of patent applications on which Patent Secrecy Orders have been issued (35 U.S.C. 181-188).

(iv) Any records containing information relating to inventions in which the Government has a property interest, pending the securing of patent protection (35 U.S.C. 122).

(4) *Privileged information and records.* Those containing information which the Department of the Navy receives from anyone, including an individual, a foreign nation, an international organization, a State or local government, a corporation, or any other organization with the understanding that it will be retained on a privileged or confidential basis, or similar commercial or financial records which the Department of the Navy develops internally, if they are in fact the kinds of records which are normally considered privileged or confidential. Such records include documents containing:

(i) Information customarily considered privileged or confidential, such as information coming within the doctor-patient, lawyer-client, and priest-penitent privileges.

(ii) Commercial or financial information received in confidence in connection with loans, bids, or proposals, as well as other information received in confidence or privileged, such as trade secrets, inventions and discoveries, or other proprietary data.

(iii) Statistical data and commercial or financial information concerning contract performance income, profits, losses, and expenditures, if received in confidence from a contractor or potential contractor.

(iv) Information such as research data, invention disclosures, patent applications, formulae, drawings, and other technical data and reports, which are significant as items of valuable property acquired in connection with research grants, or contracts, or would likely be held in confidence, if owned by private parties.

(v) Personal statements given in the course of inspections or investigations, where such statements are received in confidence from the individual and retained in confidence.

(5) *Internal Communications.* Except as provided in subdivision (ii) of this subparagraph, internal communications within and among agencies and components.

(i) *Examples.* (a) Staff papers containing advice, opinion, or suggestions.

(b) Information received or generated by a component preliminary to a decision or action, including draft versions

of documents, where premature disclosure would harm the authorized appropriate purpose for which the records are being used.

(c) Advice, suggestions, or reports prepared on behalf of the Department of the Navy by boards, committees, councils, groups, panels, conferences, commissions, task forces, or other similar groups that are formed by a component to obtain advice and recommendations.

(d) Records of Department of the Navy evaluations of contractors and their products, which in effect constitute recommendations or advice and would be used improperly to the advantage or to the detriment of private interests.

(e) Advance information on such matters as proposed plans to procure, lease, or otherwise acquire and dispose of materials, real estate, facilities, or functions when such information would provide undue or unfair competitive advantage to private personal interests.

(f) Records which are exchanged among Department of the Navy personnel, or with components of the Department of Defense, or other Government agencies preparing for anticipated legal proceedings before any Federal, State, or military court, or before any regulatory body. These include papers and advice exchanged internally in preparation for administrative settlement of potential litigation, such as claims against the Government.

(g) Reports of inspection, audits, investigations, or surveys which pertain to safety, security, or the internal management, administration, or operation of the Department of the Navy.

(ii) If any such intra- or inter-agency information requested would routinely be made available through the discovery process in the course of litigations with the agency, then it should not be withheld from the general public. If, however, the information would be made available only through the discovery process by special order of the court, based on the particular needs of a litigant balanced against the interests of the agency in maintaining its confidentiality, then the record or document should not be made available to a member of the general public.

(6) *Personnel and medical records.* Information in personnel and medical files, as well as information in similar files that, if disclosed to a member of the public, would result in a clearly unwarranted invasion of personal privacy.

(i) Examples: Examples of files similar to personnel and medical files include:

(a) Those compiled to evaluate or adjudicate the suitability of candidates for civilian employment, and the eligibility of individuals, civilian, military, or industrial, for security clearances.

(b) Files containing reports, records, and other materials pertaining to personnel matters in which administrative action, including disciplinary action, may be taken.

(ii) Special considerations. In determining whether the release of information would result in a clearly un-

warranted invasion of privacy, consideration should be given, in cases such as those involving alleged misconduct, to the relationship of the alleged misconduct to an individual's official duties, the amount of time which has passed since the alleged misconduct, and the degree to which the individual's privacy has already been invaded. Thus, the release of information concerning alleged misconduct which is closely related to official duties, which has occurred recently, and which has already been exposed to the public, is less likely to constitute a clearly unwarranted invasion of personal privacy. For example, after completion of appellate review, unclassified records of court-martial proceedings should normally be made available. In determining whether or not disclosure to a member of the public would result in a clearly unwarranted invasion of privacy, consideration must be given also to the privacy of witnesses and the victim. (Records of court-martial proceedings may be made available at an earlier stage, if in the judgment of the Judge Advocate General or the general court-martial convening authority, as appropriate, disclosure would not interfere with the review of the case.) Also, in determining whether the release of information revealing victimization or other involvement with misconduct would result in a clearly unwarranted invasion of privacy, among the factors which must be considered are the amount of time which has passed since the incident, and whether the investigation or proceeding which was conducted was open to the public or closed.

(iii) *Protecting personal privacy.* When the sole and exclusive basis for withholding information is protection of the personal privacy of an individual, the information should not be withheld from him or from his designated legal representative. An individual's personnel, medical, or similar file may be withheld from him or from his designated legal representative for reasons other than the protection of his personal privacy, when Civil Service Commission or other validly promulgated regulations so authorize.

(7) *Records of investigations.* Investigatory files compiled for the purpose of enforcing civil, criminal, or military law, including Executive orders, or regulations validly adopted pursuant to law (5 U.S.C. 301).

(i) Examples include:

(a) Statements of witnesses and other material based on information developed during the course of the investigation, and all materials prepared in connection with related Government litigation and adjudicative proceedings.

(b) Lists of firms or individuals suspended under procurement regulations when the lists are compiled in connection with investigation of irregularities.

(ii) The right of individual litigants to investigatory files currently available by law is not diminished.

(8) *Financial reports.* Those contained in or related to examination, operation, or condition reports prepared by, on behalf of, or for the use of any

agency responsible for the regulations or supervision of financial institutions.

(9) *Geological and geophysical records.* Those containing geological and geophysical information and data (including maps) concerning wells.

(i) *Identification and marking "For Official Use Only"*—(1) *Identification.* Records which are not security classified under OPNAVINST 5510.1C, Department of the Navy Security Manual for Classified Information, but which are authorized by 5 U.S.C. 552 and DOD Instruction 5400.7 of June 23, 1967, to be withheld from general public disclosure under paragraph (h) of this section, and which for a significant reason should not be given general circulation, shall be considered as being "For Official Use Only" (FOUO).

(2) *Marking folders, records, and files.* A record that is considered "For Official Use Only" may be marked "For Official Use Only" when such marking is deemed necessary to insure that all persons having access to the record are aware that it should not be publicly released and should not be handled indiscriminately. Individual folders, records, and files, covering specific kinds of subject matter, normally falling within the exemptions of paragraph (h) of this section (such as personnel and medical files, bids, proposals, and the like), which are covered by rules and regulations specifying what may be released publicly, do not require the FOUO marking unless transmitted under circumstances where marking is essential to insure protection of the information involved.

(i) *Security classified records.* The marking shall not be used on records which are classified for security reasons under OPNAVINST 5510.1C, Department of the Navy Security Manual for Classified Information or material but, if otherwise proper under this section, may be applied to information or material which has been declassified.

(ii) *Technical documents.* Information contained in technical documents for which a determination has been made that a distribution statement under NAVMATINST 5200.29, Distribution Statements (Other than Security) on Technical Documents, is appropriate, shall not be marked FOUO.

(3) *Protection of unmarked FOUO material.* Material which is considered to be "For Official Use Only" must be safeguarded from general disclosure, irrespective of whether the material is physically marked with the term "For Official Use Only."

(4) *Marking paragraphs.* Whenever necessary to insure proper understanding, individual paragraphs which contain FOUO information shall be marked with the symbol "FOUO." In classified documents, this marking should be applied only to paragraphs which contain FOUO information and do not contain classified information.

(5) *Designating documents FOUO*—(i) *Responsibility for marking.* The originator or signing official, or higher authority, is responsible for marking a document that he has determined should be

physically marked "For Official Use Only."

(ii) *Responsibility for advising stocking points.* Originators of Department of the Navy directives (Navy instructions and notices; Marine Corps orders and bulletins), or higher authority, also are responsible for advising stocking points when a directive that does not have the FOUO marking is for official use only, and not for general distribution to the public.

(6) *Procedures for handling.* SECNAVINST 5570.2B, Handling and Safeguarding "For Official Use Only" information and records of June 27, 1968, provides detailed standards and procedures for marking, handling, and safeguarding "For Official Use Only" material. Also included are procedures for transmitting, canceling, storing, removing markings on documents no longer requiring protection, and destroying FOUO material.

(j) *Release procedures—(1) General.* The policy of the Department of the Navy, as stated in paragraph (d) (1) of this section, is to make the maximum amount of information available to the public. Therefore, when a person requests that a record be made available, that request may be denied only upon a determination that:

(i) The applicant has failed unreasonably to comply with the procedural requirements imposed by this section;

(ii) The record is subject to one of the exemptions set forth in paragraph (h) of this section;

(iii) The record cannot be found because it has not been identified adequately.

(2) *Reviewing requested records.* The presence or absence of the marking "For Official Use Only" does not relieve the releasing authority of his responsibility to review the requested record for the purpose of determining whether an exemption under paragraph (h) of this section is applicable.

(3) *Examination and reproduction of records—(i) Examining records.* Authority to release a record includes authority to permit its examination. When authority to examine a record is granted, the examination normally will be permitted at the place where the record is kept or stored, during regular business hours, and under such circumstances and procedures as are reasonable and deemed appropriate by the custodian. Heads of activities may specify the room or other place where records in their custody may be examined. Unsupervised examination will not be permitted.

(ii) *Furnishing copies of records.* Original and official record copies of naval records may be furnished when properly requested. Substantive abstracts from records also may be furnished if requested or considered more feasible to do so because of workloads or other practical considerations.

(iii) *Furnishing copies of or examining published materials.* It is not required that materials published in the FEDERAL REGISTER in accordance with paragraph (e) of this section, or that are otherwise

published and offered for sale, be furnished to requesters. However, requesters may be accommodated by making published materials available locally for inspection and reading, when it is reasonable to do so. Copies of such published materials also should be furnished where practicable, as an accommodation. The normal fees for these copies will be charged, when appropriate.

(iv) *Examination and reproduction of records of trial by court-martial which are undergoing appellate review.* Inasmuch as unnecessary delay in the disposition of any case of a person accused of an offense and tried by court-martial is strictly prohibited by law (Article 98, Uniform Code of Military Justice; section 898, title 10, United States Code), records of court-martial proceedings which are still undergoing appellate review will ordinarily not be made available for such purposes prior to completion of all appellate processes. Such records may, however, be made available for such purposes prior to completion of all appellate processes if, in the judgment of the Judge Advocate General with respect to records in his custody or before boards of review, or in the judgment of the cognizant officer exercising general court-martial jurisdiction, with respect to other records, such action would not interfere with the appellate action on the case.

(4) *Procedures for releasing naval records—(i) Release authorities.* When release is not otherwise prohibited by paragraph (h) of this section or other regulations, and is consistent with such JAG manual provisions or instructions as may be applicable, commanding officers and heads of all Navy and Marine Corps activities (departmental and field) are authorized to make available records or other documentary material in their custody upon proper request. However, the following officials, only, are authorized to deny (as well as grant) requests, when the information sought relates to matters within their respective areas of assigned command responsibilities.

(a) For the Navy Department, the Civilian Executive Assistants, the Chief of Naval Operations, the Commandant of the Marine Corps, the Chief of Naval Material, the Chief of Naval Personnel, the Chief, Bureau of Medicine and Surgery, and heads of Navy Department offices and boards.

(b) For shore activities, commanders of systems commands; commandants of naval districts; the Commanders of the Naval Intelligence, Naval Security Group, Naval Communications, Naval Weather Service, and Naval Reserve Training Commands; the Chief of Naval Air Training; and the Oceanographer of the Navy.

(c) For the Operating Forces, fleet commanders in chief, and the Commander, Military Sealift Command.

The delegation in (a), (b), and (c) of this subdivision authorizes each named official to act both on directly received requests and on requests submitted by subordinate officials for a decision, and

to release a record or information under his own authority, or to direct the forwarding official to release it.

(ii) *Releasing records.* Upon receipt of a proper request as outlined in paragraph (g) of this section, the commanding officer or head of an activity having custody of a record will provide the requester with access to, or copies of, naval records or information, unless he considers the material sought exempt under one or more of the provisions of paragraph (h) of this section. In such a case, he will forward the request to the cognizant command authority in (a), (b), and (c) of subdivision (i) of this subparagraph for a decision, except that, when the request is for a medical record held by a naval hospital or naval dispensary, it will be processed in accordance with the Manual of the Medical Department, article 23-256. In determining releasability, he shall seek, as appropriate, the advice of his counsel or legal officer, his information officer, his records management officer, other concerned agencies or activities, and cognizant higher command authority. If undue delay is anticipated as a result, the requester should be advised. When the request is to inspect documentary material, the requester will be advised when, and where the material may be examined and the fee, if any, for conducting a search for it. When a request is for a copy, the requester will be advised of the fee required, and that a copy will be furnished upon payment of the fee, except that, if the request is urgent and it is in the Government's interest to do so, a copy or copies may be furnished under the provisions of paragraph (g) (3) (i) (b) of this section.

(iii) *Denying release.* If the request is received by an activity below the levels of the denial authorities named in paragraphs (j) (4) (i) of this section, and in the opinion of the head of that activity the material sought is not releasable, he will forward the request for review and a final decision directly to the appropriate official delegated denial authority. Information copies will be sent to any officer or officials in the intermediate chain of command. He will provide full information, and his recommendations, including any he may have regarding possible release under provisions of paragraph (d) of this section.

(a) *Granting release upon review.* If, upon review of the forwarded request, the reviewing official determines the material is releasable, he will release it under his own authority and provide the forwarding official and others concerned with information copies, or he will direct the forwarding official to satisfy the request. In so doing, he will coordinate all matters relating to the release of exempted information that may (1) have public relations aspects with the Chief of Information; and (2) relate to actual or potential litigation, by or against the United States, with the Judge Advocate General or the General Counsel, as appropriate.

(b) *Denying release upon review.* If the reviewing official determines that the material requested is not releasable, he will advise the requester in writing that his request is denied, explaining the specific basis for the denial, including a reference to the appropriate paragraph (h) of this section exemption, and his opportunity to appeal the decision in writing to the Secretary of the Navy under paragraph (k) of this section procedures. He will provide information copies of the denial to (1) the official forwarding the request; (2) the Judge Advocate General or the General Counsel, whichever is appropriate; (3) the Chief of Naval Operations; and (4) others concerned, including the Chief of Information when the request has public relations aspects.

(k) *Appeals to the Secretary of the Navy—(1) Filing an appeal.* Appeals from denials of requests will be made to the Secretary of the Navy. A requester will not have exhausted his administrative remedies, for the purpose of the U.S. district court review within the purview of 5 U.S.C. 552, until he has made such an appeal. It should be submitted to the officer who made the denial, and should specify the reasons upon which the appeal is based.

(2) *Processing an appeal.* When a written appeal to the Secretary of the Navy is filed with the official who made the denial, he will forward it, with his recommendations and full information copies to cognizant higher Department of the Navy authorities within his chain of command. The Chief of Naval Operations will review the appeal and forward it with any comments to the Judge Advocate General or the General Counsel for final processing and determination in regard to the appeal, within their respective areas of responsibility for legal services. The Judge Advocate General or the General Counsel, as appropriate, will transmit the Department's determination in writing, to the appellant. A copy of the final determination will be forwarded to the Chief of Naval Operations in each instance, and to the General Counsel of the Department of Defense in those instances in which the appellant seeks reconsideration by the Secretary of the Navy, or initiates legal action to compel release of a record.

(1) *How the public requests records.* Requests from members of the public to inspect or obtain copies of documentary material or records should be made as follows:

(1) *Identifying material requested.* Requests, whether made by mail or in person, should include at least the following written information:

(i) As complete an identification as possible of the material being requested, including its title or a description and, when known, its date and the issuing authority, together with any other useful identifying information.

(ii) When the request concerns a civilian or military person, the full name, including middle name or initial, date of birth, and the serial or social security

number of the person concerned, if known.

(iii) Whether the requester desires to request the record or obtain copies of it, or both.

(2) *Addressing requests.* Members of the public should direct their requests to the commanding officer or head of the activity where the record is located. When the official having custody of the record is not known, the request should be addressed to the originating official, or the official having primary responsibility for the subject matter involved, as follows:

(1) *Contract or procurement records.* Requests for records relating to procurement or contractual matters—to the contracting officer or to the procuring (purchasing) activity. When these are not known, the request may be submitted to the Chief of Naval Material (MAT 05), Washington, D.C. 20360.

(ii) *Civilian personnel records.* Requests involving the personnel records of civilians presently employed by the Department of the Navy—to the head of the activity where the person is employed, marked for the attention of the civilian personnel officer. If the request involves a former civilian employee, who has been separated from Federal employment for more than 30 days, direct the request to the Manager, National Personnel Records Center (Civilian Personnel Records) 111 Winnebago Street, St. Louis, MO 63118.

(iii) *Records involving legal matters.* Requests for records involving legal matters should be addressed as follows:

(a) *General counsel matters.* Requests relating to (1) the acquisition, custody, management, transportation, taxation, and disposition of real and personal property, and the procurement of services, including the fiscal, budgetary, and accounting aspects thereof; excepting, however, tort claims and admiralty claims arising independently of contract, and matters relating to the naval petroleum reserves; (2) operation of the Military Sealift Command, excepting tort and admiralty claims arising independently of contract; (3) the Office of the Comptroller of the Navy; (4) procurement matters in the field of patents, inventions, trademarks, copyrights, royalty payments, and similar matters, including those in the Armed Services Procurement Regulations and Navy Procurement Directives and deviations therefrom; and (5) industrial security and claims and litigation concerning the foregoing—to the General Counsel, Department of the Navy, Washington, D.C. 20360.

(b) *Courts-martial matters.* (1) Requests involving records of trial by general court-martial and special court-martial which (i) involves an officer accused or (ii) involve a sentence, which, as approved by the general court-martial convening authority, extends to a bad conduct discharge—to the Judge Advocate General, Department of the Navy, Washington, D.C. 20370.

(2) Requests involving records of trial of all other special court-martial and

summary court-martial (after final action and a retention period at shore activities of 2 years and at fleet activities of 3 months)—to the Manager, National Personnel Records Center (Military Personnel Records), 9700 Page Boulevard, St. Louis, MO 63132.

(c) *All other legal matters.* Requests for records involving all other legal matters—to the Judge Advocate General, Department of the Navy, Washington, D.C. 20370.

(iv) *Medical records.* When requests involve the medical records of military personnel, dependents of military personnel, and other civilians, address them as follows:

(a) For Navy and Marine Corps officer and enlisted personnel and their dependents (other than those covered in (b) and (c) of this subdivision)—to the medical treatment activity where the record is maintained, if known. (This generally is the activity where the patient is being treated, or recently was treated, since records are forwarded to the receiving activity when a patient is transferred.) If the location of the record is not known, address the request to the Chief, Bureau of Medicine and Surgery (Code 334), Washington, D.C. 20390.

(b) For former Navy and Marine Corps personnel separated prior to 1913, and their dependents—to the Assistant Archivist for Military Archives, Office of Military Archives, National Archives and Records Service, GSA, Washington, D.C. 20408.

(c) For former Navy and Marine Corps personnel (other than those separated prior to 1913 and covered in (b) of this subdivision) and their dependents—to the Manager, National Personnel Records Center (Military Personnel Records), 9700 Page Boulevard, St. Louis, MO 63132.

(d) For civilian employees—to the medical activity or facility where the person is being treated or was recently treated and where the record is maintained, if known. If this is not known and the record has been retired (generally, if it is 2 years or more since date of last treatment), address request to the Manager, National Personnel Records Center (Civilian Personnel Records), 111 Winnebago Street, St. Louis, MO 63118.

(v) *Military personnel records.* The location of personnel records of military personnel depends upon the duty status of the person the request concerns. Accordingly, requests from persons who have a direct interest (see paragraph (h)(6)) of this section should be addressed as follows:

(a) Navy and Marine Corps personnel (Regular and Reserves) on extended active duty and Navy officer personnel (Reserve) not on active duty.

(1) Navy officer and enlisted personnel—to the Chief of Naval Personnel, Washington, D.C. 20370, marked for the attention of Pers E2a when the request concerns officer personnel, and for Pers E3a when the request concerns enlisted personnel.

(2) Marine Corps officer and enlisted personnel extended active duty—to the

Commandant of the Marine Corps (Code D), Washington, D.C. 20380.

(b) Navy and Marine Corps officer personnel and enlisted personnel transferred to the Fleet Reserve, discharged, retired, or deceased; and inactive enlisted reservists—to the Manager, National Personnel Records Center (Military Personnel Records), 9700 Page Boulevard, St. Louis, MO 63132, except if the request involves the record of a person in a status listed in 1 through 5 of this subdivision, address the request as indicated in (a) of this subdivision.

(1) Navy officer personnel who have been separated (discharged, retired, or deceased) for less than 1 year, and Marine Corps officer personnel who have been separated for less than 4 months.

(2) Navy and Marine Corps enlisted personnel (Regulars or Reserves) who have been separated for less than 4 months.

(3) Temporary disability retired Navy and Marine Corps officer and enlisted personnel.

(4) Inactive Navy and Marine Corps enlisted reservists affiliated with a reserve unit; and inactive Navy enlisted reservists who have more than 18 months of their military obligation to serve.

(5) Marine Corps officer reservists not on active duty.

(c) Former Navy personnel separated prior to 1893 and former Marine Corps personnel separated prior to 1885—to the Director, Old Military Records Division, Office of the National Archives, National Archives and Records Service, GSA, Washington, D.C. 20408.

(vi) *Marine Corps records.* Marine Corps records and indexes, when the officials listed in (1) through (5) of subdivision (v) (a) of this subdivision are not known or appropriate—to the Commandant of the Marine Corps, Washington, D.C. 20380.

(vii) *Publication and indexes.* Publications, publication indexes, or indexes to Department of the Navy directives—to the Director, Publications and Printing Service, Washington Navy Yard, Washington, D.C. 20390.

(viii) *Other requests.* Other requests when the appropriate official listed in subdivisions (i) through (vii) of this subparagraph, or other proper addressee, is not known—to the Chief of Naval Operations, Washington, D.C. 20350. The Chief of Naval Operations will forward the request to the proper official, or otherwise assist in satisfying the request.

Dated: November 29, 1972.

[SEAL] HORACE B. ROBERTSON, Jr.,
Rear Admiral, JAGC, U.S. Navy,
Acting Judge Advocate General.

[FR Doc. 72-20974 Filed 12-13-72; 8:45 am]

Chapter XVI—Selective Service System

PART 1600—MAINTENANCE OF HIGH ETHICAL AND MORAL STANDARDS OF CONDUCT BY OFFICERS AND EMPLOYEES OF THE SELECTIVE SERVICE SYSTEM

CROSS REFERENCE: For a document issued by the Selective Service System re-sending 32 CFR Part 1600, see F.R. Doc. 72-21509, Selective Service System, in Notices section, *infra*.

APPEALS, EXAMINATIONS, AND ALLOCATIONS OF INDUCTIONS

Whereas on November 10, 1972, the Director of Selective Service published a notice of proposed amendments to Selective Service Regulations, 37 F.R. 23926 of November 10, 1972; and

Whereas such publication complied with the publication requirement of section 13(b) of the Military Selective Service Act (50 App. U.S.C. sections 451 et seq.) in that more than 30 days have elapsed subsequent to such publication during which period comments from the public have been received and considered; and I certify that I have requested the views of officials named in section 2(a) of Executive Order 11623 and none of them has timely requested that the matter be referred to the President for decision.

Now, therefore by virtue of the authority vested in me by the Military Selective Service Act, as amended (50 App. U.S.C. sections 451 et seq.) and Executive Order 11623 of October 12, 1971, the Selective Service Regulations, constituting a portion of Chapter XVI of Title 32 of the Code of Federal Regulations, are hereby amended, effective 11:59 p.m., e.s.t., on December 30, 1972, as follows:

Section 1626.1 *Who may appeal*, is amended to read as follows:

PART 1626—APPEAL TO APPEAL BOARD

§ 1626.1 Who may appeal.

The Director of Selective Service and the State Director of Selective Service as to the local boards in his State may appeal from any determination of a local board at any time prior to the induction of the registrant or his reporting for alternate service in lieu of induction. The registrant may appeal to an appeal board from his classification by the local board except his initial administrative classification into Class 1-H.

PART 1628—EXAMINATION OF REGISTRANTS

Paragraph (b) of § 1628.6 *Order to*

report for Armed Forces Examination, is amended to read as follows:

§ 1628.6 Order to report for Armed Forces examination.

(b) Any member or compensated employee of the local board, or any compensated employee of the Selective Service System whose official duties include the performance of administrative duties at a local board, shall select and order for Armed Forces Examination registrants in accordance with the instructions of the Director of Selective Service. The date specified for reporting for such examination shall be at least 15 days after the date on which the Order to Report for Armed Forces Examination (SSS Form 223) is mailed, except that a registrant who has volunteered for induction may be ordered to report for such examination on any date after he has so volunteered.

PART 1631—ALLOCATION OF INDUCTIONS

Paragraph (a) of § 1631.6 *Action by local board upon receipt of allocation*, is amended to read as follows:

§ 1631.6 *Action by local board upon receipt of allocation.*

(a) When an allocation is received from the State Director of Selective Service, any member or compensated employee of the local board, or any compensated employee of the Selective Service System whose official duties include the performance of administrative duties at a local board, shall select as provided herein, and issue orders to report for induction to those men required to fill the call from among its registrants who have been classified in Class 1-A or Class 1-A-O and have been found acceptable for service in the Armed Forces and to whom a Statement of Acceptability (DD Form 62) has been mailed: *Provided*, That notwithstanding Part 1628 or any other provision of these regulations, when a registrant in whatever classification has refused or otherwise failed to comply with an order of his local board to report for and submit to an Armed Forces examination, he may, after he is classified into Class 1-A or 1-A-O be selected and ordered to report for induction even though he has not been found acceptable for service in the Armed Forces and a Statement of Acceptability (DD Form 62) has not been mailed to him, and in such case the Armed Forces examination shall be performed after he has reported for induction as ordered and he shall not be inducted until his acceptability has been satisfactorily determined: *Provided further*, That a registrant who has volunteered for induction may be selected and ordered to report for induction to fill an induction call notwithstanding the fact

Title 42—PUBLIC HEALTH

Chapter I—Public Health Service, Department of Health, Education, and Welfare

SUBCHAPTER D—GRANTS

PART 59—GRANTS FOR FAMILY PLANNING SERVICES

Subpart A—Project Grants for Family Planning Services

DEFINITIONS

In the FEDERAL REGISTER of March 16, 1972 (37 F.R. 5505-06), the Acting Administrator, Health Services and Mental Health Administration, with the approval of the Secretary of the Department of Health, Education, and Welfare, proposed to revise Subpart A of Part 59 to incorporate changes made as a result of public comments received after Part 59 was originally adopted (36 F.R. 18465 et seq.). Public comment was invited in the proposal of March 16.

The National Center for Family Planning Services received several communications expressing opposition to the requirements that (1) an approved schedule of charges is required if projects are to be authorized to charge patients for their services, and (2) projects must collect for services when any third party is authorized or under legal obligation to pay for that service (§ 59.5(a)(5)). First, it should be pointed out that the proposal does not require projects to charge patients, but that if charges are to be made, they must be in accordance with a previously approved schedule. With respect to the second provision, the Secretary has determined that it is important for health services projects to free themselves from the need for continuing Federal grant support, and a system to actively seek third party reimbursement which poses no financial burden on the project patients is an appropriate means to that end.

Therefore, having evaluated the comments received and all other relevant material, the proposed regulation, as set forth below, is hereby adopted with one editorial change in the first line of § 59.5(b), effective on the date of publication in the FEDERAL REGISTER (12-14-72).

Dated: November 8, 1972.

VERNON E. WILSON,
Administrator, Health Services and Mental Health Administration.

Approved: December 8, 1972.

ELLIOT L. RICHARDSON,
Secretary.

1. Section 59.2(c) is amended to read as follows:

§ 59.2 Definitions.

(e) "Low income family" means a social unit composed of one or more in-

dividuals living together as a household and whose total annual income is not in excess of—

- (i) \$2,500 in the case of one such individual.
- (ii) \$3,400 in the case of two such individuals.
- (iii) \$4,200 in the case of three such individuals.
- (iv) \$5,000 in the case of four such individuals.
- (v) \$5,800 in the case of five such individuals.
- (vi) \$6,400 in the case of six such individuals.
- (vii) \$7,000 in the case of seven or more such individuals.

For the purpose of calculating the above referred to annual income, income includes—and shall be calculated as follows:

- (1) Both earned and unearned income
 - (i) remuneration of services performed as an employee or net earnings from self-employment;
 - (ii) unearned income means all other income including support and maintenance furnished in cash or otherwise, including family assistance benefits, State supplementary payments, payments received as annuity, pension, retirement, or disability benefit, including veteran's or workmen's compensation, old-age survivors and disability insurance, railroad retirement, unemployment benefits, support or alimony payments, rents, dividends, interest and royalties, regularly recurring payments which are intended to replace earned income, whether for a temporary or indefinite period of time, gifts, prizes, awards, inheritances, and the proceeds from any life insurance policy which exceeds the amount expended by family members for expenses of the insured individual's last illness or burial, not to exceed \$1,500.
- (2) Exclusion from income: The following items shall be excluded from calculations in determining the income of a family:
 - (i) The earned income of each child in the family who is a student regularly attending a school, college, or university, or a course of vocational or technical training designed to prepare him for gainful employment;
 - (ii) (a) The total unearned income of all members of a family in a calendar quarter which is received too infrequently or irregularly to be included, up to a limit of \$60 per quarter, and
 - (b) The total earned income of all members of a family in a calendar quarter which is received too infrequently or irregularly to be included up to a limit of \$30 per quarter;
 - (iii) An amount of earned income of a member of the family equal to the cost incurred by a family member for child care deemed necessary to securing or continuing in manpower training, vocational rehabilitation, employment, or self-employment;
 - (iv) Food stamps or any other assistance which is based on need and provided in a form other than cash by a public or private agency.

that he has not been found acceptable for service in the Armed Forces and regardless of whether or not a Statement of Acceptability (DD Form 62) has been mailed to him, but in such case the Armed Forces examination shall be performed after he has reported for induction as ordered and he shall not be inducted until his acceptability has been satisfactorily determined.

BYRON V. PEPITONE,
Acting Director.

DECEMBER 11, 1972.

[FR Doc.72-21510 Filed 12-13-72; 8:49 am]

PART 1660—ALTERNATE SERVICE

Selection of Nonvolunteer

Whereas, on November 10, 1972, the Director of Selective Service published a notice of proposed amendments of Selective Service Regulations 37 F.R. 23926 of November 10, 1972; and

Whereas more than 30 days have elapsed subsequent to such publication during which period comments from the public have been received and considered.

Now therefore by virtue of the authority vested in me by section 6(j) of the Military Selective Service Act, as amended (50 App. U.S.C. sections 451 et seq.), the Selective Service Regulations, constituting a portion of Chapter XVI of Title 32 of the Code of Federal Regulations, are hereby amended, effective 11:59 p.m. e.s.t. on December 30, 1972, as follows:

Paragraph (a) of § 1660.4 *Selection of nonvolunteer for alternate service*, is amended to read as follows:

§ 1660.4 Selection of nonvolunteer for alternate service.

(a) Any member or compensated employee of the local board, or any compensated employee of the Selective Service System whose official duties include the performance of administrative duties at a local board, will issue to a registrant classified in Class 1-O an order to report for alternate service (SSS Form 153) together with Conscientious Objectors Skills Questionnaire (SSS Form 152) and three copies of Employer's Statement of Availability of a Job as Alternate Service (SSS Form 156) at the same time that he would be issued an order to report for induction (SSS Form 252) were he classified in Class 1-A or 1-A-O. Such order to report for alternate service (SSS Form 153) shall specify the place and a date on which the registrant is to report for alternate service in accord with the instructions of the State Director. The date specified shall be not earlier than 70 days after such order is mailed.

BYRON V. PEPITONE,
Acting Director.

DECEMBER 11, 1972.

[FR Doc.72-21511 Filed 12-13-72; 8:49 am]

(v) (a) Any incentive allowance from the Department of Labor to individual members of the family participating in manpower training (up to \$30 per month per individual).

(b) Any incentive allowance (not to exceed \$30 per month per individual) from the Department of Labor or the Department of Health, Education, and Welfare to individual members of the family who are unemployed and unable to work solely because of an illness or incapacity and who are receiving vocational rehabilitation services from the appropriate State agency administering or supervising the administration of the approved State plan for vocational rehabilitation services approved under the Vocational Rehabilitation Act;

(c) Allowances paid by a State or political subdivision to a member of a family participating in a Federal income maintenance program (not to exceed \$30 per month);

(vi) Any portion of any grant, scholarship, or fellowship received for use in paying the cost of tuition and fees at any educational (including technical or vocational education) institution;

(vii) Home produce raised by a member of the family for consumption by the household;

(viii) One-third of any payments received for the support of children who are family members, or alimony paid to family members; and

(ix) Any amounts received for the foster care of a child who is not a member of the family but who is living in the same home as the family and was placed in such home by a public or nonprofit private child-placement or child-care agency.

Notwithstanding any other provision, the total amount which may be excluded under subdivisions (i), (ii), and (iii) of this subparagraph in determining the income of any family for any year shall not exceed the lesser of—

\$2,000 plus \$200 for each member of the family in excess of four, or
\$3,000 or a proportionately smaller amount for a shorter period.

2. In § 59.5, paragraph (a) (5) and (8) and paragraph (b) are revised to read as follows:

§ 59.5 Project requirements.

(a) * * *

(5) No charge will be made for services provided to any person from a low income family except to the extent that payment will be made by a third party (including a Government agency) which is authorized or is under legal obligation to pay such charge. In such case, effort must be made to obtain such third party payments. Where the cost of services is to be reimbursed under Title XIX of the Social Security Act, a written agreement with the Title XIX agency is required. Reimbursement may be either to the project or in lieu thereof directly to the provider in accordance with the above referred to written agreement. If charges are to

be made for services to persons other than those from low income families, such charges must be in accordance with a schedule submitted and approved as part of the project plan: *Provided, however*, That such charges must be made for services to such persons to the extent that payment will be made by a third party which is authorized or is under legal obligation to pay such charges, and effort must be made to obtain such third party payments.

(8) Acceptance by any individual of services provided by the project will be solely on a voluntary basis and such individuals will not be subjected to any coercion to receive services or to employ or not employ any particular method of family planning and acceptance of such services will not be a prerequisite to eligibility for, or receipt of, any other service, or assistance from, or to participation in, any other program of the applicant; and

(b) Provision of an opportunity for participation by persons broadly representative of all significant elements of the population to be served and by others in the community knowledgeable about such needs, in the development, implementation, and evaluation of the project.

[FR Doc.72-21531 Filed 12-13-72;8:51 am]

Title 43—PUBLIC LANDS: INTERIOR

Subtitle A—Office of the Secretary of the Interior

PART 2—RECORDS AND TESTIMONY

Declassification of Classified Documents

A new section is added to Part 2 of Title 43, Subtitle A of the Code of Federal Regulations to prescribe the procedures whereby members of the public or Departments may direct requests for a review of the classification of Department of the Interior information and material. These procedures implement the requirements of Executive Order 11652 and the National Security Council Directive of May 17, 1972. The new section is numbered § 2.3. Present §§ 2.3 through 2.7 are renumbered accordingly. Since this regulation is a statement of policy regarding requests for a review of the classification of Department of the Interior information and material, the public rulemaking process is waived, and this regulation shall become effective on the date of its publication in the FEDERAL REGISTER. The new section reads as follows:

§ 2.3 Declassification of classified documents.

(a) Request for classification review.

(1) Requests for a classification review

of a document of the Department of the Interior pursuant to section 5(c) of Executive Order 11652 (37 F.R. 5209, March 10, 1972) and section III B of the National Security Council Directive Governing Classification, Downgrading, Declassification and Safeguarding of National Security Information (37 F.R. 10053, May 1972) shall be made in accordance with the procedures established by this section.

(2) Any person desiring a classification review of a document of the Department of the Interior containing information classified as National Security Information by reason of the provisions of Executive Order 11652 (or any predecessor executive order) and which is more than 10 years old, should address such request to the Chief, Division of Records and Protective Services, Office of Management Operations, U.S. Department of the Interior, Washington, D.C. 20240.

(3) Requests need not be made on any special form, but shall, as specified in the executive order, describe the document with sufficient particularity to enable identification of the document requested with expenditure of no more than a reasonable amount of effort.

(4) Charges for locating and reproducing copies of records will be made when deemed applicable in accordance with 31 U.S.C. 483a, which is implemented by § 2.4 and the requester will be notified.

(b) *Action of requests for classification review.* (1) The Chief, Division of Records and Protective Services, shall, unless the request is for a document over 30 years old, assign the request to the bureau having custody of the requested records for action. In the case of requests for declassification of records in the custody of the Office of the Secretary and less than 30 years old, the request shall be processed by the Chief, Division of Records and Protective Services. Requests for declassification of documents over 30 years old shall be referred directly to the Archivist of the United States. The bureau which has been assigned the request, or the Chief, Division of Records and Protective Services, in the case of requests assigned to him, shall immediately acknowledge the request in writing. Every effort will be made to complete action on each request within thirty (30) days of its receipt. If action cannot be completed within thirty (30) days, the requester shall be so advised.

(2) If the requester does not receive a decision on his request within sixty (60) days from the date of receipt of his request, or from the date of his most recent response to a request for more particulars, he may apply to the Department of the Interior Committee on Classification of Security Information, U.S. Department of the Interior, Washington, D.C. 20240, for a decision on his request. The Committee must render a decision within thirty (30) days.

(c) *Form of decision and appeal to Committee on Classification of Security Information.* In the event that the bureau to which a request is assigned or the

Chief, Division of Records and Protective Services, in the case of a request assigned to him, determines that the requested information must remain classified by reason of the provisions of Executive Order 11652, the requester shall be given prompt notification of that decision and, whenever possible, shall be provided with a brief statement as to why the information or material cannot be declassified. He shall also be advised that if he desires he may appeal the determination to the Chairman, Department of the Interior Committee on Classification of Security Information, U.S. Department of the Interior, Washington, D.C. 20240. An appeal shall include a brief statement as to why the requester disagrees with the decision which he is appealing. The Department Committee on Classification of Security Information shall render its decision within thirty (30) days of receipt of an appeal. The Departmental Committee shall be authorized to over-rule previous determinations in whole or in part when, in its judgment, continued protection is no longer required.

(d) *Appeal to Interagency Classification Review Committee.* Whenever the Department of the Interior Committee on Classification of Security Information confirms a determination for continued classification, it shall so notify the requester and advise him that he is entitled to appeal the decision to the Interagency Classification Review Committee established under section 8(A) of Executive Order 11652. Such appeals shall be addressed to the Interagency Classification Review Committee, the Executive Office Building, Washington, D.C. 20500.

(e) *Suggestions and complaints.* Any person may also direct suggestions or complaints with respect to the administration of the other provisions of Executive Order 11652 and the NSC Directive by the Department of the Interior to the Department of the Interior Committee for Classification of Security Information, U.S. Department of the Interior, Washington, D.C. 20240.

(E.O. 11652, 87 F.R. 5209)

Effective date. This regulation shall be effective upon its publication in the FEDERAL REGISTER, (12-14-72).

UNITED STATES DEPARTMENT
OF THE INTERIOR,
CHARLES G. EMLEY,
Deputy Assistant Secretary
of the Interior.

DECEMBER 6, 1972.

[FR Doc.72-21495 Filed 12-13-72; 8:49 am.]

Chapter II—Bureau of Land Management,
Department of the Interior

APPENDIX—PUBLIC LAND ORDERS

[Public Land Order 5321]

ALASKA

Amendment of Public Land Orders No.
5173 and No. 5180, as Amended

By virtue of the authority vested in
the Secretary of the Interior by sections

11(a)(3) and 17(d)(1) of the Alaska Native Claims Settlement Act of December 18, 1971, 85 Stat. 688, 696, 708 (hereinafter referred to as the "Act"), and pursuant to Executive Order No. 10355 of May 26, 1952 (17 F.R. 4831), it is ordered as follows:

1. Public Land Order No. 5173 of March 9, 1972, as amended, withdrawing lands for selection by the Village Corporations and the Regional Corporation for the approximate area covered by the operations of the Tanana Chiefs' Conference, is hereby amended to add the following described lands to paragraph 2 of said order:

FAIRBANKS MERIDIAN
PROTRACTED DESCRIPTIONS

- T. 2 N., Rs. 23 through 25 E.
- T. 3 N., Rs. 23 through 25 E.
- T. 4 N., Rs. 24 and 25 E.
- T. 1 S., Rs. 26 through 29 E.
- T. 2 S., Rs. 26 through 29 E.
- T. 3 S., R. 24 E., S $\frac{1}{2}$.
- T. 3 S., Rs. 25 through 29 E.
- T. 4 S., Rs. 24 through 33 E.
- T. 5 S., Rs. 24 through 34 E.
- T. 6 S., R. 23 E., E $\frac{1}{2}$.
- T. 6 S., Rs. 24 through 26, and 31 through 34 E.
- T. 7 S., Rs. 19 and 20 E.
- T. 7 S., R. 22 E., S $\frac{1}{2}$.
- T. 7 S., Rs. 23 through 26, and 31 through 34 E.
- T. 8 S., Rs. 19 through 25 E.

COPPER RIVER MERIDIAN
PROTRACTED DESCRIPTIONS

- T. 26 N., Rs. 11 through 14 E.
- T. 27 N., Rs. 8 through 14 E.
- T. 28 N., Rs. 8 through 14 E. (partial).

KATEEL RIVER MERIDIAN
PROTRACTED DESCRIPTIONS

- T. 10 N., Rs. 5 through 15 E.
- T. 11 N., Rs. 5 through 8, and 11 through 13 E.
- T. 12 N., Rs. 5 through 8, and 11 through 12 E.

FAIRBANKS MERIDIAN
PROTRACTED DESCRIPTIONS

- T. 22 S., Rs. 26 through 28 W.

SEWARD MERIDIAN
PROTRACTED DESCRIPTIONS

- T. 31 N., Rs. 20 through 24 W.
- T. 32 N., Rs. 19 through 24 W.
- T. 33 N., Rs. 17 through 24 W.
- T. 24 N., Rs. 20 through 24 W.

2. The specified portions of the following designated townships are withdrawn by Public Land Order No. 5179 of March 9, 1972, as amended, and will remain so withdrawn. The lands in this paragraph are, therefore, excepted from the addition to Public Land Order No. 5173 by paragraph 1 of this order:

All lands within the protracted survey sections which are wholly or in part within 1 mile of the mean high water mark of the river's banks and all islands and islets within the following named rivers and their named tributaries as they traverse the following described lands:

Charley River

FAIRBANKS MERIDIAN
PROTRACTED DESCRIPTIONS

- T. 3 N., R. 23 E.
- T. 4 N., Rs. 24 and 25 E.

Fortymile River

FAIRBANKS MERIDIAN

ALL PROTRACTED DESCRIPTIONS

- T. 7 S., Rs. 31 through 33 E.
- T. 7 S., R. 34 E. (fractional).

Middle Fork (Tributary)

FAIRBANKS MERIDIAN

- T. 5 S., Rs. 25 through 28 E.
- T. 6 S., Rs. 24 and 25 E.
- T. 7 S., Rs. 22 and 23 E.
- T. 8 S., Rs. 21 and 22 E.

COPPER RIVER MERIDIAN

- T. 27 N., R. 9 E.
- T. 28 N., Rs. 9 and 10 E.

Molly Creek (Tributary)

COPPER RIVER MERIDIAN

- T. 27 N., R. 10 E.
- T. 28 N., R. 10 E.

FAIRBANKS MERIDIAN

- T. 8 S., Rs. 21 and 22 E.

Joseph Creek (Tributary)

FAIRBANKS MERIDIAN

- T. 6 S., R. 23 E.

McKinley Creek (Tributary)

FAIRBANKS MERIDIAN

- T. 6 S., R. 24 E.
- T. 7 S., R. 24 E.

Little White Man Creek (Tributary)

FAIRBANKS MERIDIAN

- T. 7 S., Rs. 24 and 25 E.

Fish Creek (Tributary)

FAIRBANKS MERIDIAN

- T. 6 S., R. 25 E.

Pittsburgh Creek (Tributary)

FAIRBANKS MERIDIAN

- T. 5 S., R. 25 E.

Portage Creek (Tributary)

FAIRBANKS MERIDIAN

- T. 5 S., Rs. 25 and 26 E.

North Fork (Tributary)

FAIRBANKS MERIDIAN

- T. 3 S., Rs. 27 and 28 E.
- T. 4 S., R. 28 E.
- T. 5 S., Rs. 28 and 29 E.

Slate Creek (Tributary)

FAIRBANKS MERIDIAN

- T. 3 S., Rs. 25 thru 27 E.
- T. 4 S., Rs. 25 and 26 E.

Ruby Creek (Tributary)

FAIRBANKS MERIDIAN

- T. 3 S., Rs. 24 and 25 E.

Independence Creek (Tributary)

FAIRBANKS MERIDIAN

- T. 1 S., Rs. 27 and 28 E.
- T. 2 S., R. 27 E.
- T. 3 S., R. 27 E.

North Peak Creek (Tributary)

FAIRBANKS MERIDIAN

- T. 3 S., R. 28 E.
- T. 4 S., R. 28 E.

Comet Creek (Tributary)

FAIRBANKS MERIDIAN

- T. 3 S., R. 29 E.
- T. 4 S., Rs. 28 and 29 E.

Bear Creek (Tributary)

FAIRBANKS MERIDIAN

T. 4 S., Rs. 28 and 29 E.

Champion Creek (Tributary)

FAIRBANKS MERIDIAN

T. 4 S., Rs. 28 through 31 E.

T. 5 S., Rs. 30 and 31 E.

O'Brien Creek (Tributary)

FAIRBANKS MERIDIAN

T. 5 S., Rs. 32 and 33 E.

T. 6 S., R. 32 E.

T. 7 S., R. 32 E.

Smith Creek (Tributary)

FAIRBANKS MERIDIAN

T. 7 S., R. 34 E.

Mosquito Fork (Tributary)

COPPER RIVER MERIDIAN

T. 26 N., R. 14 E.

Kaechumstuk Creek (Tributary)

COPPER RIVER MERIDIAN

T. 26 N., Rs. 13 and 14 E.

T. 27 N., Rs. 13 and 14 E.

The areas of land described in paragraph 1 of this order, less those excepted in paragraph 2, aggregate approximately 2,372,480 acres.

3. Subject to valid existing rights, all of the lands described in paragraph 1 of this order, less those excepted in paragraph 2, are added to Public Land Order No. 5173, as amended, and immediately become subject to all of the terms and conditions of that order, including the withdrawal of the lands from selection by the State of Alaska under the Alaska Statehood Act, 72 Stat. 339, and from location and entry under the mining laws, 30 U.S.C. Ch. 2, and from leasing under the Mineral Leasing Act of February 25, 1920, 30 U.S.C. sections 181-287 (1970). The lands described in paragraph 1 are deleted from those listed in Public Land Order No. 5180 of March 9, 1972, as amended.

4. Public Land Order No. 5180 of March 9, 1972, as amended, withdrawing lands for classification and for protection of the public interest in the lands, is hereby amended to add the following described lands to paragraph 1 of said order.

FAIRBANKS MERIDIAN

PROTRACTED DESCRIPTIONS

T. 16 S., R. 4 W.

T. 17 S., Rs. 3 and 4 W.

T. 18 S., Rs. 2 through 4 W.

T. 19 S., Rs. 1 through 4 W.

T. 19 S., R. 1 E.

T. 20 S., Rs. 1 through 8 E.

T. 21 S., Rs. 1 through 8 E.

KATEEL RIVER MERIDIAN

PROTRACTED DESCRIPTIONS

T. 16 S., Rs. 22 through 30 E.

T. 17 S., Rs. 22 through 29 E.

T. 18 S., Rs. 22 through 25 E.

T. 19 S., R. 22 E.

SEWARD MERIDIAN

PROTRACTED DESCRIPTIONS

T. 23 N., Rs. 51 through 53 W.

T. 24 N., Rs. 45 through 53 W.

T. 25 N., Rs. 39 through 52 W.

T. 26 N., Rs. 39 through 45, and 48 through 52 W.

T. 27 N., Rs. 39 through 45, and 48 through 52 W.

The areas described aggregate approximately 2,257,920 acres.

5. Subject to valid existing rights, all of the lands described in paragraph 4 of this order are added to Public Land Order No. 5180, as amended, and immediately become subject to all of the terms and conditions of that order, including the withdrawal of the lands from selection by the State of Alaska under the Alaska Statehood Act, 72 Stat. 339, and from location and entry under the mining laws (except for locations for metalliferous minerals), 30 U.S.C. Ch. 2, and from leasing under the Mineral Leasing Act of February 25, 1920, as amended, sections 181-287 (1970). These lands are deleted from those listed in Public Land Order No. 5173 of March 9, 1972, as amended.

6. The purpose of this order is to supplement Public Land Order 5173, as amended, by reserving additional lands for selection by the Regional Corporation for the approximate area covered by the operations of the Tanana Chiefs' Conference, as provided for by section 12 of the Act, and to supplement Public Land Order No. 5180 of March 9, 1972, as amended, by reserving additional lands for study to determine the proper classification of the lands and to ascertain the public values in the lands that need protection, as provided for by section 17(d)(1) of the Act.

7. While the lands described in this order remain withdrawn, the lands shall be subject to administration by the Secretary of the Interior under the applicable laws and regulations and his authority to make contracts, and to grant leases, permits, rights-of-way, or easements shall not be impaired by this withdrawal. New applications for leases under the Mineral Leasing Act of February 25, 1920, supra, will be rejected until this order is modified or the lands are appropriately classified to permit mineral leasing.

8. It is hereby determined that the promulgation of this public land order is not a major Federal action significantly affecting the quality of the human environment and that no detailed statement pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969, 42 U.S.C. section 4332(2)(C), is required.

ROGERS C. B. MORTON,
Secretary of the Interior.

DECEMBER 7, 1972.

[FR Doc.72-21473 Filed 12-13-72;8:47 am]

Title 45—PUBLIC WELFARE

Subtitle A—Department of Health, Education, and Welfare, General Administration

PART 5a—AVAILABILITY OF INFORMATION TO THE PUBLIC PURSUANT TO EXECUTIVE ORDER 11652 AND NATIONAL SECURITY COUNCIL DIRECTIVE OF MAY 17, 1972

A new Part 5a is added to Title 45 Subtitle A of the Code of Federal Regulations to implement Executive Order 11652 (37 F.R. 5209, March 10, 1972) and the National Security Council Directive of May 17, 1972, pertaining to classification and declassification of national security information and material. This part is established to inform the public and Federal agencies of the procedures to be followed by DHEW in handling requests for mandatory review for declassification and public access of national security information in the custody of DHEW.

These regulations have been approved by the Interagency Classification Review Committee as required by Executive Order 11652 and National Security Council Directive of May 17, 1972.

The regulations as set forth below, are effective June 1, 1972.

ELLIOT L. RICHARDSON,
Secretary.

Sec.	
5a.1	Physical security general.
5a.2	Implementation.
5a.3	Review responsibilities.
5a.4	Classification categories.
5a.5	Authority to classify.
5a.6	Accountability of classifier.
5a.7	Downgrading and declassification.
5a.8	Authority to downgrade and declassify.
5a.9	General declassification requirements.
5a.10	General Declassification Schedule.
5a.11	Systematic reviews.
5a.12	Other declassification requirements.
5a.13	Dissemination outside of the department.
5a.14	Dissemination for historical research and to former government officials.
5a.15	DHEW Security Information Committee.
5a.16	Interagency Classification Review Committee.

AUTHORITY: The provisions of this Part 5a issued pursuant to E.O. 11652, 37 F.R. 5209; National Security Council Directive of May 17, 1972.

§ 5a.1 Physical security general.

The provisions of these regulations are issued under Executive Order 11652 (37 F.R. 5209, March 10, 1972), entitled "Classification and Declassification of National Security Information and Material and National Security Council Directive of May 17, 1972 (37 F.R. 10053), Governing the Classification, Downgrading, Declassification and Safeguarding of National Security Information."

(a) The interests of the United States and its citizens are best served by making information regarding the affairs of Government readily available to the public. This concept of an informed citizenry is reflected in the Freedom of Information Act and in the current public information policies of the executive branch.

(b) Within the Federal Government there is some official information and material which, because it bears directly on the effectiveness of our national defense and the conduct of our foreign relations, must be subject to some constraints for the security of our Nation and the safety of our people and our allies. To protect against actions hostile to the United States, of both an overt and covert nature, it is essential that such official information and material be given only limited dissemination.

(c) To ensure that such information and material is protected, but only to the extent and for such period as is necessary, these regulations identify the information to be protected, prescribed classification, downgrading, declassification 552(b)(1) of title 5, United States Code, followed, and establish a monitoring system to ensure their effectiveness.

(d) This official information or material, hereinafter referred to as classified information or material, is expressly exempted from public disclosure by section 552(b)(1) of title 5, United States Code. Wrongful disclosure of such information or material is recognized in the Federal Criminal Code as providing a basis for prosecution.

§ 5a.2 Implementation.

The Secretary, DHEW has delegated to the Director, Office of Internal Security the responsibilities as defined in section 7(B) of Executive Order 11652 for developing programs to insure effective compliance with and implementation of the order.

§ 5a.3 Review responsibilities.

Executive Order 11652 and National Security Council Directives require the establishment of a Department of Health, Education, and Welfare departmental committee with the authority to act on all suggestions and complaints with respect to the Department's administration of the Executive order and directives. Accordingly, the Department of Health, Education, and Welfare Security Information Committee is established and chaired by the Director of Security. Members of this committee shall be appointed by the Director of Security. This committee will have responsibility for the following functions:

(a) Shall have authority to act on all suggestions and complaints with respect to the Department's administration of this order, including those regarding overclassifications, failure to declassify or delay in declassifying not otherwise resolved.

(b) Shall establish procedures to review and act within 30 days upon all

applications and appeals regarding requests for declassification.

(c) Shall be authorized to overrule previous determinations in whole or in part when, in its judgment, continued protection is no longer required.

(d) Shall promptly notify the requester when the committee determines that continued classification is required under the criteria of section 5(B) of the order and advise him that he may appeal the denial to the Interagency Classification Review Committee.

(e) Shall review all appeals of requests for records under section 522 of title 5, United States Code (Freedom of Information Act) when the proposed denial is based on their continued classification under the Executive Order 11652.

(f) Shall have responsibility for recommending to the Secretary appropriate administrative action to correct abuse or violation of any provision of the order or directives thereunder, including notification by warning letter, formal reprimand, and to the extent permitted by law, suspension without pay and removal. Upon receipt of such a recommendation the Secretary shall act promptly and advise the committee of his action.

(g) Shall provide (1) to the Chairman of the Interagency Classification Review Committee quarterly reports of actions on classification review requests, classification abuses and unauthorized disclosures, (2) progress reports on information accumulated in the data index system established under Part VII of the National Security Council Directive of May 17, 1972, and (3) such other reports as the Chairman may find necessary for the committee to carry out its responsibilities.

§ 5a.4 Classification categories.

Official information or material which requires protection against unauthorized disclosure in the interest of the national defense or foreign relations of the United States (hereinafter collectively termed "national security") shall be classified in one of three categories, namely "top secret," "secret," or "confidential," depending upon the degree of its significance to national security. No other categories shall be used to identify official information or material as requiring protection in the interest of national security except as otherwise expressly provided by statute.

(a) *Top secret.* "Top secret" refers to that national security information or material which requires the highest degree of protection. The test for assigning "top secret" classification shall be whether its unauthorized disclosure could reasonably be expected to cause exceptionally grave damage to the national security. Examples of "exceptionally grave damage" include armed hostilities against the United States or its allies; disruption of foreign relations vitally affecting the national security; the compromise of vital national defense plans or complex cryp-

tologic and communications intelligence systems; the revelation of sensitive intelligence operations; and the disclosure of scientific or technological developments vital to national security. This classification shall be used with the utmost restraint.

(b) *Secret.* "Secret" refers to that national security information or material which requires a substantial degree of protection. The test for assigning "secret" classification shall be whether its unauthorized disclosure could reasonably be expected to cause serious damage to the national security. Examples of "serious damage" include disruption of foreign relations significantly affecting the national security; significant impairment of a program or policy directly related to the national security; revelation of significant military plans or intelligence operations; and compromise of significant scientific or technological developments relating to national security. The classification "secret" shall be sparingly used.

(c) *Confidential.* "Confidential" refers to that national security information or material which requires protection. The test for assigning "confidential" classification shall be whether its unauthorized disclosure could reasonably be expected to cause damage to the national security.

§ 5a.5 Authority to classify.

Under the terms of section 2(B) of Executive Order 11652, the authority to originally classify information or material shall be restricted solely to those offices within the executive branch which are concerned with matters of national security, and shall be limited to the minimum number absolutely required for efficient administration. Under this section, the Secretary of DHEW may exercise original classification authority for "secret" and "confidential" information.

§ 5a.6 Accountability of classifier.

The Secretary of the Department of Health, Education, and Welfare is the only official authorized original classification in the Department for "secret" or "confidential" information. The Secretary's name must appear on the face of the document. The Secretary is the person accountable for the propriety of classification assigned and shall maintain adequate records to support this classification. Any inquiry as to the propriety of an assigned classification may be directed to the Secretary through the Office of Internal Security, the DHEW Security Information Committee, or the Interagency Classification Review Committee.

§ 5a.7 Downgrading and declassification.

(a) When classified information or material no longer requires its present level of protection in the interest of national security it shall be downgraded or declassified in order to preserve the effectiveness and integrity of the classification system and to eliminate classification of information or material which no longer requires classification protection.

(b) Atomic Energy Commission restricted data and material formerly designated as restricted shall be handled in accordance with the provisions of the Atomic Energy Act of 1954, as amended, and the regulations of the Atomic Energy Commission.

(c) NATO, CENTO, and SEATO information and material shall be handled in accordance with instructions and procedures promulgated by the U.S. Security Authority (USSA) for NATO, CENTO, and SEATO Affairs.

§ 5a.8 Authority to downgrade and declassify.

The authority to downgrade and declassify national security information or material shall be exercised as follows:

(a) Information or material may be downgraded or declassified by the official authorizing the original classification, by a successor in capacity or by a supervisory official of either.

(b) In the case of classified information or material officially transferred by or pursuant to statute or Executive order in conjunction with a transfer of function and not merely for storage purposes, the receiving Department shall be deemed to be the originating Department for all purposes, including downgrading and declassification.

(c) In the case of classified information or material not officially transferred within paragraph (b) of this section, but originated in a Department which has since ceased to exist, each Department in possession shall be deemed to be the originating Department for all purposes. Such information or material may be downgraded and declassified by the Department in possession after consulting with any other Departments having an interest in the subject matter.

§ 5a.9 General declassification requirements.

(a) At the time of origination the classifier shall, whenever possible, clearly mark on the information or material a specific date or event upon which downgrading or declassification shall occur. Such dates or events shall be as early as is permissible without causing damage to the national security.

(b) Whenever earlier dates or events cannot be determined, the General Declassification Schedule set forth in § 5a.10 shall apply.

(c) Downgrading and declassification dates or events established in accordance with the foregoing, whether scheduled or nonscheduled, shall to the extent possible be carried forward and applied whenever the classified information or material is incorporated in other documents or material.

(d) When classified information or material from more than one source is incorporated into a new document or other material, the document or other material shall be classified, downgraded or declassified in accordance with the provisions of this section applicable to the information requiring the greatest protection.

(e) The Department of Health, Education, and Welfare is not authorized to exempt from the General Declassification Schedule in accordance with section 5b, Executive Order 11652.

§ 5a.10 General Declassification Schedule.

(a) *Classification categories*—(1) *Top Secret*. Information or material originally classified "Top Secret" shall become automatically downgraded to "Secret" at the end of the second full calendar year following the year in which it was originated, downgraded to "Confidential" at the end of the fourth full calendar year following the year in which it was originated, and declassified at the end of the 10th full calendar year following the year in which it was originated.

(2) *Secret*. Information and material originally classified "Secret" shall become automatically downgraded to "Confidential" at the end of the second full calendar year following the year in which it was originated, and declassified at the end of the eighth full calendar year following the year in which it was originated.

(3) *Confidential*. Information and material originally classified "Confidential" shall become automatically declassified at the end of the sixth full calendar year following the year in which it was originated.

(b) *Applicability of the General Declassification Schedule to previously classified material*. Information or material classified before the effective date of Executive Order 11652 and which is assigned to Group 4 under Executive Order No. 10501, as amended by Executive Order No. 10964, shall be subject to the General Declassification Schedule. All other information or material classified before the effective date of Executive Order 11652, whether or not assigned to Groups 1, 2, or 3 of Executive Order 10501, as amended, shall be excluded from the General Declassification Schedule. However, at any time after the expiration of 10 years from the date of origin it shall be subject to a mandatory classification review and disposition under the same conditions and criteria that apply to classified information and material created after the effective date of Executive Order 11652.

§ 5a.11 Systematic reviews.

(a) *Continuous reviews*. (1) Each official shall maintain a continuous systematic review of classified information in his custody, and initiate action toward downgrading, declassification, transfer, retirement or destruction as soon as conditions warrant.

(2) All information and material classified after the effective date of the Order and determined in accordance with chapter 21, 44 U.S.C. (82 Stat. 1287) to be of sufficient historical or other value to warrant preservation shall be systematically reviewed on a timely basis for the purpose of making such information and material publicly available in accordance with the determination re-

garding declassification made by the classifier under section 5 of Executive Order 11652.

(b) *Review of classified material over 10 years old*. Members of the public or Departments may direct requests for mandatory review for declassification to the Department of Health, Education, and Welfare, Office of Internal Security, 330 Independence Avenue SW., Washington, DC 20201, which shall in turn assign the request to the appropriate office for action. In addition, the office which has been assigned action shall immediately acknowledge receipt of the request in writing. If the request requires the rendering of services for which fair and equitable fees should be charged pursuant to title 5, of the Independent Offices Appropriations Act, 1952, 65 Stat. 290, 31 U.S.C. 483a the requester shall be so notified. The office which has been assigned action shall thereafter make a determination within 30 days of receipt or shall explain the reasons why further time is necessary. If at the end of 60 days from receipt of the request for review no determination has been made, the requester may apply to the DHEW Security Information Committee for a determination. Should the office assigned action on a request for review determine that under the criteria set forth in section 5(B) of Executive Order 11652 continued classification is required, the requester shall promptly be notified, and whenever possible, provided with a brief statement as to why the requested information or material cannot be declassified. The requester may appeal any such determination to the DHEW Security Information Committee and the notice of determination shall advise him of this right.

(c) *Declassification of classified information or material after 30 years*. All classified information or material which is 30 years old or more, whether originating before or after the effective date of Executive Order 11652, shall be declassified under the following conditions:

(1) All information and material classified after the effective date of Executive Order 11652 shall, whether or not declassification has been requested, become automatically declassified at the end of 30 full calendar years after the date of its original classification except for such specifically identified information or material which the head of the originating Department personally determines in writing at that time to require continued protection because such continued protection is essential to the national security or disclosure would place a person in immediate jeopardy. In such case, the head of the Department shall also specify the period of continued classification.

(2) A request by a member of the public or by a Department to review for declassification documents more than 30 years old shall be referred directly to the Archivist of the United States, and he shall have the requested documents reviewed for declassification in accordance with the above. If the information

or material requested has not been transferred to the General Services Administration for accession into the Archives, the Archivist shall, together with the head of the Department having custody, have the requested documents reviewed for declassification. Classification shall be continued in either case only where the head of the Department concerned makes at that time the personal determination required above. The Archivist shall promptly notify the requester of such determination and of his right to appeal the denial to the Interagency Classification Review Committee (section 7, Executive Order 11652).

(d) *Burden of proof for administrative determinations.* For purposes of administrative determinations under paragraph (b) or (c) of this section, the burden of proof is on the originating Department to show that continued classification is warranted.

(e) *Availability of declassified material.* Upon a determination under paragraph (b) or (c) of this section that the requested material no longer warrants classification it shall be declassified and made promptly available to the requester, if not otherwise exempt from disclosure under section 552(b) of title 5 U.S.C. (Freedom of Information Act) or other provision of law.

(f) *Classification review requests.* A request for classification review must describe the document with sufficient particularity to enable the Department to identify it and obtain it with a reasonable amount of effort. Whenever a request is deficient in its description of the record sought, the requester should be asked to provide additional identifying information whenever possible. Before denying a request on the ground that it is unduly burdensome, the requester should be asked to limit his request to records that are reasonably obtainable. If nonetheless the requester does not describe the records sought with sufficient particularity, or the record requested cannot be obtained with a reasonable amount of effort, the requester shall be notified of the reasons why no action will be taken and of his right to appeal such decision.

§ 5a.12 Other declassification requirements.

(a) *Declassification of material 30 years old.* All information and material classified before June 1, 1972, and more than 30 years old shall be systematically reviewed for declassification by the Archivist of the United States by the end of the 30th full calendar year following the year it was originated. All such information and material shall be declassified except that specifically identified by the Secretary, DHEW for continued classification as set forth in § 5a.11(c) and section 5(E) of Executive Order 11652.

(b) Material not officially transferred. When the Department is holding classified information or material under the circumstances described in § 5a.8(c) notifies another Department of its inten-

tion to downgrade or declassify it shall allow the notified Department 30 days in which to express its objections before taking action.

(c) *Notification of expedited downgrading or declassification.* When classified information or material is downgraded or declassified in a manner other than originally specified, the classifier shall, to the extent practicable, promptly notify all addressees to whom the information or material was originally officially transmitted. In turn, the addressees shall notify any other known recipient of the classified information or material.

§ 5a.13 Dissemination outside of the Department.

(a) Consent of originating Department to dissemination by recipient. Except as otherwise provided by section 102 of the National Security Act of 1947, 61 Stat. 495, 50 U.S.C. 403, classified information or material originating in one Department shall not be disseminated outside any other Department to which it has been made available without the consent of the originating Department.

(b) Classified information shall not be sent to other Federal departments or agencies except by an official transmittal memorandum sent through established liaison or distribution channels.

(c) Access to classified information within this Department by individuals who are not employed in the Department shall have necessary security clearance and the prior approval of the Director of Security.

(d) When classified material is released to persons not employed in the executive branch of the Federal Government, it shall be marked "National Security Information" Unauthorized Disclosure Subject to Criminal Sanctions, and all the following conditions must be satisfied:

(1) The recipient's need to know is established and is consistent with the interest of national security.

(2) The recipient is determined to be trustworthy in accordance with established standards of the Department.

(3) The recipient can and will safeguard the information from unauthorized disclosure in a manner consistent with the provisions of existing executive orders and statutes.

(4) The information or material involved will not be further disseminated without the express permission of the Department.

(5) Granting access to the person involved is consistent with appropriate executive orders and with applicable statutes and national policy.

§ 5a.14 Dissemination for historical research and to former Government officials.

(a) *Access by historical researchers.* Persons outside the executive branch engaged in historical research projects may be authorized access to classified information or material: *Provided*, That the head of the originating Department determines that:

(1) The project and access sought is clearly consistent with the interests of national security and the researcher has appropriate security clearance for access.

(2) The information or material requested is reasonably accessible and can be located and compiled with a reasonable amount of effort.

(3) The historical researcher agrees to safeguard the information or material in a manner consistent with Executive Order 11652 and Directives thereunder.

(4) The historical researcher agrees to authorize a review of his notes and manuscript for the sole purpose of determining that no classified information or material is contained therein.

(5) An authorization for access shall be valid for the period required but no longer than 2 years from the date of issuance unless renewed under regulations of the originating Department.

(b) *Access by former Presidential appointees.* Persons who previously occupied policy making positions to which they were appointed by the President, other than those referred to in section 11 of Executive Order 11652, may be authorized access to classified information or material which they originated, reviewed, signed or received while in public office in accordance with § 5a.14(a). Upon the request of any such formal official, such information and material as he may identify shall be reviewed for declassification in accordance with the provisions of these regulations.

§ 5a.15 DHEW Security Information Committee.

(a) *Suggestions and complaints.* All suggestions and complaints including those regarding overclassification, failure to declassify, or delay in declassification not otherwise resolved, shall be referred to the DHEW Security Information Committee for resolution. In addition the DHEW Committee shall review all appeals of requests for records under section 522 of title 5 U.S.C. (Freedom of Information Act) when the proposed denial is based on their continued classification under the Order.

(b) *Administrative enforcement.* The DHEW Security Information Committee shall have responsibility for recommending to the Secretary of the Department appropriate administrative action to correct abuse or violation of any provision of Executive Order 11652 or National Security Council Directives, including notifications by warning letter, formal reprimand, and to the extent permitted by law, suspension without pay and removal. Upon receipt of such a recommendation the Secretary of the Department shall act promptly and advise the Departmental Committee of his action.

§ 5a.16 Interagency Classification Review Committee.

(a) *Composition of Interagency Committee.* In accordance with section 7 of the order, an Interagency Classification Review Committee is established to assist the National Security Council in monitoring implementation of the order. Its membership is comprised of senior

representatives of the Departments of State, Defense, and Justice, the Atomic Energy Commission, the Central Intelligence Agency, the National Security Council Staff, and a Chairman designated by the President.

(b) *Interagency Committee's functions.* The Interagency Committee shall carry out the duties assigned it by section 7(A) of the order. It shall place particular emphasis on overseeing compliance with and implementation of the order and programs established thereunder by each Department. It shall seek to develop means to (1) prevent overclassification, (2) ensure prompt declassification in accord with the provision of the order, (3) facilitate access to declassified material and (4) eliminate unauthorized disclosure of classified information.

(c) *Classification complaints.* Under such procedures as the Interagency Committee may prescribe, it shall consider and take action on complaints from persons within or without the Government with respect to the general administration of the order including appeals from denials by Departmental Committees or the Archivist of declassification requests.

[FR Doc.72-21497 Filed 12-13-72;8:49 am]

Chapter II—Social and Rehabilitation Service (Assistance Programs), Department of Health, Education, and Welfare

PART 206—APPLICATION, DETERMINATION OF ELIGIBILITY AND FURNISHING OF ASSISTANCE—PUBLIC ASSISTANCE PROGRAMS

Individual's Right To Apply

Notice of proposed rule making for the programs administered under titles I, IV-A, X, XIV, XVI, and XIX of the Social Security Act was published in the FEDERAL REGISTER on August 16, 1972 (37 F.R. 16551). The regulation clarifies that section 2(a)(8) of title I of the Social Security Act and parallel provisions in the other public assistance titles assure the applicant's right to select the specific plan of assistance under which he wishes to be considered. No suggestions were received and accordingly the regulations are herewith adopted. Section 206.10(a)(1) of Part 206, Chapter II, Title 45 of the Code of Federal Regulations is amended to read as follows:

§ 206.10 Application, determination of eligibility and furnishing of assistance.

(a) *State plan requirements.* A State plan under title I, IV-A, X, XIV, XVI, or XIX of the Social Security Act must provide that:

(1) Each individual wishing to do so will have the opportunity to apply for assistance under the plan without delay. Under this requirement (i) each individual may apply under whichever of the State plans he chooses; (ii) the agency accepts application from the applicant

himself, his designated representative, or someone acting responsibly for him, in person, by mail or by telephone; (iii) an applicant may be assisted, if he so desires, by an individual(s) of his choice (who need not be a lawyer) in the various aspects of the application process and the redetermination of eligibility and may be accompanied by such individual(s) in contacts with the agency and when so accompanied may also be represented by them; (iv) individuals eligible for financial assistance are eligible for medical assistance without a separate application.

(Sec. 1102, 49 Stat. 647, 42 U.S.C. 1302)

Effective date. This regulation, as amended, shall become effective 60 days from the date of its publication in the FEDERAL REGISTER.

Dated: November 6, 1972.

JOHN D. TWINAME,
Administrator, Social and
Rehabilitation Service.

Approved: December 7, 1972.

ELLIOT L. RICHARDSON,
Secretary.

[FR Doc.72-21512 Filed 12-13-72;8:51 am]

Title 46—SHIPPING

Chapter I—Coast Guard, Department of Transportation

SUBCHAPTER G—DOCUMENTATION AND MEASUREMENT OF VESSELS

[CGD 72-75R]

PART 66—GENERAL PROVISIONS

Ports of Documentation

The purpose of this amendment to Subchapter G, Title 46, Code of Federal Regulations, is to (1) revoke the designation of Fernandina Beach, Fla., as a port of documentation in the Seventh Coast Guard District, and (2) transfer the documentation records of the Fernandina Beach documentation office to the office of the Commanding Officer, U.S. Coast Guard Marine Inspection, 2701 Talleyrand Avenue, Jacksonville, FL 32206.

A notice of proposed rule making was published in the August 9, 1972, issue of the FEDERAL REGISTER (37 F.R. 16000), proposing to (1) revoke the designation of Fernandina Beach, Fla., as a port of documentation in the Seventh Coast Guard District, and (2) amend § 66.05-1, Title 46, Code of Federal Regulations, by revising the list of ports of documentation.

The notice of proposed rule making afforded interested persons the opportunity to participate in the rule making by submitting written data, views, or arguments to the Commander, Seventh Coast Guard District, Miami, Fla. No comments were received, and the amendment is adopted as proposed.

Therefore, pursuant to the notice published in 37 F.R. 16000, the documentation office at Fernandina Beach, Fla., will be closed, and the documentation records for Fernandina Beach will be consolidated with the records at Jacksonville, Fla.

In consideration of the foregoing, Part 66 of Title 46 of the Code of Federal Regulations is amended by striking out "Fernandina Beach, Fla." as a port of documentation listed under the Seventh Coast Guard District in section 66.05-1.

(Sec. 2, 23 Stat. 118, as amended; 46 U.S.C. 2; sec. 1, 43 Stat. 947, as amended; 46 U.S.C. 18; sec. 6(b)(1), 80 Stat. 937; 49 U.S.C. 1655(b)(1); and 49 CFR 1.46(b))

Effective date. This amendment shall be effective on January 15, 1973.

Dated: December 8, 1972.

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

[FR Doc.72-21521 Filed 12-13-72;8:50 am]

[CGD 72-174R]

PART 66—GENERAL PROVISIONS

Ports of Documentation

The purpose of these amendments to Subchapter G, Title 46, Code of Federal Regulations is to (1) revoke the designations of three ports as ports of documentation in the Fifth Coast Guard District, and (2) transfer the records of the three discontinued ports of documentation to existing ports of documentation.

A notice of proposed rule making was published in the February 4, 1972, issue of the FEDERAL REGISTER (37 F.R. 2681), proposing to (1) revoke the designations of 11 ports as ports of documentation in the Fifth Coast Guard District; (2) designate Portsmouth, Va., as a port of documentation; and (3) amend § 66.05-1, Title 46, Code of Federal Regulations, by revising the list of ports of documentation.

The notice of proposed rule making afforded interested persons the opportunity to participate in the rule making by submitting written data, views, or arguments to the Commander, Fifth Coast Guard District, Portsmouth, Va. Each communication received before April 4, 1972, was considered and evaluated by the Commander, Fifth Coast Guard District. Thereafter, the record was forwarded to the Commandant, U.S. Coast Guard, and together with all further written views submitted to the Commandant by October 2, 1972, was reappraised in arriving at a final decision.

The majority of comments received fell into six major subject areas (1) opposition to the proposal because it would be detrimental to the public and/or cause inconvenience to the public (127 comments); (2) opposition to the proposal because of the belief, mistaken in many cases, that the halling port marked on the vessel would require change if the

home port were eliminated as a port of documentation (47 comments); (3) questioning the economy of the proposed action (43 comments); (4) concern for Coast Guard documentation employees at offices that would be closed (7 comments); (5) favorable comments, with qualifications (7 comments); and (6) opposition with no reason given (21 comments).

The port to be marked on a vessel may be either the port at which the vessel is documented (the home port), or the place in the same Marine Inspection Zone where the vessel was built or where one or more of the owners reside. It was determined that a great majority of those who opposed the proposal on the basis of an understanding that they would be required to change hailing port markings had their place of residence marked as hailing port on their vessels and would be in full compliance whether or not their home port were discontinued. They were so advised.

In the notice of proposed rule making published on February 4, 1972 it was indicated that those vessels which were marked with a hailing port solely on the basis of its being the home port of the vessel would continue to be considered as properly marked for a period of 2 years following the closing of the documentation office at the port. This matter has since been reviewed and it has been decided that in such situation the vessels shall be considered as properly marked so long as they continued in the same ownership. This should eliminate any need for change of hailing port markings by present owners of vessels documented at a home port which is closed.

The comments received resulted in a revision of the proposal. With one exception, no designation is being revoked for any port at which there is an employee and where documentation services are conducted. The exception is Newport News, Va. Newport News is currently staffed by an employee on temporary assignment from Norfolk, Va. After considering all relevant comments, it was decided to revoke the designation of Newport News as a port of documentation. Newport News is within commuting distance from Norfolk and the return of the employee to his permanent station at Norfolk will enable that office to provide better documentation service to boating interests and result in economic savings to the Coast Guard.

Both Alexandria and Annapolis are close in distance and time to documentation offices at Washington, D.C., and Baltimore, Md., the ports that will become home port for the vessels now documented at Alexandria and Annapolis. It is believed that better, more efficient service can be rendered from the consolidated offices.

In view of the comments received, the notice published in 37 F.R. 2681 proposing revocation of the designation of 11 ports as ports of documentation and

designating Portsmouth, Va., as a port of documentation is amended so that the revocation applies only to Alexandria, Va.; Annapolis, Md.; and Newport News, Va. The proposal is further amended by withdrawing the designation of Portsmouth, Va., as a port of documentation.

The documentation offices at Alexandria, Va.; Annapolis, Md.; and Newport News, Va., will be closed and (1) the documentation records for Alexandria, Va., will be consolidated with the records at Washington, D.C., and Washington, D.C., will become the home port of all vessels now having Alexandria as home port; (2) the documentation records for Annapolis, Md., will be consolidated with the records at Baltimore, Md., and Washington, D.C., the records being distributed to and the vessels having as home port either Baltimore or Washington, depending upon the port that is closest to the place from which the vessel business of the owner is conducted; and (3) the documentation records at Newport News, Va., will be transferred to Norfolk, Va., and Norfolk will become the home port of all vessels now having Newport News as home port.

In consideration of the foregoing, Part 66 of Title 46 of the Code of Federal Regulations is amended by striking out the ports of documentation of "Alexandria, Va.," "Annapolis, Md.," and "Newport News, Va." listed under the Fifth Coast Guard District in § 66.05-1.

(Sec. 2, 23 Stat. 118, as amended; 46 U.S.C. 2; sec. 1, 43 Stat. 947, as amended; 46 U.S.C. 18; sec. 6(b)(1), 80 Stat. 937; 49 U.S.C. 1655(b)(1); and 49 CFR 1.46(b))

Effective date. This amendment shall be effective on January 15, 1973.

Dated: November 24, 1972.

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

[FR Doc.72-21520 Filed 12-13-72; 8:50 am]

Chapter II—Maritime Administration, Department of Commerce

SUBCHAPTER C—REGULATIONS AFFECTING SUBSIDIZED VESSELS AND OPERATORS

[Gen. Order 116, Revised]

PART 294—OPERATING-DIFFERENTIAL SUBSIDY FOR BULK CARGO VESSELS ENGAGED IN CARRYING BULK RAW AND PROCESSED AGRICULTURAL COMMODITIES FROM THE UNITED STATES TO THE UNION OF SOVIET SOCIALIST REPUBLICS

Miscellaneous Amendments; Correction

The following corrections should be effected in F.R. Doc. 72-19767, appearing in the FEDERAL REGISTER issue of November 16, 1972 (37 F.R. 24349):

1. The Maritime Administration's identifying order number was "[General Order 116]" and should be changed to read as set forth above.

2. The index preceding the recital of authority contained the phrase "294.6 Determinations of subsidy" which should be changed to "294.6 Determination of subsidy".

3. In § 294.5(b) the phrase "the United States to U.S.S.R." should read "the United States to the U.S.S.R."

4. The first word in § 294.5(c)(2)(iii) should be changed from "Commerce" to "Commences."

5. The parenthetical expression in § 294.6(b)(3)(i) should be changed from "(hourly earnings in manufacturing)" to "(Hourly Earnings in Manufacturing)".

6. Wherever the phrase "Stores, supplies, and expendable equipment" appears in §§ 294.6(b)(5) and 294.6(d)(1)(v) the comma after "supplies" should be deleted.

7. Wherever it appears in § 294.8 the word "expandable" should be changed to "expendable."

8. In § 294.9 the phrase "vessel depreciation and interest depreciation and interest expense" should read "vessel depreciation and interest expense."

Dated: December 6, 1972.

By order of the Assistant Secretary of Commerce for Maritime Affairs and the Maritime Subsidy Board.

JAMES S. DAWSON, JR.,
Secretary.

[FR Doc.72-21554 Filed 12-13-72; 8:51 am]

Title 47—TELECOMMUNICATION

Chapter I—Federal Communications Commission

[Docket No. 19281; FCC 72-1098]

PART 1—PRACTICE AND PROCEDURE

PART 15—RADIO FREQUENCY DEVICES

Class I TV Device Operations

Report and order. In the matter of amendment of Part 15 of the Commission's rules to regulate the operation of a Class I TV device—a new restricted radiation device which produces an RF carrier modulated by a TV signal, Docket No. 19281, RM-1610, and amendment of Part 1 to provide a fee schedule for type approval of such devices.

1. This proceeding was initiated in response to a petition¹ for rule making filed by Motorola, Inc., to amend Part 15 of the rules to permit the use of certain video playback devices referred to by the Commission as Class I TV devices. A notice of proposed rule making² was adopted July 14, 1971, by the Commission setting forth proposed regulations governing the operation of these devices.

¹ RM-1610 filed Apr. 27, 1970.

² Docket No. 19281, notice of proposed rule making, adopted July 14, 1971 (36 F.R. 13793).

The second notice of proposed rule making² in this proceeding relaxed the field strength requirements for electromagnetic radiation from the cabinet, control circuits, and power leads of these devices. Subsequent orders were adopted which denied in one instance³ and granted in three instances⁴ an extension of time in which to file comments.

2. In the notice of proposed rule making a Class I TV device was defined as:

Class I TV device. A type of restricted radiation device that produces a radio frequency carrier modulated by a television signal.

NOTE: Class I TV devices may include, but are not limited to: video recorders, and cameras, character generators, TV modulators.

Many of the comments received expressed concern about the specific equipments which would be included as Class I TV devices. Moreover, these comments made it evident that the above definition was not clear. Accordingly, the definition has been revised to read:

Class I TV device. A restricted radiation device that produces, on frequencies allocated for television broadcasting, a radio frequency carrier modulated by a video signal and which feeds the modulated radio frequency energy to the associated television receiver by conduction.

NOTE: Class I TV devices may include, but are not limited to certain video recorders, television cameras, TV game devices and certain modulators intended for use with video devices; they do not include equipment used within a cable television system nor equipment producing signals on other than television broadcasting frequencies.

The following discussion is intended to make clear what devices are encompassed in this definition and which are excluded.

3. Three features distinguish the Class I TV device from other restricted radiation devices. The Class I TV device generates a modulated RF signal carrying video with or without audio information and is similar to the signal transmitted by a television broadcast station. In the Class I TV device, this signal is transmitted over a wire or cable. It should not be transmitted by radiation through space. Finally, the signal is intended to be received by a conventional television receiver. To fall into the category of a Class I TV device, the equipment must meet all of the above criteria—type of signal generated, the method of transmission and connection to a conventional TV receiver. Thus, a television camera in a closed circuit TV system which provides video (and aural) information at video base band frequencies or at frequencies other than those allocated for television broadcasting is not a Class I TV device. Similarly, a video tape player which provides information (at

video frequencies) directly to the video and audio amplifiers of a conventional television receiver is not a Class I TV device. Both of these equipments are restricted radiation devices subject to the technical specifications in § 15.7 of Part 15 (47 CFR 15.7).⁵

4. A modularized approach to construction of Class I TV devices was described in comments received from Matsushita Electric Corp. of America and questions were raised concerning which modules require an equipment authorization from the Commission. The amount of shielding provided by the cabinet in which a Class I TV device is housed, the interaction between modules and the method of interconnection of modules such as tuners, video recorders, playback mechanisms, carrier generating circuitry and modulators determines the level of conducted and radiated spurious signals emanating from the device. It is accordingly not possible to lay down any general rules as to which arrangement of modules is subject to the rules adopted herein. In general, each arrangement of modules will have to be treated as an individual Class I TV device. If there is a question as to the applicability of these rules to a particular arrangement of modules, the manufacturer should consult our chief engineer.

5. In response to another comment, the Commission points out that a Class I TV device which includes a means for receiving standard TV broadcast channels must be capable of receiving all such channels allocated by the Commission to the television broadcast service. Such a tuner must be certificated as a television receiver pursuant to Part 15 and spurious signals radiated from such tuner must comply with the radiation limits set out in Subpart C of Part 15 of our rules.

THE DELL-STAR FILING

6. The Dell-Star Corp. submitted a petition requesting the Commission to issue a third notice of proposed rule making in this proceeding to permit the marketing and operation of a wireless surveillance camera. The Dell-Star wireless camera has affixed to it a miniature transmitter and an antenna. The unit is designed to operate in the frequency range 470–890 MHz, and would provide a field strength of 500 microvolts per meter at a distance of 100 feet. This proceeding deals with devices that transmit to a conventional television receiver by means of a direct wire connection—not by radiation. We consider Dell-Star's request to be outside the scope of this proceeding. Accordingly, as indicated in our order adopted November 30, 1971,⁶ Dell-Star's petition has been removed from this proceeding and is being treated as a separate petition for rule making.⁷

⁶In a separate rule making to be instituted shortly, the Commission will revise § 15.7 to clarify its applicability to the mentioned equipments.

⁷Footnote 5 supra.

⁸This petition has been assigned the number RM-2071.

DISCUSSION OF COMMENTS

7. Comments from 25 parties have been filed in this proceeding. Seventeen of these comments were submitted by manufacturers, 10 of whom either presently manufacture or intend to manufacture a Class I TV device. Six comments were provided by various groups from four manufacturing and trade associations. One comment was submitted by the Office of Telecommunication Policy and one by a law firm.

8. Four areas in the proposed rules engendered the greatest number of comments. Therefore, we will focus our discussion primarily on these matters which are delineated below:

- The scope of the proposed rules.
- The output signal level of the RF carrier.
- The requirement for an antenna transfer switch to be part of a Class I TV device.
- The type of equipment authorization to be required by the Commission for these devices.

9. A number of comments expressed concern about the scope of the rules proposed in this proceeding since they could be interpreted to apply to other than video modulated RF devices designed to operate into a standard receiver. We agree with the comments received and have modified the definition of Class I TV devices to indicate more clearly that the rules in the instant proceeding are intended to apply to video devices designed to operate with a standard television receiver. The expanded definition specifies that Class I TV devices shall operate on standard television channels and connect directly to the television receiver using cable or wire; community antenna systems (CATV) are excluded. As previously stated, the Commission will institute action to modify § 15.7 of our rules and further clarify the equipment which will be subject to that section.

10. More than half of the Class I TV device manufacturers submitting comments requested that the Commission consider a RF output voltage greater than the limit (115.6 R)⁸ set out in the proposed rules. The comments received in some cases differentiated between the RF output signal levels required for proper television receiver operation on VHF and UHF channels. The respondents and the signal levels they recommend are listed in the following table:

Respondents	VHF (microvolts across 300 ohms)	UHF (microvolts across 300 ohms)
Warwick Electronics, Inc....	5,000	8,000
Motorola, Inc.....	8,000	(¹) 5,000
Zenith Radio Corp.....	2,800	5,000
EIA, Consumer Electronics Group.....	5,000	8,000
Sony Corporation of America.....	5,000	(²)
EIA of Japan.....	20,000	(³)
RCA Corp.....	2,200	(⁴)
Cartridge Television, Inc....	9,500	15,000

¹Signal level for UHF not specified.

⁸R is equal to a resistance (ohms) matching the rated output impedance of the device.

²Docket 19281, second notice of proposed rule making, adopted September 8, 1971 (36 F.R. 18656).

³Docket 19281, order adopted Dec. 15, 1971.

⁴Docket 19281, order adopted Aug. 26, 1971 (36 F.R. 17589), Docket 19281, order adopted Nov. 30, 1971 (32 FCC 2d 606), Docket 19281, order adopted Dec. 28, 1971 (37 F.R. 146).

The salient factors cited in the comments to support these requests for high power included the following:

(a) The output level specified in the notice of proposed rule making is just adequate to provide what would be termed an "excellent" picture by Television Allocations Study Organization (TASO), when operating into a VHF front end having a typical noise figure of 7 dB. This signal level at the input to the television receiver makes no allowance for degradation in performance of the Class I TV device or television receiver if an "excellent" picture is to be maintained.

(b) A large number of video playback devices currently in use exhibit a signal to noise ratio less than the 44 dB determined by TASO as necessary to provide an "excellent" picture. The noise generated by video playback devices are comparable in level to the thermal noise generated by the front end of the television receiver. Since the noise from the playback device and the thermal noise are additive, the value of noise density in the video baseband of the television receiver could be increased by as much as 3 dB. The resultant decrease in video signal to noise ratio is such that a picture of less than "excellent" quality would be obtained at the television receiver.

(c) The AGC circuits in some television receivers will be activated with input signals in the range of 1,000-3,000 microvolts. Operation of the television receiver with the AGC activated may increase the noise figure of the equipment due to a change in the gain and operating point of the active devices which provide the required amplification of the incoming signal. Therefore, the comments received requested that the output level be increased to compensate for this increase in noise power.

(d) Current manufacturing processes require a tolerance on the output signal level; the value of this production tolerance may be as high as ± 3 dB.

11. We have carefully considered the comments received in this matter and we concur that a higher-output signal level should be permitted, notwithstanding the apparent increase in the potential for interference which may accrue as a result of this change.

12. Seven of the comments received recommended that the incorporation of a switch by the manufacturer as part of the Class I TV device should be made mandatory. The Commission stated in the text of the notice of proposed rule making that several manufacturers planned to provide a switch as part of the device for switching the home television receiver between the antenna and the Class I TV device. However, we did not indicate the amount of isolation which should be provided by the switch nor did we state that we would expect the manufacturers to use this switch in all devices marketed. The respondents who requested that the switch be made mandatory and the amount of isolation which they recommended are listed below:

Respondent	Isolation (dB)
EIA, Communications and Industrial Electronics Division	40.
Warwick Electronics, Inc.	40.
Motorola, Inc.	40.
EIA Consumer Electronics Group	40.
National Cable Television Association	40.
RCA Corp.	60.
Association of Maximum Service Telecasters, Inc.	Not specified.

13. We have considered the comments received concerning this matter and agree that such a switch should be required as part of a Class I TV device. A mandatory switch requirement will minimize the possibility of connecting the Class I TV device cable directly to the antenna attached to the receiver and reduces significantly the possibility for cochannel interference. We are permitting a RF output signal 10 dB higher than set forth in the notice of proposed rule making in this proceeding and, therefore, require a switch attenuation greater than the industry consensus to reduce the possibility of cochannel interference. The Commission recognizes that the probability for interference is lessened by the directional properties of typical TV antennas and, consequently, considers that a switch attenuation which provides a radius of interference of approximately 20 feet in a field comparable to the low-band VHF Grade B contour is adequate. Beyond the Grade B contour, in areas of lower field strength, the interference problems are expected to be small and of such a nature as to be readily solvable by a proper choice of operating frequency for the Class I TV device. To maintain this zone of interference discussed above the Commission is adopting a transfer switch attenuation of 60 dB.

14. We have received nine comments objecting to and one comment supporting our proposal to require type approval for a Class I TV device. The comments opposing type approval recommended that a certification program, similar to that applicable to television receivers, be used to obtain the necessary equipment authorization required by the Commission to permit devices to be legally marketed. The comments further stated that many manufacturers have performed tests on television receivers which are acceptable to the Commission for purposes of certification thereby demonstrating that these firms have the necessary measurement capability. We concur that most television manufacturers have this capability. However, we are very much concerned about the numerous smaller companies which will produce these devices and which can be expected not to be so well equipped. In view of the high interference potential of these devices, this is a risk we refuse to accept. The comments further state that the time period necessary to complete the requirements for type approval would cause excessive delays in obtaining equipment authorizations, finalizing production schedules, and incorporating design changes

in production units, especially during period of model change. The Commission recognizes that type approval does require a longer period of time than certification. However, we feel that the problem of delays is for the most part soluble by application of established production scheduling methods and the careful examination and testing of equipments prior to the submission to the Commission for type approval testing. When we weigh the magnitude of the interference which the television viewing public may be subjected to from equipments which do not comply with the rules adopted in this proceeding, to the increased difficulty imposed on the manufacturer by the type approval program, the former consideration must, of necessity, be controlling. Accordingly, the Commission is not persuaded to change the proposed type approval program to one which affords the public less protection from harmful interference. The rules adopted herein, therefore, require type approval for Class I TV devices.

15. We are specifying certain measurement instrument characteristics to minimize the difference in test results obtained at the applicant's test facility, prior to submitting the device to the Commission, and the measurements obtained by our Laboratory Division when the Class I TV device is tested to determine compliance with our rules. The field strength measuring instrument shall be capable of responding to the peak values of field strength and have a bandwidth of at least 150 kHz. The type of antenna to be used and the polarization are also specified for the various frequency ranges over which Class I TV devices are evaluated.

16. The proposed radiation interference limits of 15 microvolts per meter at 1 meter or $\lambda/2\pi$, whichever is greater, will provide approximately 40 dB of cochannel interference protection to adjacent receiver located at a distance of 20 feet from the Class I TV device. This assumes the adjacent receiver is situated in a field comparable to the low-band VHF Grade B contour (47 dB above a microvolt per meter). We are aware that at levels below 47 dB above a microvolt per meter the potential for this type of interference increases; however, these problems are most likely to occur in sparsely populated areas where the majority of homes are separated by more than 20 feet and interference problems can be readily identified and corrected. No comments were received opposing this field strength limit as set forth in the second notice of proposed rule making and, consequently, we are adopting these limits without modification.

17. Pursuant to our policy to impose filing and grant fees for equipment authorizations, § 1.1120 of Part 1 is amended to set out a fee schedule for the type approval of Class I TV devices. As pointed out above, if the Class I TV device includes a television tuner, the tuner must be separately certificated and the fees for certification thereof must be paid separately.

RULES AND REGULATIONS

EXTENSION OF WAIVERS

18. Several manufacturers listed below desirous of marketing Class I TV devices prior to the adoption of the rules proposed in this proceeding submitted certain models of their equipment to the Commission for test purposes.

The Magnavox Corp.
Motorola Corp.
Sany Corporation of America, Inc.
Matsushita Corporation of America, Inc.
Warwick Electronics, Inc.

After testing at our laboratories established that these equipments complied with the proposed technical standards for a Class I TV device, the Commission granted waivers of §§ 15.7 and 2.805 to permit immediate marketing of the equipments. These waivers all terminate on the date final rules are adopted in this proceeding. Since the rules adopted herein require type approval as a prerequisite for the marketing of Class I TV devices, and to allow time for the manufacturers to procure type approval from the Commission, the said waivers are hereby extended to expire on March 1, 1973. Manufacturers are urged to submit their equipment for type approval as soon as possible. The Commission, on its part, undertakes to expedite action of these applications.

19. Authority for the amendments set forth in the attached appendix to the Commission Rules is contained in sections 4(i), 302, 303(c), (g), and (r) of the Communications Act of 1934, as amended.

20. It is ordered, Effective January 19, 1973, that Part 1 and Part 15 of the rules are amended as set forth below. It is further ordered, That the petition and comment filed by Dell-Star Corp., be treated as a separate petition for rule making. It is further ordered, That waivers for Class I TV devices heretofore granted are extended to expire on March 1, 1973. It is further ordered, That this proceeding is terminated.

(Secs. 4, 303, 48 Stat., as amended, sec. 303, 82 Stat.; 47 U.S.C. 154, 290, 303)

Adopted: December 6, 1972.

Released: December 11, 1972.

FEDERAL COMMUNICATIONS,
COMMISSION,¹⁰

[SEAL] BEN F. WAPLE,
Secretary.

Parts 1 and 15 of Chapter I of Title 47 of the Code of Federal Regulations are amended as follows:

1. In § 1.1120 under type approval, a new item 1(c)(3) is added to read as follows:

¹⁰ Chairman Burch absent.

§ 1.1120 Schedule of fees for equipment type approval, type acceptance, and certification.

TYPE APPROVAL ¹¹		
Item	Filing fee	Grant fee
1 * * * *	* * *	* * *
(c) * * * *	* * *	* * *
(3) Class I TV Device.....	\$50	\$250

2. In § 15.4, paragraph (m) is added to read as follows:

§ 15.4 General definitions.

(m) *Class I TV device.* A restricted radiation device that produces, on frequencies allocated for television broadcasting, a radio frequency carrier modulated by a video signal and which feeds the modulated radio frequency energy to the associated television receiver by conduction.

NOTE: Class I TV devices may include, but are not limited to certain video recorders, television cameras, TV game devices, and certain modulators intended for use with video devices; they do not include equipment used within a cable television system nor equipment producing signals on other than television broadcasting frequencies.

3. Section 15.7 is amended by changing the appended note to read as follows:

§ 15.7 General requirement for restricted radiation devices.

NOTE: Radio receivers, cable television systems, Class I TV devices, and low power communications devices are regulated elsewhere in this chapter and are not regulated by this section.

4. A new Subpart H is added to Part 15, to read as follows:

Subpart H—Class I TV Devices

Sec.	
15.401	Conditions of operation.
15.403	Output signal level.
15.405	Output terminals.
15.407	Transfer switch and isolation requirement.
15.409	Output terminal conducted interference limits.
15.411	Type approval.
15.413	Certification.
15.415	Identification of a Class I TV device.
15.417	Measurement of field strength.
15.419	Radiation interference limits.
15.421	Line-conducted interference limits.
15.423	Interference from a Class I TV device.

AUTHORITY: The provisions of this Subpart H issued under secs. 4, 303, 48 Stat., as amended, sec. 303, 82 Stat.; 47 U.S.C. 154, 390, 303.

Subpart H—Class I TV Devices

§ 15.401 Conditions of operation.

(a) A Class I TV device shall operate within a channel allocated for television

broadcasting providing its operation at all times complies with the requirements of this subpart.

(b) A Class I TV device shall transmit its output signal to a receiving device by means of a direct connection (either wires or coaxial cable) provided by the manufacturer.

§ 15.403 Output signal level.

The voltage corresponding to the peak envelope power of the video modulated signal during maximum amplitude peaks across a resistance (R ohms) matching the rated output impedance of the device, shall not exceed $346.4 \sqrt{R}$ microvolts. The peak envelope power of the sound modulated signal shall be at least 13 db below that of the video modulated signal.

NOTE: If R=300 ohms, the maximum RMS output voltage of the video carrier is 6,000 microvolts.

If R=75 ohms, the maximum RMS output voltage of the video carrier is 3,000 microvolts.

§ 15.405 Output terminals.

A Class I TV device which provides a desired output on two or more television channels simultaneously shall be provided with separate terminals for each channel output.

§ 15.407 Transfer switch and isolation requirement.

Each Class I TV device shall be equipped with a receiver transfer switch for connecting the antenna terminals of the receiver selectively either to the receiving antenna or to the radio frequency output of the Class I TV device. In either of its positions, the receiver transfer switch shall provide at least 60 db isolation between the Class I TV device and the receiving antenna on any TV channel on which the Class I TV device can be operated.

§ 15.409 Output terminal conducted interference limits.

At any RF output terminal, the peak envelope power of any emission appearing on frequencies removed by more than 3 MHz from either edge of the standard TV channel on which the device is operated shall be attenuated below the peak envelope power of the visual signal by no less than 30 decibels, measured with a matched termination.

§ 15.411 Type approval.

(a) A Class I TV device shall be type approved pursuant to the procedures set out in Subpart F of Part 2 of this chapter.

(b) The application for type approval shall be submitted on Form 729 and shall include the following attachments.

- (1) A statement detailing the technical specifications of the device.
- (2) Two copies each of a circuit diagram and instruction manual.

(c) To receive type approval, a Class I TV device must meet the following requirements:

(1) The device must comply with the requirements of this subpart.

(2) The design and construction of the equipment must give reasonable assurance of compliance with the requirements of this subpart for at least 5 years under normal operation and with average maintenance.

(3) The device must be so constructed that the adjustment of any control accessible to the user will not cause operation in violation of the requirements of this subpart.

§ 15.413 Certification.

If the device includes a tuner as part of its design, the Class I TV device must also be certificated pursuant to procedures set out in Subpart C of this part.

§ 15.415 Identification of a Class I TV device.

The Commission will assign a type approval number to each Class I TV device which has been type approved. The type approval number and the following statement shall be permanently inscribed upon or permanently attached to the exterior of each production unit as follows:

FCC Type Approval No. _____ Valid only when operated pursuant to FCC Rules, Part 15.

§ 15.417 Measurement of field strength.

Field strength of video modulated signals shall be measured with instruments responding to the peak value, and the band width of any instrument used for such measurements above 50 MHz shall be at least 150 kHz. An electrostatically shielded loop antenna lying in a vertical plane shall be used for measurements on frequencies below 18 MHz and a dipole antenna for measurements on frequencies above 30 MHz, in both polarizations. Either a loop or a dipole antenna may be used on frequencies between 18 and 30 MHz.

§ 15.419 Radiation interference limits.

The field strength of any electromagnetic energy radiated from the cabinet, control circuits and power leads of a Class I TV device (having its output terminated by a resistance equal to the rated output impedance) shall not exceed the field strength of 15 microvolts per meter at a distance of $\lambda/2\pi$ or at a distance of 1 meter, whichever is the larger distance. (The distance $\lambda/2\pi$ in feet is equal to 157 divided by the frequency in MHz.)

§ 15.421 Line-conducted interference limits.

The RF voltage measured between each power line and ground at the power terminals of the device shall not exceed 100 microvolts at any frequency between 450 kHz and 25 MHz, inclusive when measured in accordance with IEEE Standard 213.

§ 15.423 Interference from a Class I TV device.

(a) Operation of a Class I TV device is subject to the general conditions of operation set forth in § 15.3.

(b) The operator of a Class I TV device who is advised by the Commission that his device is causing harmful interference shall promptly stop operating the device and shall not resume its operation until the condition causing the harmful interference has been eliminated.

[FR Doc.72-21526 Filed 12-13-72;8:50 am]

Title 49—TRANSPORTATION

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

[Docket No. 71-7; Notice 4]

PART 571—FEDERAL MOTOR VEHICLE SAFETY STANDARDS

Truck-Camper Loading

This notice responds to petitions for reconsideration of 49 CFR 571.126, Motor Vehicle Safety Standard No. 126, *Truck-Camper Loading*. The portion of the regulation requiring information to be provided by camper manufacturers is retained as a Federal motor vehicle safety standard, and a vehicle information number is added to the list of information to be provided. The portion of the rule applicable to truck manufacturers is reissued as a consumer information regulation by a separate notice (37 F.R. 26607).

Standard No. 126, establishing requirements for slide-in campers and trucks that would accommodate them, was published on August 15, 1972 (37 F.R. 16497). Thereafter, pursuant to 49 CFR 553.35, petitions for reconsideration of the standard were filed by Chrysler Corp. (Chrysler), Ford Motor Co. (Ford), General Motors Corp. (GM), Jeep Corp. (Jeep), Motor Vehicle Manufacturers Association of the United States, Inc. (MVMA), Recreational Vehicle Institute, Inc. (RVI), and Toyota Motor Sales, U.S.A., Inc. (Toyota).

In response to information contained in several of these petitions the standard is being amended in certain respects. The Administrator has declined to grant requested relief from other requirements of the standard.

1. *Statutory authority.* Standard No. 126 as issued applied to slide in campers and to trucks that would accommodate them. It required manufacturers of slide-in campers to attach to their products a label containing the name of the manufacturer, the month and year of manufacture, a certification of conformity, and information concerning the camper's maximum weight. The standard also required camper manufacturers to provide the same information and certain additional items in a manual or other docu-

ment to accompany each camper. A parallel requirement was adopted applicable to truck manufacturers; they were required to provide information in a manual or other document supplied with their products that would assist truck owners in choosing a properly matched camper.

Chrysler, Ford, GM, Jeep, and MVMA questioned the authority to issue the requirements of 49 CFR 571.126 as a Federal motor vehicle safety standard rather than in the form of a Consumer Information Regulation (49 CFR Part 575), alleging that Standard No. 126 is "neither a performance standard nor does it provide any objective criteria for determining compliance."

The NHTSA does not agree that it lacks authority to issue Standard No. 126 in the form in which it appeared. Actually, the regulation was issued under the combined authority of four sections of the Act: Section 103 (the authority for the Federal motor vehicle safety standards), section 112 (the primary authority for technical information and data to be provided by a manufacturer to NHTSA and the consumer), section 114 (the authority for vehicle and equipment certification) and section 119 (the general rulemaking authority). Many of the existing standards contain information requirements, and it is the position of this agency that such provisions fully satisfy the statutory criteria as objective performance requirements. The question therefore is in most respects the merely formal one of whether the rule is called a "safety standard" or a "consumer information regulation," and codified accordingly.

On reconsideration of all aspects of the standard, however, this agency has determined that there is an advantage to issuing the requirements for trucks in the form of a consumer information regulation. 49 CFR 575.6(b) requires all Part 575 consumer information to be made available to prospective purchasers in dealer showrooms, and paragraph (c) of that section requires such information to be furnished directly to the NHTSA. Neither of these requirements applies to information furnished pursuant to Part 571 safety standards. Part 575 consumer information regulations are enforceable in substantially the same manner and with the same sanctions as safety standards. The requirements for trucks in 49 CFR 571.126 are therefore reissued as a new consumer information regulation, 49 CFR 575.103, by an action published in this issue, 37 F.R. 26607.

2. *Effective date.* The requirement for pictures showing camper center of gravity and proper truck-camper match that camper manufacturers were to provide as of July 1, 1973, is being deferred 2 months, and will not be required until September 1, 1973. RVI has petitioned for an extension of the effective date of these requirements to January 1, 1974, on the basis that the extension "would give the relatively small camper manufacturers additional time to conform camper design to the center of gravity envelopes

developed by the truck manufacturers." The regulation, however, only requires manufacturers to provide information, not to redesign their products. The NHTSA finds that RVI has shown insufficient justification to support its request, and the petition is denied.

3. *Definitions.* RVI petitioned that its definition of "camper" be adopted so that there would be no confusion within the recreational vehicle industry as to whether the standard applied to motor homes and pickup covers. RVI's petition was similar to the one it submitted for reconsideration of Standard No. 205, *Glazing Materials*. The NHTSA has not adopted the RVI definition, but it has defined the terms "camper" and "slide-in camper" so as to clarify these terms and differentiate them from "motor home" and "pickup cover," also defined in Standard No. 205. "Cargo weight rating" was defined as "the maximum weight of cargo * * * that can safely be carried by a vehicle under normal operating conditions * * *." Ford objects that the definition is subjective and urges that the term be redefined as "the maximum weight of cargo * * * that the truck manufacturer specifies may be carried on the vehicle." The NHTSA concurs generally with Ford's views. The definition has been rewritten to make clear that the rating, like GVWR and GAWR, is to be assigned at the discretion of the manufacturer.

4. *Information.* Ford believes the reference to "total load" in paragraph S5.1.2(c) is misleading "in that users may easily understand this to be the total load on the truck." It suggests substitution of the term "cargo load." Ford's point is well made, and the term is redesignated "total cargo load" as a clarification.

Toyota has asked that paragraph S5.1.2(e) be amended to substitute 4 inches for the requirement that camper manufacturers provide a picture showing the location of the center of gravity of the camper within an accuracy of 2 inches under the loaded condition. The petition is denied. The intent of the specification is to insure an accuracy within 2 inches, in either direction, in effect, a range of 4 inches. The NHTSA does not consider this tolerance to be overly demanding.

Finally, RVI states that its members have had difficulty in interpreting Figure 2 and requests the NHTSA to more clearly indicate "that the terminology 'Mount at Aft End of Truck Cargo Area' means that the designated point in the figure signifies the point where the identified surface of the camper abuts the rearmost edge or surface of the cargo area of the truck, presumably the tailgate in most configurations." To clarify its intent the NHTSA is changing the language in question to "point that contacts rear end of truck bed."

5. *Vehicle Identification Number (VIN).* The NHTSA proposed on August 15, 1972 (Docket No. 71-7; Notice 3, 37 F.R. 16505), that slide-in campers be

identified by a VIN, consisting of arabic numerals, roman letters, or both. The notice also proposed to require that the VIN of two campers manufactured by a manufacturer within a 10 year period shall not be identical. No objections were raised to the proposal, and Standard No. 126 is amended to adopt the proposed requirements, reworded slightly, effective January 1, 1973.

In consideration of the foregoing, 49 CFR 571.126, Motor Vehicle Safety Standard No. 126, is amended to read as set forth below.

Effective date: January 1, 1973, with additional requirements effective September 1, 1973. Because the amendment consists principally of the reissuance of existing requirements, and compliance with the amendment requiring a VIN does not involve extensive leadtime, the Administrator finds for good cause shown that an effective date earlier than 180 days after issuance is in the public interest.

(Secs. 103, 112, 114, and 119, National Traffic and Motor Vehicle Safety Act of 1966, 15 U.S.C. 1392, 1401, 1403, and 1407; delegation of authority from Secretary of Transportation to National Highway Traffic Safety Administrator, 49 CFR 1.51)

Issued: December 6, 1972.

DOUGLAS W. TOMS,
Administrator.

§ 571.126 Standard No. 126; Truck-camper loading.

S1. *Scope.* This standard requires manufacturers of slide-in campers to affix a label to each camper that contains information relating to certification, identification, and proper loading, and to provide more detailed loading information in the owner's manual.

S2. *Purpose.* The purpose of this standard is to provide information that can be used to reduce overloading and improper load placement in truck-camper combinations, and unsafe truck-camper matching, in order to prevent accidents resulting from the adverse effects of these conditions on vehicle steering and braking.

S3. *Application.* This standard applies to slide-in campers.

S4. *Definitions.* "Camper" means a structure designed to be mounted in the cargo area of a truck, or attached to an incomplete vehicle with motive power, for the purpose of providing shelter for persons.

"Cargo weight rating" means the value specified by the manufacturer as the cargo-carrying capacity, in pounds, of a vehicle, exclusive of the weight of occupants in designated seating positions.

"Slide-in camper" means a camper having a roof, floor, and sides, designed to be mounted on and removable from the cargo area of a truck by the user.

S5. *Requirements.*

S5.1 *Slide-in camper.*

S5.1.1 *Labels.* Each slide-in camper shall have permanently affixed to it, in a manner that it cannot be removed without defacing or destroying it, in a

plainly visible location on an exterior rear surface other than the roof, steps, or bumper extension, a label containing the following information in the English language lettered in block capitals and numerals not less than three thirty-seconds of an inch high, of a color contrasting with the background, in the order shown below and in the form illustrated in Figure 1.

(a) Name of camper manufacturer. The full corporate or individual name of the actual assembler of the camper shall be spelled out, except that such abbreviations as "Co." or "Inc." and their foreign equivalents, and the first and middle initials of individuals may be used. The name of the manufacturer shall be preceded by the word "Manufactured By" or "Mfd By."

(b) Month and year of manufacture. It may be spelled out (e.g. "June 1973") or expressed in numerals (e.g. "6/73").

(c) The statement: "This camper conforms to all applicable Federal Motor Vehicle Safety Standards in effect on the date of manufacture shown above." The expression "U.S." or "U.S.A." may be inserted before the word "Federal."

(d) The following statement completed as appropriate:

"Camper weight is — Lbs. Maximum When It Contains Standard Equipment, — Gal. of Water, — Lbs. of Bottled Gas, and — Cubic Ft. Refrigerator (or Icebox with — Lbs. of Ice, as applicable). Consult Owner's Manual (or Data Sheet as applicable) for Weights of Additional or Optional Equipment.

"Gal. of water" refers to the volume of water necessary to fill the camper's fresh water tanks to capacity. "Lbs. of Bottled Gas" refers to the weight of gas necessary to fill the camper's bottled gas tanks to capacity. The statement regarding a "Refrigerator" or "Icebox" refers to the capacity of the refrigerator with which the vehicle is equipped or the weight of the ice with which the icebox may be filled. Any of these items may be omitted from the statement, if the corresponding accessories are not included with the camper, provided that the omission is noted in the camper owner's manual as required in paragraph S5.1.2(a).

(e) *Vehicle identification number.* Each slide-in camper shall have a number assigned by its manufacturer for identification purposes consisting of arabic numerals, roman letters, or both. No two slide-in campers manufactured by the same manufacturer within any 10-year period shall have the same vehicle identification number.

S5.1.2. *Owner's manual.* Each slide-in camper manufacturer shall provide with each camper a manual or other document containing the information specified in S5.1.2(a) through S5.1.2(d). The information in S5.1.2(e) and S5.1.2(f) shall also be provided with each camper manufactured on or after September 1, 1973.

(a) The statement and information provided on the certification label as specified in paragraph S5.1.1. If water,

bottled gas, or refrigerator (icebox) has been omitted from this statement, the manufacturer's information shall note such omission and advise that the weight of any such item when added to the camper, should be added to the maximum camper weight figure used in selecting an appropriate truck.

(b) A list of other additional or optional equipment that the camper is designed to carry, and the maximum weight of each if its weight is more than 20 pounds when installed.

(c) The statement: "To estimate the total cargo load that will be placed on a truck, add the weight of all passengers in the camper, the weight of supplies, tools, and all other cargo, the weight of installed additional or optional camper equipment, and the manufacturer's camper weight figure. Select a truck that has a cargo weight rating that is equal to or greater than the total cargo load of the camper, and whose manufacturer recommends a cargo center of gravity zone that will contain the camper's center of gravity when it is installed."

(d) The statements: "When loading this camper store heavy gear first, keeping it on or close to the camper floor. Place heavy things far enough forward to keep the loaded camper's center of gravity within the zone recommended by the truck manufacturer. Store only light objects on high shelves. Distribute weight to obtain even side-to-side balance of the loaded vehicle. Secure loose items to prevent weight shifts that could affect the balance of your vehicle. When the truck-camper is loaded, drive to a scale and weigh on the front and on the rear wheels separately to determine axle loads. The load on an axle should not exceed its gross axle weight rating (GAWR). The total of the axle loads should not exceed the gross vehicle weight rating (GVWR). These weight ratings are given on the vehicle certification label that is located on the left side of the vehicle, normally the dash panel, hinge pillar, door latch post, or door edge next to the driver on trucks manufactured on or after January 1, 1972. If weight ratings are exceeded, move or remove items to bring all weights below the ratings.

(e) A picture showing the location of the longitudinal center of gravity of the camper within an accuracy of 2 inches under the loaded condition specified in paragraph S5.1.1(d), in the manner illustrated in figure 2.

(f) A picture showing the proper match of a truck and slide-in camper in the form illustrated in figure 3.

MFD. BY: (CAMPER MANUFACTURER'S NAME)
 (MONTH AND YEAR OF MANUFACTURE)
 THIS CAMPER CONFORMS TO ALL APPLICABLE FEDERAL MOTOR VEHICLE SAFETY STANDARDS IN EFFECT ON THE DATE OF MANUFACTURE SHOWN ABOVE
 CAMPER WEIGHT IS — LBS. MAXIMUM WHEN IT CONTAINS STANDARD EQUIPMENT, — GAL. OF WATER — LBS. OF BOTTLED GAS, AND — CUBIC FT. RE-

FRIGERATOR (OR ICEBOX WITH — LBS. OF ICE, AS APPLICABLE). CONSULT OWNER'S MANUAL (OR DATA SHEET AS APPLICABLE) FOR WEIGHTS OF ADDITIONAL OR OPTIONAL EQUIPMENT.

(VEHICLE IDENTIFICATION NUMBER)

FIGURE 1. LABEL FOR CAMPERS

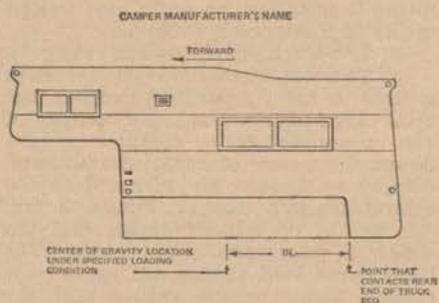


FIGURE 2. CAMPER CENTER OF GRAVITY INFORMATION

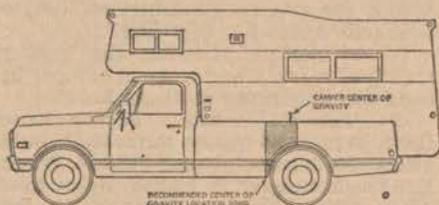


FIGURE 3. EXAMPLE OF PROPER TRUCK AND CAMPER MATCH

[FR Doc.72-21286 Filed 12-13-72; 8:47 am]

[Docket No. 71-7; Notice 5]

PART 575—CONSUMER INFORMATION REGULATIONS
Truck-Camper Loading

This notice reissues the portion of 49 CFR 571.126, Motor Vehicle Safety Standard No. 126, *Truck-Camper Loading*, that was previously applicable to truck manufacturers, as a consumer information regulation, 49 CFR § 575.103, *Truck-Camper Loading*. It also responds to petitions for reconsideration of Standard No. 126 on issues that are not addressed in Notice 4, which is published in this issue (37 F.R. 26605).

Petitions for reconsideration of Standard No. 126 (37 F.R. 16497) were filed by Chrysler Corp. (Chrysler), Ford Motor Co. (Ford), General Motors Corp. (GM), Jeep Corp. (Jeep), Motor Vehicle Manufacturers Association (MVMA), Recreational Vehicle Institute, Inc. (RVI) and Toyota Motor Sales USA, Inc. (Toyota).

In response to information contained in some of the petitions, the portions of the standard previously applicable to truck manufacturers are being reissued under this notice as a consumer information regulation for the reasons stated in Notice 4. Minor amendments are also made to the regulation on the basis of some of the petitions while the Administrator has declined to grant requested relief from other requirements of the regulation.

1. *Effective date.* GM has petitioned for a delayed effective date. As a truck manufacturer, GM feels that additional

lead time is required "to develop, process, and print the necessary information on an orderly basis." The Administration has found for good cause shown that an effective date earlier than 180 days after issuance of Standard No. 126 was in the public interest; however, to allow truck manufacturers sufficient time for testing to determine cargo center of gravity locations the effective date of the requirements applicable to truck manufacturers is being extended 2 months, until March 1, 1973.

2. *Definitions and information.* As discussed in Notice 4 Ford objected to the definition of "cargo weight rating" and the term "total load." Standard No. 126 has been amended to meet Ford's objections, and similar changes are made in the terminology of the new truck consumer information regulation.

Ford also suggests that the phrase "any additional weight carried in or on the camper" should be substituted for "the weight of camper cargo, and the weight of passengers in the camper" in paragraph S5.2.1(d) of Standard No. 126, now § 575.103(e)(3). It believes the suggested language would be more meaningful to the average user and that the present language could be construed as endorsing the carrying of passengers in campers. Ford's request is denied. The NHTSA considers that the specificity of references to cargo and passengers is more meaningful to consumers than the general reference to "any additional weight." Further, given the prevalence of carrying passengers in campers, the NHTSA does not believe that the present language can realistically be considered to have a significant effect on this practice.

Both Ford and GM objected to the paragraph requiring the manufacturer to furnish trailer towing recommendations, on the grounds of vagueness and lack of prior notice and opportunity to comment. The NHTSA concurs, and is deleting this requirement.

Ford suggested that paragraph S5.2.1(a) of Standard No. 126 (now § 575.103(e)(1)) should be revised to make clear that the slide-in camper also has a center of gravity designation determined in accordance with the regulation, which falls within the boundaries specified by the vehicle manufacturer. Since campers manufactured before the effective date of the regulation may be mounted on trucks manufactured after March 1, 1973, Ford's suggestion has not been adopted.

GM has petitioned that a warning be required to accompany the regulation's information, stating that the longitudinal center of gravity is only one of the many factors affecting the overall performance of a vehicle and that other factors concerning vehicle handling should be considered by the operator. The NHTSA denies GM's petition on this point. Proper loading and load distribution in truck-camper combinations is a highly significant handling factor, and such a warning might cause a truck operator to feel the loading information presented is of little significance. The

regulation does not, however, prohibit GM or other manufacturers from furnishing such additional warnings if they see fit.

GM has also asked for a confirmation of its assumption that "the pictorial representation of the recommended longitudinal center of gravity zone for the cargo weight rating need not be to scale but can be generalized so long as the longitudinal boundaries of the zone are clearly set forth." The NHTSA agrees with this interpretation.

Effective date: March 1, 1973.

In consideration of the foregoing, 49 CFR Part 575 is amended by adding a new § 575.103, *Truck-camper loading*, as set forth below.

(Secs. 112 and 119, National Traffic and Motor Vehicle Safety Act of 1966, 15 U.S.C. 1401, 1407; delegation of authority at 49 CFR 1.51)

Issued on: December 6, 1972.

DOUGLAS W. TOMS,
Administrator.

§ 575.103 Truck-camper loading.

(a) Scope: This section requires manufacturers of trucks that are capable of accommodating slide-in campers to provide information on the cargo weight rating and the longitudinal limits within which the center of gravity for the cargo weight rating should be located.

(b) Purpose: The purpose of this section is to provide information that can be used to reduce overloading and improper load distribution in truck-camper combinations, in order to prevent accidents resulting from the adverse effects of these conditions on vehicle steering and braking.

(c) Application: This section applies to trucks that are capable of accommodating slide-in campers.

(d) Definitions: "Camper" means a structure designed to be mounted in the cargo area of a truck, or attached to an incomplete vehicle with motive power, for the purpose of providing shelter for persons.

"Cargo weight rating" means the value specified by the manufacturer as the cargo-carrying capacity, in pounds, of a vehicle, exclusive of the weight of occupants in designated seating positions.

"Slide-in camper" means a camper having a roof, floor, and sides, designed to be mounted on and removable from the cargo area of a truck by the user.

(e) Requirements: Except as provided in paragraph (f) of this section each manufacturer of a truck that is capable of accommodating a slide-in camper shall furnish the information specified in subparagraphs (1) through (5) of this paragraph:

(1) A picture showing the manufacturer's recommended longitudinal center of gravity zone for the cargo weight rating in the form illustrated in figure 1. The boundaries of the zone shall be such that when a slide-in camper equal in weight to the truck's cargo weight rating is installed, no gross axle weight rating of the truck is exceeded.

(2) The truck's cargo weight rating.

(3) The statements: "When the truck is used to carry a slide-in camper, the total cargo load of the truck consists of the manufacturer's camper weight figure, the weight of installed additional camper equipment not included in the manufacturer's camper weight figure, the weight of camper cargo, and the weight of passengers in the camper. The total cargo load should not exceed the truck's cargo weight rating and the camper's center of gravity should fall within the truck's recommended center of gravity zone when installed."

(4) A picture showing the proper match of a truck and slide-in camper in the form illustrated in figure 2.

(5) The statements: "Secure loose items to prevent weight shifts that could affect the balance of your vehicle. When the truck camper is loaded, drive to a scale and weigh on the front and on the rear wheels separately to determine axle loads. Individual axle loads should not exceed either of the gross axle weight ratings (GAWR). The total of the axle loads should not exceed the gross vehicle weight rating (GVWR). These ratings are given on the vehicle certification label that is located on the left side of the vehicle, normally the dash, hinge pillar, door latch post, or door edge next to the driver. If weight ratings are exceeded, move or remove items to bring all weights below the rating."

(f) If a truck would accommodate a slide-in camper but the manufacturer of the truck recommends that the truck not be used for that purpose, the information specified in paragraph (e) of this section shall not be provided but instead the manufacturer shall provide a statement that the truck should not be used to carry a slide-in camper.

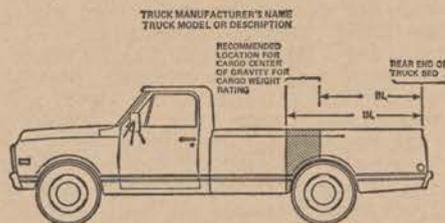


FIGURE 1—TRUCK LOADING INFORMATION



FIGURE 2—EXAMPLE OF PROPER TRUCK AND CAMPER MATCH

[FR Doc.72-21287 Filed 12-13-72;8:47 am]

Title 50—WILDLIFE AND FISHERIES

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

PART 28—PUBLIC ACCESS, USE, AND RECREATION

Prime Hook National Wildlife Refuge, Del.

The following special regulation is issued and is effective on date of publication in the FEDERAL REGISTER (12-14-72).

§ 28.28 Special regulations, public access, use, and recreation for the individual wildlife refuge areas.

DELAWARE

PRIME HOOK NATIONAL WILDLIFE REFUGE

Travel by motor vehicle, bicycle, or on foot, is permitted from sunrise to sunset on designated routes unless prohibited by posting, for the purpose of nature study, photography, hiking, and sightseeing. Pets are allowed if on a leash not exceeding 10 feet in length. Hunting and fishing are permitted under special regulations.

The refuge area, comprising 6,875 acres, is delineated on maps available at refuge headquarters or from the Regional Director, Bureau of Sport Fisheries and Wildlife, U.S. Post Office and Courthouse, Boston, Mass. 02109.

Provisions of this special regulation supplement the regulations which govern recreation on wildlife refuge areas generally, which are set forth in Title 50, Code of Federal Regulations, Part 28, and are effective through December 31, 1973.

RICHARD E. GRIFFITH,
Regional Director, Bureau of
Sport Fisheries and Wildlife.

DECEMBER 6, 1972.

[FR Doc.72-21476 Filed 12-13-72;8:46 am]

Proposed Rule Making

INTERSTATE COMMERCE COMMISSION

[49 CFR Part 1102]

[Ex Parte 290]

RAIL CARRIERS

Procedures for General Revenue Increase Proceedings

Notice of proposed rule making and order. At a general session of the Interstate Commerce Commission, held at its office in Washington, D.C., on the 1st day of December 1972.

By order dated August 13, 1970, under authority of 49 U.S.C. §§ 15(7), 17(3), and 5 U.S.C. section 553(b), we established Part 1102, Title 49 Code of Federal Regulations, providing procedures to be followed in rail carrier general revenue proceedings, effective upon the date of publication thereof in the FEDERAL REGISTER. In essence, those procedures required the filing and serving on each party of record in the last prior general increase proceeding of verified statements presenting and comprising the entire evidential case relied upon by the carriers to support proposed general increases in freight rates and charges, at the same time the schedules or petition seeking authority to publish such schedules containing such proposed increases were filed with the Commission.

Soon thereafter, by notice entered on August 27, 1970, in Ex Parte No. MC-82, New Procedures in Motor Carrier Revenue Proceedings, we published for public comment certain new procedures governing the data and information to be submitted in motor common carrier revenue proceedings. Subsequently, by report and order of April 7, 1971, 339 ICC 324, specific procedures therein were prescribed, and following consideration of petitions for reconsideration and replies thereto, the procedures were modified in part in the report on reconsideration, 340 ICC 1. The procedures, as modified, are set forth in Appendix III to the latter report, beginning at page 27 thereof. We emphasized that the prescribed procedures were not to be regarded as the last word on the subject and that suggested improvements were welcome, and there are presently pending petitions for further modification. Nevertheless, we reaffirmed our belief in the report on reconsideration that such prescribed procedures will shorten the time necessary to dispose of such proceedings, achieve greater uniformity and reliability in data submitted, and provide adequate notice to the carriers and the public of the minimum evidence deemed necessary to render a decision in furtherance of the public interest.

In our recent report in Ex Parte No. 281, Increased Freight Rates and Charges, 1972, entered on September 27, 1972, with respect to future evidential requirements in rail general revenue proceedings, we stated, as follows:

Looking beyond the exigencies of this proceeding, respondents are advised and forewarned that our acceptance of annualized costs and other data of a type submitted in this and in prior general revenue proceedings is not an irrevocable commitment, and that, in the future, we will require a much more variable data base to support an application for revenue relief. To this end, we intend promptly to institute a rule making proceeding looking toward prescription of minimum evidentiary requirements in railroad general increase cases.

Recognizing, however, from our experience with Ex Parte No. MC-82, that considerable time would be consumed in reaching an ultimate determination, we further indicated the evidentiary showing which should be made in any such proceeding instituted prior to the promulgation of specific procedures. They were denominated "interim procedures," and they are set forth in Appendix B to the report in Ex Parte No. 281.

The specific procedures which we herein propose to replace present Part 1102, Title 49, Code of Federal Regulations, and the interim procedures, are set forth in detail below.

Accordingly, it is ordered, That a proceeding be, and it is hereby, instituted with the objective of promulgating specific procedures in the nature of those herein proposed, as set forth below.

It is further ordered, That all railroads subject to the jurisdiction of this Commission be, and they are hereby, made respondents in this proceeding.

It is further ordered, That no oral hearing be scheduled for the receiving of testimony unless a need therefor should later appear, but that respondents or any other interested parties may participate in this proceeding by submitting for consideration written statements of verified facts, views, and arguments regarding the proposed procedures.

It is further ordered, That any person intending to participate in this proceeding by submitting initial or reply statements, or otherwise, shall notify this Commission, by filing with the Interstate Commerce Commission, Office of Proceedings, Room 5354, Washington, D.C. 20423, within 45 days of the service date of this order, the original and one copy of a statement of his intention to participate. Inasmuch as the Commission desires wherever possible (a) to conserve time, (b) to avoid unnecessary expense to the public, and (c) the service of pleadings by parties in proceedings of this type only upon those who intend to take an active part in the proceeding, the statement of intention to participate

shall include a detailed specification of the extent of such person's interest, including (1) whether such interest extends merely to receiving Commission releases in this proceeding, (2) whether he genuinely wishes to participate by receiving or filing initial and/or reply statements, (3) if he so desires to participate as described in (2), whether he will consolidate or is capable of consolidating his interests with those of other interested parties by filing joint statements in order to limit the number of copies of pleadings that need be served, such consolidation of interests being strongly urged by the Commission, and (4) any other pertinent information which will aid in limiting the service list to be used in this proceeding; that this Commission shall then prepare and make available to all such persons a list containing the names and addresses of all parties desiring to participate in this proceeding and upon whom copies of all statements must be filed; and that at the time of service of this service list the Commission will fix the time within which initial statements and replies must be filed.

And it is further ordered, That a copy of this notice and order be served on each respondent and on each party to the proceeding in Ex Parte No. 281, that a copy be deposited in the office of the Secretary, Interstate Commerce Commission, Washington, D.C., for public inspection, and that statutory notice of the institution of this proceeding be given to the general public by delivering a copy thereof to the Director, Office of the Federal Register, for publication therein.

By the Commission.

[SEAL] ROBERT L. OSWALD,
Secretary.

PART 1102—PROCEDURES GOVERNING RAIL CARRIER GENERAL INCREASE PROCEEDINGS

Sec.	
1102.1	Application.
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1102.3	Cost and revenue data.
1102.4	Employment, wage, productivity, and rate data.
1102.5	Affiliate data.
1102.6	Compliance with Ex Parte No. 280, Special Procedures for tariff filings.
1102.7	Official notice.
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AUTHORITY: The provisions of this Part 1102 issued under 49 U.S.C. 15(7), 17(3); 5 U.S.C. 533(b).

§ 1102.1 Application.

Upon the filing of tariff schedules containing proposed general increases in freight rates or charges for the account of substantially all common carriers by railroad in the United States or in any

of the three primary ratemaking territories, namely, Eastern, Western, or Southern, or of a petition seeking authority to file such schedules by relief from outstanding orders of the Commission, or other relief related thereto, the carriers on whose behalf such schedules or petitions are filed shall, concurrently therewith, file and serve as provided hereinafter, verified statements presenting and comprising the entire evidential case which is relied upon to support the proposed increases. Carriers thus required to submit their evidence when they file their schedules are hereby notified that special permission to file those schedules shall be conditioned upon the publishing of an effective date at least 45 days later than the date of filing, to enable proper evaluation of the evidence presented. Data to be submitted in accordance with these regulations represent the minimum data required to be filed and served, and in no way shall be considered as limiting the type of evidence that may be presented at the time of filing of the schedules. If a formal proceeding is instituted, the carriers are not precluded from updating the evidence submitted at the time of filing of the schedules to reflect the contemporary situation. Nothing stated in this part shall relieve the carriers of their burden of proof imposed under the Interstate Commerce Act.

§ 1102.2 Financial and revenue need data.

(a) The railroads shall submit the data required in Schedules A and B. The purpose of these schedules is to obtain such financial data as will facilitate an analysis of the financial posture and revenue needs of individual petitioning railroads, as well as of groups of railroads by district (Eastern, Southern, and Western), and all groups combined, as appropriate. Petitioning railroads shall also submit such evidence as will permit a determination of the cost of debt and equity capital, and the respective amounts of this capital which they need to attract in order to insure their financial stability and their capacity to render service.

(b) In addition to these data, each individual petitioning railroad shall also submit a Funds Flow Analysis (Source and Application of Funds) for each of the 3 calendar years preceding the effective date of the proposed increases. This analysis shall take the form prescribed in Docket No. 35344, Annual Reports of Class I Railroad Companies, Schedule 397, Statement of Changes in Financial Position, 341 ICC 205, 227, petition for reconsideration pending.

§ 1102.3 Cost and revenue data.

(a) The railroads shall submit the cost and revenue data required in Schedules C (in four parts) and D. The purpose of Schedule C is to obtain, for the time periods therein provided, cost and revenue data for specified commodities transported by individual railroads in

Eastern, Southern, and Western districts, and totals for each district and all districts combined, as appropriate. The purpose of Schedule D is similar to that of Schedule C, except that it pertains to special and accessorial services, such as collection on delivery and wharfage charges.

(b) To develop these data, traffic and cost studies will be required. The traffic studies should, among other things, (1) develop the number and kind of traffic service units to which the appropriate service unit costs should be applied, and (2) develop the actual revenues associated with the transportation of the specified commodities (Schedule C) and the special and accessorial services (Schedule D). The cost study should develop the appropriate service unit costs referred to in item (1).

(c) Both the traffic study and the cost study should be developed for the same calendar year. Thus, for example, 1971 service unit costs should be applied to the 1971 traffic service units. The study year shall be referred to as the "Base Calendar Year—Actual". That year shall be the calendar year that has ended at least 4 months prior to the effective date of the tariff schedules. If the effective date is less than 4 months following the end of the preceding calendar year, then the second preceding calendar year shall be considered as the "Base Calendar Year—Actual".

(d) The Traffic study shall include a probability sampling of the actual traffic handled during identical time periods for each study carrier (each class I line-haul railroad) and shall be statistically valid at the individual study carrier level. The sample shall be taken according to acceptable standards of probability sampling principles and practices. The carriers shall explain and evaluate the probability sample from the standpoint of purpose, sample design (including explanation of estimation procedure and disclosure of sampling errors for derived characteristics), quality control aspects involved in processing and tabulating data, and any statistical analysis performed on the sampled data.¹

(e) The cost study, for Schedule C purposes, shall be based on service unit costs developed for each individual study carrier through the use of Rail Form A costing procedures. These service unit costs shall be appropriately adjusted, if necessary, to reflect the transportation characteristics of the specified commodities and shall be applied to the respective individual carrier's traffic service units as determined from its traffic study. Since the determination of relative revenue/cost relationships among the various commodity movements is important, the Rail Form A costing tech-

¹ Although not adopted by the Commission, attention is called to a staff report "Guidelines for the Presentation of the Results of Sample Studies," Feb. 1, 1971, available from the Superintendent of Documents, Washington, D.C.

nique is required. However, this requirement does not preclude the use of other uniform costing procedures the results of which may be submitted in addition to the Rail Form A costs. In this event appropriate explanation of the principles and procedures followed must be furnished.

(f) The cost study, for Schedule C purposes, shall be based on two levels of cost, namely, (1) the variable, as computed in Rail Form A costing procedures, and (2) the fully allocated expense level (F.A.E.). The latter level is similar to the "fully allocated costs" described by the Commission in Docket No. 34013, Rules to Govern the Assembling and Presenting of Cost Evidence, 337, ICC 298, but excludes return on investment. The F.A.E. level is identical to the so-called T.O.E. level, i.e., total operating expenses, rents, and taxes (other than Federal income taxes) indicated in Schedule B, line 12, for freight service.

(g) Traffic and cost study data, for Schedule C purposes, shall be based on the time periods therein identified. These are the "Base Calendar Year—Actual" as defined in section (c) above, and the "Present Proforma Year" as defined below. Traffic and cost study data for the "Base Calendar Year—Actual" shall be updated to reflect the wage, price, traffic, productivity, and rate (present and proposed) conditions prevailing on or near the effective date of the rate proposal. The time period for which these data are provided, stated on an annual basis, shall be referred to as the "Present Proforma Year". The time periods identified above are identical to those in Schedule B, and Schedules D through G.

(h) The expense data required to be shown in Schedule D may be developed either through Rail Form A costing procedures or through any other uniform cost estimating procedures, and shall be shown at the F.A.E. level only.

§ 1102.4 Employment, wage, productivity, and rate data.

(a) The railroads shall submit the wage, productivity, and other statistical data required in Schedules E through H. A major purpose for the supporting data required in these schedules is to measure the validity of the total increases in railway operating expenses shown in Schedule B, present proforma year over the base calendar year—actual. Since Schedules F and G represent only the major segments of railway operating expenses, it is realized that the totals of those schedules will not reconcile to Schedule B, line 2. Data required in Schedules E through H are required only by district groupings of carriers in the Eastern, Southern, and Western districts, and for all districts combined. The time periods required to be used are the base calendar year—actual, the present proforma year, and the projected years described in the schedules.

(b) The railroads shall also submit the data required in Schedule I which develops basic rate information to measure

the impact of "Hold-downs" and rate changes, other than those proposed by the railroads.

§ 1102.5 Affiliate data.

Each railroad shall submit details of transactions with its parent, subsidiary, or affiliate companies in each of the last three calendar years as follows: (a) Advances made whether in cash or property; (b) encumbrances of railroad assets or the assets of a parent, an affiliate, or subsidiary for noncarrier purposes; and (c) any other monetary or property transactions, including the payment and receipt of dividends. Normal transactions, such as interline settlements, and any other considered necessary to and normally conducted in the course of railroad business, need not be reported.

§ 1102.6 Compliance with Ex Parte No. 280, Special Procedures for Tariff Filings.

(a) The procedure promulgated effective July 19, 1972, implementing the regulations of the Price Commission, require that when "reportable increases" (as therein defined) are filed with this Commission, sufficient evidence shall be submitted to enable the Commission to determine:

(1) The former or existing rate, the new or proposed rate and the percentage increase;

(2) The dollar amount of the increased revenue which the increase is expected to provide;

(3) The expected change resulting from the increase in the carrier's net operating income expressed as a percentage of total operating revenue;

(4) The amount by which the increase will increase the carrier's overall rate of return on capital computed as (a) the ratio of net carrier operating income to net investment in transportation property (including property leased to others), and (b) the ratio of net income to shareholders' equity, excluding intangibles; and

(5) That the criteria described in § 1311.0(c) of this part have been met.

(b) Section 1311.0(c) of this chapter requires the Commission to find that every increase in rates or charges:

(1) Is cost-justified and does not reflect future inflationary expectations;

(2) Is the minimum increase required to assure continued, adequate, and safe service or to provide for necessary expansion to meet future requirements for transportation services;

(3) Is the increase which will achieve the minimum rate of return needed to attract capital at reasonable costs and not to impair the credit of the carrier;

(4) Does not reflect labor costs in excess of those allowed by Price Commission policies; and

(5) Takes into account expected and obtainable productivity gains.

The railroads, therefore, must submit the evidence to support such determinations and findings.

§ 1102.7 Official notice.

Official notice will be taken of all the railroads' annual and quarterly reports on file with the Commission.

§ 1102.8 Service.

(a) The detailed information called for herein shall be in writing and shall be verified by a person or persons having knowledge thereof. The original and 24 copies of each verified statement for the use of the Commission shall be filed with the Secretary, Interstate Commerce Commission, Washington, D.C. 20423. One copy of each statement shall be sent by first-class mail to each of the regional offices of the Commission in the area affected by the proposed increase, where it will be open to public inspection.

(b) A copy of each statement shall be mailed by first-class mail to each party of record in the last formal proceeding

concerning a general rate increase nationally or in the affected area or territory, and that fact shall be evidenced by a certificate of service filed with the petitions. Where service is made by mail, the statements shall be mailed in time to be received on the date the original is filed with the Commission. A copy of each such statement shall be furnished to any interested person upon request.¹

§ 1102.9 Availability of underlying data.

All underlying data used in preparation of the material outlined above shall be made available for inspection upon reasonable request in writing, and shall be furnished by the railroads to the Commission upon request. The underlying data shall be made available also at the hearing, but only if and to the extent specifically requested in writing and required by any party for the purpose of cross-examination.

SCHEDULE A
FINANCIAL DATA

Line No.	Item	Source ¹	Carrier District _____		
			Third preceding calendar year (actual)	Second preceding calendar year (actual)	First preceding calendar year ²
	(1)	(2)	(3)	(4)	(5)
1	Ordinary income.....	A. R. Sch. 300, L.63 col. (b).			
2	Depreciation and retirements—road....	A. R. Sch. 320, L.48+or L.49, col. (b).			
3	Depreciation and retirements—equipment.....	A. R. Sch. 320, L.72+L.86, or L.85, col. (b).			
4	Long-term debt due within 1 year.....	A. R. Sch. 200, L.60, col. (c).			
5	Income available for fixed charges.....	A. R. Sch. 300, L.50, col. (b).			
6	Fixed contingent charges.....	A. R. Sch. 300, L.58+L.62, col. (b).			
7	Railway operating expenses.....	A. R. Sch. 300, L.4, col. (b).			
8	Net equipment rents.....	A. R. Sch. 300, L.9 through 13+L.17 through 21 col. (b).			
9	Railway operating revenues.....	A. R. Sch. 300, L.3, col. (b).			
10	Net railway operating income.....	A. R. Sch. 300, L.25, col. (b).			
11	Net investment in railroad property.....	Sch. 200A (L.1 and L.12 col. (c) plus Sch. 211N-2, L.50 sum of cols. (b) through (e) minus Sch. 211N-1, L.50 col. (e)).			
12	Shareholders' equity.....	A. R. Sch. 200L, L.90. ³			
13	Dividends paid.....	A. R. Sch. 308.			
14	Total current assets.....	A. R. Sch. 200A, L.14.			
15	Total current liabilities.....	A. R. Sch. 200L, L.50.			
16	Working capital ratio.....	L.14+L.15.			
17	Dividend payout ratio.....	L.13+L.1.			
18	Rate of return on net investment in railroad property.....	L.10+L.11.			
19	Rate of return on shareholders' equity.....	L.1+L.12.			
20	Cash flow-current long-term debt coverage (times).....	L.1 through 3+L.4.			
21	Fixed and contingent charge coverage (times).....	L.5+L.6.			
22	Ratio railway operating expense plus net equipment rents to railway operating revenue.....	L.7+L.8+L.9.			

¹ Annual report sources refer to 1971 Railroad Annual Report Form A for Class I line-haul and switching and terminal companies. For years prior or subsequent to 1971, use the comparable annual report sources.
² Show average of beginning and end of year figure.
³ Specify whether actual or estimated.

Purpose and explanation of Schedule A. The purpose of Schedule A is to ascertain the financial posture of the individual railroads and groups of railroads proposing the increases by the application of certain key financial ratios, with a view to determining future revenue needs. Schedule A should be completed and submitted for each railroad and for such railroads combined by eastern, southern, and western districts and for all districts combined, as appropriate. In the event a railroad or group of railroads contends that the ratios submitted in response to Schedule A are not fairly representative of financial conditions, additional financial data may be furnished.

¹ The provisions in this section correspond to those in existing Part 1102; however, they are subject to modification to comply with the ultimate determination in pending Ex Parte No. 286, Adequate Notice and Fur-

nishing of Data to the Public of Proposed General Increases in Freight Rates and Passenger Fares, in which a notice of proposed rule making was served on Oct. 13, 1972 (corrected).

PROPOSED RULE MAKING

SCHEDULE B

INCOME STATEMENT DATA (ACTUAL, PRESENT, PRO FORMA, AND PROJECTED)

Carrier _____
District _____

Line No.	Item	Source ¹	Base calendar year—actual ²			Present pro forma year—freight service ³		Projected years ⁴			
			Total system	Total freight service	Total passenger service	Based on present expenses and revenues	Based on present expenses and proposed revenues	Present calendar year—projected total system ⁵		Next calendar year—projected total system ⁶	
								Without increase	With increase	Without increase	With increase
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)	(9)	(10)	(11)	
1	Railway operating revenues	A. R. Sch. 300, L.3.									
2	Railway operating expenses	A. R. Sch. 300, L.4.									
3	Net revenue from railway operations	A. R. Sch. 300, L.5.									
4	Railway tax accruals	A. R. Sch. 300, L.6.									
5	Federal income taxes	A. R. Sch. 350, L.60.									
6	Railway tax accruals, excluding Federal income taxes	L.4—L.5.									
7	Railway operating income	A. R. Sch. 300, L.7.									
<i>Rents</i>											
8	Total rent income	A. R. Sch. 300, L.15.									
9	Total rents payable	A. R. Sch. 300, L.23.									
10	Net rents, debit (credit)	A. R. Sch. 300, L.24.									
11	Net railway operating income	A. R. Sch. 300, L.25.									
12	Total operating expenses, rents and taxes, excluding Federal incometaxes.	Lines 2, 6, 10.									
<i>Other income and miscellaneous deductions from income</i>											
13	Total other income	A. R. Sch. 300, L.38.									
14	Total miscellaneous deductions	A. R. Sch. 300, L.49.									
15	Net, other income and deductions debit (credit)	Lines 13, 14.									
16	Income available for fixed charges	A. R. Sch. 300, L.50 (Lines 11, 15 above).									
<i>Fixed charges and contingent interest</i>											
17	Total fixed charges	A. R. Sch. 300, L.58.									
18	Income after fixed charges	A. R. Sch. 300, L.59. (Lines 16, 17).									
19	Contingent interest	A. R. Sch. 300, L.62.									
20	Ordinary income	A. R. Sch. 300, L.63.									
21	Total extraordinary and prior period items—debit (credit)	A. R. Sch. 300, L.68.									
22	Net income transferred to retained income—unappropriated	A. R. Sch. 300, L.69 (Lines 20, 21, above).									
23	Sum of money above operating expenses	Lines 4, 10, 15, 17, 19, 21, 22.									

¹ Sources in this column apply to cols. (3), (4), and (5). The dollar amounts to be shown in col. (3) should be identical to the amounts shown in Annual Report Schedule 300, col. B, "Amount for current year," and therefore, should include amounts in col. (K) of that schedule, "Other items not related to either freight or to passenger and allied services." Thus col. (3) may not necessarily reflect the additions of col. (4) and (5). The dollar amounts to be shown in cols. (4) and (5) should, where applicable, correspond to the dollar amounts shown in Schedule 300, cols. (g) and (j), respectively.

² Data in cols. (3), (4), and (5) should reflect actual data for the calendar year immediately preceding the effective date of the rate proposal. In those instances this calendar year will be the same as the "base calendar year—actual" identified in Schedules C and D.

³ Data called for in columns (6) and (7) should reflect a present pro forma year for freight service only. Present expenses in columns (6) and (7) mean those expenses prevailing on or near the effective date of the proposed rates. Present revenues in

column (6) should reflect the revenue obtainable under rates and charges in existence immediately prior to the effective date of the rate proposal; while the proposed revenues in column (7) should reflect the amount of revenues anticipated under the rate proposal.

⁴ For projected years: (a) Reasonable estimates for individual carriers will be accepted; (b) based on relation to general level of economic activity and reasonable projection of general economy available at the time; (c) do not assume continuation of inflationary trend, only wage scales already committed to and scheduled to go into effect over period; (d) make reasonable assumption as to traffic diversion as result of increases and the extent to which the increases may not be applied because of competition; and (e) take into account expected productivity gains and projected compensation levels.

⁵ 1st year following base calendar year—actual.

⁶ 2d year following base calendar year—actual.

Purpose and explanation of Schedule B. The purpose of Schedule B is to obtain an indication of past, present, and projected income statement data for each railroad, which, along with the financial data required in Schedule A, will facilitate an analysis of the financial stability and revenue needs of the railroads. Schedule B should be completed and submitted for each individual railroad in the eastern, southern, and western districts. Individual carrier data should also be totaled and submitted for each district and for all districts.

Present and projected year data should be appropriately explained and supported. Each of the dollar figures called for in these columns should be accompanied by an explanation of the bases or methods of restatement and explicit identification of all assumed or projected changes in income statement data, including changes in revenues, expenses, wage rates, price levels, and productivity, as compared with the base calendar year—actual results.

SCHEDULE C-1

Commodity: STCC _____

Line No.	District and railroad	Total single line and interline	Single line	Interline intradistrict	Interline Interdistrict					
					Total	East-South	East-West	South-East	South-West	West-East
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)	(9)	(10)	(11)

VARIABLE COSTS (DOLLARS) FOR BASE CALENDAR YEAR—ACTUAL, BY COMMODITY AND BY INDIVIDUAL RAILROAD ¹

- I Eastern District (List individual railroads).
Total Eastern District..
- II Southern District (List individual railroads).
Total Southern District..
- III Western District (List individual railroads).
Total Western District..
- IV Total all districts.....

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Commodity: STCC

Line No.	District and railroad	Total single line and interline	Single line	Interline Intradistrict	Interline Interdistrict					
					Total	East-South	East-West	South-East	South-West	West-East
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)	(9)	(10)	(11)

FULLY ALLOCATED EXPENSES (DOLLARS) FOR BASE CALENDAR YEAR-ACTUAL, BY COMMODITY AND BY INDIVIDUAL RAILROAD ¹

- I Eastern District (List individual railroads).
Total Eastern District..
- II Southern District (List individual railroads).
Total Southern District..
- III Western District (List individual railroads).
Total Western District..
- IV Total all districts.....

REVENUES (DOLLARS) FOR BASE CALENDAR YEAR-ACTUAL, BY COMMODITY AND BY INDIVIDUAL RAILROAD ¹

- I Eastern District (List individual railroads).
Total Eastern District..
- II Southern District (List individual railroads).
Total Southern District..
- III Western District (List individual railroads).
Total Western District..
- IV Total all districts.....

SCHEDULE C-2
Commodity: STCC

Line No.	District and railroad	Total single line and interline	Single line	Interline Intradistrict	Interline Interdistrict					
					Total	East-South	East-West	South-East	South-West	West-East
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)	(9)	(10)	(11)

VARIABLE COSTS (DOLLARS) FOR PRESENT PRO FORMA YEAR, BY COMMODITY AND BY INDIVIDUAL RAILROAD ¹

- I Eastern District (List individual railroads).
Total Eastern District..
- II Southern District (List individual railroads).
Total Southern District..
- III Western District (List individual railroads).
Total Western District..
- IV Total all districts.....

FULLY ALLOCATED EXPENSES (DOLLARS) FOR PRESENT PRO FORMA YEAR, BY COMMODITY AND BY INDIVIDUAL RAILROAD ¹

- I Eastern District (List individual railroads).
Total Eastern District..
- II Southern District (List individual railroads).
Total Southern District..
- III Western District (List individual railroads).
Total Western District..
- IV Total all districts.....

PRESENT REVENUES (DOLLARS) FOR PRESENT PRO FORMA YEAR, BY COMMODITY AND BY INDIVIDUAL RAILROAD ¹

- I Eastern District (List individual railroads).
Total Eastern District..
- II Southern District (List individual railroads).
Total Southern District..
- III Western District (List individual railroads).
Total Western District..
- IV Total all districts.....

PROPOSED REVENUES (DOLLARS) FOR PRESENT PRO FORMA YEAR, BY COMMODITY AND BY INDIVIDUAL RAILROAD ¹

- I Eastern District (List individual railroads).
Total Eastern District..
- II Southern District (List individual railroads).
Total Southern District..
- III Western District (List individual railroads).
Total Western District..
- IV Total all districts.....

¹ See explanation following Schedule C-4.

PROPOSED RULE MAKING

SCHEDULE C-3

REVENUE/VARIABLE COST RATIOS FOR BASE CALENDAR YEAR-ACTUAL, BY COMMODITY AND BY DISTRICT¹ (IN PERCENT TO 1 DECIMAL)

Commodity: STCC _____

Line No.	District	Total single line and interline	Single line	Interline intradistrict	Interline interdistrict						
					Total	East-South	East-West	South-East	South-West	West-East	West-South
	(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)	(9)	(10)	(11)
1	Eastern District.....										
2	Southern District.....										
3	Western District.....										
4	Total all districts.....										

SCHEDULE C-4

REVENUE/VARIABLE COST RATIOS FOR PRESENT PRO FORMA YEAR BY COMMODITY AND BY DISTRICT. REVENUES AT PRESENT AND PROPOSED LEVELS¹ (IN PERCENT TO 1 DECIMAL)

Commodity: STCC _____

Line No.	District	Total single line and interline	Single line	Interline intradistrict	Interline Interdistrict						
					Total	East-South	East-West	South-East	South-West	West-East	West-South
	(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)	(9)	(10)	(11)
1	Eastern District.....										
2	Southern District.....										
3	Western District.....										
4	Total all districts.....										
5	Eastern District.....										
6	Southern District.....										
7	Western District.....										
8	Total all districts.....										

Part I. Ratios Based on Present Revenues²Part II. Ratios Based on Proposed Revenues¹

¹ See explanation following.
² Ratios based on data in Schedule C-2.

Purpose and explanation of Schedule C. The purpose of Schedules C-1 through C-4 is to obtain cost and revenue data for specified commodities, separated between single line and interline, transported by individual railroads in eastern, southern, and western districts, and totals for each district and all districts combined, as appropriate. Costs and revenues should be provided for two time periods, namely, (1) base calendar year—actual (Schedule C-1), and (2) present proforma year, reflecting present costs and both present and proposed revenues (Schedule C-2). Schedules C-3 and C-4 require revenue/variable cost ratios, by commodity and by districts. These ratios, for the time periods specified in Schedules C-3 and C-4, are developed from data provided in Schedules C-1 and C-2, respectively.

(a) **Time periods: Base calendar year—actual, and present proforma year.** The study year shall be referred to as the "Base Calendar Year—Actual". That year shall be the calendar year that has ended at least 4 months prior to the effective date of the tariff schedules. If the effective date is less than 4 months following the end of the preceding calendar year, then the second preceding calendar year shall be considered as the "Base Calendar Year—Actual".

Traffic and cost study data for the base calendar year—actual shall be updated to reflect wage, price, traffic, productivity, and rate (present and proposed) conditions prevailing on or near the effective date of the rate proposal. The time period reflecting these data, stated on an annual basis, shall be referred to as the "Present Proforma Year".

(b) **Cost levels: Variable and fully allocated expenses.** Costs, for Schedule C purposes, shall be based on two levels, namely, (1) the variable, as computed in Rail Form A costing procedures, and (2) the fully allocated expense level (F.A.E.). This level of costs is similar to the "fully allocated costs" described by the Commission in Docket No. 34013, Rules to Govern the Assembling and Presenting of Cost Evidence, but excludes return on investment. The F.A.E.

level is identical to the so-called T.O.E. level, i.e., total operating expenses, rents, and taxes (other than Federal income taxes) indicated in Schedule B, line 12, for freight service. Both levels of cost must be furnished. For each of the time periods involved the F.A.E. level required in Schedules C and D should be totaled and then reconciled to the amount of expenses indicated in Schedule B, line 12, columns (4), (6), and (7). If differences occur appropriate explanations should be provided.

(c) **Revenues.** Freight revenues for both the base calendar year—actual, and the present proforma year, including both present and proposed revenues, should include revenues obtained from rates and charges associated with line-haul rates (traffic), which, together with the revenues obtained from the special and accessorial charges to be provided in Schedule D, should be totaled and reconciled to the actual, present, and proposed revenues indicated in Schedule B, line 1, "Railway operating revenues," freight service, columns (4), (6), and (7), respectively. If differences occur, appropriate explanations should be provided.

(d) **Commodity: STCC Number.** The commodities or commodity classes to be used shall be those set forth in Appendix B, "Rail Revenue Contribution by Commodity and Territory", to the Preliminary Report and Order of the Commission in Ex Parte No. 270, Investigation of Railroad Freight Rate Structure, served November 11, 1971, 340 ICC 868. In addition, "Total Carload Traffic," which includes traffic other than the commodity classes shown in the said Appendix B, shall also be shown.

(e) **Interline intradistrict.** This is interline traffic in which the entire through movement is handled only by carriers assigned to the same district (eastern, southern, or western) as the reporting carrier.

(f) **Interline interdistrict.** This is interline traffic in which a portion of the entire through movement is handled by a carrier or carriers assigned to a district other than the one to which the reporting carrier is assigned.

PROPOSED RULE MAKING

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SCHEDULE D

FULLY ALLOCATED EXPENSES AND REVENUES ASSOCIATED WITH SPECIAL AND ACCESSORIAL SERVICES
Type of service _____

Line No.	Name of railroad	Base calendar year—actual ¹		Present pro forma year ²			Revenue/cost ratios		
		Fully allocated expenses ³	Revenues	Fully allocated expenses ³	Present revenues	Proposed revenues	Base calendar year-actual col. 3÷col. 2	Present pro forma year	
								Present revenues col. 5÷col. 4	Proposed revenues col. 6÷col. 4
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)	(9)	
A	Eastern District (List individual roads). Total Eastern District.....								
B	Southern District (List individual roads). Total Southern District.....								
C	Western District (List individual roads). Total Western District.....								
D	Total all districts.....								

¹ Base calendar year—actual means the study calendar year immediately preceding the effective date of the rate proposal and is the same as those identified for Schedule C purposes.
² Present pro forma year represents an updating of the base calendar year-actual expenses and revenues to reflect a condition prevailing at a time on or near the effective

date of the rate proposal. Proposed revenues (col. 6) represent revenues anticipated under the rate proposal.
³ Fully allocated expenses (col. 2 and 4) are the same as those identified for Schedule C purposes.

Purpose and explanation of Schedule D. The purpose of Schedule D is to obtain revenue/cost relationships for each of those special and accessorial services such as collection on delivery and wharfage charges (listed on page 13 of Tariff of Increased Rates and Charges, X-281-A), the charges for which are credited to Account 501, Railway Operating Revenue. This data should be filed

for individual carriers in each district, and totals furnished for each district and all districts combined, as appropriate. As in the case of Schedule C, expenses and revenues should be provided for two time periods, namely (1) base calendar year—actual, and (2) present pro forma year, reflecting present expenses and both present and proposed revenues.

SCHEDULE E*

SELECTED EMPLOYMENT STATISTICS DISTRICT (U.S., EAST, SOUTH, WEST) _____

Line No.	Item	Source ¹	Base calendar year-actual	Present pro forma year	Present calendar year projected ^{2,3}	Next calendar year projected ^{4,5}
1	Total number of employees.....	Form B, col. 2, line 909.				
2	Total service hours.....	Line 3+line 7.				
3	Service hours except train and engine ..	Form A, col. 7, line 907.				
4	Straight time paid for.....	Form A, col. 4, line 907.				
5	Overtime paid for.....	Form A, col. 5, line 907.				
6	Vacations and other allowances.....	Form A, col. 6, line 907.				
7	Service hours train and engine.....	Form B, col. 8, line 908.				
8	Straight time worked.....	Form B, col. 4, line 908.				
9	Straight time paid for.....	Form B, col. 5, line 908.				
10	Ratio straight time worked to paid.....	Line 9÷line 10.				
11	Constructive and other allowances, etc.	Form B, col. 6, line 908.				
12	Ratio overtime to straight time worked.	Line 12÷line 9.				
13	Constructive and other allowances, etc.	Form B, col. 7, line 908.				
14						
15	Total "freight" employees.....	Form B, col. 2. ²				
16	Total "freight" service hours.....	Form A, col. 7, and Form B, col. 8. ²				

¹ ICC wage statistics, Form A or B, unless otherwise indicated.
² "Freight" in Schedules E, F, and G refers to total Form A and Form B, less the following lines: 12, 67, 84, 85, 86, 87, 95, 96, 97, 99, 100, 101, 104, 111, 112, 115, 116, 121, 125.
³ Show annualized number of service hours or employees based on prevailing employment levels at or near the effective date of the proposed tariff.
⁴ 1st year following base calendar year-actual.
⁵ 2d year following base calendar year-actual.
⁶ Base on relation to general level of economic activity and reasonable projection of general economy and take into account expected productivity gains (Schedule H).
* See explanation following Schedule H.

PROPOSED RULE MAKING

SCHEDULE F*

SELECTED COMPENSATION AND WAGE STATISTICS, DISTRICT (U.S. EAST, SOUTH, WEST)

Line No.	Item	Source	Base calendar year-actual	Present pro-forma year	Present calendar year projected	Next calendar year projected ⁴
1	Total compensation.....	Line 2+line 6.				
2	Total compensation except train and engine.	Form A, col. 11, line 907.				
3	Average compensation per hour.....	Line 2+Sch. E, line 3.				
4	Straight time compensation.....	Form A, col. 8, line 907.				
5	Overtime compensation.....	Form A, col. 9, line 907.				
6	Total compensation train and engine.....	Form B, col. 12, line 908.				
7	Average compensation per hour.....	Line 6+Sch. E, line 7.				
8	Straight time compensation.....	Form B, col. 9, line 908.				
9	Average compensation per straight time hour worked.....	Line 8+Sch. E, line 8.				
10	Overtime compensation.....	Form B, col. 12, line 908.				
11	Total freight compensation.....	Form A, col. 11, and form B, col. 12. ²				
12	Retroactive compensation earned but not paid during period.					
13	Retroactive compensation paid (to be paid) but not earned during period.	Schedule 561C, Annual Report Form A.				
14	Wage increases (percent or cents per hour) paid or due during period, date from which due, and total service hours effected—by labor contract. ³	Estimated from labor awards and Forms A and B service hours by reporting division or job classification.				
15	Average compensation per service hour at beginning of period.	Form A, col. 11, line 907— Form B, col. 8, line 909— immediately before period in question.				
16	Average compensation per service hour at end of period.	Same as for line 15—at end of period.				
17	Cost of wage increase during period....	(⁶).				

¹ ICC wage statistics Forms A and B unless otherwise indicated. Base all compensation estimates on respective employment levels and service hours in Schedule E, taking into account relative changes among employee groups affected by the various labor contracts; underlying work papers should be available for inspection by Commission if necessary.

² See Schedule E, footnote 2.

³ Based on labor awards made prior to filing date for proposed rate increased.

⁴ See definitions in Schedule E.

⁵ Use additional pages if necessary.

⁶ Line 14 wage increases X respective service hours affected in year in question. For periods less than 1 year estimate applicable service hours during period in question represent of the total for the year.

*See explanation following Schedule H.

SCHEDULE G*

NONWAGE EMPLOYMENT COSTS DISTRICT (U.S., EAST, SOUTH WEST)

Item	Source	Base calendar year-actual	Present pro-forma year	Present ¹ calendar year projected	Next ¹ calendar year projected
1	Health and welfare contribution.....	Sum of Annual Report Form A, Accounts Nos. 277, 325, 359, 409, 449, 456.			
2	Increased cost of health and welfare benefits per employee paid or due during period under labor contracts.	Labor contract awards.			
3	Increase in health and welfare cost over previous period.	Line 2X Sch. E, line 1 previous year. ¹			
4	Health and welfare contribution not attributable to passenger service.	Ratio of "Freight" to total employees, Sch. E X line 1.			
5	Payroll taxes.....	Annual Report Form A, account No. 532, old age retirement (including medicare and supplemental annuities) and unemployment insurance only.			
6	Increased payroll tax rates applicable to the period.	Appropriate tax law provisions.			
7	Increase in payroll taxes over previous year.	(²).			
8	Payroll taxes not attributable to passenger service.	Ratio of "Freight" to total compensation, Sch. F, X line 5.			
9	Cost of pension.....	Annual Report Form A, Account No. 457.			
10	Increase in pension costs over period.	(²).			
11	Pension costs not attributable to passenger service.	Ratio of "Freight" to total compensation, Sch. F X line 9.			
12	Total nonwage employment costs....	Lines 1+5+9.			
13	Average nonwage employment costs per employees.	Line 12+Sch. E, line 1.			
14	Increase in nonwage employment costs over previous period.	Lines 3+7+10.			
15	"Freight" nonwage employment costs.	Lines 4+8+11.			

¹ Same periods as for Schedule E.

² Compute the cost of increases effective after the first 15 days of the period on the basis of employment levels (service hours) for the number of months the increase is in effect see Schedule F, Note 6.

³ Take into account employment levels from Schedule E and increased compensation rates in Schedule F. Show methods of computation.

*See explanation following Schedule H.

SCHEDULE H*
LABOR COSTS AND PRODUCTIVITY DISTRICT (U.S., EAST, SOUTH, WEST)

Line No.	Item	Source	Base calendar year-actual	Present pro forma year	Present calendar year projected	Next calendar year projected
1	Net revenue ton-miles.....	Annual Report Form A				
2	Total labor cost.....	Sch. 531, line No. 36. ²				
3	Freight labor cost.....	Sch. F line 1—Sch. G line 12				
4	Freight labor cost per net revenue ton-mile.....	Sch. F line 11—Sch. G line 15				
5	Freight service hours.....	Line 3+line 1:				
6	Net revenue ton-miles per freight service hour.....	Sch. E line 16.				
7	Percent charge from previous year.	Line 1+line 5.				

data and estimates on present and expected employment levels based on present and past employment and productivity experience, and anticipated traffic and productivity levels. Schedule F provides data on present and expected wage and salary costs, based on provisions of existing labor contracts and projected employment levels. Schedule G provides like information on health and welfare costs, payroll taxes for old age benefits and unemployment insurance, and pension plans. Schedule H summarizes direct and indirect labor costs, and provides a measure of past, present, and projected productivity of freight employees (net revenue ton-miles per service hour) and unit labor costs (total freight labor cost per ton-mile).

Estimates by "present", "projected", and "next projected" calendar years based on actual and projected traffic levels are required because of the decline in railroad employment and increases in productivity in recent years, both of which appear to be strongly influenced by the level of freight traffic. The seasonality of traffic and employment patterns, and the need to assess revenue, cost, and productivity projection in light of recent past trends, requires the use of a calendar year rather than a "constructive" year previously used by the railroads in presenting evidence.

¹ Same periods as for Schedule E.
² For projected periods, take into consideration expected levels of economic activity anticipated sources of traffic losses or gains, effect of proposed rate increases intermodal and intramodal competitive, etc.
³ See explanation following.

Purpose and explanation of Schedules E-H. Schedules E through H require data on recent, present, and projected levels of employment, wages and fringe benefit costs, and productivity. This information is required to effectively implement the regulations promulgated by the Commission in its report and

order in Ex Parte No. 280, Special Procedures for Tariff Filings under the Wage and Price Stabilization Program, on July 13, 1972. These regulations, particularly Sec. 1311.0(c), require that expected and obtainable productivity gains be taken into account, as well as labor cost increases. Schedule E provides

SCHEDULE I¹

DISTRIBUTION OF NET REVENUE TONS BY CENTS PER HUNDREDWEIGHT BRACKETS

Line No.	Cents per hundredweight bracket ²	Total cols. 3-11	District ³								
			East-East (3)	South-South (4)	West-West (5)	East-South (6)	East-West (7)	South-East (8)	South-West (9)	West-East (10)	West-South (11)
1	(1)										
2											
3											
4											
5											
6											
7											
8											
9											
10											

¹ Fill out for district and U.S. totals. Provide separate schedule for each commodity identified in Schedule C.
² For district, omit all columns not involving corresponding territory.

³ Brackets 2 through 9 should be at equal intervals and account for approximately 95 percent of total tonnage for commodity in question.

[FR Doc.72-21246 Filed 12-13-72; 8:45 am]

DEPARTMENT OF AGRICULTURE

Agricultural Stabilization and Conservation Service

[7 CFR Part 726]

BURLEY TOBACCO

Determinations on Marketing Quotas for 1973-74 Marketing Year

Pursuant to the Agricultural Adjustment Act of 1938, as amended (7 U.S.C. 1281 et seq., hereinafter referred to as the Act), the Secretary under section 319 of the Act is preparing to determine and announce, for burley tobacco for the 1973-74 marketing year, the amount of the national marketing quota, the national reserve, and the national factor. Burley tobacco farmers approved marketing quotas on a poundage basis for the 1971-72, 1972-73, and 1973-74 marketing years (36 F.R. 9843).

Section 319(b) provides, in part, that the Secretary shall determine and an-

nounce, not later than the February 1 preceding the second and third marketing years of any 3-year period for which marketing quotas on a poundage basis are in effect, the amount of the national marketing quota for each of such years.

Section 319(c) provides that the national marketing quota determined under this section for burley tobacco for any marketing year shall be the amount produced in the United States which the Secretary estimates will be utilized in the United States and will be exported during such marketing year, adjusted upward or downward in such amount as the Secretary, in his discretion, determines is desirable for the purpose of maintaining an adequate supply or for effecting an orderly reduction of supplies to the reserve supply level. Any such downward adjustment shall not exceed 5 percent of such estimated utilization and exports. For each marketing year for which marketing quotas are in effect under this section, the Secretary in his discretion may establish a reserve (hereinafter referred to as the "national reserve") from the

national marketing quota in an amount not in excess of 1 percent of the national marketing quota to be available for making corrections and adjusting inequities in farm marketing quotas, and for establishing marketing quotas for new farms (that is, farms for which farm marketing quotas are not otherwise established).

Section 319(e) provides, in part, that the farm marketing quota shall be determined by multiplying the previous year's farm marketing quota by a national factor obtained by dividing the national marketing quota determined under subsection (c) of this section (less the national reserve) by the sum of the farm marketing quotas for the immediately preceding year for all farms for which burley tobacco marketing quotas will be determined: *Provided*, That such national factor shall not be less than 95 percent: *Provided further*, That for the marketing years beginning October 1, 1972, and October 1, 1973, the farm marketing quota for any farm shall not be less than the smaller of (1) one-half acre

times the farm yield times one-half the sum of the figure 1 and the national factor for the current year; or (2) the farm marketing quota for the immediately preceding marketing year times one-half factor for the current year. The farm marketing quota so computed for any farm for any year shall be increased by the number of pounds by which marketings from the farm during the immediately preceding year were less than the farm marketing quota (after adjustments): *Provided*, That any such increase shall not exceed the amount of the farm marketing quota (including leased pounds) for the immediately preceding marketing year prior to any increase for undermarketings or decrease for overmarketings. The farm marketing quota so computed for each farm for any year shall be reduced by the number of pounds by which marketing from the farm during the immediately preceding year exceeded the farm marketing quota (after adjustments): *Provided*, That if, on account of excess marketings in the preceding year, the farm marketing quota is reduced to zero pounds without reflecting the entire reduction required, the additional reduction required shall be made in subsequent marketing years.

Section 319(e) provides also, that the farm marketing quota for a new farm shall be the number of pounds determined by the county committee with approval of the State committee to be fair and reasonable for the farm on the basis of the past burley tobacco experience of the farm operator; the land, labor, and equipment available for the production of burley tobacco; crop rotation practices, and the soil and other physical factors affecting the production of burley tobacco: *Provided*, That the farm marketing quota for any such new farm shall not exceed 50 percent of the average of the farm marketing quotas for similar farms for which farm marketing quotas are otherwise established: *Provided further*, That the number of pounds allocated to all new farms shall not exceed that portion of the national reserve provided by the Secretary for establishing quotas for new farms.

Section 319(h) provides that effective with the marketing year beginning October 1, 1976, no marketing quota, other than a new farm marketing quota, shall be established for a farm on which no burley tobacco was planted or considered planted in any of the 5 years immediately preceding the year for which farm marketing quotas are being established.

Section 319(i) provides, in part, that if the Secretary, in his discretion, determines it is desirable to encourage additional marketings of any grades of burley tobacco during any marketing year to insure traditional market patterns to meet the normal demands of export and domestic markets, he may authorize the marketing of such grades without the payment of penalty or deduction from subsequent quotas to the extent of 5 percent of the farm marketing quota for the farm on which the tobacco was produced, and such marketings shall be eligible for price support.

The Act (7 U.S.C. 1301(b)) defines the "reserve supply level" as the normal supply plus 5 percent thereof. "Normal supply" is defined as a normal year's domestic consumption and exports, plus 175 percent of a normal year's domestic consumption and 65 percent of a normal year's exports. A "normal year's domestic consumption" is defined as the yearly average quantity produced in the United States and consumed in the United States during the 10 marketing years immediately preceding the marketing year in which such consumption is determined, adjusted for current trends in such consumption. A "normal year's exports" is defined as the yearly average quantity produced in the United States which was exported from the United States during the 10 marketing years immediately preceding the marketing year in which such exports are determined, adjusted for current trends in such exports.

The subjects and issues involved in the proposed determinations with respect to burley tobacco for the 1973-74 marketing year are:

1. The amount of the reserve supply level.
2. The amount of the national marketing quota.
3. The amount of the national reserve.
4. The national factor.
5. Whether the Secretary should implement the provision in section 319(i) to encourage additional marketings of any grades to insure traditional market patterns.

Consideration will be given to data, views, and recommendations pertaining to the proposed determinations, rules and regulations covered by this notice which are submitted in writing to the Director, Tobacco Division, Agricultural Stabilization and Conservation Service, U.S. Department of Agriculture, Washington, D.C. 20250. All written submissions made pursuant to this notice will be made available for public inspection from 8:15 a.m. to 4:45 p.m., Monday through Friday, in Room 3741, South Building, 14th and Independence Avenue, SW., Washington, D.C. All submissions must, in order to be sure of consideration, be postmarked not later than 30 days from the date of publication of this notice in the FEDERAL REGISTER.

Signed at Washington, D.C. on December 7, 1972.

GLENN A. WEIR,
Acting Administrator, Agricultural Stabilization and Conservation Service.

[FR Doc. 72-21502 Filed 12-13-72; 8:49 am]

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Food and Drug Administration

[21 CFR Part 3]

VITAMIN A AND VITAMIN D

Proposed Statement of Policy

Large doses of vitamin A and/or vitamin D ingested over long periods of time

can cause adverse effects, some of which are serious. Vitamins A and D are fat-soluble and excess quantities accumulate in fatty tissue. The acute and chronic toxicity of these vitamins is documented extensively in the medical literature. Vitamin A is available over the counter in dosage levels up to 10 times the recommended daily dietary allowance (RDA) of the Food and Nutrition Board, National Academy of Sciences-National Research Council (NAS-NRC), and vitamin D is available up to 60 times the RDA. The availability without prescription of these vitamins in high dosage levels contributes significantly to their misuse and the occurrence of serious adverse effects.

In view of the toxicity of excessive quantities of these vitamins, it is of concern to the Food and Drug Administration and medical authorities that there is widespread promotion to the laity of excessive quantities of these vitamins for prophylaxis and treatment of a variety of diseases and disorders. In its "Newsletter" of June 1, 1972 (Vol. 23, No. 9), the American Academy of Pediatrics (AAP) comments on the critical dangers of use of high doses of vitamin A that have been recommended in the lay press, on radio, and on television. For example, the layman is being advised that he would profit from taking 25,000 international units (IU) of vitamin A with 2,500 IU of vitamin D, or twice these amounts, daily.

The AAP Committees on Drugs and on Nutrition published a joint committee statement entitled "The Use and Abuse of Vitamin A" in the journal "Pediatrics," Volume 48, Number 4, October 1971, warning physicians regarding vitamin A toxicity. This article states "Despite awareness of the potential dangers of vitamin A toxicity, the incidence of hypervitaminosis A appears to be increasing. Hypervitaminosis A may result through easy availability of high potency vitamin preparations without prescription and by the overzealous parents who frequently administer vitamins under the popular premise, that, if one is good, two are better. The problem may be compounded by the use of bizarre, highly fortified health foods." The AAP Committee on Drugs specifically has urged the Food and Drug Administration to limit the potency of vitamin A preparations available over the counter.

There exists considerable information in the literature regarding these vitamins and their toxicity. A listing of a number of pertinent articles, many of them recent, regarding these vitamins has been placed on file with the Hearing Clerk, Department of Health, Education, and Welfare, Room 6-88, 5600 Fishers Lane, Rockville, Md. 20852 for public view.

The highlights regarding toxicity of vitamins A and D and the rationale for limiting over-the-counter availability of these vitamins are as follows:

VITAMIN A

Adverse effects which result from excess intake of vitamin A include anorexia, growth retardation in children, drying and cracking of the skin, hepatosplenomegaly, increase intracranial pressure, alopecia, migratory arthralgia, bone pain,

hypomenorrhea, irritability, and headache. Doses of 50,000 IU in adults and 20,000 IU in infants on a daily basis over long periods are known to produce toxicity. At present vitamin A is available over the counter in dosage levels as high as 50,000 IU per dosage unit. In recent years, some physicians and laymen have used large doses of vitamin A in the treatment of acne, although such therapy has not been shown to be safe and effective. Vitamin A in excessive dosages is used over long periods of time for this indication. Adverse effects, particularly increased intracranial pressure which may mimic a brain tumor, have been observed in children and young adults who are receiving vitamin A therapy for the treatment of acne. Reports of such effects have been published in the medical literature.

The position of the AAP on the matter is clear, as cited above.

In the United States, the Food and Nutrition Board, NAS/NRC, is the recognized authority for determining vitamin and other nutritional requirements for the human. The recommended daily dietary allowances (RDA) of the Food and Nutrition Board for vitamin A are 1,500 IU for infants; between 2,000 and 3,500 IU for children 1 to 9; between 4,500 and 5,000 IU for older children and adults; 6,000 IU during pregnancy, and 8,000 IU during lactation.

Based on the above considerations, it is the opinion of the Food and Drug Administration and medical experts that preparations containing vitamin A in excess of 10,000 IU per dosage unit shall be dispensed only by prescription and that for any vitamin A preparation intended for distribution as a dietary supplement or as an over-the-counter drug, the recommended daily dosage shall not exceed 10,000 IU vitamin A.

VITAMIN D

There are marked differences in tolerances to Vitamin D in humans when quantities in excess of normal requirements are ingested over prolonged periods. There are significant numbers of individuals who are hyperreactive to excess vitamin D. Generally, the margin of safety between nutritional requirements and toxic levels is small for vitamin D. The margin is particularly small in those individuals who are hyperreactive.

In infants, children and adults, excessive ingestion of vitamin D results in hypervitaminosis D characterized by anorexia, nausea, weakness, weight loss, polyuria, constipation, vague aches, stiffness, generalized vascular, soft tissue and premature epiphyseal calcification, nephrocalcinosis, hypertension, anemia, hypercalcemia, acidosis, irreversible renal failure and death.

Daily ingestion by infants of doses between 1,000 and 2,000 IU has produced hypervitaminosis D, usually manifested as the infantile hypercalcemia syndrome. There is good evidence suggesting that the supravalvular aortic stenosis syndrome with hypercalcemia in infants and children may result from excess intakes of vitamin D by the infant and/or

by the mother during pregnancy. This latter syndrome may have a tragic outcome with severe aortic stenosis, mental and physical retardation, elfin facies, renal failure and death.

The recommended daily dietary allowance (RDA) of the Food and Nutrition Board, National Academy of Sciences-National Research Council of vitamin D for all age groups for which the vitamin is required is 400 IU. Although a daily intake of 400 IU of vitamin D is sufficient to prevent vitamin D deficiencies, preparations are available over the counter in dosage levels up to 25,000 IU per dosage unit. Excessive dosages of vitamin D have also been promoted in the lay press as noted above.

Based on the toxicity of vitamin D, the possibility of severe irreversible adverse effects in some instances, and the narrow margin of safety, it is the consensus of medical experts and the Food and Drug Administration that preparations containing vitamin D in excess of 400 IU per dosage unit shall be dispensed only by prescription and that the recommended daily dosage of any vitamin D preparation marketed as a special dietary food or as an over-the-counter drug shall not exceed 400 IU.

Therefore, because of the toxicity of vitamins A and D, their continued promotion in high doses to the lay person, and the continuing reports of adverse effects attributable to excessive intake of these vitamins, the FDA concludes it is in the interest of consumer safety to take the action herein described.

All vitamins are included among the over-the-counter drugs to be reviewed by an OTC Drug Advisory Review Panel, under the procedures established in the FEDERAL REGISTER on May 11, 1972 (37 F.R. 9464). Safety and effectiveness and more general questions related to adequate labeling of vitamin preparations marketed as OTC drugs will be considered by that panel, as well as the differences between foods for special dietary use, OTC drugs, and prescription drugs as they relate to vitamins. The Food and Drug Administration will publish, in the near future, new regulations governing dietary supplements of vitamins and minerals. Until such time as the OTC Drug Advisory Review Panel has completed its review and the new regulations for dietary supplements of vitamins and minerals are in effect, the Food and Drug Administration will not object to the inclusion in vitamin products marketed as foods for special dietary use or as OTC drugs of vitamin D at levels not exceeding 400 IU per dosage unit or 10,000 IU of vitamin A per dosage unit and with the recommended daily dosage not exceeding 400 IU of vitamin D or 10,000 IU of vitamin A.

Accordingly, pursuant to provisions of the Federal Food, Drug, and Cosmetic Act (secs. 502 (a), (f), and (j), 503 (b), 701 (a), 52 Stat. 1050-1052, as amended, 1055; 21 U.S.C. 352 (a), (f), and (j), 353 (b), 371 (a)) and under authority delegated to him (21 CFR 2.120), the Commissioner of Food and Drugs proposes to amend Part 3 by adding the following new sections:

§ 3.— Vitamin A preparations for oral use as drugs.

(a) Vitamin A is clearly known to be an essential nutrient for humans. Large doses of vitamin A can cause adverse effects, some of which are serious. The toxicity of vitamin A is well documented in the medical literature. The recommended daily dietary allowance (RDA) of the Food and Nutrition Board, National Academy of Sciences-National Research Council of vitamin A are: 1,500 international units (IU) for infants; between 2,000 and 3,500 IU for children 1 to 9; between 4,500 and 5,000 IU for adults; 6,000 IU during pregnancy, and 8,000 IU during lactation.

(b) In view of the toxicity from the use of large doses of vitamin A, the Food and Drug Administration finds that, in order to protect the public health, oral preparations containing vitamin A in excess of 10,000 IU per dosage unit are drugs subject to section 503 (b) (1) of the Federal Food, Drug, and Cosmetic Act and shall be restricted to prescription sale. Such products will be regarded as misbranded if at any time prior to dispensing the following conditions are not met:

(1) The label bears the legend, "Caution: Federal law prohibits dispensing without a prescription"; and

(2) The labeling bears full disclosure information as required by § 1.106 (b) (3) (1) of this chapter, and especially appropriate warnings regarding vitamin A toxicity.

(3) The recommended daily dosage of vitamin A does not exceed 10,000 IU.

(c) Vitamin A preparations labeled or dispensed contrary to this statement will be subject to regulatory proceedings as of (60 days after day of final promulgation in the FEDERAL REGISTER).

§ 3.— Vitamin D preparations for oral use as drugs.

(a) The importance of vitamin D in human nutrition is established. It is also widely recognized that vitamin D, when ingested daily in excessive amounts, is toxic. The recommended daily dietary allowance of vitamin D established by the Food and Nutrition Board, National Academy of Sciences-National Research Council for the prevention of vitamin D deficiency for all age and physiological groups for which the vitamin is required is 400 IU from all sources.

(b) In view of the known toxicity and seriousness of the adverse effects that may be caused by excessive consumption of vitamin D, the Food and Drug Administration finds that in order to protect the public health, oral preparations containing vitamin D in excess of 400 IU per dosage unit are drugs subject to section 503 (b) (1) of the Federal Food, Drug, and Cosmetic Act and shall be restricted to prescription sale. Such products will be regarded as misbranded if at any time prior to dispensing the following conditions are not met:

(1) The label bears the legend, "Caution: Federal law prohibits dispensing without a prescription"; and

(2) The labeling bears full disclosure information as required by § 1.106 (b) (3) (i) of this chapter, and especially appro-

appropriate warnings regarding vitamin D toxicity.

(3) The recommended daily dosage of vitamin D does not exceed 400 IU.

(c) Vitamin D preparations labeled or dispensed contrary to this statement will be subject to regulatory proceedings as of (60 days after day of final promulgation in the FEDERAL REGISTER).

Interested persons may, within 60 days after publication thereof in the FEDERAL REGISTER, file with the Hearing Clerk, Department of Health, Education, and Welfare, Room 6-88, 5600 Fishers Lane, Rockville, MD 20852, written comments (preferably in quintuplicate) regarding these proposals. Comments may be accompanied by a memorandum or brief in support thereof. Comments received will be available for public inspection at the above office during regular business hours, Monday through Friday.

Dated: November 28, 1972.

CHARLES C. EDWARDS,
Commissioner of Food and Drugs.

[FR Doc.72-21379 Filed 12-13-72;8:45 am]

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of Assistant Secretary for Housing
Production and Mortgage
Credit—Federal Housing Commission-
er (Federal Housing Administration)

[24 CFR Part 201]

[Docket No. R-72-221]

PROPERTY IMPROVEMENT AND MOBILE HOME LOANS

Notice of Proposed Rule Making

The Department of Housing and Urban Development is considering amending Part 201 of Title 24 of the Code of Federal Regulations, Subpart B, "Mobile Home Loans". The amendments issued in accordance with section 2(a) of the National Housing Act, 12 U.S.C. 1701, would permit acceptance of a used mobile home in lieu of the minimum required cash downpayment where the bluebook value of the mobile home being offered as a trade-in is equal to or greater than the minimum cash downpayment. This amendment would permit savings to consumers as the sales tax on the new mobile home being purchased in some cases would be reduced by an amount equivalent to the tax on the value of the trade-in. The second amendment would permit insured lenders to accept a financial statement from a mobile home dealer that has been prepared by a licensed public accountant. This change is necessary as the requirement of certification of financial statements has proved to be an undue burden on small businesses which ordinarily do not have their books certified.

All interested persons are invited to submit written comments or suggestions in triplicate with respect to this proposal, on or before January 16, 1973, addressed to the Rules Docket Clerk, Office of the General Counsel, Room 10256, Department of Housing and Urban Development, 451 Seventh Street SW., Washington, DC 20410. All relevant material will be considered before adoption of a final rule. A copy of each communication will be available for public inspection during regular business hours at the above address.

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

Part 201 is proposed to be amended as follows:

1. Section 201.535 is amended to read:
§ 201.535 Borrower's minimum investment.

The borrower shall make a minimum cash downpayment of at least 5 percent of the first \$6,000 of the total cost of the mobile home as shown in the purchase contract (excluding permissible charges and fees provided for in § 201.530(b)) plus 10 percent of any amount in excess of \$6,000. A used mobile home with a blue-book value equal to or greater than the required minimum downpayment may be accepted in lieu of a cash downpayment.

2. Section 201.595(b) is amended to read:

§ 201.595 Dealer investigation, approval, and control.

(b) *Financial statement required.* The insured shall obtain a financial statement of the dealer, prepared by a licensed public accountant, not less than once every 12 months. If no loans have been purchased, prior to the date of such financial statement, the insured shall approve the dealer as provided in paragraph (a) of this section.

Issued at Washington, D.C., December 8, 1972.

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

[FR Doc.72-21523 Filed 12-13-72;8:51 am]

DEPARTMENT OF TRANSPORTATION

Coast Guard

[46 CFR Part 10]

[CGD 72-132PH]

UNINSPECTED TOWING VESSELS

Licensing of Operators; Extension of
Time for Comments

In the August 11, 1972, issue of the FEDERAL REGISTER (37 F.R. 16374), the

Coast Guard proposed regulations governing the issuance of licenses for the operation of uninspected towing vessels to implement the Towing Vessel Operator Licensing Act, Public Law 92-339, R.S. 4427, as amended, 46 U.S.C. 405(b) (July 7, 1972).

Public hearings on the proposed regulations were held in Seattle, Wash.; New York, N.Y.; New Orleans, La.; and St. Louis, Mo. In addition, interested persons were given until October 17, 1972, to submit comments. The Coast Guard subsequently received requests for extension of this period to allow interested individuals and organizations to fully document comments submitted. These requests were considered justified and extensions were granted until November 30, 1972.

Among the comments received during the last extension, several addressed themselves to the question of terminology on the license issued, i.e., whether to call the person an Operator or Second Class Operator as proposed or whether a different title such as the more traditional Master or Mate should be used.

Since these recently received comments on this subject, if adopted, could be considered a substantive change to the regulations as proposed, the Coast Guard feels that an additional extension is warranted. This will allow the public to fully participate in the rule making process and give all interested parties an opportunity to express their views on this issue.

In view of the above, the Coast Guard hereby extends the period for such comments to January 15, 1973. All relative comments received by that time will be considered.

Interested persons may participate in this proposed rule making by submitting written data, views, or arguments to the Executive Secretary, Marine Safety Council (GCM/82), Room 8234, 400 Seventh Street SW., Washington, DC 20590, phone: 202-426-1477. Written comments should include the docket number (CGD 72-132PH), the name and address of the person submitting the comments, and the section of the proposal to which each comment is directed. Copies of comments received will be available for examination in Room 8234, 400 Seventh Street SW., Washington, DC.

Dated: December 8, 1972.

W. F. REA, III,
Rear Admiral, U.S. Coast Guard,
Chief, Office of Merchant
Marine Safety.

[FR Doc.72-21519 Filed 12-13-72;8:50 am]

Notices

DEPARTMENT OF THE TREASURY

Office of the Secretary

[Treasury Dept. Order 128 (Rev. 5)]

OFFICE OF FOREIGN ASSETS CONTROL

Transfer Within the Office of the
Secretary

By virtue of the authority vested in me as the Secretary of the Treasury by Reorganization Plan No. 26 of 1950, it is hereby ordered that the Office of Foreign Assets Control with its responsibilities for licensing and enforcement be transferred from the supervision of the Special Assistant to the Secretary (National Security Affairs) to that of the Assistant Secretary (Enforcement, Tariff and Trade Affairs, and Operations).

Regulations and rulings relating to these responsibilities shall be prepared and, when required, interpreted by the General Counsel in consultation with the Assistant Secretaries (International Affairs) and (Enforcement, Tariff and Trade Affairs, and Operations).

Such positions, records, and equipment which are determined by the Assistant Secretary for Administration and the Special Assistant to the Secretary (National Security Affairs) in consultation with the Assistant Secretary (Enforcement, Tariff and Trade Affairs, and Operations), and the General Counsel to be necessary to the performance of the functions of the Office of Foreign Assets Control shall be transferred from the Special Assistant to the Secretary (National Security Affairs) to the Assistant Secretary (Enforcement, Tariff and Trade Affairs, and Operations).

The activities of the Office of Foreign Assets Control shall continue to be supported by the Exchange Stabilization Fund.

The functions herein transferred may be reassigned by the Assistant Secretary (Enforcement, Tariff and Trade Affairs, and Operations) to subordinates in such manner as he shall direct.

Any previous orders in conflict with the provisions of this order are hereby amended accordingly, including Treasury Department Order No. 190 (Revision 8) dated September 1, 1972, Treasury Department Order No. 128 (Revision 4) dated March 1, 1972, and Treasury Department Order No. 220 dated April 23, 1971.

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

DECEMBER 7, 1972.

[FR Doc.72-21506 Filed 12-13-72;8:49 am]

COLLAPSIBLE BABY STROLLERS FROM JAPAN

Determination of Sales at Less Than
Fair Value

Information was received on February 17, 1972, that collapsible baby strollers, designed as folding strollers to be carried on the arm when not in use, 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 was published in the FEDERAL REGISTER of September 21, 1972.

I hereby determine that for the reasons stated below, collapsible baby strollers, designed as folding strollers to be carried on the arm when not in use, 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. Information currently before the Bureau indicates that there are sufficient sales in the home market of collapsible baby strollers, designed as folding strollers to be carried on the arm when not in use, to provide an adequate basis of comparison for fair value purposes.

Accordingly, the basis of comparison for fair value purposes is between purchase price and adjusted home market price of identical merchandise.

Purchase price was determined to be the exfactory price.

Home market price was calculated by deducting a deferred rebate, royalty payment, inland freight and interest charge from a weighted-average of f.o.b. delivered prices. An appropriate adjustment was made for packing.

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

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

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

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

[FR Doc.72-21551 Filed 12-13-72;8:49 am]

DEPARTMENT OF THE INTERIOR Geological Survey

[Power Site Cancellation 301]

APPLGATE RIVER BASIN, OREG.

Power Site Cancellation

Pursuant to authority under the Act of March 3, 1879 (20 Stat. 394; 43 U.S.C.

31), and 220 Departmental Manual 6.1, Power Site Classification 410 of November 9, 1950, is hereby canceled to the extent that it affects the following described land:

WILLAMETTE MERIDIAN

T. 39 S., R. 3 W.,
Sec. 2, NW $\frac{1}{4}$ SW $\frac{1}{4}$;
Sec. 3, SE $\frac{1}{4}$ NE $\frac{1}{4}$;
Sec. 9, SE $\frac{1}{4}$ SE $\frac{1}{4}$;
Sec. 10, SW $\frac{1}{4}$ SE $\frac{1}{4}$;
Sec. 11, SW $\frac{1}{4}$ NE $\frac{1}{4}$, NE $\frac{1}{4}$ NW $\frac{1}{4}$, E $\frac{1}{2}$ NW $\frac{1}{4}$
NW $\frac{1}{4}$, SE $\frac{1}{4}$ NW $\frac{1}{4}$, and E $\frac{1}{2}$ SE $\frac{1}{4}$ NW $\frac{1}{4}$;
Sec. 15, NW $\frac{1}{4}$ NE $\frac{1}{4}$, N $\frac{1}{2}$ SW $\frac{1}{4}$ NE $\frac{1}{4}$, SE $\frac{1}{4}$
SW $\frac{1}{4}$ NE $\frac{1}{4}$, SE $\frac{1}{4}$ NE $\frac{1}{4}$, SW $\frac{1}{4}$ NW $\frac{1}{4}$ SW $\frac{1}{4}$,
W $\frac{1}{2}$ SW $\frac{1}{4}$ SW $\frac{1}{4}$, NE $\frac{1}{4}$ SE $\frac{1}{4}$, E $\frac{1}{2}$ NW $\frac{1}{4}$
SE $\frac{1}{4}$, and SW $\frac{1}{4}$ SE $\frac{1}{4}$;
Sec. 21, E $\frac{1}{2}$ E $\frac{1}{2}$;
Sec. 22, E $\frac{1}{2}$ NW $\frac{1}{4}$ NE $\frac{1}{4}$, NE $\frac{1}{4}$ SW $\frac{1}{4}$ NE $\frac{1}{4}$
and W $\frac{1}{2}$ W $\frac{1}{2}$ NW $\frac{1}{4}$;
Sec. 27, SE $\frac{1}{4}$ SW $\frac{1}{4}$ NW $\frac{1}{4}$;
Sec. 28, N $\frac{1}{2}$ NW $\frac{1}{4}$ NE $\frac{1}{4}$, SW $\frac{1}{4}$ NE $\frac{1}{4}$, and
E $\frac{1}{2}$ SW $\frac{1}{4}$ SE $\frac{1}{4}$;
Sec. 33, E $\frac{1}{2}$ W $\frac{1}{2}$ NE $\frac{1}{4}$.

The area described aggregates 890 acres.

The effective date of this cancellation is April 6, 1973.

HENRY W. COULTER,
Acting Director.

DECEMBER 6, 1972.

[FR Doc.72-21475 Filed 12-13-72;8:47 am]

[Power Site Cancellation 314]

WALLA WALLA RIVER BASIN, OREG.

Power Site Cancellation

Pursuant to authority under the Act of March 3, 1879 (20 Stat. 394; 43 U.S.C. 31), and 220 Departmental Manual 6.1, Power Site Classification 284 of February 27, 1934, is hereby canceled to the extent that it affects the following described land:

WILLAMETTE MERIDIAN

T. 4 N., R. 38 E.,
Sec. 7, lot 4, NE $\frac{1}{4}$ NE $\frac{1}{4}$, S $\frac{1}{2}$ NE $\frac{1}{4}$, and NW $\frac{1}{4}$
SE $\frac{1}{4}$;
Sec. 8, N $\frac{1}{2}$ NW $\frac{1}{4}$ and SW $\frac{1}{4}$ NW $\frac{1}{4}$.

The area described aggregates 318 acres.

The effective date of this cancellation is April 6, 1973.

HENRY W. COULTER,
Acting Director.

DECEMBER 6, 1972.

[FR Doc.72-21474 Filed 12-13-72;8:47 am]

DEPARTMENT OF AGRICULTURE

Agricultural Stabilization and
Conservation Service

PUERTO RICO CANE SUGAR
PRODUCING AREA

Notice of Hearing on Proportionate
Shares for 1973-74 Crop

Notice is hereby given that the Secretary of Agriculture acting pursuant to

the Sugar Act of 1948, as amended, is preparing to conduct a public hearing to receive views and recommendations from all interested persons on the possible need for establishing proportionate shares for the 1973-74 sugarcane crop in Puerto Rico.

In accordance with the provisions of paragraph (1), subsection (b) of section 302 of the Sugar Act of 1948, as amended, the Secretary must determine for each crop year whether the production of sugar from any crop of sugarcane in Puerto Rico will, in the absence of proportionate shares, be greater than the quantity needed to enable the area to meet its quota and provide a normal carryover inventory, as estimated by the Secretary for such area for the calendar year during which the larger part of the sugar from such crop normally would be marketed. Such determination may be made only after due notice and opportunity for an informal public hearing.

The hearing on this matter will be conducted in Room 4711, South Building, U.S. Department of Agriculture, Washington, D.C., beginning at 10 a.m. on December 20, 1972.

Views and recommendations are desired on all phases of the proportionate share program. They may be submitted in writing, in triplicate, at the hearing, or may be mailed to the Director, Sugar Division, Agricultural Stabilization and Conservation Service, U.S. Department of Agriculture, Washington, D.C. 20250, postmarked not later than January 5, 1973. Interested persons will be given the opportunity at the hearing to appear and submit orally, data, views and arguments in regard to the establishment of proportionate shares.

Restrictions on the marketing of sugarcane in Puerto Rico have not been in effect since the 1955-56 crop. The area has not marketed all of its mainland basic sugar quota in recent years. Prospects for the 1972-73 crop indicate that production will again fall short of the area's mainland basic quota.

All written submissions made pursuant to this notice will be made available for public inspection at such times and places in a manner convenient to the public business (7 CFR 1.27(b)).

Signed at Washington, D.C. on December 11, 1972.

GLENN A. WEIR,
Acting Administrator, Agricultural Stabilization and Conservation Service.

[FR Doc.72-21535 Filed 12-11-72;3:51 pm]

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[Docket No. Sub-B-50]

AMERICAN STERN TRAWLERS, INC.

Notice of Change of Hearing Date

Whereas on November 11, 1972, there was published at 37 F.R. 24051 a notice of hearing in the above-entitled matter

(hereinafter referred to as this matter) to be held on December 14, 1972, in Washington, D.C.:

Whereas such notice of hearing provided that any person desiring to intervene should file a petition for leave to intervene pursuant to 50 CFR Part 257 at least 10 days prior to the date set for hearing;

Whereas numerous persons have filed petitions for leave to intervene and/or have expressed in writing their interests in this matter (such persons hereinafter referred to as putative intervenors);

Whereas many of these communications have expressed the desire to have a hearing in this matter at a location other than in Washington, D.C., and have expressed a desire for at least a 30-day postponement of the hearing;

Whereas the applicant, American Stern Trawlers, Inc., has, on December 11, 1972, requested at least a 30-day postponement of the hearing in this matter;

Whereas the National Marine Fisheries Service has interposed no objection to the postponement of the hearing as requested by various putative intervenors and the applicant; and

Whereas the undersigned Administrative Law Judge assigned to hear and adjudicate the application herein has taken the foregoing matters under advisement and has concluded that the grant of the requests for at least a 30-day postponement of the hearing in this matter would not prejudice the interests of any party to, or putative intervenor in, this matter:

It hereby is ordered, That the hearing in this matter originally scheduled for December 14, 1972, in Washington, D.C., is postponed for a least 30 days, and shall be scheduled for a time and at a place hereafter to be announced in writing to all parties and putative intervenors at least 2 weeks in advance of such date.

JOHN J. MCCARTHY,
Administrative Law Judge.

DECEMBER 11, 1972.

[FR Doc.72-21632 Filed 12-13-72;9:59 am]

[Docket No. A-594]

JONAS J. HALLINGSTAD AND
KATHY J. HALLINGSTAD

Notice of Loan Application

DECEMBER 7, 1972.

Jonas J. Hallingstad and Kathy J. Hallingstad, Post Office Box 865, Petersburg, AK 99833, have applied for a loan from the Fisheries Loan Fund to aid in financing the purchase of a used wood vessel, about 38.9-foot in length, to engage in the fishery for salmon, halibut, sablefish, and crab.

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, Washington, D.C. 20235. Any person desiring to submit evidence that the contemplated operation of such vessel will cause economic hardship or injury to efficient vessel operators already operating in that fishery must submit such evidence in writing to the Director, National Marine Fisheries Service, within 30 days from the date of publication of this notice. If such evidence is received it will be evaluated along with such other evidence as may be available before making a determination that the contemplated operation of the vessel will or will not cause such economic hardship or injury.

PHILIP M. ROEDEL,
Director.

[FR Doc.72-21470 Filed 12-13-72;8:47 am]

[Docket No. B-548]

THOMAS RAY ANDREWS ET AL.

Notice of Loan Application

DECEMBER 8, 1972.

Thomas Ray Andrews, Dorothy Louise Andrews, Calvin C. Pearson and Lois E. Pearson, Post Office Box 396, Cheriton, VA 23316, have applied for a loan from the Fisheries Loan Fund to aid in financing the purchase of a used steel vessel, about 132-foot in length, to engage in the fishery for clams.

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, Washington, D.C. 20235. Any person desiring to submit evidence that the contemplated operation of such vessel will cause economic hardship or injury to efficient vessel operators already operating in that fishery must submit such evidence in writing to the Director, National Marine Fisheries Service, within 30 days from the date of publication of this notice. If such evidence is received it will be evaluated along with such other evidence as may be available before making a determination that the contemplated operation of the vessel will or will not cause such economic hardship or injury.

PHILIP M. ROEDEL,
Director.

[FR Doc.72-21471 Filed 12-13-72;8:47 am]

LOANS TO COMMERCIAL FISHERMEN Intent To Request Proposals for Master Hull Policies

DECEMBER 8, 1972.

Under the terms of the mortgages utilized in connection with loans to commercial fishermen authorized in section

4 of the Fish and Wildlife Act of 1956, as amended (16 U.S.C. 742c) and reorganization plan No. 4 of 1970 (35 F.R. 15627), a mortgagor is required to obtain, among other things, hull insurance satisfactory to the Secretary of Commerce. Some of the basic requirements as respects the hull insurance coverage are that (a) the United States of America be the sole loss payee; (b) the vessel be insured for its full commercial value but in no event less than 110 percent of the outstanding balance of the note secured by the mortgage; and (c) the policy contain satisfactory Inchmaree and breach of warranty clauses. In the past, as a service to our borrowers and to potential borrowers, the interested public was notified that the Commercial Fishermen's Inter-Insurance Exchange had a master hull policy which, both in form and substance, met the requirements of our mortgage. This notice was merely informational and did not require the utilization of said master hull policy. This master hull policy expires on January 1, 1973.

The National Marine Fisheries Service in fulfilling its obligations under the Fish and Wildlife Act of 1956, as amended and reorganization plan No. 4 of 1970, desires to again notify the interested public of the existence of any master hull policies which may be available to commercial fishing vessel owners or operators whose vessels serve as collateral for fisheries loans. The name of any qualifying insurance company submitting a master hull policy, found acceptable for use in connection with the National Marine Fisheries Service lending program, will be placed in an informational release along with the applicable premium charges. While this release will be distributed to the interested public there will be no compulsion that a borrower utilize any master hull policy listed in such release.

Notice is hereby given of the intent to issue a request for such proposals. Interested persons may submit written comments, suggestions, or objections with respect to this request for proposals to the Director, National Marine Fisheries Service, Department of Commerce, Washington, D.C. 20235, by December 31, 1972.

PHILIP M. ROEDEL,
Director.

[FR Doc.72-21472 Filed 12-13-72; 8:47 am]

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Food and Drug Administration MANUFACTURERS AND DISTRIBUTORS Notice of Prescription Drugs for Human Use Affected by Drug Efficacy Study Implementation

Virtually all National Academy of Sciences-National Research Council re-

ports on prescription drugs for human use have been evaluated by the Food and Drug Administration and published in the FEDERAL REGISTER, and the remainder will appear shortly. This notice will inform manufacturers and distributors of prescription drugs for human use affected by the drug efficacy study about the future implementation schedule for this program.

1. On October 11, 1972, Judge William B. Bryant of the U.S. District Court for the District of Columbia entered the following order in the case of Civil No. 1847-70:

Pursuant to this court's memorandum and order entered August 23, 1972, it is hereby ordered that:

I. Defendants shall release and make available to the public immediately all reports of the National Academy of Sciences-National Research Council (NAS-NRC) relating to the effectiveness of drugs approved for marketing between 1938 and 1962, which have previously been received by the Food and Drug Administration and not heretofore released, and shall release all such reports received in the future immediately upon receipt.

II. Defendants shall proceed expeditiously, using available resources and personnel to the maximum extent feasible consistent with its other obligations under the law, to complete implementation of the drug effectiveness review with respect to human drugs as soon as possible.

III. Within 120 days from the date of this order, defendants shall evaluate all NAS-NRC reports for drugs not previously evaluated, and publish in the FEDERAL REGISTER an evaluation of each product as "effective," or "less than effective." For purposes of setting implementation priorities, each "less than effective" drug shall be further classified as "probably effective," "possibly effective," or "ineffective" for each of its multiple indications. For a drug with multiple indications, overall classification of the drug shall depend on the highest evaluation given to any one of its multiple indications. Defendants may defer such evaluation for a limited number of drugs where further clarification from the NAS-NRC is requested or where further consultation with outside experts is pursued; in these situations a report shall be filed with the court which shall be available for public inspection, and evaluation shall proceed as rapidly as is feasible.

IV. Defendants shall, beginning immediately, proceed to implementation of the drug effectiveness review with respect to human prescription drugs classified as "ineffective," in accordance with the following procedures, priorities, and time limitations:

A. For each drug subject to paragraph III which is classified as "ineffective," a notice of opportunity for hearing on a proposal to withdraw approval of the new drug application or form 5 for such drug shall be published in the FEDERAL REGISTER concurrently with the publication on that evaluation.

B. Within 60 days from the date of this order, a notice of opportunity for hearing shall be published for all drugs previously classified in an evaluation published in the FEDERAL REGISTER as "ineffective" but for which such a notice has not yet been published, unless a review of new data or information results in reclassification of the drug. If the drug is reclassified, an appropriate notice shall be published in the FEDERAL REGISTER and implementation with respect to the drug shall be handled as set out below.

C. With respect to each drug previously classified as "ineffective" and for which a notice of opportunity for hearing has already been published in the FEDERAL REGISTER, a final order shall be published in the FEDERAL REGISTER ruling on such notice as follows:

(1) Within 60 days from the date of this order, where no request for hearing has been filed in response to the notice of opportunity for hearing within the statutory time limit or where a request for hearing is supported by no data or information whatever; and

(2) Within 150 days from the date of this order, where a request for hearing supported by data and information has been filed in response to such proposal.

D. Within 12 months of this order, for a drug determined to be "ineffective" and for which a notice of opportunity for hearing has been published pursuant to paragraphs IV (A) and (B) of this order, a final order shall be published in the FEDERAL REGISTER ruling upon such request for hearing.

E. Work on administrative hearings and on court actions with respect to withdrawal of new drug applications and form 5's for drugs classified as "ineffective" and removal of other marketed drugs covered by such applications and form 5's shall take precedence over work on drugs classified as "possibly" or "probably effective" or as "effective."

V. Defendants shall proceed to implementation of the drug effectiveness review with respect to human prescription drugs classified as "possibly effective," in accordance with the following procedures, priorities, and time limitations:

A. Within 15 months of this order a notice of opportunity for hearing shall be published in the FEDERAL REGISTER.

B. Within 30 months of this order a final order ruling on any request for hearing filed within the statutory time limit in response to a notice under subparagraph A above shall be published in the FEDERAL REGISTER.

C. Work on administrative hearings and on court actions with respect to withdrawal of new drug applications and form 5's for drugs classified as possibly effective and removal of other marketed drugs covered by such applications and form 5's shall take precedence over work on drugs classified as "probably effective" or as "effective."

VI. Defendants shall proceed to implementation of the drug effectiveness review with respect to human prescription drugs classified as "probably effective" in accordance with the following procedures, priorities, and time limitations:

A. Within 33 months of this order a notice of opportunity for hearing shall be published in the FEDERAL REGISTER.

B. Within 42 months of this order a final order ruling on any request for hearing filed within the statutory time limit in response to a notice under subparagraph A above shall be published in the FEDERAL REGISTER.

C. Work on administrative hearings and on court actions with respect to withdrawal of new drug applications and form 5's for drugs classified as "probably effective" and removal of other marketed drugs covered by such applications and form 5's shall take precedence over work on drugs classified as "effective."

VII. Defendants shall proceed to implementation of the drug effectiveness review with respect to human prescription drugs classified as "effective" but with one or more less than effective indications pursuant to 21 U.S.C. 355(e) in accordance with the following procedures, priorities, and time limitations:

A. Within 45 months of this order and after a refusal to delete all less than effective indications a notice of opportunity for hearing shall be published in the FEDERAL REGISTER.

B. Within 48 months of this order a final order ruling on the request for hearing filed within the statutory time limit in response to a notice under subparagraph A above shall be published in the FEDERAL REGISTER.

VIII. Defendants may implement the drug effectiveness review with respect to any specific "possibly effective" or "probably effective" or "ineffective" drug not in accordance with the priorities established in paragraphs IV-VII where public health considerations or administrative efficiency justify such action.

IX. An order to withdraw the drugs shall be issued concurrently with any denial of a request for a hearing made under paragraphs IV(C), IV(D), V(B) of this order. Defendants may grant a stay of such order in appropriate cases.

X. Defendants shall not grant any extension of time for any request for a hearing or other response to a notice of opportunity for hearing.

XI. Any notice of opportunity for hearing shall permit any person with an interest in an identical, related or similar product which is covered by the new drug application or antibiotic monograph an opportunity to submit data and information on the effectiveness of the drug and a statement why the new drug application or form 5 should not be withdrawn and/or why a hearing should be held to consider the matter.

XII. Defendants shall schedule and conduct administrative hearings, when required by 21 CFR 130.14(B), as expeditiously as practicable.

XIII. Upon withdrawal of a new drug application or form 5, defendants shall make a good faith effort to find all identical, related, or similar products which are covered by the new drug application or antibiotic monograph and shall proceed to remove them from marketing as expeditiously as possible.

XIV. A limited number of drugs may remain on the market pending completion of scientific studies to determine effectiveness where there is a compelling justification of the medical need for the drug. Such justification shall be made by defendants in writing, shall be filed with the court, and shall be available for public inspection.

XV. Over-the-counter human drugs which are the subject of NAS-NRC reports shall be reviewed and handled pursuant to the procedure established in the FEDERAL REGISTER of May 11, 1972 (37 F.R. 9464 et seq.).

XVI. This order does not affect the interim labeling and advertising requirement imposed by the Food and Drug Administration in the FEDERAL REGISTER of June 8, 1971 (36 F.R. 11022) and February 12, 1972 (37 F.R. 3175).

XVII. Six months after the date of this order, and every 6 months thereafter until completion of the implementation of the drug effectiveness review, a report on the actions implementing this order shall be submitted to this court and shall be available for public inspection.

Such reports shall include:

(1) Statistical data showing actions taken on each of the various categories of drugs during the previous 6 months and the number of drugs in the various stages of review;

(2) Statistical data on work yet to be accomplished in the drug effectiveness review according to the various categories of drugs and the various stages of review;

(3) The number and kinds of personnel who were assigned to the drug effectiveness review at the start and the conclusion of the previous 6 months and the estimated time each category of personnel spent on the review during this period;

(4) The predicted number and kinds of personnel who will be assigned to the drug

effectiveness review during the next 6 months and the estimated time each category of personnel will spend on the review during this period;

(5) Detailed information concerning any failure to comply with this order and the reasons for this failure; and

(6) Any problems anticipated for the next 6 months in complying with this order and possible methods for overcoming these problems.

XVIII. The Court expressly retains jurisdiction over this proceeding to amend or modify any provisions of this Order as may be required.

WILLIAM B. BRYANT,
Judge.

OCTOBER 10, 1972.

The Food and Drug Administration does not concur in the legality of this order. Because the court order adopts the implementation plan proposed by the Food and Drug Administration and recognizes the administrative flexibility and discretion provided by law to the agency in implementing the Drug Amendments of 1962, however, it has been concluded that no appeal will be taken from the order at this time. The Food and Drug Administration will continue to proceed expeditiously with this program and will make every effort to achieve full compliance with the provisions of the court order.

2. Pursuant to the court order, all oral or written extensions of time previously granted by the Food and Drug Administration under the DESI program, permitting further testing of drugs, are hereby revoked. Manufacturers and distributors of drugs are hereby notified that implementation of the DESI program will generally proceed according to the schedule outlined in paragraphs IV-VII of the court order, but that under paragraph VIII any drug may be the subject of a notice of opportunity for hearing or other appropriate action at any time in the future.

3. Pursuant to paragraph XIV of the court order, the Food and Drug Administration has filed with the court the following list of drugs, together with the justification of medical need, which may remain on the market pending completion of scientific studies to determine effectiveness notwithstanding the other provisions of the court order:

I. CORONARY VASODILATORS (ANTI-ANGINAL DRUGS)

Isordil (isosorbide dinitrate).
Mannitol hexanitrate.
Trolnitrate phosphate.
Pentaerythritol tetranitrate.
Persantine (dipyridamole).

II. PERIPHERAL VASODILATORS

Cyclospasmol (cyclandelate).
Roniacol (nicotinyln tartrate).
Paveril PO₄ (dioxylone phosphate).
Arlidin (nylidrin hydrochloride).

The first four coronary vasodilators, which are administered orally, and the fifth, also administered orally, were found "possibly effective" for prevention of anginal attacks, as published in the FEDERAL REGISTER on February 25, 1972, and February 17, 1971, respectively. Isosorbide dinitrate when administered sub-

lingually was found to be "probably effective" for treatment and prevention of anginal attacks.

The peripheral vasodilators were found possibly effective for symptoms associated with peripheral vascular disease, as published in the FEDERAL REGISTER on July 20, 1971, and September 18, 1970.

It is appropriate that these two classes of drugs be considered as an entity since etiologies are similar. Post mortem examinations have shown that 50 percent of American military casualties, at an average age of 22 years, had gross evidence of atherosclerosis. By age 50 the incidence rises to over 90 percent and nearly 50 percent have marked narrowing of one or more of the main coronary arteries. Heart disease and stroke are the number one cause of death in this country. Morbidity due to peripheral atherosclerosis is comparably high.

Atherosclerosis decreases arterial capacity and, when this becomes inadequate to meet the demand for blood supply, symptoms result. The outstanding symptoms are heart pain (angina pectoris) in the case of coronary artery involvement and leg pain in the case of peripheral vascular disease.

There are no drugs rated as effective for symptoms due to peripheral vascular disease. There are currently no effective drugs for long term prophylaxis of angina pectoris. Nitroglycerin, when given sublingually, is effective in the treatment of an acute attack and to abort an acute attack when given immediately prior to an activity expected to provoke an attack, but there is a definite need for drugs which can be taken orally on a chronic basis to decrease the incidence of attacks over the long term.

Because of the many variables and vagaries characteristic of the disease, complex protocols and studies of years duration are justifiable and necessary to arrive at meaningful data. There is a great need for additional ameliorating therapy of this kind. The use of these drugs will not supplant or distract from the use of effective ones since none are currently proved to be effective. The inherent hazards in the use of these drugs are negligible.

This includes the peripheral vascular drugs listed. It also includes the short acting oral forms of anti-anginal drug formulations (not "sustained release" forms designed to release the active ingredient over a prolonged period) and the sublingual form of isosorbide dinitrate.

III. TOPICAL ANTIBIOTICS

Neomycin, polymyxin and bacitracin (or gramicidin).
Neomycin, polymyxin and bacitracin (or gramicidin) with a steroid.
Chloramphenicol.
Erythromycin.

These topical antibiotics should be permitted to remain on the market pending reevaluation of the published classification or completion of scientific studies to determine effectiveness, since there are no alternatives available other than one which has been approved since 1962

to which resistant organisms have developed frequently.

Neomycin, polymyxin and bacitracin (or gramicidin) topical preparations with and without steroid were considered "possibly effective" for infected dermatoses and localized infections, respectively, as published in the FEDERAL REGISTER on June 29, 1972, and June 6, 1972, respectively. Chloramphenicol topical cream was considered "probably effective" for local infections, as published in the FEDERAL REGISTER on November 28, 1970. Erythromycin topical ointment was considered "possibly effective" for the treatment of local infections, as published in the FEDERAL REGISTER on June 17, 1971.

The vast majority of cutaneous bacterial infections are due to staphylococci and streptococci. A small number are due to proteus, pseudomonas and other organisms. If infections with the gram-negative organisms are impetigo-like and not deep and spreading, they may be treated with topical antibiotics because systemically administered agents for these organisms would be used for most skin infections since they are usually due to staphylococci and streptococci. Polymyxin might be added to combat some of the pseudomonas and other gram-negative bacteria. Topical hydrocortisone (or other steroid) is effective in the treatment of many of the eczematous dermatoses. Superficial, relatively localized, non-spreading infections superimposed on an eczematous dermatosis may be adequately treated with topical antibiotics. Further study of available information is required to determine effectiveness for specific conditions.

IV. COMBINATION OTIC SOLUTIONS OR SUSPENSIONS

Achromycin Ear Solution (tetracycline HCl and benzocaine).
 Aerosporin Otic Solution (polymyxin B sulfate, propylene glycol and acetic acid).
 Chloromycetin Otic Solution (chloramphenicol and benzocaine).
 Lidospirin Otic Solution (polymyxin B sulfate and lidocaine HCl).
 Vosol (acetic acid, benzethonium chloride and propylene glycol).
 Vosol HC (acetic acid, benzethonium chloride, propylene glycol and hydrocortisone).
 Cortisporin Otic Drops (neomycin, polymyxin, and hydrocortisone).
 Colymycin-S Otic (neomycin, colistin, hydrocortisone).
 Neo-Polycin Otic Suspension (neomycin sulfate-polymyxin B sulfate-dyclonine).
 Neo-Polycin HC Otic Suspension (neomycin sulfate-polymyxin B sulfate-dyclonine-hydrocortisone acetate).
 Florotic Otic Suspension (nystatin-neomycin sulfate-polymyxin B sulfate-fludrocortisone acetate).
 Cor-Otic PN (neomycin sulfate-polymyxin B sulfate-hydrocortisone).
 Bro-Parin (polymyxin B sulfate-neomycin sulfate-heparin sodium-hydrocortisone).
 Terramycin-Polymyxin Otic Powder (oxytetracycline HCl-polymyxin B sulfate-benzocaine-propylene glycol).
 Neomycin-Polymyxin (neomycin sulfate-polymyxin B sulfate).
 Oto Reid (neomycin sulfate-polymyxin B sulfate).
 Fyocidin (polymyxin B sulfate-propylene glycol).

Ratings for these products were published at various times beginning in 1970. They were labeled as "possibly" or "probably effective" for treatment of ear infections.

Otic solutions or suspensions containing one or more anti-infective agents, with or without a steroid or local anesthetic, should be permitted to remain on the market pending reevaluation of the published classification or completion of scientific studies to determine effectiveness, since there are no alternatives available.

Because of the anatomical configuration of the external auditory canal, its dimensions become much smaller when it is infected and inflamed. The quantity of medication which can be instilled is very small. If two or more preparations were to be used separately, much of the medication would not reach the affected area. Many times, the attending physician must use a wick of very small diameter which is kept moist by the application of the medication. If extemporaneously mixed prescriptions were to be used, there would be a decrease in uniformity and sterility, as compared with the currently formulated combinations.

V. NARCOTIC ANALGESIC

Numorphan (oxymorphone hydrochloride) rectal suppository.

This drug was rated as "possibly effective" for moderate to severe pain, as published in the FEDERAL REGISTER of August 26, 1970. This is the only narcotic analgesic with this unique dosage form. This route of administration may serve as a substitute for injections and as a substitute for oral medication, for example, when the patient cannot tolerate oral drugs because of nausea and vomiting.

VI. DIAGNOSTIC AGENTS

Diagnex Blue (azuresin).

This compound was rated as "possibly effective," as published in the FEDERAL REGISTER on October 14, 1971.

Diagnex Blue is an agent for oral administration. It is used as a diagnostic screening test for determining the presence of free hydrochloric acid in the stomach. The only alternative to the Diagnex Blue method is introduction of a tube into the stomach. This involves considerably more time, expense, and patient discomfort, than the "tubeless" Diagnex Blue method. The Diagnex Blue method appears to provide useful information in a significant number of patients who are thus spared the time, expense and discomfort of the tube method.

VII. BLEPHAMIDE (SODIUM SULFACETAMIDE PREDNISOLONE ACETATE, PHENYLEPHRINE HYDROCHLORIDE, POVIDONE) AND RELATED FIXED COMBINATION OPHTHALMIC STEROID-ANTI-INJECTIVE DRUGS

There were a number of FEDERAL REGISTER publications concerning these combinations, e.g., on July 17, 1971. These combinations were rated as "possibly effective" for their numerous label indications.

It is recommended that this class of drugs be retained on the market pending additional clinical trials because of their apparent singular effectiveness for treatment of marginal keratitis secondary to staphylococcus blepharocconjunctivitis. Other indications in which these combinations appear to be clinically effective are phlyctenular kerato-conjunctivitis, vernal catarrh and allergic conjunctivitis with chronic bacterial conjunctivitis. In addition, such combinations are frequently used by ophthalmologists postoperatively to cut down on inflammatory reactions. It is necessary to establish by clinical trials which particular combinations and concentrations are effective for specific indications.

VIII. AMMONIA DETOXICANT

Modumate (arginine glutamate).

A FEDERAL REGISTER statement was published on June 3, 1971, stating that Modumate was "possibly effective" for use in conditions associated with elevated ammonia levels.

At the present time, there are orally administered drugs which are classified as effective for this particular indication. However, Modumate is parenterally administered and there are no other parenteral drugs specific for this indication. Uncontrolled studies utilizing Modumate indicated that all hepatic coma in acute necrosis, as well as in cirrhosis, responded to this drug. Subsequently, only those patients with hyperammonemia were found to respond. It was the opinion of the NAS/NRC that a use could be found for this drug in patients with cirrhosis who developed deep coma from exogenous ammonia intoxication, i.e., too much dietary protein or diuretic therapy. In such instances, brain damage may be lessened by use of this drug. Further testing is needed to confirm this opinion.

IX. ANTIFIBROTIC

Potaba (potassium aminobenzoate).

A FEDERAL REGISTER statement was published on August 28, 1970, stating that Potaba is possibly effective in the treatment of scleroderma, dermatomyositis, morphea, linear scleroderma, pemphigus, and Peyronie's disease.

At the present time there is no other drug classified as effective for scleroderma (systemic sclerosis), although there is a definite medical need for such. In their evaluation, the NAS/NRC commented that the long-term treatment with Potaba of patients with this disease may be accompanied by softening of the involved skin. The chief investigator in one study (3) stated: "With respect to the antifibrotic response, every patient (more than 135 with systemic sclerosis) but one has shown softening of the involved skin if treatment had been continued for 3 months or longer." Unfortunately, success of this magnitude has not been achieved by other clinicians and investigators. In another study by Lansbury (2), he stated "significant improvement is not to be expected before 3 months of treatment by which time softening of skin and improvement in general well being often occur * * *. From

personal experience we have no doubt that Potaba has a beneficial effect, sometimes striking, on the cutaneous manifestations of scleroderma in many, but not all patients." Other investigators have the impression that the acute inflammatory skin lesions are particularly responsive. A publication by Bushnell (1), based on a pilot study that attempts to apply the double-blind technique, with periodic objective clinical measurements, apparently documents gradual increase in skin mobility in patients receiving Potaba. Further testing is needed to show effectiveness.

REFERENCES

1. Bushnell, W. J., G. J. Galens, L. E. Bartholomew, G. Thompson, and I. F. Duff. The treatment of progressive systemic sclerosis: a comparison of para-amino-benzoate and placebo in a double-blind study. *Arthritis-Rheum*, 9:495-496, 1966 (Abstract).
2. Lansbury, J., and R. R. Joseph. Scleroderma calcinosis, serum sickness, erythema nodosum, Henoch-Schönlein purpura. In J. L. Hollander, Ed. *Arthritis and Allied Conditions*. (7th Ed.) Philadelphia: Lea and Febiger, 1966.
3. Zarafonitis, C. J. D. Antifibrotic therapy with Potaba. *Amer. J. Med. Sci.* 248:550-561, 1964.

X. ANABOLIC STEROIDS

Stanozolol.	Nandrolone	Phen-
Oxymetholone.	propionate.	
Methandrostenolone.	Norethandrolone.	
Nandrolone Decano-	ate.	

A FEDERAL REGISTER statement was published on June 24, 1970, stating that these drugs are probably effective as adjunctive therapy in the treatment of senile and post-menopausal osteoporosis, and in pituitary dwarfism (until growth hormone is more available).

At the present time there are no other drugs classified as effective for these conditions, although there is definite need for such. In their evaluation the NAS/NRC commented that no single agent has been defined as being effective in treating postmenopausal and senile osteoporosis. The panel also noted that there is little evidence of unanimity of opinion regarding the therapy of osteoporosis. The use of hormones in treatment of osteoporosis is without value as a primary therapy and good general health-promoting measures. The NAS/NRC also commented that there is sufficient evidence that all anabolic agents advance bone age. These agents may be used in selection cases of growth failure with extreme caution, and in pituitary dwarfism until growth hormone is more available. Further testing is needed to demonstrate effectiveness.

XI. PARENTERAL MULTIVITAMIN PRODUCTS

Breonex L.	Injectable.
Injectable.	Vi-Syneral
Breonex M	Injectable.
Injectable.	Manibee Injectable.
Beclsyl Injectable.	Manibee-C 500
Parbexin Injectable.	Injectable.
Berocca-C	Betolake Improved
Injectable.	Injectable.
Berocca-C 500	M.V.I. Injectable.
Injectable.	Soluzyme Injectable.
Folbesyn	

These parenteral multivitamins have been declared "ineffective" as currently formulated in a FEDERAL REGISTER statement dated February 27, 1972. Because of the critical medical importance of parenteral multivitamins in preventing or treating hypovitaminosis in certain disease states or postoperative conditions, the lack of any alternative drugs for this purpose, and the fact that the only issue involved is the precise formulation that is appropriate for these products, these products should remain on the market until appropriate reformulation can be agreed upon by experts.

XII. GUANIDINE

A FEDERAL REGISTER announcement published March 27, 1970, declared this drug product ineffective for the claimed indication (myasthenia gravis). However, the NAS/NRC panel commented that this product may be valuable in the palliative treatment of the Eaton-Lambert Syndrome (Myasthenia Syndrome associated with cancer). Although this has not as yet been verified, this drug product remains on the market as an interim measure because there is no other available product for the treatment of this rare and serious syndrome.

Every manufacturer or distributor of one of these drugs, or of an identical, related, or similar product, who has not already begun the studies required to demonstrate effectiveness, or who has begun studies but has not yet discussed the protocols with the Food and Drug Administration, is required to meet with the Food and Drug Administration within 30 days from the publication date of this notice to discuss and agree to undertake the studies necessary to justify continued marketing of the product.

Any interested person may petition the Commissioner of Food and Drugs to add a drug to, or remove a drug from, this list. Any such petition shall include medical evidence and analysis relating to the uniqueness of the drug or lack thereof, the availability of safe and effective alternative drugs or lack thereof, or other compelling justification of the medical need for the drug or lack thereof. No drug product or indication will be permitted to remain on the market pursuant to paragraph XIV of the court order unless the Food and Drug Administration concludes that the manufacturer or distributor is conducting whatever studies are adequate and appropriate to show its safety and effectiveness.

4. In accordance with paragraphs XI and XIII of the court order, and 21 CFR 130.40 (37 F.R. 23185, October 31, 1972), any person with an interest in a product that is identical, related, or similar to a drug reviewed in a DESI notice or notice of opportunity for hearing shall have an opportunity to submit data and information on the effectiveness of the drug and a statement why the new drug application should not be withdrawn and/or why a hearing should be held to consider the matter. If a hearing is held, all such interested persons shall have an opportunity to participate as a party. All prior notices have been so construed and applied.

5. Any provisions in any prior notice published by the Food and Drug Administration or in any oral or written communication from the Food and Drug Administration which are not in accord with the court order and with this notice are hereby revoked.

This notice is issued pursuant to provisions of the Federal Food, Drug, and Cosmetic Act (secs. 505, 701, 52 Stat. 1052-1053, as amended; 21 U.S.C. 355, 371), the Administrative Procedure Act (5 U.S.C. 553, 554), and under authority delegated to the Commissioner (21 CFR 2.120).

Dated: December 11, 1972.

SAM D. FINE,
Associate Commissioner
for Compliance.

[FR Doc.72-21556 Filed 12-13-72;8:51 am]

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. D-72-211]

ASSISTANT SECRETARY FOR ADMINISTRATION

Delegation of Authority Regarding Administrative Settlement of Ir- regularities in Accountable Officers' Accounts

SECTION A. *Authority delegated.* The Assistant Secretary for Administration is authorized to exercise the authority of the Secretary of Housing and Urban Development under the provisions of 7 GAO 28.14 with respect to resolving, by administrative action, irregularities in accountable officers' accounts. This authority does not apply to exceptions or charges raised by the General Accounting Office.

Sec. B. *Authority to redelegate.* The Assistant Secretary for Administration may redelegate the authority in section A to subordinates. This delegation supersedes the previous unpublished delegation effective April 15, 1972.

(Sec. 7(d), Department of HUD Act, 42 U.S.C. 3535(d))

Effective date. This revised delegation of authority shall be effective as of November 15, 1972.

GEORGE ROMNEY,
Secretary of Housing
and Urban Development.

[FR Doc.72-21525 Filed 12-13-72;8:50 am]

[Docket No. D-72-210]

ASSISTANT SECRETARY FOR ADMINISTRATION

Delegation of Authority Regarding Irregularities in Accountable Offi- cers' Accounts GAO

SECTION A. *Authority delegated.* The Assistant Secretary for Administration is authorized to exercise the authority of

the Secretary of Housing and Urban Development under the provisions of 7 GAO 28.14 and 3 GAO 30.1 relative to reporting irregularities and requesting relief therefor.

Sec. B. *Authority to redelegate.* The Assistant Secretary for Administration may redelegate the authority in section A to subordinates. This delegation supersedes the previous unpublished delegation effective April 15, 1972.

(Sec. 7(d), Department of HUD Act, 42 U.S.C. 3535(d))

Effective date. This revised delegation of authority shall be effective as of November 15, 1972.

GEORGE ROMNEY,
Secretary of Housing
and Urban Development.

[FR Doc.72-21524 Filed 12-13-72; 8:50 am]

DEPARTMENT OF TRANSPORTATION

Federal Highway Administration NATIONAL ADVISORY ON UNIFORM TRAFFIC CONTROL DEVICES

Notice of Open Meeting

The annual meeting of the National Advisory Committee on Uniform Traffic Control Devices will be held on January 18 and 19, 1973, at the Twin Bridge Marriott Motor Hotel, Washington, D.C. General sessions will begin at 1 p.m. For further information, including a roster of committee members, please contact the Office of Traffic Operations, Federal Highway Administration, 400 Seventh Street, SW., Washington, DC 20590, or telephone area code 202-426-0411. Attendance by the public will be limited to space available.

Purpose. This Committee reviews currently approved standards, guides and warrants for traffic control devices contained in the Manual on Uniform Traffic Control Devices, the national standard for all classes of highways. Revisions and proposed new standards to meet new developments and improvements are developed as needed.

The Committee makes studies, conducts investigations, prepares reports, develops recommendations and advice to assist the Federal Highway Administrator in developing appropriate standards as authorized in 23 U.S.C. 109(d) and 402(a).

Agenda. Agenda items will include annual reports of the chairmen of the technical subcommittee on signs, signals, pavement markings, and traffic controls for construction and maintenance areas. Recommendations from the subcommittees for proposed additions to or revisions

in current traffic control device standards will be discussed. A report on short range and long range objectives of the Committee will be presented and discussed. Work sessions by each technical subcommittee will be held January 19 at 8 a.m.

This notice is given pursuant to section 13 of Executive Order 11671 dated June 5, 1972.

Issued on December 8, 1972.

JAMES D. LACY,
Director, Office of Traffic Operations,
Federal Highway Administration.

[FR Doc.72-21492 Filed 12-13-72; 8:45 am]

ATOMIC ENERGY COMMISSION

[Dockets Nos. 50-413, 50-414]

DUKE POWER CO.

Notice of Receipt of Application for Construction Permits and Facility Licenses and Availability of Applicant's Environmental Report; Time for Submission of Views on Antitrust Matter

Duke Power Co., Post Office Box 2178, 422 South Church Street, Charlotte, NC 28201, pursuant to section 103 of the Atomic Energy Act of 1954, as amended, has filed an application which was docketed October 27, 1972, for authorization to construct and operate two pressurized water nuclear reactors at its site, located in York County, S.C. The site consists of 2,000 acres and is located on the shore of Lake Wylie.

The proposed nuclear facilities, designated by the applicant as Catawba Nuclear Station, Units 1 and 2, are designed for initial operation at approximately 3,411 megawatts (thermal) for each unit with a net electrical output of approximately 1180 megawatts for each unit.

Any person who wishes to have his views on the antitrust aspects of the application presented to the Attorney General for consideration shall submit such views to the Commission within sixty (60) days after December 1, 1972.

A copy of the application is available for public inspection at the Commission's Public Document Room, 171 H Street NW., Washington, DC 20545, and at the York County Library, 325 South Oakland Avenue, Rock Hill, SC 29730.

Duke Power Co. has also filed, pursuant to the National Environmental Policy Act of 1969 and the regulations of the Commission in Appendix D to 10 CFR Part 50, a report entitled, "Duke Power Company, Catawba Nuclear Station Units 1 and 2, Environmental Report." The report has been made available for public inspection at the

above-mentioned locations. The report, which discusses environmental considerations related to the proposed construction of Catawba Nuclear Station, Units 1 and 2, is also being made available at the Office of the Governor, Division of Administration, Wade Hampton Office Building, Columbia, S.C., and at the Central Piedmont Regional Planning Commission, Post Office Box 862, 107 Hampton Street, Rock Hill, S.C. 29730.

After the report has been analyzed by the Commission's Director of Regulation or his designee, a draft environmental statement related to the proposed action will be prepared by the Commission. Upon preparation of the draft environmental statement, the Commission will, among other things, cause to be published in the FEDERAL REGISTER, a summary notice of availability of the draft statement. The summary notice will request comments from interested persons on the proposed action and on the draft statement. The summary notice will also contain a statement to the effect that comments of Federal agencies and State and local officials thereon will be made available when received.

Dated at Bethesda, Md., this 28th day of November 1972.

For the Atomic Energy Commission.

KARL R. GOLLER,
Acting Assistant Director for
Pressurized Water Reactors,
Directorate of Licensing.

[FR Doc.72-20740 Filed 12-6-72; 8:45 am]

CIVIL AERONAUTICS BOARD

[Docket No. 24421]

SERVICE TO SAIPAN CASE

Notice of Hearing

Notice is hereby given, pursuant to the provisions of the Federal Aviation Act of 1958, as amended, that a hearing in the above-entitled proceeding will be held on January 4, 1973, at 10 a.m. (local time), in Room 911, Universal Building, 1825 Connecticut Avenue, NW., Washington, DC, before the undersigned administrative law judge.

For information concerning the issues involved and other details in this proceeding, interested persons are referred to the prehearing conference report served on September 21, 1972, and other documents which are in the docket of this proceeding on file in the Docket Section of the Civil Aeronautics Board.

Dated at Washington, D.C., December 8, 1972.

[SEAL] MILTON H. SHAPIRO,
Administrative Law Judge.

[FR Doc.72-21547 Filed 12-13-72; 8:50 am]

COMMITTEE FOR PURCHASE OF PRODUCTS AND SERVICES OF THE BLIND AND OTHER SEVERELY HANDICAPPED

PROCUREMENT LIST

Notice of Proposed Addition to Initial List

Notice is hereby given pursuant to section 2(a)(2) of the Act to create a Committee on Purchases of Blind-Made Products, as amended, 85 Stat. 79, of the proposed addition of the following commodities and services to the initial procurement list published on pages 16982 through 16997 of the FEDERAL REGISTER of August 26, 1971.

Class 2540:	Anchor kit.....	2540-973-1325
Class 3510:	Net, laundry.....	3510-841-8376
	Do.....	3510-841-8384
Class 5140:	Roll, tool, repairman's.....	5140-335-0085
Class 5510:	Lumber (dowel wood).....	5510-240-0067
	Do.....	5510-240-0068
	Do.....	5510-240-0069
	Do.....	5510-240-0070
	Do.....	5510-240-0071
	Do.....	5510-171-6706
Class 6230:	Light marker distress.....	6230-067-5209
Class 6515:	Adapter, oxygen flow-control assembly.....	6515-369-7342
	Do.....	6515-369-7343
	Do.....	6515-369-7344
	Do.....	6515-369-7346
	Do.....	6515-369-7336
	Do.....	6515-369-7331
	Do.....	6515-369-7330
	Catheter, external (Texas catheter).....	
Class 6532:	Shirts, large.....	6532-740-000
	Shirts, medium.....	6532-740-010
	Shirts, small.....	6532-740-020
	Trousers, large.....	6532-935-000
	Trousers, medium.....	6532-935-010
	Gown, operating, surgical, overlapping, large.....	6532-417-075
	Gown, operating, surgical, overlapping, medium.....	6532-417-085
	Coat, men's pajamas, cotton, check weave, X/small.....	6532-111-0598
	Coat, men's pajamas, cotton, check weave, small.....	6532-111-0699
	Coat, men's pajamas, cotton, check weave, X/large.....	6532-111-0700
	Coat, men's pajamas, cotton, check weave, large.....	6532-111-0701
	Coat, men's pajamas, cotton, check weave, medium.....	6532-111-0702
	Trousers, men's pajamas, cotton, check weave, X/small.....	6532-111-0703
	Trousers, men's pajamas, cotton, check weave, small.....	6532-111-0704
	Trousers, men's pajamas, cotton, check weave, X/large.....	6532-111-0705
	Trousers, men's pajamas, cotton, check weave, large.....	6532-111-0706
	Trousers, men's pajamas, cotton, check weave, medium.....	6532-111-0707
	Dress, woman's.....	6532-335-000
	Do.....	6532-335-010
	Shirts, convalescent, patients.....	6532-732-610
	Do.....	6532-732-620

Class 6532—Continued	Trousers, convalescent, patients.....	6532-185-6770
	Do.....	6532-185-6771
Class 6840:	Deodorant, general purpose, type I.....	6840-246-6438
	Deodorant, general purpose, type II.....	6840-664-6610
Class 7230:	Window shades.....	
Class 7430:	Cover, typewriter.....	7430-823-8080
	Do.....	7430-823-8081
	Do.....	7430-823-8082
	Do.....	7430-823-8083
	Do.....	7430-823-8084
	Do.....	7430-823-8085
	Do.....	7430-823-8090
	Do.....	7430-823-8060
	Do.....	7430-823-8087
Class 7510:	Binder clips.....	7510-223-6807
	Do.....	7510-223-6809
	Do.....	7510-223-6810
	Do.....	7510-262-8201
	Do.....	7510-285-5995
	Pencil pointer.....	7510-171-1742
	Do.....	7510-237-4926
	Pen cleaner, liquid.....	7510-237-7991
	Do.....	7510-558-2422
Class 7520:	Trimmer paper drop knife.....	7520-224-7620
	Do.....	7520-163-2568
	Do.....	7520-634-4675
Class 7530:	Paper, writing.....	7530-285-5836
Class 7690:	Decalcomania.....	
	Do.....	7690-857-9975
	Do.....	7690-857-9663
	Do.....	7690-857-9661
	Do.....	7690-857-9612
	Do.....	7690-857-9614
	Do.....	7690-857-9613
	Do.....	7690-857-9572
	Do.....	7690-857-9574
	Do.....	7690-857-9573
	Do.....	7690-857-9611
	Do.....	7690-857-9698
	Do.....	7690-857-9699
	Do.....	7690-857-9700
	Do.....	7690-858-3403
	Do.....	7690-858-3405
	Do.....	7690-858-3855
	Do.....	7690-858-3866
	Do.....	7690-857-9701
	Do.....	7690-310-6327
	Do.....	7690-311-7272
	Do.....	7690-311-7276
	Do.....	7690-328-9507
	Do.....	7690-328-9517
	Do.....	7690-329-0204
	Do.....	7690-329-0205
	Do.....	7690-329-0206
	Do.....	7690-329-0538
	Do.....	7690-329-0540

Class 7690—Continued

Markers, Identification (Item 2 and 3) 7690-145-7276
 Markers, Identification (Item 4) 7690-145-7277
 Markers, Identification (Items 0001AA and 0001AB) 7690-310-9208
 Markers, Identification (Items 0001 through 0012) 7690-138-4125
 Markers, Identification 7690-311-7128
 Item 0002 7690-311-7128
 Item 0004 7690-311-7128
 Item 0005 7690-311-7128
 Item 0006 7690-311-7128
 Item 0007 7690-311-7128
 Item 0009 7690-311-7128
 Item 0010 7690-311-7128
 Item 0012 7690-311-7128
 Item 0013 7690-311-7128
 Item 0015 7690-311-7128
 Item 0016 7690-311-7128
 Item 0018 7690-311-7128
 Item 0019 7690-311-7128
 Item 0021 7690-311-7128
 Item 0023 7690-311-7128
 Item 0024 7690-311-7128
 Item 0026 7690-311-7128
 Item 0028 7690-311-7128
 Item 0030 7690-311-7128
 Item 0032 7690-311-7128
 Item 0034 7690-311-7128
 Item 0034 7690-311-7128
 Item 0035 7690-311-7128
 Item 0037 7690-311-7128
 Item 0038 7690-311-7128
 Item 0040 7690-311-7128
 Item 0041 7690-311-7128
 Item 0043 7690-311-7128
 Item 0044 7690-311-7128
 Item 0046 7690-311-7128
 Item 0047 7690-311-7128
 Item 0001 through 0028 7690-310-9617
 Item 1 and 2 7690-145-7256
 Item 1 and 2 7690-857-9680
 Item 3 and 4 7690-857-9662
 Item 5 and 6 7690-145-7269

DSA Letters and numerals mounted:

No. 1 through 0.

Letters A through Z.

Class 7910:

Bag, vacuum cleaner 7910-991-0679

Class 7920:

Handle, brush 7920-682-6512

Class 8115:

Box, wood 8115-935-6533
 Do 8115-935-6532
 Do 8115-935-6531
 Do 8115-935-6530
 Do 8115-935-6529
 Do 8115-935-6528
 Do 8115-935-6527
 Do 8115-935-6526
 Do 8115-935-6525
 Do 8115-935-6524
 Do 8115-935-6523

Class 8115—Continued

Box, wood 8115-935-3522
 Do 8115-935-6521
 Do 8115-935-6520
 Do 8115-935-6519
 Do 8115-935-6518
 Do 8115-935-6517
 Do 8115-935-6516
 Do 8115-935-5887
 Do 8115-935-5888
 Do 8115-926-9046
 Do 8115-926-9072
 Do 8115-685-5171
 Do 8115-292-0102
 Do 8115-292-0104
 Do 8115-292-0112
 Do 8115-292-0115
 Do 8115-221-0657
 Do 8115-221-0659
 Do 8115-221-0660
 Do 8115-221-0662
 Do 8115-187-5198
 Do 8115-187-5195
 Do 8115-187-5194
 Do 8115-187-5203
 Do 8115-965-2409

Crate, wood

Class 8410:

Dress womans size 34 white 8410-130-3388

Dress womans size 34 yellow 8410-126-2106

Class 8415:

Strap, soldiers steel helmet, type II (parachutist) 8415-032-2737

Class 8445:

Necktie, women's, bow type 8445-005-8311

Class 8465:

Field pack, canvas nylon, combat (USMC) 8465-860-0337

Field pack, canvas nylon, combat (Army) 8465-935-6825

Case, field, first aid dressing—Unmounted magnetic compass, nylon 8465-935-6814

U.S. Postal Service signs:

U.S. Army, white gloss 600 USPSW
 Do 601 USPSW
 Do 607 USPSW
 Do 642 USPSW
 Do 608 USPSW
 Do 604 USPSW
 Do 622 L-USPSW
 Do 632 USPSW
 Do 633 USPSW
 Do 635 USPSW
 Do 636 USPSW
 Do 637 USPSW
 Do 638 USPSW
 Do 639 USPSW
 Do 640 USPSW
 Do 641 USPSW
 Do 665 L-USPSW
 Do 666 L-USPSW
 Do 672 L-USPSW
 Do 667 L-USPSW
 Do 674 L-USPSW
 Do 675 L-USPSW
 Do 668 L-USPSW
 Do 669 L-USPSW

Military resale items:

Sponges, synthetic, for household use, miscellaneous sized from $1\frac{1}{16}'' \times 3'' \times 4\frac{3}{4}''$ to $1\frac{1}{16}'' \times 4\frac{3}{4}'' \times 7\frac{1}{8}''$. Multiple package assortment.

Tumblers, disposable, all purpose, assorted sizes and colors. For household use.

Services:

Addressographing:

Florida—Greater Miami.
Illinois—Chicago.
Massachusetts—Boston.
Michigan—Detroit.
Missouri—Kansas City and St. Louis.
New Jersey—Essex County.
New York—New York.
Ohio—Cincinnati.
Pennsylvania—Philadelphia.
Wisconsin—Milwaukee.

Carpentry—Wisconsin—Milwaukee.

Cleaning, quarters—California—Fort Ord.

Cleanup/securing of property—Wisconsin—Milwaukee.

Collating:

Florida—Greater Miami.
Illinois—Chicago.
Massachusetts—Boston.
Michigan—Detroit.
Missouri—Kansas City and St. Louis.
New Jersey—Essex County.
New York—New York.
Ohio—Cincinnati.
Pennsylvania—Philadelphia.
Wisconsin—Milwaukee.

Customized signs:

(pantograph) (desk signs, hallways, building, etc.) for Northeast United States, regions I and II—New York—New York.

Duplication of printed materials:

Florida—Greater Miami.
Illinois—Chicago.
Massachusetts—Boston.
Michigan—Detroit.
Missouri—Kansas City and St. Louis.
New Jersey—Essex County.
New York—New York.
Ohio—Cincinnati.
Pennsylvania—Philadelphia.
Wisconsin—Milwaukee.

Electronic data processing:

From alpha and numeric key punch operations through computer operations—New York—Greater New York.

Fire extinguishers: retesting, repair and recharging:

Michigan—Detroit.
Missouri—St. Louis.
New York—Greater New York.

Food services:

Pennsylvania—Philadelphia.
Wisconsin—Milwaukee.

Final assembly and subassembly of food packet, survival, abandon ship—Ohio—Cincinnati.

Furniture repair:

Arizona—Phoenix.
Ohio—Canton, Columbus, Dayton, Toledo, and Youngstown.
Texas—Austin, Corpus Christi, Fort Worth, and Lubbock.
Washington—Spokane.

Grounds maintenance:

New York—New York.
Wisconsin—Milwaukee.
Naval Air Station Washington Whidbey Island.

Miscellaneous maintenance service for Northern Cascade National Park Services—Washington State.

Housing repair and renovation—Wisconsin—Milwaukee.

Inserting of printed materials:

Florida—Greater Miami.
Illinois—Chicago.
Massachusetts—Boston.
Michigan—Detroit.
Missouri—Kansas City and St. Louis.
New Jersey—Essex County.
New York—New York.
Ohio—Cincinnati.
Pennsylvania—Philadelphia.
Wisconsin—Milwaukee.

Janitorial/custodial services—Florida—Greater Miami.

Film developing, Region 8—Denver.

Mail services:

Florida—Greater Miami.
Illinois—Chicago.
Massachusetts—Boston.
Michigan—Detroit.
Missouri—Kansas City and St. Louis.
New Jersey—Essex County.
New York—New York.
Ohio—Cincinnati.
Pennsylvania—Philadelphia.
Wisconsin—Milwaukee.

Office machine repair—New York—Greater New York.

Offset printing service—New York—Greater New York.

Painting—Wisconsin—Milwaukee.

Painting of guard rails—New Jersey—Essex County.

Repackaging of paint thinner—California—Salinas.

Small appliance repair—Florida—Greater Miami.

Typewriter repair—New York—New York.

Not later than thirty (30) days after the publication of this notice in the FEDERAL REGISTER, comments and views regarding the proposed addition may be filed with the Committee. Communications should be addressed to the Executive Director, Committee for Purchase of Products and Services of the Blind and Other Severely Handicapped, 2009 14th

Street North, Suite 610, Arlington, VA 22201.

By the Committee.

CHARLES W. FLETCHER,
Executive Director.

[FR Doc.72-21376 Filed 12-13-72; 8:45 am]

FEDERAL COMMUNICATIONS COMMISSION

[Report 626]

COMMON CARRIER SERVICES INFORMATION¹

Domestic Public Radio Services Applications Accepted for Filing²

DECEMBER 11, 1972.

Pursuant to §§ 1.227(b)(3) and 21.30 (b) of the Commission's rules, an application, in order to be considered with any domestic public radio services application appearing on the attached list, must be substantially complete and tendered for filing by whichever date is earlier: (a) The close of business 1 business day preceding the day on which the Commission takes action on the previously filed application; or (b) within 60 days after the date of the public notice listing the first prior filed application (with which subsequent applications are in conflict) as having been accepted for filing. An application which is subsequently amended by a major change will be considered to be a newly filed application. It is to be noted that the cutoff dates are set forth in the alternative—applications will be entitled to consideration with those listed in the appendix if filed by the end of the 60-day period, only if the Commission has not acted upon the application by that time pursuant to the first alternative earlier date. The mutual exclusivity rights of a new application are governed by the earliest action with respect to any one of the earlier filed conflicting applications.

The attention of any party in interest desiring to file pleadings pursuant to section 309 of the Communications Act of 1934, as amended, concerning any domestic public radio services application accepted for filing, is directed to § 21.27 of the Commission's rules for provisions governing the time for filing and other requirements relating to such pleadings.

FEDERAL COMMUNICATIONS
COMMISSION,

[SEAL] BEN F. WAPLE,
Secretary.

¹ All applications listed in the appendix are subject to further consideration and review and may be returned and/or dismissed if not found to be in accordance with the Commission's rules, regulations and other requirements.

² The above alternative cutoff rules apply to those applications listed in the appendix as having been accepted in Domestic Public Land Mobile Radio, Rural Radio, Point-to-Point Microwave Radio and Local Television Transmission Services (Part 21 of the rules).

3951-C2-P-(3)-73—Bille G. Donham (K0F914), for additional facilities to operate on 454.30 MHz control at location No. 1: 3200 Clark Street, Missoula, MT, add 152.12 MHz base and 459.30 MHz repeater at location No. 2: TV Mountain, 9 miles north of Missoula, Mont.
 3952-C2-P-(2)-73—Bell Telephone Co. of Nevada (K0A610), for additional facilities to operate on 152.75 MHz base and 157.89, 157.95, 158.01 MHz auxiliary test located at Peavine Peak, 7 miles northwest of Reno, Nev.
 3978-C2-AL-(3)-73—Radio Telephone Co. of Gainesville, consent to assignment of license from James D. Henry, Jr. and Dorsey A. Sanders, Jr., doing business as Radio Telephone Co. of Gainesville, assignor, to Radio Telephone Co. of Gainesville, Inc., assignee. Stations: KJ0814 Archerd Fla., K1Y464 Daytona Beach, Fla., KFL922 Gainesville, Fla.
 3979-C2-P-73—Radio Telephone Service (New), for a new one-way station to operate on 152.24 MHz to be located at 0.2 miles west of Catlettsburg, Ky.
 3981-C2-P-73—Tel-Illinois, Inc. (New), for a new one-way station to operate on 35.58 MHz to be located at 302 First Avenue, Sterling, IL.
 3983-C2-P-(2)-73—Massachusetts-Connecticut Mobile Telephone Co. (KCI300), for additional facilities to operate on 454.200, 454.275 MHz at location No. 1: Provin Mountain, Agawam, Mass.
 3984-C2-P-73—Radiofone Corp. of New Jersey (KEA256), change the antenna system and relocate facilities operating on 454.025 MHz at location No. 4 to: northwest corner of Freeway and West Bangs Avenue, Neptune, N.J.
 3985-C2-P-73—Mobile Radio Communications of Gary (KSD811), for additional facilities to operate on 454.050, 454.125 MHz located at a new site described as location No. 2: U.S. Highways No. 30 and I-65, Merrillville, Ind.
 3986-C2-P-73—Services Unlimited, Inc. (K1Y449), relocate facilities operating on 152.21 MHz at location No. 3 to: Wachovia Building, Winston-Salem, N.C.
 3987-C2-P-73—Delaware Telephone Answering Service, Inc. (New), for a new one-way station to operate on 152.24 MHz to be located at 431 East Charles Street, Muncie, IN.
 4019-C2-P-(4)-73—General Telephone Co. of Florida (K1Y440), for additional facilities to operate on 152.54 and 152.66 MHz base and 157.77 and 157.98 MHz auxiliary test located at 2.5 miles west-southwest of Highland City, Fla.
 4020-C2-AL-73—Mobile Telephone Co. of Alabama, consent to assignment of license from Mobile Telephone Co. of Alabama, assignor, to: Gulf Mobilphone Alabama, Inc., assignee. Station KQZ778 Dora, Ala.
 4021-C2-P-73—Camden Mobile Communications, Inc. (New), for a new two-way station to operate on 152.030 MHz to be located at 1.8 miles east of Camden, S.C.
 4022-C2-P-73—Area-Wide Paging (New), for a new one-way station to operate on 43.22 MHz to be located at 4 miles east of New Braunfels, Tex.
 4050-C2-TC-73—Radiopaging, Inc., consent to transfer of control from Murray Gordon, Benjamin Cutler, Gerald Klugerman, transferors, to Digital Paging Systems, Inc., transferee. Stations: KSV895, KIE367 Miami, Fla.
 4051-C2-TC-73—Tel-Car Corp., consent to transfer of control from Murray Gordon, Benjamin Cutler, Gerald Klugerman, transferors, to Digital Paging Systems, Inc., transferee. Stations: KIB627 and KRM961 Miami, Fla.

RURAL RADIO SERVICE

3978-C1-AL-73—Radio Telephone Co. of Gainesville, consent to assignment of license from James D. Henry, Jr. and Dorsey A. Sanders, Jr., doing business as Radio Telephone Co. of Gainesville, assignee. Station: KZ178 Temp-Fixed.
 4017-C1-P-73—Southwestern Bell Telephone Co. (New), for a new rural subscriber station to operate on 157.95 MHz to be located at 24 miles north of Laredo, Tex.

POINT-TO-POINT MICROWAVE RADIO SERVICE

3954-C1-P-73—Southern Pacific Communications Co. (New), 1.3 miles southwest of Beaumont, Mt. Davis, Calif. Latitude 33°54'49" N., longitude 116°59'50" W. C.P. for a new station for frequency 11,015.0V MHz on azimuth 342°55' toward Running Springs, Calif.; frequency 6152.8H MHz on azimuth 88°11' toward Whitewater, Calif.

POINT-TO-POINT MICROWAVE RADIO SERVICE—Continued

3976-C1-MP-73—The Mountain States Telephone and Telegraph Co. (KPL23), 140 North Marina Street, Prescott, AZ, latitude 34°32'36" N., longitude 112°28'01" W. Modification of C.P. to add four TM-2 transmitter-receiver bays (two will be used for Hot Standby protection); to remove two TM-1 transmitter-receiver bays that are currently licensed; to delete two TM-1 transmitters authorized under Construction Permit 6398-C1-P-72. All other items previously reported for this station will remain unchanged.
 3977-C1-MP-73—Same (KPC70), Mingus Mountain, 7.5 miles south of Jerome, Ariz. Latitude 34°41'12" N., longitude 112°06'59" W. Modification of C.P. to add four TM-2 transmitter-receiver bays (two will be used for Hot Standby protection); to remove two TM-1 transmitter-receiver bays that are currently licensed; to delete two TM-1 transmitters authorized under Construction Permit 6397-C1-P-72. All other items previously reported for this station will remain unchanged.
 3980-C1-TC-(8)-73—Southwest Texas Transmission Co., consent to transfer of control from, stockholders of Communications Properties, Inc., transferors to stockholders of Communications Properties, Inc., transferees. Stations: KLR38-D Hanis, Tex.; KKY45-Uvalde, Tex.; KKY46-Las Moras, Tex.; KLF99-Wardlaw Ranch, Tex.; KLR36-Mayfield Ranch, Tex.; KLR37-Sonora, Tex.; KKK27-Beeler Farm, Tex.; KJK31-Smart, Ga.
 4018-C1-P-73—American Telephone and Telegraph Co. (KGJ25), 5.5 miles southwest of Thurmont (Frederick) Md. Latitude 39°34'34" N., longitude 77°29'17" W. C.P. to add frequency 4130H MHz toward Monrovia, Md.; frequencies 3910V, 3990V MHz toward Clear Springs, Md.
 4014-C1-P-73—Same (KCJ68), 2.2 miles west of Clear Springs, Md. Latitude 39°38'50" N., longitude 77°58'11" W. C.P. to add frequencies 3870V, 3950V MHz toward Lewiston, Md.; frequencies 3930V, 4010V MHz toward Omph, Va.
 4015-C1-P-73—Same (KGN99), 7.5 miles southeast of Frederick, Maryland. Latitude 39°20'55" N., longitude 77°16'51" W. C.P. to add frequency 4170H MHz toward Lewistown, Md.
 4016-C1-P-73—Same (KIW81), 9 miles north of Whiteacre, Va. Latitude 39°27'41" N., longitude 78°20'50" W. C.P. to add frequencies 3890V, 3970V MHz toward Clear Springs, Md.
 4010-C1-P-73—General Telephone Co. of the Northwest, Inc. (KOU44), 202 Cedar Street, Sandpoint, ID. Latitude 48°16'35" N., longitude 116°32'53" W. C.P. to add frequency 2162.4V MHz toward Bald Mountain, Idaho.
 4011-C1-P-73—General Telephone Company of the Northwest, Inc. (New), 7.6 miles northwest of Sandpoint, Bald Mountain, Idaho. Latitude 48°19'52" N., longitude 116°41'33" W. C.P. for a new station on frequency 2122.0H MHz toward Priest Lake, Idaho; frequency 2112.4V MHz toward Sandpoint, Idaho.
 4012-C1-P-73—Same (New), 4.5 miles south of Nordman, Priest Lake, Idaho. Latitude 48°34'05" N., longitude 116°55'38" W. C.P. for a new station on frequency 2172.0H MHz toward Bald Mountain, Idaho.
 4018-C1-MP-73—MCI New York West, Inc. (WLI41), 55 Water Street, New York City, NY. Latitude 40°42'10" N., longitude 74°00'34" W. Modification of C.P. to change location, frequency, power, and replace transmitter on frequency 6197.2V MHz toward Newark, N.J.
 Correction
 The following CPI Microwave, Inc., applications were omitted on Report No. 625, Public Notice, dated 12-4-72.
 3890-C1-P-73—CPI Microwave, Inc. (New), 3.5 miles north-northwest of Geronimo, Tex. Latitude 29°42'33" N., longitude 97°58'42" W. C.P. for a new station on frequency 6380.7V MHz toward Bracken, Tex.
 3891-C1-P-73—Same (New), 5.7 miles north of Shertz, Tex. Latitude 29°38'06" N., longitude 98°17'16" W. C.P. for a new station on frequency 6019.3H MHz toward San Antonio, Tex.
 3892-C1-P-73—Same (New), 300 feet southwest of intersection of Gembler and Sequin Roads, San Antonio, Tex. Latitude 29°26'06" N., longitude 98°26'01" W. C.P. for a new station on frequency 11,485.0V MHz toward WOAI-TV, San Antonio, Tex.
 Major Amendments
 3362-C1-P-72—CPI Microwave, Inc. (New), station at Violet, 5 miles east of Robstown, Tex. Change azimuth to Bishop, Tex., to 220°/54'.

Major Amendments—continued

- 3363-C1-P-72—Same (New), station 1 mile east of Bishop, Tex. Change longitude to 97°-46'57" W. Change azimuths to Violet and Falfurrias, Tex., to 40°/48' and 210°/44', respectively.
- 3364-C1-P-72—Same (New), station 10 miles east of Falfurrias, Tex. Change azimuth to Bishop, Tex., to 210°/45'.
- 3365-C1-P-72—Same (New), station 1.7 miles south of Encino, Tex. Change azimuth to Linn, Tex., to 176°/06'.
- 3366-C1-P-72—Same (New), station 1 mile southeast of Linn, Tex. Change coordinates to latitude 26°32'46" N., longitude 98°06'21" W. Change azimuths to Encino and La Villa, Tex., to 356°/06' and 148°/12', respectively.
- 3367-C1-P-72—Same (New), station 0.6 mile south of La Villa, Tex. Change coordinates to latitude 26°17'10" N., longitude 97°55'35" W. Change azimuth to Linn, Tex., to 328°/18'.
- 3303-C1-MP-73—MCI New York West, Inc. (WLJ40), 1801 Raymond Boulevard, Newark, NJ. Latitude 40°44'13" N., longitude 74°10'15" W. Change frequency and point of communication to 5974.8V MHz toward New York City, N.Y.

MULTIPOINT DISTRIBUTION SERVICE

- 3988-C5-P-73—Kern County Broadcasting Corp. (New), 16 miles east-northeast of Bakersfield, Calif. Latitude 35°26'20" N., longitude 118°44'23" W. C.P. for a new station on frequencies 2150.25H(Aural) and 2154.75H(Visual). (Primary Service Area: Bakersfield, Calif.)
- 3989-C5-P-73—Kidd's Communications, Inc. (New), 1813 H Street, Bakersfield, Calif. Latitude 35°22'30" N., longitude 119°01'12" W. C.P. for a new station on frequencies 2150.25V(Aural) and 2154.75V(Visual). (Primary Service Area: Bakersfield, Calif.)
- 3990-C5-P-73—Multi-Point Information Systems, Inc. (New), on U.S. Highway 98, 0.2 mile east of Norreigo Point, Destin, Fla. Latitude 30°23'08" N., longitude 86°28'14" W. C.P. for a new station on frequencies 2154.75(Visual) and 2150.25(Aural). (Primary Service Area: Destin, Fla.)
- 3991-C5-P-73—Mr. A. Michael Lipper (New), Hotel San Carlos at intersections of Calle Principale and Franklin Street, Monterey, Calif. Latitude 36°37'00" N., longitude 121°-53'39" W. C.P. for a new station on frequencies 2154.75(Visual) and 2150.25(Aural). (Primary Service Area: Monterey, Calif.)
- 3992-C5-P-73—Dayton Communications Corp. (New), Central Tower Building at intersection of Market and Federal Streets, Youngstown, Ohio. Latitude 41°06'00" N., longitude 80°39'00" W. C.P. for a new station on frequencies 2154.75(Visual) and 2150.25(Aural). (Primary Service Area: Youngstown, Ohio.)
- 3993-C5-P-73—Little Rock Cablevision, Inc. (New), Worthen Bank Building, Fifth and Center, Little Rock, AR. Latitude 34°44'40" N., longitude 96°16'20" W. C.P. for a new station on frequencies 2150.25V(Aural) and 2154.75V(Visual). (Primary Service Area: Little Rock, Ark.)
- 3994-C5-P-73—Texas Microwave, Inc. (New), 2.1 miles west of Rochester, Ill., 1.3 miles south of Illinois Route 29, Springfield, Ill. Latitude 39°45'06" N., longitude 89°34'38" W. C.P. for a new station on frequencies 2154.75H(Visual) and 2150.25H(Aural). (Primary Service Area: Springfield, Ill.)
- 3995-C5-P-73—Same (New), Old KMID-TV Tower, Midland, Tex. Latitude 31°57'45" N., longitude 102°06'15" W. C.P. for a new station on frequencies 2154.75H(Visual) and 2150.25H(Aural). (Primary Service Area: Midland, Tex.)
- 3996-C5-P-73—Same (New), 6.5 miles south of U.S. 82, 5.48 miles west of State line, Texarkana, Tex. Latitude 33°25'56.8" N., longitude 94°08'13.7" W. C.P. for a new station on frequencies 2154.75H(Visual) and 2150.25H(Aural). (Primary Service Area: Texarkana, Tex.)

[FR Doc.72-21528 Filed 12-13-72;8:49 am]

[FCC 72-1090]

FUTURE FRAUDULENT BILLING CASES

Notice of Commission Action in Re-
newal or Revocation Proceedings

DECEMBER 7, 1972.

More than a decade ago the Commission notified broadcast licensees that it regarded the practice of fraudulent billing "as contrary to the public interest, and that appropriate proceedings will be instituted in all cases where evidence of double billing by licensees is found to exist." Public Notice, March 9, 1962, FCC 62-272. In 1965 the Commission adopted rules prohibiting fraudulent billing practices and issued a public notice illustrating certain specific forms of these practices with which it was familiar. Report and order in Docket 15396, 1 FCC 2d 1068; Public notice on "Applicability of Fraudulent Billing Rule," October 22, 1965, FCC 65-952. By memorandum

opinion and order released on May 18, 1970, the Commission added language to the rule to make completely clear the existing prohibition of the rule against any form of false billing. At the same time two more examples of fraudulent billing practices were added to the public notice of October 22, 1965. (The fraudulent billing rules, originally designated as §§ 73.124 (AM), 73.299 (FM), and 73.678 (TV), are now consolidated as § 73.1205, which is applicable to all three services.)

During the past 10 years the Commission has designated for renewal or revocation hearing a number of cases based in whole or in part on issues involving fraudulent billing. In many other cases, it has imposed forfeitures in amounts ranging up to the statutory maximum of \$10,000.

However, the Commission continues to receive fraudulent billing complaints, which frequently are confirmed by staff investigation and thus indicate that past

sanctions have by no means accomplished their purpose of causing all licensees to discontinue this practice.

The Commission considers violation of the fraudulent billing rule to be a particularly serious one because it involves participation by the licensee in a fraud, and thus raises serious questions as to his qualifications to remain a licensee. Therefore, it intends to examine each case more closely in light of the questions raised as to the licensee's qualifications.

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

[FR Doc.72-21529 Filed 12-13-72;8:49 am]

PRIME TIME ACCESS RULE

Notice of Top 50 Television Markets

NOVEMBER 23, 1972.

For the purpose of the prime time access rule (§ 73.658(k)), the top 50 markets are determined on the basis of the most recent rankings by the American Research Bureau in effect on September 1 of each year. The American Research Bureau issued its 1972 television market analysis on November 20, 1972 and advises us that no new rankings will be published until after September 1, 1973. The following are the top 50 markets in alphabetical order:

Albany-Schenectady-Troy	Memphis
Atlanta	Miami
Baltimore	Milwaukee
Birmingham	Minneapolis-St. Paul
Boston	Nashville
Buffalo	New Orleans
Charleston-Huntington	New York
Charlotte, N.C.	Norfolk-Portsmouth-Hampton
Chicago	Newport News-Hampton
Cincinnati	Oklahoma City
Cleveland	Philadelphia
Columbus, Ohio	Phoenix
Dallas-Fort Worth	Pittsburgh
Dayton	Portland, Oreg.
Denver	Providence
Detroit	Sacramento-Stockton
Grand Rapids-Kalamazoo	San Antonio
Greensboro-Winston-Salem-High Point	San Diego
Greenville-Spartanburg-Asheville	San Francisco
Hartford-New Haven	Seattle-Tacoma
Houston	St. Louis
Indianapolis	Syracuse
Kansas City	Tampa-St. Petersburg
Los Angeles	Toledo
Louisville	Washington, D.C.
	Wilkes Barre-Scranton

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

[FR Doc.72-21530 Filed 12-13-72;8:49 am]

¹ Action by the Commission Nov. 29, 1972. Commissioners Burch (Chairman), Robert E. Lee, Johnson, H. Rex Lee, Reid, Wiley and Hooks.

[Dockets Nos. 18906, 18907; FCC 72R-366]

**SOUTHERN BROADCASTING, CO.
(WGHP-TV) AND FURNITURE CITY
TELEVISION CO., INC.**

**Memorandum Opinion and Order
Enlarging Issues**

In regard applications of Southern Broadcasting Co. (WGHP-TV), High Point, N.C., Docket No. 18906, File No. BRCT-574, for renewal of license; Furniture City Television Co., Inc., High Point, N.C., Docket No. 18907, File No. BPCT-4302, for construction permit for new television broadcast station.

1. Before the Review Board are: (a) A petition to enlarge issues, filed April 3, 1972, by Furniture City;¹ and (b) a petition to enlarge issues, filed April 13, 1972, by Southern.² Each applicant requests a Rule 1.65 issue against the other.³ In addition, Southern asks for a misrepresentation issue against Furniture City. The two petitions are being considered together because each applicant alleges that the other failed to report the same antitrust suits pending against principals of both. Southern also alleges that Furniture City failed to report business interests of several of its principals.

FAILURE TO REPORT ANTI-TRUST SUITS

2. Both applicants request Rule 1.65 issues against the other for failure to report the involvement of certain principals of the applicants in two suits brought by the United States of America against the Wachovia Corp. (Wachovia)⁴ and the

¹ Also before the Review Board are the following related pleadings: (a) opposition, filed Apr. 13, 1972, by Southern; (b) Broadcast Bureau's comments, filed Apr. 13, 1972; and (c) reply, filed Apr. 25, 1972, by Furniture City.

² Also before the Review Board are the following related pleadings: (a) Broadcast Bureau's opposition, filed Apr. 26, 1972; (b) opposition, filed Apr. 26, 1972, by Furniture City; and (c) reply, filed May 8, 1972, by Southern.

³ By memorandum opinion and order, 33 FCC 2d 1044, 23 RR 2d 1197, released Mar. 22, 1972, the Review Board added the following 1.65 issue against Furniture City because of that applicant's failure to report an antitrust suit brought by the State of Georgia against one of its stockholders: To determine whether Furniture City Television Co., Inc., has complied with the provisions of section 1.65 of the Commission's rules by keeping the Commission advised of substantial changes in its application and, if not, the effect of such noncompliance on the basic and/or comparative qualifications of the applicant to be a broadcast licensee.

⁴ Suit (Civil Action No. 2656) was brought on Apr. 24, 1970, under provisions of the Clayton Anti-Trust Act (15 U.S.C. section 18 and 15 U.S.C. section 25) in the U.S. District Court for the Western District of North Carolina against the Wachovia Corp. (Wachovia) and American Credit Corp. (American). The complaint, a copy of which is attached to the petition, alleges that the acquisition by Wachovia of American could eliminate or substantially reduce retail automobile financing, other types of financing and the sale of credit life insurance in North Carolina and other sections of the country as well as eliminate Wachovia as a potential entrant into consumer lending and factoring.

Wachovia Bank and Trust Co., N.A. (Wachovia Bank).⁵ Furniture City alleges that Southern's principals, Albert L. Butler, Jr., and Gordon Hanes,⁶ are directors and "substantial" stockholders of Wachovia.⁷ Southern argues that Furniture City failed to report that five of its principals were either directors or stockholders of the High Point branch of the Wachovia Bank.⁸ Both petitioners cite the Commission's 1951 Report on Uniform Policy as to Violation by Applicants of Laws of the United States, vol. 1, Part III, RR 91:495, to support their two major arguments, namely, that the Commission is very concerned about an applicant whose principals are involved in antitrust suits and the effect the involvement may have upon the applicant's character qualifications;⁹ that anticompetitive practices are difficult to uncover and to correct. Maintaining that it is incumbent upon an applicant to keep the Commission informed of activities which reflect upon its qualifications to be a Commission licensee, the petitioners conclude that failure to timely report¹⁰ the

⁵ Suit (Civil Action No. C-135, W571) was brought on June 22, 1971, under provisions of the Sherman Anti-Trust Act (15 U.S.C. section 1 and 15 U.S.C. section 4) in the U.S. District Court for the Western District of North Carolina against the Wachovia Bank and Trust Co., N.A. (Wachovia Bank). The complaint, attached to the petition, alleges that Wachovia Bank by entering into a contract with a Holly Hill Realty, the lessor of space in the Holly Hill Mall Shopping Center, has suppressed and restrained other commercial banks to attract the deposits of the tenants of Holly Hill and would generally affect competition between Wachovia and other commercial banks in Burlington County, N.C.

⁶ Furniture City notes that according to Southern's ownership report (FCC Form 323), filed with the Commission on May 26, 1971, Butler is shown as owning 67,200 shares (12%) of Southern's stock and Hanes as owning 22,891 (4.09%) shares.

⁷ Relying upon a registration statement (Form F.R. Y-5) filed by Wachovia Corp. with the Board of Governors of the Federal Reserve System on May 3, 1971, Furniture City asserts that Butler and Hanes are directors of Wachovia and Butler owns 2,898 shares of common stock.

⁸ Southern claims the following stockholders of Furniture City are either directors or stockholders of the High Point branch of the Wachovia Bank: George W. Lyles, Jr., John G. Hutchens, Jack H. Campbell, Sidney A. Gayle, Jr., and J. Harris Covington.

⁹ Furniture City cites General Electric Co., 2 RR 2d 1038 (1964), to support its assertion that the Commission has long been concerned over antitrust violations by applicants for renewal of licenses. Furniture City also cites the following cases: Patron Broadcasting Co., Inc., 2 FCC 2d 431, 6 RR 2d 939 (1966); Rockland Broadcasting Co., 24 RR 741 (1962); and Syracuse Television, Inc., 5 RR 2d 557 (1965).

¹⁰ Although Southern did inform the Commission by a letter to the Commission's Secretary of the pending action, it did not do so until Mar. 30, 1972, Furniture City maintains. Not only was the letter a belated and untimely attempt to comply with Rule 1.65, according to Furniture City, but also the letter contained the following discrepancies: the letter failed to disclose Hanes' position as director of Wachovia Bank and reported Earl F. Slick, Jr., a Southern principal, as a director of Wachovia, when he is only an advisory director.

involvement of the principals by the other applicant in the suits warrant a Rule 1.65 issue against the other.¹¹ Southern further argues that the existing Rule 1.65 issue against Furniture City (see note 1, supra) allows it to introduce evidence relating to Furniture City's failure to timely report the antitrust suits; however, should the Board consider that issue not broad enough to encompass the requested issues, then Southern requests the addition of another Rule 1.65 issue and a misrepresentation issue.

3. Opposing Furniture City's petition, Southern argues that the petition is untimely filed and that Furniture City has not shown good cause for the delay, as required by § 1.229(b) of the Commission's rules. Southern contends that Furniture City has confused the reporting requirements of FCC Form 301 (for new applications) with those of FCC Form 303 (for renewal applications); FCC Form 301, section II, question 10(b) and (c), requires the applicant for a new broadcast facility to report whether any party to its application has violated the laws of the United States or has monopolized or attempted to monopolize radio communications, and question 10 (e) further requires the new applicant to report any pending suits against any party to the application. In contrast, Southern notes, FCC Form 303, section I, question 2—the comparable section to question 10 (b) and (c) of Form 301—requires the renewal applicant to report any persons connected with the renewal applicant who are parties "to a suit in any Federal court involving the monopolizing or an attempt to monopolize radio communications." According to Southern nothing in FCC Form 303, requires the renewal applicant to report antitrust suits in fields other than communications. Also, Southern points out, all of the cases cited by Furniture City (see note 9, supra) deal with the failure of new applicants to properly update their applications to reflect the pendency of antitrust suits against persons connected with the new application. Finally, although not required to do so, Southern states that by letter, dated March 30, 1972,¹² it notified the Commission of the involvement in the pending antitrust actions of Hanes, Butler, and Earl F. Slick, Jr., who is an advisory director of the Winston-Salem Branch of the Wachovia Bank.

4. The Bureau supports Furniture City's request, but urges the Board to designate a comparative issue against Southern as it did in RKO General, Inc. (WNAC-TV), 34 FCC 2d 265, 24 RR 2d 16 (1972). In reply, Furniture City disagrees with the Bureau's position that a

¹¹ Southern also submits that section II, question 10(c), of FCC Form 301, filed by Furniture City, requires the disclosure of any pending antitrust actions against any party to the application; therefore, failure to report the suits violates that provision in Rule 1.65 which requires the applicant to keep its application current.

¹² The letter was addressed to the Commission's Secretary, contained the docket numbers, and indicates service on all parties to the proceeding. See note 10, supra.

comparative rather than disqualifying issue be designated, and argues that the Bureau's reliance upon RKO is misplaced. In RKO, Furniture City maintains, the applicant voluntarily made the disclosures which lead to the addition of the Rule 1.65 issue, whereas Southern informed the Commission by letter of the involvement of its two stockholders in antitrust suits only after Furniture City revealed the presence of the two antitrust actions involving some of its principals in amendments submitted on March 27, 1972.

5. Opposing Southern's petition, Furniture City argues that its stockholders who are directors of the Wachovia Bank are only "advisory directors". An advisory director, according to Furniture City, is without power to make final decisions in matters concerning the business of the bank, does no more than periodically serve as consultant to the bank, and is appointed, not elected.¹³ Furniture City therefore argues that the antitrust suits against the bank would not involve advisory directors; furthermore, the advisory directors hold minor shares of stock which are publicly traded on the New York Stock Exchange.¹⁴ Therefore, in view of these factors, a Rule 1.65 issue is not warranted, Furniture City maintains.¹⁵

6. The Broadcast Bureau, opposing Southern's request, argues that the Rule 1.65 issue which was specified against Furniture City for failure to report the pendency of an antitrust suit, is broad enough to encompass the "new facts" raised by Southern. The Bureau further contends that Southern's request is, in reality, a request for clarification of an existing issue and, therefore, should have been addressed to the Administrative Law Judge in the first instance, citing *Western Connecticut Broadcasting Co.*, 26 FCC 2d 1019, 20 RR 2d 761 (1970).¹⁶ In

¹³ Furniture City attaches to its opposition pleading a letter from J. T. Watson, Deputy Comptroller of the Currency of the United States, in which he states that: "Honorary or advisory members of the board of directors may be appointed by a national bank to act in advisory capacities without the power of final decision in matters concerning the business of the bank. Any listing of such honorary or advisory directors must distinguish between them and the bank's board of directors, or indicate their advisory status."

¹⁴ The following, according to Furniture City, represents the amount of stock held by its stockholders in Wachovia: John Hutchens—.0007 percent, Jack Campbell—.0019 percent, Sidney Gayle—.0038 percent, George Lyles—.0076 percent, and J. Harris Covington does not hold stock.

¹⁵ Furniture City argues that the Rule 1.65 issues previously designated was confined by the Board to one specified antitrust suit and should not be expanded to encompass the present request.

¹⁶ The Bureau does not believe a separate concealment issue is warranted because the Board, in previously designating the Rule 1.65 issue, stated that concealment and the question of intent could be explored under the specified issue.

reply, Southern contends that the language of the section II, paragraphs 10 (b) and (e) of FCC Form 301, does not draw any distinction between advisory and other types of directors.

7. The Review Board believes both applicants have pleaded sufficient allegations of fact to warrant further exploration at hearing.¹⁷ With respect to Southern's apparent failure to report the antitrust suits, we note that Southern in its January 4, 1972,¹⁸ petition presented a persuasive argument supporting addition of a Rule 1.65 issue against an applicant who fails to report the involvement of one of its principals in an antitrust suit. In its petition, Southern, in referring to an applicant's involvement in an antitrust suit as misconduct, stated: "Clearly then, from a record of misconduct in other fields, the Commission can infer a disposition to continue such conduct in broadcast operations. Such misconduct may be such as to disqualify an applicant or it may be weighed against the applicant in the comparative process." (Footnotes omitted.) The Commission in its report on uniform policy, supra, essentially said the same when it stated, "We believe, that if an applicant is or has been involved in unlawful practices an analysis of the substance of these practices must be made to determine their relevance and weight as regards the ability of the applicant to use the requested radio authorization in the public interest." (vol. 1, pt. III, p. 91.497.) As this language indicates, the Commission is concerned when the effects of legal actions pending against an applicant may have a direct bearing on the applicant's character to hold a license in the public interest; therefore, the reporting of pending legal actions cannot be limited to new applications only but must apply equally to renewal applications. Cf. *General Electric Co.*, 2 RR 2d 1033 (1964); *Westinghouse Broadcasting Co.*, 22 RR 1023 (1962). Accordingly, Southern's argument that the renewal application Form 303 did not require it to report the suits must be rejected.¹⁹ The Commission

¹⁷ The Review Board is persuaded that good cause has been shown for the late filing of Furniture City's petition. In any event, Furniture City's petition raises serious public interest questions which warrant consideration of the petition on its merits. See *The Edgefield-Saluda Radio Co. (WJES)*, 5 FCC 2d 148, 8 RR 2d 611 (1966).

¹⁸ See para. 1, supra.

¹⁹ Compare *WTAR Radio-TV Corp. (WTAR-TV)*, — FCC 2d —, 24 RR 2d 463 (1972), where the Board added a comparative Rule 1.65 issue against a renewal applicant which failed to report CATV interests in its application because the renewal application (FCC Form 323) did not specifically require reporting the interests and Commission policy requiring reporting of CATV systems in renewal applications was not clarified until after the applicant had filed its application. In contrast, the Commission's policy of requiring the reporting of antitrust suits by renewal applicants has been clear for several years. See *Westinghouse Broadcasting Company*, supra; *General Electric Co.*, supra.

is to be informed of all facts, whether requested in Form 303 or not, that may be of decisional significance so that the Commission can make a realistic decision based on all relevant factors. See *Reporting of Changed Circumstances*, FCC 64-1037, 3 RR 2d 1622. The Commission's 1951 Report on Uniform Policy, supra, made it clear that an applicant's involvement in antitrust suits is of "decisional significance." See *General Electric Co.*, supra, and *Westinghouse Broadcasting Co.*, supra. Therefore, we believe a Rule 1.65 issue is warranted against Southern.²⁰

8. We also believe that it was incumbent upon Furniture City to report the involvement of five of its principals in the aforementioned antitrust suits. Paragraph 10(e) of FCC Form 301 clearly asks: "Is there now pending in any court or administrative body against the applicant or any party to this application any action involving any of the matters referred to in paragraph 10 a, b, c, and d above?" Even though an applicant may not believe a change in its status or subsequent events which relate to questions in the application form like paragraph 10(e) is of any decisional value to the Commission, its failure to report the information may bear adversely on the applicant's qualifications to be a Commission licensee. The decision as to whether particular circumstances are of decisional value cannot be left solely to the subjective determination of an applicant. See *Horne Industries, Inc.*, 28 FCC 2d 454, 21 RR 2d 851 (1969). See also *Reporting of Changed Circumstances*, supra. Moreover, paragraph 10(e) does not draw a distinction between different kinds of directors in a corporation involved in a pending antitrust suit; consequently, such differences cannot excuse Furniture City from failing to report the suits. The Board is of the opinion, therefore, that the existing Rule 1.65 issue against Furniture City should be modified to encompass the alleged failure of Furniture City to report the involvement of five of its principals in the Wachovia Bank antitrust suit.

FAILURE TO REPORT BUSINESS INTERESTS

9. In its petition, Southern also argues that Furniture City failed to timely report twelve (12) business interests held by seven (7) of its nineteen (19) principals. According to Southern, Furniture City reported for the first time in an amendment filed with the Adminis-

²⁰ We do not agree with the Broadcast Bureau that the issues should be designated comparative only as was done in RKO, supra. In RKO the applicant had amended his application to show the sale of stock and although it was late filed, we did not believe such an omission could reflect upon the applicant's basic qualifications. In contrast, the information Southern failed to report could be of decisional significance and could ultimately reflect upon its basic qualifications.

trative Law Judge on March 27, 1972,²¹ the 12 business interests, some of which had been held by the principals for as long as 5 years, even though section II, table II of FCC Form 301, clearly requires the new applicant to inform the Commission of the businesses its principals are presently engaged in and also to list any other business or financial interests in which its principals have had any official relationship within the last 5 years. Southern requests either enlarging the present Rule 1.65 issue to encompass the exploration of the allegations herein raised or adding an appropriate issue.

10. In opposition, Furniture City argues that its amendment of March 27, 1972, was filed pursuant to the Commission's redesignation order, supra, which allowed the parties to amend their applications within 30 days of the date of the redesignation order.²² Furniture City insists that the redesignation order made this a "de novo proceeding since the redesignation of a hearing voids all of the prior record ab initio." In Furniture City's view, then, each party was free to file any information provided it did not affect the comparative qualifications of the applicant. Furniture City appreciates that this information should have been filed with the Commission; however, in the applicant's opinion, the information is of "no great consequence" and was of "relative unimportance" to the stockholders involved, which is why they had not reported the interests earlier. Furthermore, no comparative advantage would have been gained by concealing this information, Furniture City argues.

11. In reply, Southern asserts that it is incumbent upon the applicant to report this information whether or not it believes the information to be of any decisional value to the Commission, citing Home Industries, Inc., supra. In Star Stations of Indiana, Inc., 34 FCC 2d 632, 24 RR 2d 165 (1972), Southern argues, the Board added a Rule 1.65 issue where an applicant had failed to disclose financial information with respect to five out of 12 of its stockholders. According to Southern, an issue is warranted in the instant case because "there are 14 omissions by Furniture City involving eight of its 17 stockholders representing 66½ percent of the ownership of Furniture City." Southern further argues that the redesignation order does not excuse Furniture City from reporting this information because the Commission's Rule 1.65 requirements existed "before, during and after" the Commission's Policy Statement on Comparative Hearings Involving Regular Renewal Applicants, 22 FCC 2d 424, 18 RR 2d 1901 (1970), which was "declared il-

legal", according to Southern, in Citizens Communications Center v. FCC, 145 U.S. App. D.C. 32, 447 FCC 2d 1201, 22 RR 2d 2001 (1971), and which resulted in the redesignation of the instant applications.

12. The Board believes that the existing Rule 1.65 issue against Furniture City should be modified to encompass the applicant's failure to report all the business interests of seven of its principals.²³ The Board is constrained to modify the issue because the omissions are numerous and involve seven out of 19 principals of Furniture City. See Star Stations of Indiana, Inc., supra. Furniture City's argument that the redesignation order absolves it of any possible Rule 1.65 violations is incorrect. The rule applies to "pending" applications and an application is pending from the time it is "accepted for filing." See Folkways Broadcasting Co., Inc., 26 FCC 2d 175, 20 RR 2d 528 (1970); Home Service Broadcasting Corp., 21 FCC 2d 575, 18 RR 2d 440 (1970). Thus, Furniture City was required to keep its application current from the date its application was accepted by the Commission (i.e., October 31, 1969). Therefore, Furniture City was grossly late in reporting these interests to the Commission. We note that in Home Service, supra, we stated that a "tardy amendment complies neither with the literal terms of the rule which allows 30 days for corrective amendments—nor with the rule's purpose, which is to facilitate the Commission's expeditious and accurate handling of its business." 22 FCC 2d at 581, 18 RR 2d at 449. Finally and perhaps most important, Furniture City's alleged failure to report the interests of its stockholders, John G. Hutchens and Jack H. Campbell, in Wachovia Bank could have decisional significance in light of the anti-trust suit against the bank. (See paragraph 6, supra.) In view of the foregoing, the scope of the existing issue will be enlarged.²⁴ See United Television Co., Inc., 33 FCC 2d 424, 23 RR 2d 644 (1972); Minshall Broadcasting Co., Inc., 10 FCC 2d 647, 11 RR 2d 754 (1967). However, we do not agree with Southern that the facts warrant the addition of a separate misrepresentation issue. Cf. United Television Co., Inc., 19 FCC 2d 1060, 17 RR 2d 476 (1969).

²³ Southern, in its petition, lists the names of seven Furniture City principals and 12 business interests not previously reported; however, in Southern's reply the figure of eight principals and fourteen interests appears without any explanation for the change. The Board, therefore, will accept the number of principals involved and the omitted business interests as presented in the petition to enlarge.

²⁴ In Folkways, we stated that, " * * * Rule 1.65 applies 'from the time [the application] is accepted for filing by the Commission' * * * and not from the time of designation for hearing * * * ." 26 FCC 2d at 177, 20 RR 2d at 532.

²⁵ The Board notes that many of the business interests Furniture City allegedly failed to report were held by its principals prior to the filing of its application on October 31, 1969; therefore, the inquiry will also encompass a possible violation of Rule 1.514.

13. Accordingly, it is ordered, That the petition to enlarge issues, filed April 3, 1972, by Furniture City Television Co., Inc., and the petition to enlarge issues, filed April 13, 1972, by Southern Broadcasting Co., are granted to the extent herein indicated, and are denied in all other respects; and that the issues in this proceeding are enlarged to include the following:

To determine whether Southern Broadcasting Co. (WGHP-TV) has complied with the provisions of section 1.65 of the Commission's rules by keeping the Commission advised of substantial required changes in its application and, if not, the effect of such noncompliance on the basic and/or comparative qualifications of the applicant to be a broadcast licensee.

14. It is further ordered, That the burden of proceeding with the introduction of evidence under the issue added herein shall be on Furniture City Television Co., Inc., and the burden of proof shall be on Southern Broadcasting Co.; and

15. It is further ordered, That the Rule 1.65 issue against Furniture City Television Co., Inc. added by the Review Board by memorandum opinion and order (33 FCC 2d 1044, 23 RR 2d 1197, released March 22, 1972) is modified to include the matters as indicated herein.

Adopted: December 6, 1972.

Released: December 8, 1972.

FEDERAL COMMUNICATIONS
COMMISSION,

[SEAL] BEN F. WAPLE,
Secretary.

[FR Doc.72-21527 Filed 12-13-72; 8:49 am]

FEDERAL POWER COMMISSION

[Docket No. C173-398]

AMOCO PRODUCTION CO.

Notice of Application

DECEMBER 11, 1972.

Take notice that on December 4, 1972, Amoco Production Co. (Applicant), Post Office Box 3092, Houston, TX 77001, filed in Docket No. C173-398 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 Natural Gas Pipeline Company of America from the Seven Oaks Field, Polk County, Tex., all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicant proposes to sell approximately 93,000 Mcf of gas per month at 35.0 cents per Mcf at 14.65 p.s.i.a., subject to B.t.u. adjustment, for two years within the contemplation of § 2.70 of the Commission's general policy and interpretations (18 CFR 2.70). Initial upward B.t.u. adjustment is estimated at 2.8 cents per Mcf.

It appears reasonable and consistent with the public interest in this case to

²¹ As of the date of this opinion, the Administrative Law Judge has not accepted Furniture City's amendment.

²² The Commission's order reads as follows: Each applicant herein should be allowed a period of 30 days from the redesignation date of this order in which to amend its application as a matter of right subject to limitation of § 1.522(a) of the Rules.

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 December 26, 1973, 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.72-21533 Filed 12-13-72;8:50 am]

[Docket No. CI73-401]

AMOCO PRODUCTION CO.

Notice of Application

DECEMBER 11, 1972.

Take notice that on December 4, 1972, Amoco Production Co. (Applicant), Post Office Box 3092, Houston, TX 77001, filed in Docket No. CI73-401 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 Natural Gas Pipeline Co. of America from the Seven Oaks Field, Polk County, Tex., all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicant proposes to sell approximately 8,680 Mcf of gas per month at 35.0 cents per Mcf at 14.65 p.s.i.a., subject to B.t.u. adjustment, for 2 years within the contemplation of § 2.70 of the Commission's general policy and interpretations (18 CFR 2.70). Initial up-

ward B.t.u. adjustment is estimated at 2.8 cents per Mcf.

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 December 26, 1973, 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 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.72-21534 Filed 12-13-72;8:50 am]

[Dockets Nos. CP73-38, CP73-46]

COASTAL STATES PETROCHEMICAL CO. AND TRUNKLINE GAS CO.

Order Consolidating Proceedings, Granting Interventions, and Fixing Date for Formal Hearing

DECEMBER 11, 1972.

On August 7, 1972, Coastal States Petrochemical Co. (Coastal States), filed in Docket No. CP73-38 an application pursuant to section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the sale and delivery of natural gas in interstate commerce to Trunkline Gas Co. On August 14, 1972, Trunkline Gas Co. (Trunkline), in Docket No. CP73-46, filed an application pursuant to section 7(c) of the Natural Gas Act for a limited term certificate of public convenience and necessity

authorizing it to receive and transport natural gas from Coastal States in exchange for equivalent volumes of propane.

Coastal States, in Docket No. CP73-38, requests authorization to make emergency, limited-term deliveries, pursuant to Commission Order No. 431 in Docket No. R-418, of approximately 30,000 Mcf of gas per day to Trunkline, in exchange for approximately 7,000 barrels of propane per day delivered by Trunkline to Coastal States. Deliveries of the gas would be made at a point on Trunkline's transmission line in Bee County, Tex., and such other point or points as may be mutually agreeable, for a period of 2 years from the date of the initial exchange. Coastal States, operator of a crude oil refinery, states that it has entered into an agreement with Trunkline whereby it will deliver to Trunkline natural gas presently used in its operations in exchange for substitute amounts of propane, delivered at Trunkline's election. Coastal States requests a declaration that, with the exception of the proposed deliveries to Trunkline and any facilities required to effect such deliveries, all of Coastal States' existing facilities and operations will continue to be exempt from Commission regulation. Coastal States also states that its exchange agreement with Trunkline is made contingent upon Commission determination that the cost of any facilities constructed by Trunkline shall be included and recoverable in Trunkline's rate base, and that the cost of the propane shall be included and recoverable in Trunkline's cost of gas. Trunkline, however, states in its application that it is not obligated to construct any facilities, and seeks to recover only the cost of the propane.

Trunkline, in Docket No. CP73-46, seeks authorization to receive and transport approximately 27,000 Mcf¹ of gas per day from Coastal States in exchange for up to 7,000 barrels of propane per day, pursuant to the aforementioned exchange agreement. Trunkline states that it has an existing gas supply shortage on its system and that the limited term exchange proposed is essential if it is to maintain adequate natural gas service on its pipeline system and thereby minimize curtailment of service to its customers.

Trunkline, as mentioned above, states that it is not obligated to install any facilities in order to carry out the exchange agreement, and that the only cost impact therefore relates to the purchase price of the propane. Trunkline requests that it be allowed to book the cost of the propane as a cost of purchased gas in Account 801, and seeks permission to recover such cost through operation of its existing purchase gas adjustment clause. Trunkline estimates

¹ No explanation is anywhere given for the discrepancy between Coastal States' and Trunkline's applications concerning the approximate number of Mcf of gas per day expected to be delivered under the agreement.

that the effect of such a provision would be to increase its systemwide average cost of purchased gas by approximately 1 cent per Mcf.

Notice of Coastal States' application in Docket No. CP73-38 was issued on August 14, 1972, and was published in the FEDERAL REGISTER on August 17, 1972 (37 FR. 16632). August 25, 1972, was set as the last date to file protests or petitions to intervene in the proceeding. A timely petition to intervene was subsequently filed by Mississippi River Transmission Corp. The Petrochemical Group² filed an untimely petition to intervene³ and the Public Service Commission for the State of New York filed an untimely notice of intervention.

Notice of Trunkline's application in Docket No. CP73-46 was issued on August 17, 1972, and appeared in the FEDERAL REGISTER on August 24, 1972 (37 FR. 17083). September 11, 1972, was set as the last date for filing protests or petitions to intervene. Timely petitions to intervene were filed by the following parties:

Consumers Power Co.
Laclede Gas Co.
Michigan Gas Utilities Co.
Central Illinois Light Co.
Mississippi River Transmission Corp.
Coastal States Petrochemical Co.
Phillips Petroleum Co.
The Petrochemical Group.⁴

In addition, the Public Service Commission for the State of New York filed a timely notice of intervention. An untimely petition to intervene was filed by Mobil Oil Corp.

The Petrochemical Group's petitions to intervene in Docket No. CP73-38 and Docket No. CP73-46 include a motion to consolidate and a request for hearing. Laclede Gas Co. also requests a formal hearing in Docket No. CP73-46.

Having reviewed the petitions to intervene, we are convinced that the petitioners, including those who filed late, all have sufficient interests in these proceedings to warrant intervention. We also believe that the significant and novel questions presented by these applications require a public hearing at which time all issues bearing upon the public interest can be fully developed on the evidentiary record.

The Commission notes the interrelationship between the two above-described proceedings and concludes that their ultimate disposition would best be accomplished in a consolidated proceeding. The Commission therefore shall consolidate Docket No. CP73-38 and Docket No. CP73-46 for hearing and disposition.

²The Petrochemical Group consists of the following members, each of whom petitions for leave to intervene: Dart Industries, Inc.; The Dow Chemical Co.; E. I. du Pont de Nemours & Co.; Firestone Tire & Rubber Co.; Hercules Inc.; Olin Corp.; Union Carbide Corp.

³Coastal States filed an untimely response in opposition to the Petrochemical Group's petition to intervene.

⁴An untimely response in opposition to the Petrochemical Group's petition to intervene was filed by Trunkline.

The Commission finds:

(1) It is necessary and in the public interest that the above-docketed proceedings be consolidated for hearing and decision.

(2) It is desirable and in the public interest to allow the above-named petitioners to intervene in these consolidated proceedings in order that they may establish the facts and the law from which the nature and validity of their alleged rights and interests may be determined and show what further action may be appropriate under the circumstances in the administration of the Natural Gas Act.

(3) It is necessary and appropriate that the consolidated proceedings in the above-named applications be set for hearing.

The Commission orders:

(A) Docket No. CP73-38 and Docket No. CP73-46 are consolidated for purposes of hearing and disposition.

(B) The above-named petitioners are permitted to intervene in this consolidated proceeding subject to the rules and regulations of the Commission: *Provided, however,* That the participation of such intervenors shall be limited to matters affecting asserted rights and interests as specifically set forth in said petitions for leave to intervene; *And provided, further,* That the admission of such intervenors shall not be construed as recognition by the Commission that they or any of them might be aggrieved because of any order or orders of the Commission entered in this proceeding.

(C) The direct case of Coastal States Petrochemical Co. and Trunkline Gas Co. and all the intervenors in support thereof shall be filed and served on all parties on or before December 28, 1972.

(D) Pursuant to the authority of the Natural Gas Act, particularly sections 7, 15, and 16 thereof, the Commission's rules of practice and procedure, and the regulations under the Natural Gas Act (18 CFR ch. I), a public hearing on the issues presented by the proposals of Coastal States and Trunkline shall be held commencing January 29, 1973, at 10 a.m. (e.s.t.) in a hearing room of the Federal Power Commission, 441 G Street N.W., Washington, DC 20426.

(E) A Presiding Administrative Law Judge to be designated by the Chief Administrative Law Judge for that purpose (see delegation of authority, 18 CFR 315(d)), shall preside at the hearing in this proceeding, and shall prescribe relevant procedural matters not herein provided.

By the Commission.

[SEAL] KENNETH F. PLUMB,
Secretary.

[FR Doc. 72-21536 Filed 12-13-72; 8:50 am]

[Docket No. CP71-68 etc.]

COLUMBIA LNG CORP. ET AL.

Extension of Time

DECEMBER 8, 1972.

Columbia LNG Corp., Docket No. CP71-68, Consolidated System LNG Co.,

Docket No. CP71-153, Southern Energy Co., Dockets Nos. CP71-151, CP71-264, Southern Natural Gas Co., Docket No. CP71-276, Columbia LNG Corp. and Consolidated System LNG Co., Docket No. CP71-289, Consolidated System LNG Co., Docket No. CP71-290.

On November 9, 1972, Consolidated System LNG Co. filed a motion for an extension of time from November 15, 1972, to June 15, 1973, within which to submit evidence relating to Consolidated LNG's proposed pipeline route from Loudoun, Va. to Leidy, Pa., in the reopened proceedings in the above-designated matter. In support of its motion, Consolidated LNG states that it is in the process of conducting a detailed examination of alternative pipeline routes, and that environmental consultants have advised Consolidated LNG that the preparation of the requisite maps and studies will require at least 6 months. The motion further states that the Potomac Basin Federation concurs in the extension of time and the Federal Power Commission Staff has no objection thereto.

Upon consideration, for good cause shown and in view of the absence of any opposition to the motion within the required 10 day answering period, notice is hereby given that the time is extended to June 15, 1973, within which Consolidated LNG shall serve evidence on the proposed Loudoun-to-Leidy route. The time within which intervenors and Staff shall serve answering evidence is similarly extended from November 30, 1972, to July 2, 1973, and the commencement of hearings is extended from December 14, 1972, to July 16, 1973.

By the Commission.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 72-21539 Filed 12-13-72; 8:50 am]

[Docket No. CP73-146]

CONSOLIDATED GAS SUPPLY CORP.

Notice of Application

DECEMBER 11, 1972.

Take notice that on November 27, 1972, Consolidated Gas Supply Corp. (Applicant), 445 West Main Street, Clarksburg, WV 26301, filed in Docket No. CP73-146 an application pursuant to section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the transportation of natural gas in interstate commerce for Texas Gas Transmission Corp. (Texas Gas) in Louisiana, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

On November 2, 1972, Applicant commenced the transportation of natural gas for Texas Gas from the onshore terminus of the western leg of the Blue Water facilities to the point where Applicant's 16-inch pipeline intersects with Transcontinental Gas Pipe Line Corp.'s (Transco) 8- and 12-inch Egan Plant Laterals near Egan, La., within contemplation of § 157.22 of the Commission's regulations under the Natural Gas Act

(18 CFR 157.22). Applicant proposes herein to continue said service for 20 years from the date of initial delivery.

Applicant states that Columbia Gulf Transmission Co. will deliver the transported gas to Applicant for the account of Texas Gas at the onshore terminus of the western leg of the Blue Water facilities. Pursuant to a transportation agreement between Applicant and Texas Gas, Applicant will deliver up to 50,000 Mcf of natural gas per day for the account of Texas Gas near Egan, La., to Transco. Pursuant to said agreement, Applicant proposes to charge Texas Gas 4.0 cents per Mcf of contract demand for this transportation service.

Applicant further states that volumes of gas equivalent to those transported by it for Texas Gas will be delivered by Trunkline Gas Co. to Texas Gas pursuant to gas exchange arrangements for which authorization is sought in Dockets Nos. CP73-112 and CP73-118.

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 December 26, 1972, file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10) and the regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing

therein must file a petition to intervene in accordance with the Commission's rules.

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.72-21532 Filed 12-13-72;8:50 am]

[Docket No. RI73-143]

GULF OIL CORP.

Order Providing for Hearing on and Suspension of Proposed Change in Rate, and Allowing Rate Change to Become Effective Subject to Refund¹

DECEMBER 8, 1972.

Respondent has filed a proposed change in rate and charge for the jurisdictional sale of natural gas, as set forth in appendix A below.

APPENDIX "A"

Docket No.	Respondent	Rate scheduled No.	Supplement No.	Purchaser and producing area	Amount of annual increase	Date filing tendered	Effective date unless suspended	Date suspended until—	Cents per Mcf*		Rate in effect subject to refund in dockets Nos.
									Rate in effect	Proposed increased rate	
RI73-143..	Gulf Oil Corp.....	235	18	United Gas Pipe Line Co. (Garden City Field, St. Mary Parish, Southern Louisiana).	\$28,094	11-10-72		1-15-73	23.250	26.875	

*The pressure base is 15,025 p.s.i.a.

¹ Applicable only to acreage covered under amendment dated Jan. 24, 1972, on file as Supp. No. 15.

² Increase to area ceiling for new gas, as adjusted for the increase in Louisiana severance tax.

APPENDIX A

The question presented here with respect to Gulf Oil Corp.'s increase to 26.875¢ is whether the subject gas is entitled to the flowing gas rate of 23.250¢ or the new gas rate of 26.875¢ established in Opinion No. 598, Dockets Nos. AR69-1, et al., issued July 16, 1971. The proposed increase is suspended for 1 day from the date it would otherwise become effective under Opinion No. 598, pending determination as to whether the gas involved herein is entitled to the new or old gas price.

The same issue involved in this proceeding is presented in Gulf's certificate proceeding in Docket No. CI62-965 which also relates to Gulf's subject sale. The proceeding in Docket No. CI62-965 previously has been consolidated with Texas Gas Exploration Corp.,

Dockets Nos. CI72-674, et al. The suspension proceeding herein is therefore also consolidated with Dockets Nos. CI72-674, et al.

Gulf's proposed increased rate of 26.875¢ may exceed the applicable area price level for increased rates as set forth in the Commission's statement of general policy No. 61-1, as amended (18 CFR 2.56).

CERTIFICATION OF ABBREVIATED SUSPENSION

Pursuant to § 300.16(1)(3) of the Price Commission rules and regulations, 6 CFR 300 (1972), the Federal Power Commission certifies as to the abbreviated suspension period in this order as follows:

(1) This proceeding involves producer rates which are established on an area rather than company basis. This practice was established by Area Rate Proceeding, Docket No. AR61-1, et al., Opinion No. 468, 34 FPC 159 (1965),

The proposed changed rate and charge may be unjust, unreasonable, unduly discriminatory, or preferential, or otherwise unlawful.

The Commission finds: It is in the public interest and consistent with the Natural Gas Act that the Commission enter upon a hearing regarding the lawfulness of the proposed change, and that the supplement herein be suspended and its use be deferred as ordered below.

The Commission orders:

(A) Under the Natural Gas Act, particularly sections 4 and 15, the regulations pertaining thereto (18 CFR ch. I), and the Commission's rules of practice and procedure, a public hearing shall be held concerning the lawfulness of the proposed change.

(B) Pending hearing and decision thereon, the rate supplement herein is suspended and its use deferred until date shown in the "Date Suspended Until" column. This supplement shall become effective, subject to refund, as of the expiration of the suspension period without any further action by the Respondent or by the Commission. Respondent shall comply with the refunding procedure required by the Natural Gas Act and § 154.102 of the regulations thereunder.

(C) Unless otherwise ordered by the Commission, neither the suspended supplement, nor the rate schedule sought to be altered, shall be changed until disposition of this proceeding or expiration of the suspension period, whichever is earlier.

By the Commission.

[SEAL] KENNETH F. PLUMB,
Secretary.

¹ This proceeding is also consolidated with Docket Nos. CI72-674, et al.

and affirmed by the Supreme Court in Permian Basin Area Rate Case, 390 U.S. 747 (1968). In such cases as this, producer rates are approved by this Commission if such rates are contractually authorized and are at or below the area ceiling.

(2) In the instant case, the requested increases do not exceed the ceiling rate for a 1-day suspension.

(3) By Order No. 423 (36 F.R. 3464) issued February 18, 1971, this Commission determined as a matter of general policy that it would suspend for only 1 day a change in rate filed by an independent producer under section 4(d) of the Natural Gas Act (15 U.S.C. 717c(d)) in a situation where the proposed rate exceeds the increased rate ceiling, but does not exceed the ceiling for a 1-day suspension.

(4) In the discharge of our responsibilities under the Natural Gas Act, this Commission has been confronted with conclusive evidence demonstrating a natural gas shortage. (See Opinion Nos. 595, 598, and 607, and Order No. 435.) In these circumstances and for the reasons set forth in Order No. 423 the Commission is of the opinion in this case that the abbreviated suspension authorized herein will be consistent with the letter and intent of the Economic Stabilization Act of 1970, as amended, as well as the rules and regulations of the Price Commission, 6 CFR 300 (1972). Specifically, this Commission is of the opinion that the authorized suspension is required to assure continued, adequate and safe service and will assist in providing for necessary expansion to meet present and future requirements of natural gas.

[FR Doc.72-21538 Filed 12-13-72;8:50 am]

NATIONAL POWER SURVEY TECHNICAL ADVISORY COMMITTEE ON CONSERVATION OF ENERGY

Order Establishing Task Forces and Designating Initial Membership and Chairmanship

DECEMBER 7, 1972.

The Federal Power Commission hereby determines that the establishment of National Power Survey Technical Advisory Committee on Conservation of Energy Task Forces, as identified hereinafter, is in the public interest and necessary and appropriate for the purposes of the Federal Power Act, 16 U.S.C. 791 (a) et seq., and the Commission establishes the task forces in accordance with the provisions of the Commission's order issued June 29, 1972 (37 F.R. 13380), order authorizing the establishment of National Power Survey Advisory Committees and Prescribing Procedures, the Commission's order issued September 28, 1972 (37 F.R. 20999), order establishing National Power Survey Technical Advisory Committees and designating initial membership and chairmanship, and the provisions of this order.

Technical Advisory Committee on Conservation of Energy Task Force—Environmental Aspects.

Technical Advisory Committee on Conservation of Energy Task Force—Practices and Standards.

Technical Advisory Committee on Conservation of Energy Task Force—Technical Aspects.

1. *Purpose.* The purposes of the respective Task Forces established herein are as follows:

Task Force—Environmental Aspects—shall have as its purposes the study, analysis and reporting on information relative to the environmental impact of total projected future energy consumption, the impact on future energy consumption of extant and planned environmental practices and standards, and the environmental implications of identified opportunities for energy conservation and proposed policy recommendations and implementation methods;

Task Force—Practices and Standards—shall have as its purposes the study, analysis and reporting on infor-

mation relative to extant practices and standards other than environmental and concerned with utility operational practices, utility rate structures, marketing and consumer information, customer behavior, general commercial practices, building practices and codes, industrial process practices, industrial design, substitutability of resources, as they may affect electric energy production, transmission, distribution and consumption, together with related general energy use, identifiable changes in such practices and standards as they would aid in the conservation of energy resources, and measures of identifiable projected opportunities for energy conservation therefrom; and

Task Force—Technical Aspects—shall have as its purposes the study, analysis and reporting on information relative to the identification and measurement of projected opportunities for energy conservation by means of new applications of existing technology or the application of new technology in the production and consumption of energy resources, including as a part thereof, the use of such resources for the production, transmission, distribution and consumption of electric power and energy.

In addition, each of the foregoing Task Forces shall furnish such other assistance to the National Power Survey Technical Advisory Committee on Conservation of Energy as may be requested.

Each National Power Survey Task Force established herein is organizationally subordinate to the National Power Survey Technical Advisory Committee on Conservation of Energy.

2. *Membership.* The chairmen, coordinating representatives, secretaries and members of the respective National Power Survey Task Forces established herein, as selected by the Chairman of the Commission, with the approval of the Commission, are designated in the appendix hereto.

3. *Selection of Future Committee Members.* All future National Power Survey Task Forces members and persons designated to act as Committee chairmen, coordinating representatives, and secretaries, shall be selected and designated by the Chairman of the Commission, with the approval of the Commission; provided, however, the Chairman of the Commission may select and designate additional persons to serve in the capacity of alternate secretary.

4. The following paragraphs of the Commission order issued June 29, 1972, are hereby incorporated by reference:

3. Conduct of Meetings.
4. Minutes and Records.
5. Secretary of the Committee.
6. Location and Time of Meetings.
7. Advice and Recommendations Offered by the Committee.
8. Duration of the Committee.

The Secretary of the Commission shall cause prompt publication of this order to be made in the FEDERAL REGISTER.

By the Commission.

[SEAL] KENNETH F. PLUMB,
Secretary.

NATIONAL POWER SURVEY TECHNICAL ADVISORY COMMITTEE ON CONSERVATION OF ENERGY TASK FORCE—ENVIRONMENTAL ASPECTS

Chairman. Lawrence I. Moss, Executive Secretary, Committee on Public Engineering Policy, National Academy of Engineering.

Coordinating Representatives. Allen F. Crabtree, Office of Environmental Quality, Robert A. Berman, Office of Economics, Federal Power Commission.

Secretary. Hugh Stewart, Bureau of Power, Federal Power Commission.

Alternate Secretary. James T. Roseberry, Bureau of Power, Federal Power Commission.

Members. Dr. Richard H. Briceland, Environmental Protection Agency; Mr. Andrew E. Gibson, Assistant Secretary for Domestic and International Business, Department of Commerce; Mr. David P. Lingo, Director, Environmental Coordination, MAPP Coordination Center; Mr. James J. Mackenzie, Joint Scientific Staff, Massachusetts and National Audubon Societies; Mr. John P. Madgett, General Manager, Dairyland Power Cooperative; Mr. Nathaniel P. Reed, Assistant Secretary for Fish, Wildlife and Parks, Department of the Interior; Mr. Robert Sansom, Assistant Administrator, Environmental Protection Agency.

NATIONAL POWER SURVEY TECHNICAL ADVISORY COMMITTEE ON CONSERVATION OF ENERGY TASK FORCE—PRACTICES AND STANDARDS

Chairman. Dr. Charles A. Berg, Deputy Director, Institute for Applied Technology, National Bureau of Standards.

Coordinating Representatives. Dr. Haskell P. Wald, Office of Economics, Martin J. Thorpe, Bureau of Power, Federal Power Commission.

Secretary. C. R. Beyer, Bureau of Power, Federal Power Commission.

Alternate Secretary. E. N. Fields, Bureau of Power, Federal Power Commission.

Members. Mr. John J. Bugas, General Manager, Colorado Ute Electric Association, Inc.; Mr. Jack K. Busby, President, Pennsylvania Power & Light Co.; Dr. Robert K. Davis, Department of Geography and Environmental Engineering, Johns Hopkins University; Mr. Eugene Quindlen, Assistant Director for Government Preparedness, Office of Emergency Preparedness; Mr. Louis H. Roddis, Jr., President, Consolidated Edison Co. of New York; Mr. Quinton R. Wells, Assistant Commissioner for Technical and Credit Standards, Department of Housing and Urban Development; Mr. John H. Whitney, Manager, Marketing Services Division, Potomac Electric Power Co.

NATIONAL POWER SURVEY TECHNICAL ADVISORY COMMITTEE ON CONSERVATION OF ENERGY TASK FORCE—TECHNICAL ASPECTS

Chairman. Dr. David C. White, Ford Professor of Engineering, Massachusetts Institute of Technology.

Coordinating Representatives. Dr. Richard F. Hill, Office of Environmental Quality, Warren Morrison, Office of Economics, Federal Power Commission.

Secretary. A. F. Bochenek, Bureau of Power, Federal Power Commission.

Alternate Secretary. C. R. Beyer, Bureau of Power, Federal Power Commission.

Members. Mr. Howard P. Allen, Senior Vice President, Southern California Edison Co.; Mr. Raymond C. Burt, Power System Executive Engineer, Department of Water and Power, City of Los Angeles, Calif.; Mr. Asa George, General Manager and Chief Engineer, Power Authority of the State of New York; Mr. Eugene A. Gullede, Assistant Secretary for Housing Production and Mortgage Credit, Department of Housing and Urban Development; Dr. Herbert H. Woodson, Chairman, Department of Electrical Engineering, University of Texas.

[FR Doc.72-21542 Filed 12-13-72;8:50 am]

NATIONAL POWER SURVEY TECHNICAL ADVISORY COMMITTEE ON FUELS TASK FORCES

Order Establishing and Designating Initial Membership and Chairmanship

DECEMBER 7, 1972.

The Federal Power Commission hereby determines that the establishment of National Power Survey Technical Advisory Committee on Fuels Task Forces, as identified hereinafter, is in the public interest and necessary and appropriate for the purposes of the Federal Power Act, 16 U.S.C. 791(a) et seq., and the Commission establishes the task forces in accordance with the provisions of the Commission's order issued June 29, 1972 (37 F.R. 13380), order authorizing the establishment of National Power Survey Advisory Committees and prescribing procedures, the Commission's order issued September 28, 1972 (37 F.R. 20999), order establishing National Power Survey Technical Advisory Committees and designating initial membership and chairmanship, and the provisions of this order.

Technical Advisory Committee on Fuels Task Force—Environmental Considerations and Constraints.

Technical Advisory Committee on Fuels Task Force—Fuels Availability.

Technical Advisory Committee on Fuels Task Force—Fuel Use Alternatives.

Technical Advisory Committee on Fuels Task Force—Utility Fuels Requirements.

1. *Purpose.* The purposes of the respective Task Forces established herein are as follows:

Task Force—Environmental Considerations and Constraints—shall have as its purposes the study, analysis and reporting on information relative to significant factors relating to environmental impact created by fuel extraction at original sources or at conversion facilities, and by fuel use at electric generating plants, and to submit a report on these topics to the National Power Survey Technical Advisory Committee on Fuels.

Task Force—Fuels Availability—shall have as its purposes the study, analysis, and reporting on information relative to the availability of fuels for electric power production, including data on location, quantity, quality, extraction capability, transport costs, and conversion costs and to submit a report on these topics to the National Power Survey Technical Advisory Committee on Fuels.

Task Force—Fuel Use Alternatives—shall have as its purposes the study, analysis, and reporting on information relative to various alternative fuel use patterns to meet projected total electric power requirements at identified future times, and to submit a report on this topic to the National Power Survey Technical Advisory Committee on Fuels.

Task Force—Utility Fuels Requirements—shall have as its purposes the study, analysis, and reporting on information relative to data on fuel requirements for electric power, including amount of fuel by type for existing and committed generating plants and for additional projected generating needs, and to submit a report on these topics to

the National Power Survey Technical Advisory Committee on Fuels.

In addition, each of the foregoing Task Forces shall furnish such other assistance to the National Power Survey Technical Advisory Committee on Fuels as may be requested.

Each National Power Survey Task Force established herein is organizationally subordinate to the National Power Survey Technical Advisory Committee on Fuels.

2. *Membership.* The chairmen, coordinating representatives, secretaries, and members of the respective National Power Survey Task Forces established herein, as selected by the Chairman of the Commission, with the approval of the Commission, are designated in the appendix hereto.

3. *Selection of Future Committee Members.* All future National Power Survey Task Forces members and persons designated to act as Committee chairmen, coordinating representatives, and secretaries, shall be selected and designated by the Chairman of the Commission, with the approval of the Commission; provided, however, the Chairman of the Commission may select and designate additional persons to serve in the capacity of alternate secretary.

4. The following paragraphs of the Commission order issued June 29, 1972, are hereby incorporated by reference:

3. Conduct of meetings.
4. Minutes and records.
5. Secretary of the Committee.
6. Location and time of meetings.
7. Advice and recommendations offered by the Committee.
8. Duration of the Committee.

The Secretary of the Commission shall cause prompt publication of this order to be made in the FEDERAL REGISTER.

By the Commission.

[SEAL] KENNETH F. PLUMB,
Secretary.

NATIONAL POWER SURVEY TECHNICAL ADVISORY COMMITTEE ON FUELS TASK FORCE—ENVIRONMENTAL CONSIDERATIONS AND CONSTRAINTS

Chairman. Joseph Padgett, Director of Strategies and Air Standards Division, Environmental Protection Agency.

Coordinating Representative. A. F. Bochenek, Bureau of Power, Federal Power Commission.

Secretary. B. E. Bragdon, Bureau of Power, Federal Power Commission.

Alternate Secretary. J. J. Koden, Bureau of Power, Federal Power Commission.

Members. Mr. Stephen J. Gage, Federal Impact Evaluation Staff, Council on Environmental Quality; Mr. C. K. Millen, Vice President, Electric Operations, Public Service Company of Colorado; Mr. Jack A. Simon, Illinois State Geological Survey; Mr. Donald Smith, Staff Economist, National Rural Electric Cooperative Association; Mr. Charles E. Wier, Head, Indiana State Geological Survey.

NATIONAL POWER SURVEY TECHNICAL ADVISORY COMMITTEE ON FUELS TASK FORCE—FUELS AVAILABILITY

Chairman. W. T. Robertson, manager, fuel purchases, Duke Power Co.

Coordinating Representative. Hugh Stewart, Bureau of Power, Federal Power Commission.

Secretary. D. K. Owens, Bureau of Power, Federal Power Commission.

Alternate Secretary. P. W. Nygard, Bureau of Power, Federal Power Commission.

Members. Mr. Robert B. Atwater, general director, fuel supply, Consumers Power Co.; Mr. J. E. Carson, manager, fuel supply, Florida Power & Light Co.; Mr. Joseph A. DiCarlo, Industrial Specialist, Minerals and Energy Policy, Department of the Interior; Mr. Clark Grover, Chief, Fuels Planning Branch, Division of Power Resource Planning, Tennessee Valley Authority; Mr. Robert Hamilton, executive vice president, Southern Railway Co.; Mr. R. W. Lundgren, vice president, Detroit Edison Co.; Mr. L. K. Mundth, vice president, power production, Arizona Public Service Co.; Mr. Jack A. Simon, Illinois State Geological Survey.

NATIONAL POWER SURVEY TECHNICAL ADVISORY COMMITTEE ON FUELS TASK FORCE—FUEL USE ALTERNATIVES

Chairman. Dr. James E. Connor, Director, Office of Plans and Analysis, Atomic Energy Commission.

Coordinating Representative. A. Gakner, Bureau of Power, Federal Power Commission.

Secretary. J. J. Koden, Bureau of Power, Federal Power Commission.

Alternate Secretary. D. K. Owens, Bureau of Power, Federal Power Commission.

Members. Mr. Martin E. Fate, Jr., manager for power resources, Public Service Co. of Oklahoma; Mr. Stephen J. Gage, Federal Impact Evaluation Staff, Council on Environmental Quality; Mr. C. M. Laffoon, senior vice president, San Diego Gas and Electric Co.; Mr. W. G. McCauley, fuel agent, Northeast Utilities Service Co.; Dr. Otto H. Zinke, professor of physics, University of Arkansas.

NATIONAL POWER SURVEY TECHNICAL ADVISORY COMMITTEE ON FUELS TASK FORCE—UTILITY FUELS REQUIREMENTS

Chairman. Mr. Joseph A. DiCarlo, Industrial Specialist, Minerals and Energy Policy, Department of the Interior.

Coordinating Representative. J. Dotter, Bureau of Power, Federal Power Commission.

Secretary. P. W. Nygard, Bureau of Power, Federal Power Commission.

Alternate Secretary. B. E. Bragdon, Bureau of Power, Federal Power Commission.

Members. Mr. H. L. Deloney, vice president, fuels, Middle South Services, Inc.; Mr. James T. Goodwin, Executive Director, Southern Interstate Nuclear Board; Mr. Robert Hamilton, executive vice president, Southern Railway Co.; Mr. H. O. Hodson, vice president, engineering and construction, Southwestern Public Service Co.; Mr. Stanley Nehmer, Deputy Assistant Secretary for Resources, Department of Commerce.

[FR Doc. 72-21541 Filed 12-13-72; 8:50 am]

NATIONAL POWER SURVEY TECHNICAL ADVISORY COMMITTEE ON RESEARCH AND DEVELOPMENT

Order Establishing Task Forces and Designating Initial Membership and Chairmanship

DECEMBER 7, 1972.

The Federal Power Commission hereby determines that the establishment of National Power Survey Technical Advisory Committee on Research and Development Task Forces, as identified hereinafter, is in the public interest and necessary and appropriate for the purposes of the Federal Power Act, 16 U.S.C. 791(a) et seq.

and the Commission establishes the task forces in accordance with the provisions of the Commission's order issued June 29, 1972 (37 F.R. 13380), order authorizing the establishment of National Power Survey Advisory Committees and prescribing procedures, the Commission's order issued September 28, 1972 (37 F.R. 20999), order establishing National Power Survey Technical Advisory Committees and designating initial membership and chairmanship, and the provisions of this order.

Technical Advisory Committee on Research and Development Task Force—Environmental research.

Technical Advisory Committee on Research and Development Task Force—Energy conversion research.

Technical Advisory Committee on Research and Development Task Force—Energy distribution research.

Technical Advisory Committee on Research and Development Task Force—Energy sources research.

Technical Advisory Committee on Research and Development Task Force—Energy systems research.

The National Power Survey Technical Advisory Committee on Research and Development is charged *inter alia* with examining the factors bearing on the effectiveness of electric power research and development and recommending policies and actions designed to increase the beneficial results thereof, taking account of the combined research and development expenditures of Government, electric utilities, and manufacturers.

1. The purposes of the respective task forces established herein are as follows:

Task Force—Environmental Research shall have as its purposes the study, analysis, and reporting to the Committee of information relative to environmental research activities, needs, and consequences as appropriate to the Committee's objectives.

Task Force—Energy Conversion Research shall have as its purposes the study, analysis, and reporting to the Committee of information relative to energy distribution research activities, needs, and consequences as appropriate to the Committee's objectives.

Task Force—Energy Distribution Research shall have as its purposes the study, analysis, and reporting to the Committee of information relative to energy distribution research activities, needs, and consequences as appropriate to the Committee's objectives.

Task Force—Energy Sources Research shall have as its purposes the study, analysis, and reporting to the Committee of information relative to energy sources research activities, needs, and consequences as appropriate to the Committee's objectives.

Task Force—Energy Systems Research shall have as its purposes the study, analysis, and reporting to the Committee of information relative to energy systems research activities, needs, and consequences as appropriate to the Committee's objectives.

In addition, each of the foregoing task forces shall furnish such other assistance to the National Power Survey Technical

Advisory Committee on Research and Development as may be requested.

Each National Power Survey Task Force established herein is organizationally subordinate to the National Power Survey Technical Advisory Committee on Research and Development.

2. **Membership.** The chairmen, coordinating representatives, secretaries, and members of the respective National Power Survey Task Forces established herein, as selected by the Chairman of the Commission, with the approval of the Commission, are designated in the Appendix hereto.

3. **Selection of Future Committee Members.** All future National Power Survey Task Forces members and persons designated to act as Committee chairmen, coordinating representatives, and secretaries, shall be selected and designated by the Chairman of the Commission, with the approval of the Commission; provided, however, the Chairman of the Commission may select and designate additional persons to serve in the capacity of alternate secretary.

4. The following paragraphs of the Commission order issued June 29, 1972, are hereby incorporated by reference:

3. Conduct of meetings.
4. Minutes and records.
5. Secretary of the Committee.
6. Location and time of meetings.
7. Advice and recommendations offered by the Committee.
8. Duration of the Committee.

The Secretary of the Commission shall cause prompt publication of this order to be made in the FEDERAL REGISTER.

By the Commission.

[SEAL] KENNETH F. PLUMB,
Secretary.

NATIONAL POWER SURVEY TECHNICAL ADVISORY COMMITTEE ON RESEARCH AND DEVELOPMENT TASK FORCE—ENVIRONMENTAL RESEARCH

Chairman. L. D. Attaway, Deputy Assistant Administrator for Research, Environmental Protection Agency.

Coordinating Representative. Warren Morrison, Office of Economics, Federal Power Commission.

Secretary. R. S. Restall, Bureau of Power, Federal Power Commission.

Alternate Secretary. R. K. Faubel, Bureau of Power, Federal Power Commission.

Members. Dr. Paul Craig, National Science Foundation; Mr. Paul Donovan, Division Director, Advanced Technology Applications, National Science Foundation; Professor Lester Lees, California Institute of Technology; Dr. L. T. Papay, Director, Research and Development, Southern California Edison Co.; and Dr. B. C. Yaeger, Environmental Protection Agency.

NATIONAL POWER SURVEY TECHNICAL ADVISORY COMMITTEE ON RESEARCH AND DEVELOPMENT TASK FORCE—ENERGY CONVERSION RESEARCH

Chairman. M. J. Whitman, Assistant Director for Program Analysis, Division of Reactor Development and Technology, Atomic Energy Commission.

Coordinating Representative. B. B. Chew, Bureau of Power, Federal Power Commission.

Secretary. R. K. Faubel, Bureau of Power, Federal Power Commission.

Alternate Secretary. R. S. Restall, Bureau of Power, Federal Power Commission.

Members. Dr. R. Balzhiser, Assistant Director, Office of Science and Technology; Mr. George Beard, Senior Vice President, Pacific Power & Light Co.; Dr. Robert A. Bell, Director, Research and Development, Consolidated Edison Co. of New York; Mr. Neal Cochran, Office of Coal Research, Department of the Interior; Mr. Paul Donovan, Division Director, Advanced Technology Applications, National Science Foundation; Mr. Howard Drew, Director of Research, Texas Electric Service Co.; Dr. Stephen J. Gage, Council on Environmental Quality; and Mr. Raymond Huse, Manager, Research and Development, Public Service Electric & Gas Co.

NATIONAL POWER SURVEY TECHNICAL ADVISORY COMMITTEE ON RESEARCH AND DEVELOPMENT TASK FORCE—ENERGY DISTRIBUTION RESEARCH

Chairman. Robert A. Bell, director, research and development, Consolidated Edison Co. of New York.

Coordinating Representative. E. J. Fowlkes, Bureau of Power, Federal Power Commission. Secretary. Houshang Emami, Bureau of Power, Federal Power Commission.

Alternate Secretary. J. K. Newton, Bureau of Power, Federal Power Commission.

Members. Mr. J. D. Flynn, assistant manager, General Engineering Department, Cincinnati Gas & Electric Co.; Mr. Sidney H. Law, Director of Research, Northeast Utilities Co.; Mr. Theodore Nagel, vice president of system planning, American Electric Power Co., Inc.; Mr. Fox Parry, Assistant for Power Resources, Office of the Assistant Secretary for Water and Power Resources, Department of the Interior; Dr. Herbert H. Woodson, chairman, department of Electrical Engineering, University of Texas; Mr. Roy G. Zook, general manager, Cooperative Power Association.

NATIONAL POWER SURVEY TECHNICAL ADVISORY COMMITTEE ON RESEARCH AND DEVELOPMENT TASK FORCE—ENERGY SOURCES RESEARCH

Chairman. George R. Hill, Director, Office of Coal Research, Department of the Interior. Coordinating Representative. M. J. Thorpe, Bureau of Power, Federal Power Commission. Secretary. J. R. Milbourn, Bureau of Power, Federal Power Commission.

Alternate Secretary. J. K. Newton, Bureau of Power, Federal Power Commission.

Members. Mr. William L. Crentz, Assistant Director for Energy, Bureau of Mines, Department of the Interior; Mr. Paul Donovan, Director, Advanced Technology Applications, National Science Foundation; Mr. Richard F. Meyer, Deputy Chief, Office of Energy Research, U.S. Geological Survey; Mr. M. J. Whitman, Assistant Director for Program Analysis, Division of Reactor Development and Technology, Atomic Energy Commission.

NATIONAL POWER SURVEY TECHNICAL ADVISORY COMMITTEE ON RESEARCH AND DEVELOPMENT TASK FORCE—ENERGY SYSTEMS RESEARCH

Chairman. Paul D. Craig, National Science Foundation.

Coordinating Representative. B. A. Smith, Office of Economics, Federal Power Commission.

Secretary. Hugh Stewart, Bureau of Power, Federal Power Commission.

Alternate Secretary. E. N. Fields, Bureau of Power, Federal Power Commission.

Members. Mr. L. D. Attaway, Deputy Assistant Administrator for Research, Environmental Protection Agency; Dr. James E. Connor, Director, Office of Plans and Analysis, Atomic Energy Commission; Mr. E. S. Halfmann, director of research, Philadelphia Electric Co.; Dr. John Krutilla, Resources for the Future; Dr. L. T. Papay, director of research and development, Southern California

Edison Co.; Mr. Louis H. Roddis, president, Consolidated Edison Co. of New York.

[FR Doc.72-21537 Filed 12-13-72;8:50 am]

[Docket No. CP71-289]

COLUMBIA LNG CORP. AND CONSOLIDATED SYSTEM LNG CO.

Notice of Petition To Amend

DECEMBER 12, 1972.

Take notice that on December 8, 1972, Columbia LNG Corp. (Columbia LNG), 20 Montchanin Road, Wilmington, DE 19807, and Consolidated System LNG Co. (Consolidated LNG), 445 West Main Street, Clarksburg, WV 26301, filed in Docket No. CP71-289, a petition to amend the order of the Commission, heretofore issued in said docket on June 28, 1972, Commission Opinion No. 622 (47 FPC —), as amended by order issued October 5, 1972, Commission Opinion No. 622-A (48 FPC —) pursuant to section 7(c) of the Natural Gas Act by authorizing the construction and operation of a tunnel to connect the docking facilities with land-based facilities in lieu of the trestle originally proposed and approved in said orders, all as more fully set forth in the petition to amend, which is on file with the Commission and open to public inspection.

Petitioners state that pursuant to an agreement between the parties, the appeal from the Commission's Opinions Nos. 622 and 622-A by the Sierra Club and Maryland Conservation Council will be withdrawn upon approval by the Commission of the construction and operation of the proposed tunnel facilities, and subject to commitments by petitioners for land use at the site of the Cove Point, Md., terminal regarding ecological, scenic, and recreational characteristics of the property, which are consistent with the land use plan for the subject site developed by the State of Maryland in conjunction with the U.S. Department of the Interior.

Petitioners state that the proposed tunnel facilities will increase the estimated cost of the total terminal facilities from \$131,671,500 to \$153,458,500 and indicate that the proposed change in facilities will not materially change the estimated operating costs of the terminal

facilities. The estimated increase in cost of regasified LNG delivered at Loudoun County, Va., is stated to be approximately 2 cents per Mcf.

It is stated that El Paso Algeria Corp., the vendor of the LNG received at Cove Point, has informed petitioners that unless the Commission's orders authorizing this project become nonappealable prior to December 31, 1972, Sonatrach, the Algerian sellers of the LNG, will cancel their sales agreement.

It appears reasonable and consistent with the public interest in this case to prescribe a period shorter than 15 days for the filing of protests and petitions to intervene. Therefore, any person desiring to be heard or to make any protest with reference to said petition to amend should on or before December 22, 1972, file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10) and the regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's rules. Persons who have heretofore filed petitions to intervene need not file again.

KENNETH F. PLUMB,
Secretary.

[FR Doc.72-21558 Filed 12-13-72;8:51 am]

[Docket No. RI73-130]

MONSANTO CO.

Order Providing for Hearing On and Suspension of Proposed Change in Rate, and Allowing Rate Change to Become Effective Subject to Refund

DECEMBER 6, 1972.

Respondent has filed a proposed change in rate and charge for the juris-

ditional sale of natural gas, as set forth in Appendix A below.

The proposed changed rate and charge may be unjust, unreasonable, unduly discriminatory, or preferential, or otherwise unlawful.

The Commission finds: It is in the public interest and consistent with the Natural Gas Act that the Commission enter upon a hearing regarding the lawfulness of the proposed change, and that the supplement herein be suspended and its use be deferred as ordered below.

The Commission orders: (A) Under the Natural Gas Act, particularly sections 4 and 15, the regulations pertaining thereto (18 CFR, Chapter I), and the Commission's rules of practice and procedure, a public hearing shall be held concerning the lawfulness of the proposed change.

(B) Pending hearing and decision thereon, the rate supplement herein is suspended and its use deferred until date shown in the "Date Suspended Until" column. This supplement shall become effective, subject to refund, as of the expiration of the suspension period without any further action by the Respondent or by the Commission. Respondent shall comply with the refunding procedure required by the Natural Gas Act and § 154.102 of the regulations thereunder.

(C) Unless otherwise ordered by the Commission, neither the suspended supplement, nor the rate schedule sought to be altered, shall be changed until disposition of this proceeding or expiration of the suspension period, whichever is earlier.

By the Commission.

[SEAL] KENNETH F. PLUMB,
Secretary.

APPENDIX "A"

Docket No.	Respondent	Rate schedule No.	Supplement No.	Purchaser and producing area	Amount of annual increase	Date filing tendered	Effective date unless suspended	Date suspended until—	Cents per Mcf*		Rate in effect subject to refund in dockets Nos.
									Rate in effect	Proposed increased rate	
RI73-130..	Monsanto Co.	66	128	Transcontinental Gas Pipe Line Corp. (La Gloria Field, Brooks and Jim Wells Counties, Tex., R.R. Dist. No. 4).	\$40,000	11-6-72	-----	12-8-72	19.0	24.0	-----

*The pressure base is 14.65 p.s.i.a.

† Unilateral increase upon expiration of basic contract.

The question presented here with respect to Monsanto's unilateral increase to 24 cents filed after the expiration of its contract is whether the subject gas is entitled to the flowing gas rate of 19 cents or the new gas rate of 24 cents established in Opinion No. 595, Docket Nos. AR64-2, et al., issued May 6, 1971. The proposed increase should be suspended for 1 day from the expiration of the statutory notice period, pending determination as to whether the gas involved herein is entitled to the new or old gas price.

Monsanto's proposed increased rate of 24 cents may exceed the applicable area price levels for increased rates as set forth in the Commission's statement of general policy No. 61-1, as amended (18 CFR 2.56).

CERTIFICATION OF ABBREVIATED SUSPENSION

Pursuant to § 300.16(i)(3) of the Price Commission rules and regulations, 6 CFR Part 300 (1972), the Federal Power Commission certifies as to the abbreviated suspension period in this order as follows:

(1) This proceeding involves producer rates which are established on an area rather than company basis. This practice was established by Area Rate Proceeding, Docket No. AR61-1, et al., Opinion No. 468, 34 FPC 159 (1965), and affirmed by the Supreme Court in Permian Basin Area Rate Case, 390 U.S. 747 (1968). In such cases as this, producer rates are approved by this Commission if such rates are contractually authorized and are at or below the area ceiling.

(2) In the instant case, the requested increases do not exceed the ceiling rate for a 1-day suspension.

(3) By Order No. 423 (36 F.R. 3464) issued February 18, 1971, this Commission determined as a matter of general policy that it would suspend for only 1 day a change in rate filed by an independent producer under section 4(d) of the Natural Gas Act (15 U.S.C. 717c(d)) in a situation where the proposed rate exceeds the increased rate ceiling, but does not exceed the ceiling for a 1-day suspension.

(4) In the discharge of our responsibilities under the Natural Gas Act, this Commission has been confronted with conclusive evidence demonstrating a natural gas shortage. (See Opinion Nos. 595, 598, and 607, and Order No. 435). In these circumstances and for the reasons set forth in Order No. 423 the Commission is of the opinion in this case that the abbreviated suspension authorized herein will be consistent with the letter and intent of the Economic Stabilization Act of 1970, as amended, as well as the rules and regulations of the Price Commission, 6 CFR Part 300 (1972). Specifically, this Commission is of the opinion that the authorized suspension is required to assure continued, adequate and safe service and will assist in providing for necessary expansion to meet present and future requirements of natural gas.

[FR Doc.72-21434 Filed 12-13-72;8:45 am]

SECURITIES AND EXCHANGE COMMISSION

[812-3321]

CAPEX CORP. ET AL.

Notice of Application

DECEMBER 7, 1972.

Notice is hereby given that Capex Corp., 2163 North Third Street, Phoenix, AZ 85004 (Capex), Continental Capital

Corp., Bank of America Center, San Francisco, Calif. 94104 (Continental), Greater Washington Investors, Inc., 1015 18th Street NW., Washington, DC 20036 (GWII), Greater Washington Industrial Investments, Inc., 1015 18th Street NW., Washington, DC 20036 (GW) and Western Investment Associates, 555 California Street, San Francisco, CA 94104 (Western) (collectively referred to as Applicants) have filed an application pursuant to section 17(d) of the Investment Company Act of 1940 (Act) and Rule 17d-1 thereunder requesting an order of the Commission to permit modification of certain existing agreements among Capex, Continental, GWII, and GW, and an investment in Capex by Western. All interested persons are referred to the application on file with the Commission for a statement of the representations contained therein, which are summarized below.

THE APPLICANTS

Capex, a privately held Arizona corporation, is engaged in the proprietary computer software business. Continental, a California corporation, is a registered closed-end nondiversified management investment company and a licensee under the Small Business Investment Act of 1958. GWII, a District of Columbia corporation, is a registered closed-end nondiversified management investment company. GW, a District of Columbia corporation, is a wholly owned subsidiary of GWII; GW is a registered closed-end nondiversified management investment company and a licensee under the Small Business Investment Act of 1958. (Unless the context indicates otherwise, all references to "GWII" hereafter shall be taken to include both GWII and GW.) Western is a private Nevada limited partnership engaged in making venture capital investments.

BACKGROUND

Continental and GWII initially invested in Capex in August 1969; both have made additional parallel investments since that date. At the present time, Continental and GWII each hold the following Capex securities: (a) 137,500 shares of common stock, no par value; (b) warrants to purchase 68,333 shares of common stock at \$1.50 per share; (c) three Series A debentures in the principal aggregate amount of \$100,000, with interest at the prime rate commencing in 1971 and with principal payments due from 1972 to 1975; (d) three Series B debentures in the principal aggregate amount of \$100,000, with interest at the prime rate commencing in 1971 and with principal payments due from 1972 to 1975; and (e) one Series C debenture in the principal amount of \$130,000, with interest at 8 percent per annum and with principal payments due from 1974 to 1976.

Continental and GWII each hold 137,500 shares, or approximately 27 percent, of the 501,520 issued and outstanding shares of Capex's 1,000,000 authorized shares of common stock, which is the only class of voting securities issued by

Capex. Accordingly, Continental is an affiliate of an affiliate of GWII, and vice versa, as defined in section 2(a)(3) of the 1940 Act.

Continental and GWII are not directly affiliated. However, from time to time, Continental and GWII have made investments in the same companies and may be affiliated solely because of those investments.

Continental and Western are not affiliates of each other; however, both have invested in Culbertson Industries, Inc. (Culbertson). Each owns 12 percent of Culbertson's outstanding shares, hence Western and Continental are affiliates of an affiliate, as defined by section 2(a)(3) of the Act.

THE TRANSACTION

In October 1972, the Applicants entered into a Restated Financing Agreement (the "Agreement") which becomes effective only in the event the Commission grants Applicants' application. The Agreement provides that Capex will sell to Western and Western will buy from Capex: (a) 16,667 shares of common stock for \$50,001, or \$3 per share; (b) a promissory note in the principal amount of \$330,050, with interest at 4 percent per annum commencing January 1, 1973, due in quarterly installments commencing March 31, 1974, and convertible into shares of common stock at \$3 per share, subject to antidilution provisions, and (c) warrants to purchase 27,500 shares of common stock (subject to antidilution provisions) at \$4 per share on or before January 30, 1975 and at \$4.50 per share thereafter until expiration at 5 p.m. Phoenix time on June 30, 1977, for \$13,750. Western will be entitled to one nominee on Capex's Board of Directors.

The Agreement further provides that at closing, GWII and Continental will: (a) surrender their respective series A, B, and C Capex debentures in the aggregate principal amounts of \$330,000 each, in consideration of Capex's issuing new notes to each in the principal amount of \$330,000, with interest at 7 percent per annum and principal payments due from March 31, 1973 to December 31, 1978 and (b) surrender for cancellation their respective warrants to purchase an aggregate of 68,333 shares each of Capex common stock at \$1.50 per share, in consideration of Capex's issuing new warrants to purchase 68,333 shares of common stock at \$1.50 per share on or before June 30, 1976 (or a total of 136,666 shares for both GWII and Continental). The terms and conditions of the new warrants are substantially the same as those contained in the original warrants, while the price, expiration date, and number of shares are identical.

Under the Agreement, Continental and GWII agree to terminate the agreements dated August 14, 1969 and June 30, 1971, and waive all rights and any defaults with respect thereto.

SUPPORTING STATEMENT

Continental and GWII each will participate in the transaction on the same basis. The terms of the Agreement were

arrived at through arms-length negotiations, wherein Capex, Continental, GWII and Western independently reached business decisions with respect to their respective investment objectives and business needs. Capex needs additional working capital, and both GWII and Continental are willing to permit a "stretchout" of their respective loan repayment schedules, in effect, to increase Capex's working capital during the "stretchout" period. The agreement by Continental and GWII to extend the repayment dates provided the inducement required to obtain Western's investment, since it insured that Western's money would not be dissipated immediately in paying off the outstanding debentures, but instead could be used to provide Capex with even more working capital. Capex intends to use the additional funds to implement a plan for expanding its business substantially. In order to avoid any question with regard to the propriety of the transaction, the Applicants now seek an order under section 17(d) of the Act and Rule 17d-1 thereunder.

Section 17(d) and Rule 17d-1, as here pertinent, make it unlawful for any affiliated person of a registered investment company, or any affiliated person of such person, to effect any transaction in connection with a joint enterprise or other joint arrangement in which such registered investment company, or a company controlled by such registered investment company, is a participant unless an application regarding such joint enterprise has been filed with and an appropriate order has been granted by the Commission. Rule 17d-1 provides that in passing upon such application the Commission will consider whether the participation of such registered or controlled company in such joint enterprise arrangement on the basis proposed is consistent with the provisions, policies and purpose of the Act and the extent to which such participation is on a basis different from or less advantageous than that of other participants.

The application states that the exemption sought will enable the Applicants promptly to implement a financing plan which is in the interest of each of them. It further contends that neither Continental nor GWII controls Capex, and that the two have not acted in concert to control Capex. The management of both Continental and GWII have carefully examined Capex's financial needs and the business opportunities presented by Capex and, acting in good faith, have decided that it is in the best interest of their respective shareholders to enter into the proposed Agreement on parallel terms. The application also states that no "self-dealing" is involved; there are no fees, special consideration, or other compensation involved among participants or between any participant and Capex.

Notice is further given that any interested person may, not later than December 26, 1972, at 5:30 p.m., submit to the Commission in writing a request for

a hearing in 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 (air mail if the person being served is located more than 500 miles from the point of mailing) upon the Applicants at the address set forth above. Proof of such service (by affidavit or in case of an attorney at law by certificate) shall be filed contemporaneously with the request. At any time after said date, as provided by Rule 0-5 of the rules and regulations promulgated under the Act, an order disposing of the application herein may be issued by the Commission upon the basis of the information stated in said application unless an order for hearing upon said application shall be issued upon request or upon the Commission's own motion. Persons who request a hearing, or advice as to whether a hearing is ordered, will receive notice of further developments in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Investment Company Regulation, pursuant to delegated authority.

[SEAL] RONALD F. HUNT,
Secretary.

[FR Doc.72-21487 Filed 12-13-72;8:45 am]

[24D-3090]

COLORADO ENERGY CORP.

Order Temporarily Suspending Exemption, Statement of Reasons Thereof and Notice of Opportunity for Hearing

DECEMBER 5, 1972.

I. Colorado Energy Corp., 1844 Valley View Road, Boulder, CO 80303 (issuer), a Colorado corporation with offices located at Boulder, Colo., filed with this Commission on May 17, 1971, a notification on form 1-A and an offering circular relating to a proposed offering of 5 million common shares for the purpose of obtaining an exemption from the registration requirements of the Securities Act of 1933, as amended, pursuant to the provisions of section 3(b) thereof, and Regulation A promulgated thereunder. The offering commenced on July 22, 1971, with officers and directors of the issuer acting as underwriters. Subsequently, the notification and offering circular were amended and J. Shapiro Co. (underwriter), Minneapolis, Minn., was designated as underwriter for the issue and would receive a 10 percent commission. The offering was recommended on November 2, 1971, and was completed on December 8, 1971.

II. The Commission has reasonable cause to believe from information reported to it by the staff that:

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

1. The acquisition of interests in certain mining claims;
2. The business in which the issuer was to and did engage;
3. The use to be made of the proceeds from the offering;
4. The sale of securities of the issuer in certain States without complying with the securities laws of such States.

B. The terms and conditions of Regulation A have not been complied with in that:

1. The notification failed to list all the jurisdictions in which the securities would be offered.
2. The offering circular failed to state accurately the use to which proceeds of the offering were to be applied.
3. The offering circular failed to disclose accurately the nature of the issuer's business.

C. The offering was made in violation of section 17(a) of the Securities Act of 1933, as amended.

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

It is ordered, Pursuant to Rule 261(a) of the general rules and regulations under the Securities Act of 1933, as amended, that the exemption of Colorado Energy Corp. be, and it hereby is, temporarily suspended.

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

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

By the Commission.

[SEAL] RONALD F. HUNT,
Secretary.

The following persons are to be served at the indicated addresses:

ISSUER

Colorado Energy Corp., 1844 Valley View Road, Boulder, CO 80301.

UNDERWRITER

J. Shapiro Co., Lincoln Tower Building, Suite 150-M, Denver, Colo.

TRANSFER AGENT

The Central Bank & Trust Co., Denver, Colo. 80202.

ATTORNEYS

James A. Henshall, Jr., Esq. (attorney for issuer), Martin, Riggs, & Henshall, 2017 13th Street, Boulder, CO 80302.

Paul H. Metzinger, Esq. (attorney for underwriter), Nelson, Harding, Marchetti, Leonard & Tate, 515 Executive Building, Omaha, Nebr. 68101.

OTHERS

Karl D. Mills, president, treasurer, and director, 545 Jack Pine Court, Boulder, CO.
Loren E. Smith, executive vice president, secretary, and director, 3375 75th Street, Boulder, CO.

Donald D. Runnells, director, 1080 Ithica Drive, Boulder, CO.

CEC Mining Co., Inc. (wholly owned subsidiary), 1844 Valley View Road, Boulder, CO 80301.

Donald J. Stocking, Regional Administrator, Securities and Exchange Commission, 7224 Federal Building, 1961 Stout Street, Denver, CO 80202.

Ronald F. Hunt, Secretary, Securities and Exchange Commission, Room 892, 500 North Capitol Street, Washington, DC 20549.

Warren E. Blair, Chief Administrative Law Judge, Office of the Administrative Law Judges, Securities and Exchange Commission, Room 2104, 11th and L Streets NW., Washington, D.C. 20005.

Stanley Sporkin, Deputy Director, Division of Enforcement, Securities and Exchange Commission, Room 413, 500 North Capitol Street, Washington, DC 20549.

Ruth D. Appleton, Chief, Branch of Small Issues, Division of Corporation Finance, Securities and Exchange Commission, Room 642, 500 North Capitol Street, Washington, DC 20549.

[FR Doc.72-21488 Filed 12-13-72;8:45 am]

[File 500-1]

CONTINENTAL VENDING MACHINE CORP.

Order Suspending Trading

DECEMBER 8, 1972.

It appearing to the Securities and Exchange Commission that the summary suspension of trading in the common stock 10 cents par value, of Continental Vending Machine Corp., and the 6 percent convertible subordinated debentures due September 1, 1976, being traded otherwise than on a national securities exchange is required in the public interest and for the protection of investors;

It is ordered, Pursuant to section 15(c) (5) of the Securities Exchange Act of 1934, that trading in such securities otherwise than on a national securities exchange be summarily suspended, this order to be effective for the period De-

ember 11, 1972, through December 20, 1972.

By the Commission.

[SEAL] GLADYS E. GREER,
Assistant Secretary.
[FR Doc. 72-21478 Filed 12-13-72;8:46 am]

[File 500-1]

CRYSTALOGRAPHY CORP.

Order Suspending Trading

DECEMBER 7, 1972.

It appearing to the Securities and Exchange Commission that the summary suspension of trading in the common stock, \$0.01 par value, and all other securities of Crystalography Corp., being traded otherwise than on a national securities exchange is required in the public interest and for the protection of investors;

It is ordered, Pursuant to section 15(c) (5) of the Securities Exchange Act of 1934, that trading in such securities otherwise than on a national securities exchange be summarily suspended, this order to be effective for the period from December 10, 1972, through December 19, 1972.

By the Commission.

[SEAL] RONALD F. HUNT,
Secretary.
[FR Doc.72-21479 Filed 12-13-72;8:46 am]

[File 500-1]

DCS FINANCIAL CORP.

Order Suspending Trading

DECEMBER 7, 1972.

It appearing to the Securities and Exchange Commission that the summary suspension of trading in the common stock, \$0.10 par value, and all other securities of DCS Financial Corp., being traded otherwise than on a national securities exchange is required in the public interest and for the protection of investors;

It is ordered, pursuant to section 15(c) (5) of the Securities Exchange Act of 1934, that trading in such securities otherwise than on a national securities exchange be summarily suspended, this order to be effective for the period from December 9, 1972, to December 18, 1972.

By the Commission.

[SEAL] RONALD F. HUNT,
Secretary.
[FR Doc.72-21480 Filed 12-13-72;8:46 am]

[File 500-1]

ECOLOGICAL SCIENCE CORP.

Order Suspending Trading

DECEMBER 7, 1972.

The common stock, 2 cent par value, of Ecological Science Corp., being traded on the American Stock Exchange, the

Philadelphia - Baltimore - Washington Stock Exchange and Pacific Coast Stock Exchange, pursuant to provisions of the Securities Exchange Act of 1934 and all other securities of Ecological Science Corp., being traded otherwise than on a national securities exchange; and

It appearing to the Securities and Exchange Commission that the summary suspension of trading in such securities on such exchanges and otherwise than on a national securities exchange is required in the public interest and for the protection of investors;

It is ordered, Pursuant to sections 15(c) (5) and 19(a) (4) of the Securities Exchange Act of 1934, that trading in such securities on the above mentioned exchanges and otherwise than on a national securities exchange be summarily suspended, this order to be effective for the period from December 9, 1972, through December 18, 1972.

By the Commission.

[SEAL] RONALD F. HUNT,
Secretary.
[FR Doc.72-21481 Filed 12-13-72;8:46 am]

[File 500-1]

GOODWAY INC.

Order Suspending Trading

DECEMBER 7, 1972.

The common stock, \$0.10 par value of Goodway Inc., being traded on the American Stock Exchange, pursuant to provisions of the Securities Exchange Act of 1934, and all other securities of Goodway Inc., being traded otherwise than on a national securities exchange; and

It appearing to the Securities and Exchange Commission that the summary suspension of trading in such securities on such exchanges and otherwise than on a national securities exchange is required in the public interest and for the protection of investors;

It is ordered, Pursuant to sections 19(a) (4) and 15(c) (5) of the Securities Exchange Act of 1934, that trading in such securities on the above-mentioned exchange and otherwise than on a national securities exchange be summarily suspended, this order to be effective for the period from December 9, 1972, through December 18, 1972.

By the Commission.

[SEAL] RONALD F. HUNT,
Secretary.
[FR Doc.72-21482 Filed 12-13-72;8:46 am]

[70-4397]

JERSEY CENTRAL POWER & LIGHT CO. AND DELMARVA POWER & LIGHT CO.

Notice of Post-Effective Amendment Regarding Proposed Guarantees of Loans of Non-Affiliated Coal Company

DECEMBER 7, 1972.

Notice is hereby given that Jersey Central Power & Light Co., Madison

Avenue at Punch Bowl Road, Morristown, NJ 07960 (Jersey Central), an electric utility subsidiary company of General Public Utilities Corp., a registered holding company, and Delmarva Power & Light Co., 800 King Street, Wilmington, DE 19899 (Delmarva), a registered holding company, have filed with this Commission a second post-effective amendment to their declaration in this proceeding pursuant to sections 6(a) and 7 of the Public Utility Holding Company Act of 1935 (Act) regarding proposed guaranties of loans to be obtained by Rochester & Pittsburg Coal Co. (Rochester), a nonaffiliated company. All interested persons are referred to the amended declaration, which is summarized below, for a complete statement of the proposed transactions.

Jersey Central and Delmarva own, as tenants in common, with five other non-associated utility companies, an electric generating station known as the Keystone Steam Electric Station (Keystone), which is located in the vicinity of Johnstown, Pa. The owners each have an interest, proportionate to their ownership, in the electric energy output of Keystone. Keystone is adjacent to certain coal lands of Rochester, and Rochester is the principal supplier of Keystone's coal requirements.

By orders of the Commission dated August 1, 1966, and April 19, 1972, (Holding Company Act Release Nos. 15533 and 17548), Jersey Central and Delmarva were authorized to guarantee, severally and not jointly, in proportion to their respective ownership interest in Keystone, 16.67 percent (or \$1,333,600) and 3.70 percent (or \$296,000), respectively, of the aggregate of \$8 million of borrowings by Rochester from two institutional lenders (\$4 million from Manufacturers Hanover Trust Co. (Manufacturers) and \$4 million from the Mutual Benefit Life Insurance Co. (Mutual)) for use in part for redevelopment of its mines.

It is stated that Rochester is now in need of additional financing in order to open, develop, equip, and operate, two additional coal mines and increase the amount of its working capital for use in the operation of all of the mines dedicated to supplying coal to Keystone. Rochester has advised the Keystone owners that it can obtain such additional financing only if such further borrowings were guaranteed by the Keystone owners.

Rochester intends to effect additional borrowings of up to \$10 million from Manufacturers and up to \$8 million from Mutual. The \$10 million of borrowings from Manufacturers will be short-term borrowings pursuant to a line of credit, and the \$8 million of borrowings from Mutual will be term loans made during 1973 and 1974, payable in installments over the period 1978-91. It is proposed that such additional borrowings be guaranteed severally and not jointly by the Keystone owners in proportion to their interest in Keystone so that the aggregate additional guaranties covered by the

post-effective amendment would be \$3,006,000 in the case of Jersey Central and \$666,000 in the case of Delmarva. Under the guaranty agreement with Manufacturers, any guarantor may terminate its obligations as of May 31 of any year by giving 30 days' notice.

The notes to Mutual will bear interest at the rate of 8¼ percent per annum, and there will be a commitment fee computed at the rate of one-half of 1 percent per annum on the daily average unused amount of the commitment. The notes to Manufacturers will be demand notes and will bear interest at the prime rate at the time of issuance. No compensating balances are required.

It is stated that the proposed extension of the guaranties by Jersey Central and Delmarva are subject, respectively, to the jurisdiction of the Board of Public Utility Commissioners of the State of New Jersey and the Public Service Commission of Delaware, and that no other State commission and no Federal commission, other than this Commission, has jurisdiction with respect to the proposed transactions. Fees and expenses related to the proposed transactions are estimated at \$6,500, including legal fees of \$4,500.

Notice is further given that any interested person may, not later than December 26, 1972, request in writing that a hearing be held on such matter, stating the nature of his interest, the reasons for such request, and the issues of fact or law raised by said post-effective amendment to the declaration which he desires to controvert; or he may request that he be notified if the Commission should order a hearing thereon. Any such request should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request should be served personally or by mail (airmail if the person being served is located more than 500 miles from the point of mailing) upon the declarants at the above-stated 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 declaration, as now amended or as it may be further amended, may be permitted to become effective as provided in Rule 23 of the general rules and regulations promulgated under the Act, or the Commission may grant exemption from such rules as provided in Rules 20(a) and 100 thereof or take such other action as it may deem appropriate. Persons who request a hearing or advice as to whether a hearing is ordered will receive notice of further developments in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Corporate Regulation, pursuant to delegated authority.

[SEAL] RONALD F. HUNT,
Secretary.

[FR Doc.72-21489 Filed 12-13-72;8:45 am]

[File 500-1]

MINUTE APPROVED CREDIT PLAN, INC.

Order Suspending Trading

DECEMBER 7, 1972.

It appearing to the Securities and Exchange Commission that the summary suspension of trading in the common stock, \$0.05 par value, and all other securities of Minute Approved Credit Plan, Inc., being traded otherwise than on a national securities exchange is required in the public interest and for the protection of investors;

It is ordered, Pursuant to section 15(c)(5) of the Securities Exchange Act of 1934, that trading in such securities otherwise than on a national securities exchange, be summarily suspended, this order to be effective for the period from December 10, 1972, through December 19, 1972.

By the Commission.

[SEAL] RONALD F. HUNT,
Secretary.

[FR Doc.72-21483 Filed 12-13-72;8:46 am]

[812-3325]

NATIONAL INVESTORS CORP.

Notice of Filing of Application for Order Exempting Sale

DECEMBER 6, 1972.

Notice is hereby given that National Investors Corp., 65 Broadway, New York, NY 10006 (Applicant), a Maryland corporation registered under the Investment Company Act of 1940 (Act), as a diversified, open-end management investment company, has filed an application pursuant to section 6(c) of the Act requesting an order of the Commission for exemption from the provisions of section 22(d) of the Act so as to permit Applicant to acquire the assets of Elmarwin Corp. (Elmarwin) in exchange for the shares of Applicant without charging any sales load. All interested persons are referred to the application on file with the Commission for a statement of the representations contained therein, which are summarized below.

Applicant represents that Elmarwin was incorporated in Iowa as a seed and nursery company and engaged in that business until 1959, at which time it went out of that business and became engaged primarily in the business of investing and reinvesting its funds. All the outstanding stock of Applicant is owned of record and beneficially by nine persons, and Applicant asserts that Elmarwin is excepted from the definition of an investment company by reason of section 3(c)(1) of the Act.

On October 26, 1972, Applicant and Elmarwin entered into an Agreement and Plan of Reorganization (Agreement) whereby substantially all of the cash and securities owned by Elmarwin, with a value of approximately \$1,432,510 as of

November 3, 1972, are to be transferred to Applicant in exchange for shares of Applicant's capital stock which have been registered under the Securities Act of 1933. Pursuant to the Agreement, the number of shares of Applicant to be issued to Elmarwin is to be determined by dividing the aggregate market value of the assets of Elmarwin to be transferred to Applicant (subject to certain adjustments as set forth in the Agreement) by the net asset value per share of Applicant, both to be determined as of the valuation time as defined in the Agreement.

Applicant presently intends to sell, after acquisition thereof, securities of Elmarwin having a market value on November 3, 1972, of \$657,390, which represented 45.9 percent of the total market value, including cash items, of Elmarwin's assets on that date. Applicant undertakes that it will not consummate the proposed transaction if it would result in Applicant's selling more than 50 percent of the total market value of Elmarwin's assets immediately after the acquisition thereof. The remainder of the assets of Elmarwin will be retained in Applicant's portfolio.

When received by Elmarwin, the shares of Applicant are to be distributed to the stockholders of Elmarwin. Since the exchange is expected to be tax-free for Elmarwin and its stockholders, Applicant's cost-basis for tax purposes for the assets acquired from Elmarwin will be the same as Elmarwin's cost-basis. Applicant has been advised that the stockholders of Elmarwin have no present intention of redeeming, or otherwise transferring, Applicant's shares following the proposed transaction.

The adjustment provided for in the Agreement requires that in determining the number of shares of Applicant to be issued to Elmarwin, the aggregate market value of the assets of Elmarwin to be acquired shall be reduced by an amount, if any, determined by application of a formula designed to compensate for any increase in the potential taxes of Applicant that may result from any excess in the proportion of the net value of the assets acquired from Elmarwin, represented by realized and unrealized appreciation, over the proportion of the net asset value of Applicant, represented by realized and unrealized appreciation. If the valuation under the Agreement had taken place on November 3, 1972, when the net asset value of Applicant's stock was \$10.37 per share, Elmarwin would have received 136,379 shares of Applicant's stock.

Applicant represents that no affiliation exists between Elmarwin or its officers, directors, or stockholders and Applicant, or its officers or directors, and that the Agreement was negotiated at arm's-length by the two companies.

Section 22(d) of the Act, in pertinent part, prohibits a registered investment company from selling any redeemable security issued by it to any person except either to or through a principal underwriter for distribution at a current public

offering price as described in the prospectus. The offering price described in Applicant's prospectus includes a sales charge.

Section 6(c) of the Act permits the Commission, upon application, to exempt a transaction if it finds that such an exemption is necessary or 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.

Applicant contends that the proposed transaction is in the interests of Applicant's shareholders because the resulting increase in the size of Applicant's assets will tend to reduce its per share expenses.

Notice is further given that any interested person may, not later than December 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, if any, of fact or law proposed to be controverted, or he may request that he be notified if the Commission should order a hearing thereon. Any such communication should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request shall be served personally or by mail (airmail if the person being served is located more than 500 miles from the point of mailing) upon Applicant at the address stated above. Proof of such service (by affidavit, or in case of an attorney at law, by certificate) shall be filed contemporaneously with the request. At any time after said date, as provided by Rule 0-5 of the rules and regulations promulgated under the Act, an order disposing of the application herein may be issued by the Commission upon the basis of the information stated in said application, unless an order for hearing thereon shall be issued upon request or upon the Commission's own motion. Persons who request a hearing or advice as to whether a hearing is ordered will receive notice of further developments in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Investment Company Regulation, pursuant to delegated authority.

[SEAL] RONALD F. HUNT,
Secretary.

[FR Doc.72-21490 Filed 12-13-72;8:45 am]

[811-1755]

NEWPORT FUND, INC.

Notice of Filing of Application for Order

DECEMBER 7, 1972.

Notice is hereby given that Newport Fund, Inc., c/o Alfred Weeks, Jr., Shareholders Management Co., 1888 Century Park East, Los Angeles, CA 90067 (Applicant), a diversified, open-end management investment company registered under the Investment Company Act of 1940

(Act), has filed an application pursuant to section 8(f) of the Act for an order of the Commission declaring that Applicant has ceased to be an investment company. All interested persons are referred to the application on file with the Commission for a statement of representations contained therein, which are summarized below.

Applicant was organized on October 30, 1968 as a Delaware corporation and registered under the Act on November 6, 1968, at which time it proposed to make a public offering.

The application states, among other things, that the Applicant has never issued any shares; that it has not conducted any business; and that its Board of Directors has abandoned any attempt to make a public offering of the corporation's securities and has unanimously agreed to dissolve the corporation. On July 25, 1972, Applicant withdrew its registration statement filed under the Securities Act of 1933.

Section 8(f) of the Act provides, in pertinent part, that whenever the Commission, upon application, finds that a registered investment company has ceased to be an investment company, it shall so declare by order, and upon the taking effect of such order the registration of such company shall cease to be in effect.

Notice is further given that any interested person may, not later than December 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 should order a hearing thereon. Any such communication should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request shall be served personally or by mail (airmail if the person being served is located more than 500 miles from the point of mailing) upon Applicant at the address stated above. Proof of such service (by affidavit, or in case of an attorney at law, by certificate) shall be filed contemporaneously with the request. At any time after said date, as provided by Rule 0-5 of the rules and regulations promulgated under the Act, an order disposing of the application herein may be issued by the Commission upon the basis of the information stated in said application, unless an order for a hearing upon said application shall be issued upon request or upon the Commission's own motion. Persons who request a hearing, or advice as to whether a hearing is ordered, will receive notice of further developments in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Corporate Regulation, pursuant to delegated authority.

[SEAL] RONALD F. HUNT,
Secretary.

[FR Doc.72-21491 Filed 12-13-72;8:45 am]

[File 500-1]

ROLLINS RAPID REPRO FRANCHISES, INC.**Order Suspending Trading**

DECEMBER 6, 1972.

It appearing to the Securities and Exchange Commission that the summary suspension of trading in the common stock, \$0.01 par value, and all other securities of Rollins Rapid Repro Franchises, Inc. being traded otherwise than on a national securities exchange is required in the public interest and for the protection of investors;

It is ordered, Pursuant to section 15(c) (5) of the Securities Exchange Act of 1934, that trading in such securities otherwise than on a national securities exchange be summarily suspended, this order to be effective for the period from 12:40 p.m., e.s.t. on December 6, 1972, through December 15, 1972.

By the Commission.

[SEAL] RONALD F. HUNT,
Secretary.

[FR Doc.72-21484 Filed 12-13-72;8:46 am]

[File 500-1]

TRAVEL MANAGEMENT CORP.**Order Suspending Trading**

DECEMBER 6, 1972.

It appearing to the Securities and Exchange Commission that the summary suspension of trading in the common stock, \$0.01 par value, and all other securities of Travel Management Corp. being traded otherwise than on a national securities exchange is required in the public interest and for the protection of investors;

It is ordered, pursuant to section 15(c) (5) of the Securities Exchange Act of 1934, that trading in such securities otherwise than on a national securities exchange be summarily suspended, this order to be effective for the period from 12:40 p.m., e.s.t. on December 6, 1972 through December 15, 1972.

By the Commission.

[SEAL] RONALD F. HUNT,
Secretary.

[FR Doc.72-21485 Filed 12-13-72;8:46 am]

[File 500-1]

U.S. FINANCIAL INC.**Order Suspending Trading**

DECEMBER 5, 1972.

The common stock, \$2.50 par value, of U.S. Financial Inc. being traded on the New York Stock Exchange, pursuant to provisions of the Securities Exchange Act of 1934 and all other securities of U.S. Financial Inc. being traded otherwise than on a national securities exchange; and

It appearing to the Securities and Exchange Commission that the summary

suspension of trading in such securities on such exchange and otherwise than on a national securities exchange is required in the public interest and for the protection of investors;

It is ordered, Pursuant to sections 15(c) (5) and 19(a) (4) of the Securities Exchange Act of 1934, that trading in such securities on the above mentioned exchange and otherwise than on a national securities exchange be summarily suspended, this order to be effective for the period from 10:30 a.m., e.s.t., December 5, 1972, and continuing through December 14, 1972.

By the Commission.

[SEAL] RONALD F. HUNT,
Secretary.

[FR Doc.72-21486 Filed 12-13-72;8:46 am]

SELECTIVE SERVICE SYSTEM**EMPLOYEE RESPONSIBILITIES AND CONDUCT****Issuance of Standards**

The following regulations, effective January 1, 1973, are issued under Executive Order 11222 and 5 CFR Part 735. 32 CFR Part 1600 is rescinded, effective 11:59 p.m., e.s.t., December 31, 1972.

EMPLOYEE RESPONSIBILITIES AND CONDUCT**1. GENERAL PROVISIONS**

1.1 *Presidential policy.* The President's policy, in section 101 of Executive Order No. 11222, is based on a recognition that the maintenance of unusually high standards of honesty, integrity, impartiality, and conduct by Government employees, and special Government employees, through informed judgment is essential to assure the proper performance of the Government's business and the maintenance of confidence and respect of the citizens in their Government.

1.2 *Selective Service policy.* Employees of the Selective Service System shall conduct themselves in such a manner that the work of the System is effectively accomplished. Employees shall be courteous, considerate, and prompt, in dealing with, or serving the public, and shall conduct themselves in both their official and personal lives in a manner that will not bring discredit or embarrassment to the Selective Service System. Employees shall observe the applicable laws and regulations governing participation in political activities; avoid any discrimination because of race, color, religion, national origin, or sex; economically utilize, protect, and conserve Federal property entrusted to them; and conduct all their official activities in a manner which is above reproach and free from any indiscretions or acceptance of gratuities or favor which would cast doubt or suspicion upon themselves or the administration of the Selective Service System.

2. DEFINITIONS

2.1 *Employee.* "Employee" means an officer or employee of the Selective Service System including uncompensated persons, but does not include a special Government employee or a member of the uniformed services. Military personnel will be governed by the standards of conduct published by their parent service.

2.2 *Person.* "Person" means an individual, a corporation, a company, an association, a firm, a partnership, a society, a joint stock company, or any other organization or institution.

2.3 *Special government employee.* "Special government employee" means an officer or employee who is retained, designated, appointed, or employed to perform, with, or without compensation, for not to exceed 130 days during any period of 365 consecutive days, temporary duties either on a full-time or intermittent basis, but does not include a member of the uniformed services.

2.4 *Uniformed Services.* "Uniformed Services" means the Army, Navy, Air Force, Marine Corps, Coast Guard, the commissioned corps of the Environmental Services Administration, and the commissioned corps of the Public Health Service.

3. INTERPRETATION AND ADVISORY SERVICE

3.1 *Informing employees of standards of conduct.* The provisions of this chapter shall be brought to the attention of all compensated and uncompensated employees and special Government employees of the Selective Service System at least annually. New employees and special Government employees shall be informed at the time of their appointment. A copy of this chapter shall be permanently posted on all bulletin boards and a copy shall be given to each employee and special Government employee. Also, a presentation on "ethics in government" shall be included in orientation programs for new employees, in supervisory training courses, and in staff training conferences.

3.2 *Counseling service.* The Director of Selective Service (hereinafter the "Director") shall designate a counselor for the Selective Service System to serve as the designee to the Civil Service Commission on matters pertaining to ethical and moral conduct by officers and employees of the Selective Service System. The counselor shall be responsible for coordination of the counseling service as provided in paragraph 3.2.1 and for assuring that counseling and interpretations on questions of conflicts of interest and other matters covered by this chapter are available to deputy counselors.

3.2.1 *Designation of deputy counselors.* The Director shall designate deputy counselors for the Selective Service System. Deputy counselors shall give authoritative advice and guidance to each employee and special Government employee who seeks advice and guidance on questions of conflicts of interest and on other matters covered by this chapter.

3.2.2 *Review of statements of employment and financial interests.* All statements of employment and financial interest submitted under paragraph 6 of this chapter shall be forwarded to the Director of Selective Service through the counselor. The employee or special Government employee shall be given an opportunity to explain any conflict of interest or any appearance of conflict.

3.2.3 *Disciplinary and other remedial action.* In addition to any penalty prescribed by law, appropriate disciplinary action shall be taken or initiated by the supervisors of employees and special Government employees who violate laws, rules, or regulations on conduct or fail to observe the standards of conduct prescribed in this chapter.

3.2.3.1 *Remedial actions or disciplinary actions that may be taken.* When, after consideration of the explanation of the employee or special Government employee, the Director decides that remedial action is required, he shall take immediate action to end the conflicts or appearance of conflicts of interest. Remedial action may include, but is not limited to:

- Changes in assigned duties;
- Divestment by the employee or special Government employee of his conflicting interest;
- Disciplinary action including removal; or
- Disqualification for a particular assignment.

Remedial action shall be effected in accordance with any applicable laws, Executive orders and regulations.

4. ETHICAL AND OTHER CONDUCT AND RESPONSIBILITIES OF EMPLOYEES

4.1 *Actions to be avoided.* An employee shall avoid any action, whether or not specifically prohibited by this chapter, which might result in, or create the appearance of:

4.1.1 *Private gain.* Using public office for private gain.

4.1.2 *Preferential treatment.* Giving preferential treatment to any person.

4.1.3 *Impeding efficiency or economy.* Impeding Government efficiency or economy.

4.1.4 *Independence or impartiality.* Losing complete independence or impartiality.

4.1.5 *Decision outside official channels.* Making a Government decision outside official channels.

4.1.6 *Integrity of the Government.* Affecting adversely the confidence of the public in the integrity of the Government.

4.2 *Gifts, entertainment, and favors.* Employees of the Selective Service System shall not solicit or accept, directly or indirectly, anything of economic value as a gift, gratuity, favor, entertainment, or loan which is, or may appear to be, designed to in any manner influence official conduct particularly from a person who is seeking to obtain contractual or other business or financial relations with the Selective System or has interests that may be substantially affected

by the performance or nonperformance of this duty. No gift shall be accepted whenever the employee has any reason to believe that it would not have been made except for his official position or that the donor's private interests are likely to be affected by his actions or actions of the Selective Service System.

4.2.1 *Exceptions to paragraph 4.2.* Appropriate exceptions to paragraph 4.2 include the following:

4.2.1.1 *Obvious family or personal relationships.* Obvious family or personal relationships (such as those between parents, children, or spouse of the employee and the employee) when the circumstances make it clear that it is those relationships rather than the business of the persons concerned which are the motivating factors.

4.2.1.2 *Acceptance of food and refreshments.* Acceptance of food and refreshments of nominal value on infrequent occasions in the ordinary course of a luncheon or dinner meeting or other meeting or on an inspection tour where an employee may properly be in attendance.

4.2.1.3 *Acceptance of loans.* Acceptance of loans from banks or other financial institutions on customary terms to finance proper and usual activities of employees, such as home mortgage loans.

4.2.1.4 *Acceptance of items of nominal value.* Acceptance of unsolicited advertising or promotional material, such as pens, pencils, note pads, calendars, and other items of nominal intrinsic value.

4.2.2 *Restriction concerning gifts.* An employee shall not solicit a contribution from another employee for a gift to an official superior, make a donation as a gift to an official superior, or accept a gift from an employee receiving less pay than himself. However, this paragraph does not prohibit a voluntary gift of nominal value or donation in a nominal amount made on a special occasion, such as marriage, illness, or retirement.

4.2.3 *Acceptance from a Foreign Government.* An employee shall not accept a gift, present, decoration, or other thing from a foreign government unless authorized by Congress as provided by the Constitution and in 5 U.S.C. 7342.

4.2.4 *Bona fide reimbursement.* The provisions of this chapter do not preclude an employee from receipt of bona fide reimbursement, unless prohibited by law, for expenses of travel and such other necessary subsistence as is compatible with this chapter for which no Government payment or reimbursement is made. However, this paragraph does not allow an employee to be reimbursed, or payment to be made on his behalf, for excessive personal living expenses, gifts, entertainment, or other personal benefits. It does not permit direct reimbursement of travel expenses by a donor to any individual employee, either in money or in accommodations, goods or services in kind (decision B-128527), Comptroller General, March 7, 1967).

4.3 *Outside employment and other activity.*—4.3.1 *Incompatible activity.* An employee shall not engage in outside

employment or other outside activity not compatible with the full and proper discharge of the duties and responsibilities of his Government employment. Incompatible activities include but are not limited to the following:

4.3.1.1 *Acceptance of anything of monetary value.* Acceptance of a fee, compensation, gift, payment of expense, or any other thing of monetary value in circumstances in which acceptance may result in, or create the appearance of, conflicts of interest.

4.3.1.2 *Employment which tends to impair capacity to perform duties.* Outside employment which tends to impair mental or physical capacity to perform the Government duties and responsibilities in an acceptable manner.

4.3.2 *Payment from private source for services to government.* An employee shall not receive any salary or anything of monetary value from a private source as compensation for his services to the Government.

4.3.3 *Outside activity.* Employees are encouraged to engage in teaching, lecturing, and writing that is not prohibited by law or this chapter. However, an employee shall not, either for or without compensation, engage in teaching, lecturing, or writing, including teaching, lecturing, or writing for the purpose of the special preparation of a person or class of persons for an examination of the Civil Service Commission or Board of Examiners for the Foreign Service, that is dependent on information obtained as a result of Government employment, except when that information has been made available to the general public or will be made available on request, or when the Director gives written authorization for the use of nonpublic information on the basis that the use is in the public interest.

4.7 *Indebtedness.* An employee shall pay each just financial obligation in a proper and timely manner, especially one imposed by law, such as Federal, State, or local taxes. For the purpose of this paragraph, a "just financial obligation" means one acknowledged by the employee or reduced to judgment by a court and "in a proper and timely manner" means in a manner which does not, under the circumstances, reflect adversely on the Government as his employer. In the event of dispute between an employee and an alleged creditor, this paragraph does not require the selective service system to determine the validity or amount of the disputed debt.

4.8 *Gambling, betting, and lotteries.* An employee shall not participate, while on Government-owned or leased property or while on duty for the Government, in any gambling activity including the operation of a gambling device, in conducting a lottery or pool, in a game for money or property, or in selling or purchasing a numbers slip or ticket.

4.9 *General conduct prejudicial to the government.* An employee shall not engage in criminal, infamous, dishonest, immoral (as defined by applicable laws, executive orders and regulations), or notoriously disgraceful conduct, or other

conduct prejudicial to the Government.

4.10 *Miscellaneous statutory provisions.* Each employee shall acquaint himself with the statutes relating to ethical and other conduct as an employee as reflected in appendices A, B, and C.

4.10.1 *Appendix A.* Parts of chapter 11 of title 18, United States Code relating to bribery, graft, and conflicts of interests.

4.10.2 *Appendix B.* Other laws concerning the conduct of employees.

4.10.3 *Appendix C.* House Concurrent Resolution 175, 85th Congress, second session, 72 Stat. B12, the "Code of Ethics for Government Service."

4.4 *Financial interests.* An employee is not precluded from having a financial interest or engaging in financial transactions to the same extent as a private citizen not employed by the Government so long as it is not prohibited by law or the provisions of this chapter.

4.4.1 *Financial interest which conflicts with government duties.* An employee shall not have a direct or indirect financial interest that conflicts substantially, or appears to conflict substantially, with his Government duties and responsibilities.

4.4.2 *Use of information obtained through government employment.* An employee shall not engage in, directly or indirectly, a financial transaction as a result of, or primarily relying on, information obtained through his Government employment.

4.5 *Use of government property.* An employee shall not directly or indirectly use, or allow the use of, Government property of any kind, including property leased to the Government, for other than officially approved activities. An employee has a positive duty to protect and conserve Government property, including equipment, supplies, and other property entrusted or issued to him.

4.6 *Misuse of information.* Employees shall not disclose official information without either appropriate general or specific authority under regulations of the selective service system, and shall not, directly or indirectly, make use of, or permit others to make use of, official information in the possession of the selective service system, not made available to the general public, for the purpose of furthering a private interest. Nothing in this paragraph shall be construed as directing any employee to withhold unclassified information from the press or public. This paragraph is intended solely to limit prior distribution of confidential information to an individual or group of individuals where the possession of such information would give the individual or individuals advantages not accorded to other citizens.

5. ETHICAL AND OTHER CONDUCT AND RESPONSIBILITIES OF SPECIAL GOVERNMENT EMPLOYEES

5.1 *Applicable provisions.* The ethical and other conduct of special Government employees shall be governed by this paragraph and such other provisions of this chapter as may be specifically applicable.

5.2 *Use of Government employment.* A

special Government employee shall not use his Selective Service employment for a purpose that is, or gives the appearance of being, motivated by the desire for private gain for himself, or another person, particularly one with whom he has family, business, or financial ties.

5.3 *Use of inside information.* A special Government employee shall not use inside information obtained as a result of his Selective Service employment for private gain for himself or another person either by direct action on his part or by counsel, recommendation, or suggestion to another person, particularly one with whom he has family, business, or financial ties. "Inside information" means information obtained under Government authority which has not become part of the body of public information.

5.4 *Coercion.* A special Government employee shall not use his Selective Service employment to coerce, or give the appearance of coercing, a person to provide financial benefit to himself or another person, particularly one with whom he has family, business or financial ties.

5.5 *Gifts, entertainment, and favors.* Except as provided in paragraph 5.5.1, a special Government employee, while so employed or in connection with his employment, shall not receive or solicit from a person having business with the Selective Service System anything of value as a gift, gratuity, loan, entertainment, or favor for himself or another person, particularly one with whom he has family, business, or financial ties.

5.5.1 *Appropriate exceptions.* Special Government employees are subject to such appropriate exceptions as authorized for employees in paragraph 4.2.1. Also, special Government employees may teach, lecture, or write, in a manner not inconsistent with the provisions of paragraph 4.3.3.

5.5.2 *Miscellaneous statutory provisions.* Each special Government employee shall acquaint himself with the statutes relating to ethical and other conduct referred to in paragraph 4.10.

6. STATEMENTS OF EMPLOYMENT AND FINANCIAL INTERESTS

6.1 *Form and content of statements.* The statements of employment and financial interests required under this paragraph for use by employees and special Government employees shall contain the information required by the Civil Service Commission in the Federal Personnel Manual.

6.2 *Employees required to submit statements.* The Director shall require statements of employment and financial interest from employees occupying the following positions:

The Deputy Director of Selective Service,
Chief, Office of Public Information,
General Counsel.

Chief, Office of Legislation and Liaison,
Assistant Deputy Director for Operations,
Assistant Deputy Director for Administration.

Each Regional Service Center Administrator.

Each State Director of Selective Service.
Each employee paid at a level of the Executive schedule in Subchapter II of Chapter 53 of title 5, United States Code.
Other positions as may be designated by the Director of Selective Service.

6.2.1 *Employee's complaint on filing requirement.* An employee required to submit a statement under the provisions of paragraph 6.2, who believes that his position has been improperly included, may have the decision to include the position reviewed under the Selective Service grievance procedures.

6.2.2 *Employees not required to submit statements.* A statement of employment and financial interests is not required by this paragraph from the Director, a Presidential appointee in the Executive Office of the President who is not subordinate to the head of any agency in that Office, or a full-time member of a committee, board, or commission appointed by the President. These employees are subject to separate reporting requirements under section 401 of the Executive order. Also excluded are National Guard and Reserve Officers on active duty for training purposes.

6.3 *Time and place for submission of employees' statements.* An employee, required to submit a statement of employment and financial interests under the provisions of paragraph 6.2, shall submit that statement to the Director not later than 30 days after entering on duty.

6.4 *Supplementary statements.* Changes in, or additions to, the information contained in an employee's statement of employment and financial interests shall be reported in a supplementary statement as of June 30 each year. If no changes or additions occur, a negative report (or letter) is required. Notwithstanding the filing of the annual report required by this section, each employee shall at all times avoid acquiring a financial interest that could result, or taking an action that would result, in a violation of the conflicts-of-interest provisions of section 208 of title 18, United States Code, or paragraph 4 of this chapter.

6.5 *Interests of employees' relatives.* The interest of a spouse, minor child, or other member of an employee's immediate household is considered to be an interest of the employee. "Member of an employee's immediate household" means those blood relations who are residents of the employee's household.

6.6 *Information not known by employees.* If any information required to be included on a statement of employment and financial interests or supplementary statement, including holdings placed in trust, is not known to the employee but is known to another person, the employee shall request that other person to submit information in his behalf.

6.7 *Information prohibited.* This paragraph does not require an employee to submit on a statement of employment and financial interests or supplementary statement any information relating to

the employee's connection with, or interest in, a professional society or a charitable, religious, social, fraternal, recreational, public service, civic, or political organization, or a similar organization not conducted as a business enterprise. Educational and other institutions doing research and development or related work involving grants or money from or contracts with the Government are deemed "business enterprises" and are required to be included in an employee's statement of employment and financial interests.

6.8 Confidentiality of employees' statements. Each statement of employment and financial interests, and each supplementary statement, shall be held in confidence. The Director of Selective Service, or qualified employees designated by him, shall review and retain the statements. Employees so designated are responsible for maintaining the statements in confidence and shall not allow access to, or allow information to be disclosed from, a statement except to carry out the purpose of this chapter. Information from a statement may not be disclosed, except as the U.S. Civil Service Commission or the Director of Selective Service may determine for good cause shown.

6.9 Effect of employees' statements on other requirements. The statements of employment and financial interests and supplementary statements required of employees are in addition to, and not in substitution for, or in derogation of, any similar requirement imposed by law, order, or regulation. The submission of a statement or supplementary statement by an employee does not permit him or any other person to participate in a matter in which his or the other person's participation is prohibited by law, order, or regulation.

6.10 Specific provisions for Special Government employees. Each special Government employee shall submit a statement of employment and financial interest which reports: All other employment; and the financial interests of the special Government employee which the Director of Selective Service determines are relevant in the light of the duties he is to perform.

6.10.1 Waiver of paragraph 6.10. The Director of Selective Service may waive the requirement of paragraph 6.10 for the submission of a statement of employment and financial interests, in the case of a special Government employee who is not a consultant or an expert, when he finds that the duties of the position held by that special Government employee are of a nature and at such a level of responsibility, that the submission of the statement by the incumbent is not necessary to protect the integrity of the Government. "Consultant" and "expert" have the meanings given those terms by Chapter 304 of the Federal Personnel Manual, but do not include a physician, dentist, or allied medical specialist whose services are procured to provide care and service to patients; or a veterinarian whose services are procured to provide care and service to animals.

6.10.2 Submission of statement by special Government employees. A statement of employment and financial interests required to be submitted under this section shall be submitted not later than the time of employment of the special Government employee. Each special Government employee shall keep his statement current throughout his employment with the agency by the submission of supplementary statements.

APPENDIX A—BRIBERY, GRAFT, AND CONFLICT OF INTEREST LAWS

1. (a) Section 203 of title 18 of the United States Code makes it unlawful for a Government officer or employee (including a special Government employee, as provided in paragraph 1(b) below) to, directly or indirectly, ask, receive, or agree to receive any compensation for any service rendered on behalf of another person before any department, agency, or officer of the United States in relation to any proceeding, contract, claim, or other particular matter in which the United States is a party or has a direct and substantial interest.

(b) Section 203 also makes it unlawful for a special Government employee to, directly or indirectly, ask, receive, or agree to receive any compensation for any services rendered on behalf of another person before any department, agency, or officer of the United States in relation to any proceeding, contract, claim, or other particular matter in which the United States is a party or has a direct and substantial interest (i) in which he has participated personally and substantially in the course of his Government duties or (ii) if it is pending in his department or agency and he has served therein more than 60 days in the immediately preceding period of 365 days, even though he has not participated in the matter personally and substantially.

2. (a) Under section 205 of title 18 of the United States Code it is unlawful for a Government officer or employee, other than in the proper discharge of his official duties, (i) to act as agent or attorney for prosecuting any claim against the United States, including a claim in court, whether for compensation or not, or to receive a gratuity, or a share or interest in any such claim, for assistance in the prosecution thereof, or (ii) to act as agent or attorney for anyone else before a department, agency, or court in connection with any particular matter in which the United States is a party or has a direct and substantial interest.

(b) Section 205 has a limited application to a special Government employee and makes it unlawful for him to act as agent or attorney only (i) in a matter involving a specific party or parties in which he has participated personally and substantially in his governmental capacity, and (ii) in a matter involving a specific party or parties which is before his department or agency, if he has served therein more than 60 days in the immediately preceding period of 365 days.

3. Section 207 of title 18 of the United States Code makes it unlawful for a former officer or employee, including a former special Government employee, to act as agent or attorney for anyone other than the United States in any particular matter involving a specific party or parties in which the United States is a party or has a direct and substantial interest and in which he participated personally and substantially as a Government officer or employee. Section 207 also makes it unlawful for any former officer or employee for 1 year after his Government employment ceases to appear personally as

agent or attorney for another before any court or department or agency of the Government in which the United States is a party or is directly and substantially interested and which was within the area of his official responsibility as a Government officer or employee within 1 year prior to the termination of such responsibility.

4. Under section 208 of title 18 of the United States Code it is unlawful for an officer or employee, including a special Government employee, to participate personally and substantially in any Government action, proceeding, or other particular matter in which to his knowledge, he, his spouse, minor child, or partner has a financial interest, or in which a business or nonprofit organization with which he is connected or is seeking employment has a financial interest.

5. Section 209 of title 18 of the United States Code makes it unlawful for an officer or employee to receive, and for anyone to pay him, any salary or supplementation of salary from a private source as compensation for his services to the Government. Section 209 does not apply to a special Government employee or to anyone serving the Government without compensation, whether or not he is a special Government employee.

6. Under the provisions of section 13(a) of the Military Selective Service Act, sections 203, 205, and 207 of title 18, United States Code, do not apply to uncompensated officers or employees of the Selective Service System or to the members of the National Selective Service Appeal Board.

APPENDIX B—OTHER LAWS CONCERNING THE CONDUCT OF EMPLOYEES

1. Section 1913 of title 18 of the United States Code prohibits lobbying with appropriated moneys.

2. Section 7811 of title 5 and section 1918 of title 18 of the United States Code prohibits Federal employment of persons who are disloyal or assert the right to strike against the Government.

3. Section 784 of title 50 of the United States Code prohibits the employment of a member of the Communist organization.

4. Section 798 of title 18 of the United States Code and section 783 of title 50 of the United States Code prohibits the disclosure of classified information and section 1905 of title 18 of the United States Code prohibits the disclosure of confidential information.

5. Section 7352 of title 5 of the United States Code concerning the habitual use of intoxicants to excess.

6. Section 638a(c) of title 31 of the United States Code prohibits the use of Government vehicles or aircraft for other than official purposes.

7. Section 1719 of title 18 of the United States Code prohibits the use of official envelopes or labels to avoid payment of postage on private mail.

8. Section 1917 of title 18 of the United States Code prohibits the use of deceit in an examination or personnel action in connection with Government employment.

9. Section 1001 of title 18 of the United States Code prohibits fraud or false statements in a Government matter.

10. Sections 285 and 2071 of title 18 of the United States Code prohibits the concealing, mutilation, destruction, or other improper use of Government documents or records.

11. Section 508 of title 18 of the United States Code prohibits certain improper activities relating to Government transportation requests.

12. Sections 641, 643, and 654 of title 18 of the United States Code prohibits the embezzlement of Government money or property, the failure to account for public

money, and the embezzlement of the money of property of another person in the possession of an employee by reason of his employment.

13. Subchapter III of chapter 73 of title 5 of the United States Code and sections 602, 603, 607, and 608 of title 18 of the United States Code prohibits certain political activities (under section 13(a) of the Military Selective Service Act, 5 U.S.C. sections 7324-7327 do not apply to uncompensated officers and employees of the Selective Service System or to members of the National Selective Service Appeal Board).

14. Section 219 of title 18 of the United States Code prohibits an employee acting as the agent of a foreign principal registered under the Foreign Agents Registration Act.

15. The provision relating to the denial of the right to petition Congress (5 U.S.C. 7102).

16. The prohibition against a public official appointing or promoting a relative, or advocating such an appointment or promotion (5 U.S.C. 3110).

17. The prohibition against the employment of an individual convicted of felonious rioting or related offenses (5 U.S.C. 7313).

18. The tax imposed on certain employees (e.g., Presidential appointees, employees excepted under Schedule C, employees in GS-16 or above, or a comparable pay level) who knowingly engage in self-dealing with a private foundation (26 U.S.C. 4941, 4946). "Self-dealing" is defined in the statute to include certain transactions involving an employee's receipt of pay, a loan, or reimbursement for travel or other expenses from, or his sale to or purchase of property from a private foundation.

APPENDIX C—HOUSE CONCURRENT RESOLUTION 175, 85TH CONGRESS, 2D SESSION

Resolved by the House of Representatives (the Senate concurring), That it is the sense of the Congress that the following Code of Ethics should be adhered to by all Government employees, including officeholders:

CODE OF ETHICS FOR GOVERNMENT SERVICE

Any person in Government service should:

- Put loyalty to the highest moral principles and to country above loyalty to persons, party or Government department.
- Uphold the Constitution, laws, and legal regulations of the United States and of all governments therein and never be a party of their evasion.
- Give a full day's labor for a full day's pay; giving to the performance of his duties his earnest effort and best thought.
- Seek to find and employ more efficient and economical ways of getting tasks accomplished.
- Never discriminate unfairly by the dispensing of special favors or privileges to anyone, whether for remuneration or not; and never accept, for himself or his family, favors or benefits under circumstances which might be construed by reasonable persons as influencing the performance of his governmental duties.
- Make no private promises of any kind binding upon the duties of office, since a Government employee has no private word which can be binding on public duty.
- Engage in no business with the Government, either directly or indirectly, which is inconsistent with the conscientious performance of his governmental duties.
- Never use any information coming to him confidentially in the performance of governmental duties as a means for making private profit.
- Expose corruption wherever discovered.

10. Uphold these principles, ever conscious that public office is a public trust.

BYRON V. PEPITONE,
Acting Director.

NOVEMBER 30, 1972.

[FR Doc.72-21509 Filed 12-13-72;8:51 am]

INTERSTATE COMMERCE COMMISSION

[Ex Parte No. MC-67 (Sub-No. 1)]

AMERICAN TRUCKING ASSOCIATIONS, INC.

Notice of Filing of Petition

DECEMBER 8, 1972.

Notice of filing of petition of the Contract Carrier Conference of American Trucking Associations, Inc., to amend Commission's procedure for processing applications for contract carrier temporary authority and for related special permission relief. Petitioner: Contract Carrier Conference of American Trucking Associations, Inc. Petitioner's representative: William P. Sullivan, Federal Bar Building West, 1819 H Street NW., Washington, DC 20006. By petition filed November 20, 1972, the Contract Carrier Conference of American Trucking Associations, Inc., requests the Commission to reopen the proceedings in ex parte No. MC-67 for the purpose of modifying its procedure for processing applications for contract carrier temporary authority and for related special permission relief. More particularly, petitioner proposes the following modifications: (A) The addition of a new § 1131.4(a)(5) reading as follows: "A request for temporary authority for 180 days may be filed directly with the Chairman, Motor Carrier Board, in Washington, D.C., if it is identified as a motor contract carrier proposal (1) to extend presently authorized service under an existing contract and at the same level of rates or (2) to displace a service which is not subject to Part II of the Interstate Commerce Act. In either of such circumstances, the applicant shall certify that an application for a permit will be filed within 60 days, and, in the latter circumstances, the shipper shall certify that there is no other motor contract carrier service available to meet its needs. Filings under this section will not be subject to publication or prior approval and, unless stayed by the Commission, the proposed service may be instituted upon compliance with the provisions of section 1131.5(a)(2)"; and (B) the revision of section 1131.5(a)(2) to read as follows: "(2) Motor contract carriers. A motor contract carrier may not lawfully provide transportation until executed transportation contracts (where required to be filed) and effective rates, fares, and/or charges, as the case may be, together with supporting schedule provision are on file with the Commission as required by section 218 of the

Interstate Commerce Act and the Commission's rules and regulations issued thereunder. The filing of contracts covering transportation of passengers is not required."

Petitioner states that the processing of applications for contract carrier temporary authority is characterized, by delay, which it believes can be attributed (a) to the current requirement that notice of the filing must be published in the FEDERAL REGISTER and (b) to the time spent in processing the application at the field office level and subsequently by the Motor Carrier Board. Petitioner has also expressed the opinion that short-notice tariff publications are required as an adjunct to contract carrier temporary authority, and that present requirements for establishing a rate below the generally prevailing common carrier level, on less than 30 days' notice, are impractical.

The relief sought in this petition will not have an adverse effect upon the environment.

Any interested person desiring to participate in this processing shall file with this Commission an original and seven copies of his written representations, views, and arguments, in support of, or against the relief sought, within 30 days of the date of this publication. A copy of such representations should be served upon petitioners representative at the address indicated above.

Written material or suggestions submitted will be available for public inspection at the offices of the Interstate Commerce Commission, 12th and Constitution, Washington, D.C., during regular business hours.

By the Commission.

[SEAL] ROBERT L. OSWALD,
Secretary.

[FR Doc.72 21462 Filed 12-13-72;8:47 am]

[Notice 135]

ASSIGNMENT OF HEARINGS

DECEMBER 8, 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. No amendments will be entertained after the date of this publication.

I&S M 25960, General Increase, From, To, and Between Southern Territory, now assigned December 11, 1972, at Washington, D.C., is postponed to January 16, 1973, at the offices of the Interstate Commerce Commission, Washington, D.C.

I&S M 25952, Household Goods, Increased Rates Nationwide, now assigned December 11, 1972, at Washington, D.C., is postponed to December 12, 1972, at the offices of the Interstate Commerce Commission, Washington, D.C.

MC 115322 Sub-89, Redwing Refrigerated, Inc., now being assigned hearing January 18, 1973, at the offices of the Interstate Commerce Commission, Washington, D.C.

MC 112304 Sub-56, Ace Doran Hauling & Rigging Co., now being assigned hearing January 23, 1973, at the offices of the Interstate Commerce Commission, Washington, D.C.

MC 128940 Sub-20, Richard A. Crawford doing business as R. A. Crawford Trucking Service, now being assigned hearing January 24, 1973, at the offices of the Interstate Commerce Commission, Washington, D.C.

MC 120646 Subs 9 and 11, Bradley Freight Lines, Inc., now being assigned hearing January 24, 1973, at the offices of the Interstate Commerce Commission, Washington, D.C.

MC 74416 Sub-12, Lester M. Prange, Inc., now being assigned hearing January 25, 1973, at the offices of the Interstate Commerce Commission, Washington, D.C.

MC 109397 Sub-275, Tri-State Motor Transit Co., now being assigned hearing January 25, 1973, at the offices of the Interstate Commerce Commission, Washington, D.C.

MC-F-11560, Cooper-Jarrett, Inc.—Purchase (portion)—Pacific Intermountain Express Co., FD 27139, Cooper-Jarrett, Inc., Notes, MC-F-11561, Lee Way Motor Freight, Inc.—Purchase (portion)—Pacific Intermountain Express Co., FD 27141, Lee Way Motor Freight, Inc., Notes, MC-F-11562, Tidewater Inland Express, Inc.—Purchase (portion)—Pacific Intermountain Express Co., MC-F-11594, Pacific Intermountain Express Co.—Merger—Ryder Truck Lines, Inc., continued to January 8, 1973, at the offices of the Interstate Commerce Commission, Washington, D.C.

I&S M 26235, Import or Export Household Goods in Containers, now assigned December 12, 1972, at Washington, D.C., is cancelled.

RR MC 1289, AACON Auto Transport, Inc., now being assigned hearing January 30, 1973, at the offices of the Interstate Commerce Commission, Washington, D.C.

I&S M 26366, Bus Fares, Between New York, N.Y., and New Jersey points, now being assigned hearing January 29, 1973 (1 week), at New York, N.Y., in a hearing room to be later designated.

MC 96007 Sub-27, Kenneth Hudson, Inc., Extension-New Hampshire, now being assigned hearing January 16, 1973 (2 days), at Concord, N.H., in a hearing room to be later designated.

[SEAL] ROBERT L. OSWALD,
Secretary.

[FR Doc.72-21460 Filed 12-13-72; 8:47 am]

[Notice 36]

MOTOR CARRIER ALTERNATE ROUTE DEVIATION NOTICES

DECEMBER 8, 1972.

The following letter-notices of proposals (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), to operate over deviation routes for operating convenience only have been filed with the

Interstate Commerce Commission under the Commission's Revised Deviation Rules-Motor Carriers of Property, 1969 (49 CFR 1042.4(d)(11)) and notice thereof to all interested persons is hereby given as provided in such rules (49 CFR 1042.4(d)(11)).

Protests against the use of any proposed deviation route herein described may be filed with the Interstate Commerce Commission in the manner and form provided in such rules (49 CFR 1042.4(d)(12)) at any time, but will not operate to stay commencement of the proposed operations unless filed within 30 days from the date of publication.

Successively filed letter-notices of the same carrier under the Commission's Revised Deviation Rules-Motor Carriers of Property, 1969, will be numbered consecutively for convenience in identification and protests, if any, should refer to such letter-notices by number.

MOTOR CARRIERS OF PROPERTY

No. MC-111651 (Deviation No. 3), MIDDLEWEST FREIGHTWAYS, INC., 6810 Prescott Avenue, St. Louis, MO 63147, filed December 4, 1972. Carrier proposes to operate as a *common carrier*, by motor vehicle, of *general commodities*, with certain exceptions over a deviation route as follows: From St. Louis, Mo., over Interstate Highway 270 to junction Interstate Highway 70, thence over Interstate Highway 70 to junction Illinois Highway 4, thence over Illinois Highway 4 to junction U.S. Highway 50 at Lebanon, Ill., and return over the same route, for operating convenience only. The notice indicates that the carrier is presently authorized to transport the same commodities, over a pertinent service route as follows: from St. Louis, Mo., over U.S. Highway 50 to junction Illinois Highway 4 at Lebanon, Ill., and return over the same route.

By the Commission.

[SEAL] ROBERT L. OSWALD,
Secretary.

[FR Doc.72-21463 Filed 12-13-72; 8:48 am]

[Notice 101]

MOTOR CARRIER APPLICATIONS AND CERTAIN OTHER PROCEEDINGS

DECEMBER 8, 1972.

The following publications¹ are governed by the new Special Rule 1100.247 of the Commission's rules of practice, published in the FEDERAL REGISTER, issue of December 3, 1963, which became effective January 1, 1964.

The publications hereinafter set forth reflect the scope of the applications as filed by applicant, and may include descriptions, restrictions, or limitations which are not in a form acceptable to the Commission. Authority which ultimately

¹ Except as otherwise specifically noted, each applicant (on applications filed after Mar. 27, 1972) states that there will be no significant effect on the quality of the human environment resulting from approval of its application.

may be granted as a result of the applications here noticed will not necessarily reflect the phraseology set forth in the application as filed, but also will eliminate any restrictions which are not acceptable to the Commission.

APPLICATIONS ASSIGNED FOR ORAL HEARING MOTOR CARRIERS OF PROPERTY

No. MC 98945 (Sub-No. 8) (amendment), filed April 17, 1972, published in the FEDERAL REGISTER issue of May 25, 1972, and republished this issue. Applicant: THOMAS CARTAGE, INC., 303 North Wilson, Post Office Box 2301, Amarillo, TX 79105. Applicant's representative: Grady L. Fox, 222 Amarillo Building, Amarillo, Tex. Authority sought to operate as a *common carrier*, by motor vehicle, over regular routes, transporting: *General commodities*, between Dalhart, Tex., and Trinidad, Colo., serving all intermediate points over U.S. Highway 87, serving the off route point of Folsom, N. Mex., over State Highway 72, from the junction of U.S. Highway 87 at Des Moines, N. Mex. NOTE: The purpose of this republication is to serve notice of applicant's requested territorial expansion to include return movement and to include the hearing information. Hearing: Before Joint Board No. 89, January 15, 1973, at Raton, N. Mex., at a place to be later designated.

No. MC 31879 (Sub-No. 32) (Republication), filed July 16, 1971, published in the FEDERAL REGISTER issues of October 7, 1971, and February 9, 1972, and republished this issue. Applicant: EXHIBITORS FILM DELIVERY & SERVICE CO., INC., 101 West 10th Avenue, North Kansas City, MO 64116. Applicant's representative: Warren A. Goff, 2122 Sterick Building, Memphis, Tenn. 38103. A report and order of the Commission, recommended by an Administrative Law Judge, effective November 20, 1972, and served December 1, 1972, finds that the present and future public convenience and necessity require operation by applicant as a *common carrier* by motor vehicle, in interstate or foreign commerce, over irregular routes, of general commodities, except classes A and B explosives, household goods, as defined in 17 M.C.C. 467, commodities in bulk, and livestock, restricted so that no service shall be rendered in the transportation of parcels, packages, or articles weighing in the aggregate more than 200 pounds from any one consignor, at any one location, to any one consignee, at any one location on any 1 day, and further restricted against the transportation of any single parcel, package, or article weighing more than 100 pounds; "(a) Between points in Weld, Adams, Denver, Jefferson, Douglas, El Paso, Fremont, Pueblo, Huerfano, Las Animas, Logan, Sedgewick, Phillips, Morgan, Washington, Yuma, Arapahoe, Elbert, Lincoln, Kit Carson, Cheyenne, Crowley, Kiowa, Otero, Bent, Prowers, and Baca Counties, Colo.; points in Laramie and Goshen Counties, Wyo.; points in Nebraska and points in New Mexico in the following described areas and on a line commencing at the northwest corner

of Colfax County, N. Mex., at its junction with the Colorado-New Mexico State line; over the western boundary of Colfax County to the western boundary of Mora County, N. Mex.; thence over the western boundary of Mora County to the boundary of Santa Fe County, N. Mex.; thence in a north and westerly direction over the Santa Fe County boundary to the boundary of Los Alamos County, N. Mex.; thence in a north and westerly direction over the Los Alamos County boundary until that boundary meets the Santa Fe County boundary at the southern tip of Los Alamos County; thence over the Santa Fe County boundary to U.S. Highway 85 and/or Interstate Highway 25; thence over U.S. Highway 85 and/or Interstate Highway 25 to its junction with U.S. Highway 60; thence over U.S. Highway 60 to the New Mexico-Texas State line, thence over the New Mexico State line in a north and westerly direction to the point of beginning." "(b) between points in (a) above on the one hand, and, on the other, points in Kansas." That applicant is fit, willing, and able properly to perform such service and to conform to the requirements of the Interstate Commerce Act and the Commission's rules and regulations thereunder. That since it is possible that other parties who have relied upon the notice in the FEDERAL REGISTER of the application as originally published may have an interest in and would be prejudiced by the lack of proper notice of the grant of authority without the requested limitation in the findings herein, a notice of the authority actually granted will be published in the FEDERAL REGISTER and issuance of the certificate in this proceeding will be withheld for a period of 30 days from the date of such publication, during which period any proper party in interest may file an appropriate petition for leave to intervene in the proceeding setting forth in detail the precise manner in which it has been so prejudiced.

No. MC 111401 (Sub-No. 355) (Republication), filed November 29, 1971, published in the FEDERAL REGISTER issue of December 30, 1971, and re-published this issue. Applicant: GROENDYKE TRANSPORT, INC., 2510 Rock Island Road, Box 632, Enid, OK 73701. Applicant's representative: Alvin L. Hamilton (same address as applicant). A supplemental order of the Commission, Operating Rights Board, dated November 10, 1972, and served November 29, 1972, finds that the present and future public convenience and necessity require operation by applicant, in interstate or foreign commerce, as a common carrier by motor vehicle, over irregular routes, of inedible bones, in bulk, from Liberal, Kans., to St. Joseph, Mo.; that applicant is fit, willing, and able properly to perform such service and to conform to the requirements of the Interstate Commerce Act and the Commission's rules and regulations thereunder. Because it is possible that other parties who have relied upon the notice in the FEDERAL REGISTER of the application as originally published may

have an interest in and would be prejudiced by the lack of proper notice of the grant of authority without the requested limitation in our findings herein, a notice of the authority actually granted will be published in the FEDERAL REGISTER and issuance of the certificate in this proceeding will be withheld for a period of 30 days from the date of such publication, during which period any proper party in interest may file an appropriate petition for leave to intervene in the proceeding setting forth in detail the precise manner in which it has been prejudiced.

No. MC 126489 (Sub-No. 13) (Republication), filed November 18, 1971, published in the FEDERAL REGISTER issue January 13, 1972, and republished this issue. Applicant: GASTON FEED TRANSPORTS, INC., 1203 West Fourth, Post Office Box 1066, Hutchinson, KS 67501. Applicant's representative: John E. Jandera, 641 Harrison Street, Topeka, KS 66603. A supplemental order of the Commission, Review Board No. 3, dated November 24, 1972, and served December 1, 1972, finds that the report and order of the Commission, Review Board No. 3, dated September 25, 1972, and served October 26, 1972, should be amended with respect to the applicant's Oklahoma destination territory in the manner set forth below: That the present and future public convenience and necessity require operation by applicant, in interstate or foreign commerce, as a common carrier by motor vehicle, over irregular routes; (1) of alfalfa products, from points in Dawson County, Nebr., and points in Kansas to points in Texas, Colorado, New Mexico, Kansas, and Arizona, and those points in Oklahoma west of U.S. Highway 81; and (2) of dry feed ingredients, from Pratt, Kans., to points in Colorado, Nebraska, New Mexico, Oklahoma, and Texas; that applicant is fit, willing, and able properly to perform such service and to conform to the requirements of the Interstate Commerce Act and the Commission's rules and regulations thereunder. Because it is possible that other parties who have relied upon the notice of the application as published, may have an interest in and would be prejudiced by the lack of proper notice of the authority described above, issuance of a certificate in this proceeding will be withheld for a period of 30 days from the date of this publication of the authority actually granted, during which period any proper party in interest may file an appropriate petition for intervention or other relief in this proceeding setting forth in detail the precise manner in which it has been so prejudiced.

No. MC 133599 (republication) filed March 24, 1969, published in the FEDERAL REGISTER issue of April 24, 1969, and republished this issue. Applicant: BIG VALLEY SUPPLY & ENTERPRISES LTD., 4150F 14A Street SE., Calgary, Province of Alberta, Canada. Applicant's representative: Earl H. Scudder, Jr., 605 South 14th Street, Post Office Box 2028, Lincoln, NE 68501. An order of the Com-

mission, Division 1, acting as an Appellate Division, dated November 15, 1972, and served November 30, 1972, finds that the decision and order of the Commission, Review Board No. 2, dated April 5, 1972, and served April 18, 1972, granted the applicant's requested authority in part, but amended the commodity description, authorizing operation by applicant in foreign commerce only, as a contract carrier by motor vehicle, over irregular routes, of road construction machinery and equipment, contractors' attachments, and accessories and parts for the aforementioned commodities, from Oakland, Los Angeles, and West Covina, Calif., Chicago, Deerfield, and Springfield, Ill., Evansville and Terre Haute, Ind., Bettendorf, Burlington, and Cedar Rapids, Iowa, Topeka and Wichita, Kans., Minneapolis, Minn., Findlay, Hudson, and St. Clairsville, Ohio, Tulsa, Okla., Lubbock, Pampa, and San Antonio, Tex., and Milwaukee, Racine, Schofield, and Wausau Wis., to ports of entry on the International boundary line, between the United States and Canada, located in Minnesota, North Dakota, and Montana, restricted to the transportation of traffic destined to points in the Province of Alberta, Canada, under continuing contracts with Ferguson Supply Alberta, Ltd., and Percival Machinery Supply Co. (Calgary), Ltd., both of Calgary, Alberta, Canada. Because it is possible that other parties who have relied upon the notice of the application as published, may have an interest in and would be prejudiced by the lack of proper notice of the authority described above, issuance of a permit in this proceeding will be withheld for a period of 30 days from the date of this publication of the authority actually granted, during which period any proper party in interest may file an appropriate petition for intervention or other relief in this proceeding setting forth in detail the precise manner in which it has been so prejudiced.

NOTICE FOR FILING OF PETITION

No. MC 124373 (Sub-No. 7) (notice of filing of petition to modify permits by addition of a shipper), filed November 20, 1972. Petitioner: NELMAR TRUCKING CO., a corporation, Jersey City, N.J. 07306. Petitioner's representative: Irving Klein, 280 Broadway, New York, NY 10007. Petitioner presently holds a permit under MC 124373 (Sub-No. 7) issued June 28, 1972, authorizing service as follows: Beverages, in containers, and beverage preparations, other than malt, and equipment, materials and supplies used in the manufacture and sale of beverages, between points in Connecticut, Delaware, Maine, Maryland, Massachusetts, New Hampshire, New Jersey, New York, Ohio, Pennsylvania, Rhode Island, Virginia, Vermont, West Virginia, North Carolina, Kentucky, and the District of Columbia. Restriction: The operations authorized herein are limited to a transportation service to be performed under a continuing contract, or contracts, with

the following shippers: Yoo-Hoo Chocolate Beverage Corp., and its wholly owned subsidiaries, of Carlstadt, N.J., Custom Cannery of Baltimore, Md., and Shasta Beverages, a division of Consolidated Foods, Inc. By the instant petition, petitioner seeks to add the name of Coca-Cola Bottling Co., of New York, Inc., as a shipper. Any interested person or persons desiring to participate may file an original and six copies of his written representations, view or arguments in support of or against the petition within 30 days from the date of publication in the FEDERAL REGISTER.

APPLICATION FOR CERTIFICATE OR PERMITS WHICH ARE TO BE PROCESSED CONCURRENTLY WITH APPLICATIONS UNDER SECTION 5 GOVERNED BY SPECIAL RULE 240 TO THE EXTENT APPLICABLE

No. MC 110683 (Sub-No. 88), filed November 8, 1972. Applicant: SMITH'S TRANSFER CORPORATION, Post Office Box 1000, Staunton, VA 24401. Applicant's representative: Francis W. McInerney, 1900 16th Street NW., Washington, DC 20036. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Unexplosive chemicals, farm products, livestock, rock, building materials, limestone, hardware, freight, farm machinery, household goods, seed and feed* within a fifty (50) mile radius of a point five (5) miles east of East St. Louis, Ill., and to transport such property to or from any point in Illinois outside of such authorized area of operation for a shipper or shippers within such area; also, *unexplosive chemicals, farm products, livestock, rock, building materials, limestone, hardware, freight, farm machinery, household goods, seed and feed*, to or from any point or points within Illinois. Note: This application is a matter directly related to No. MC-F 11716, published in the FEDERAL REGISTER issue of November 22, 1972. Applicant's commodity and territorial descriptions as stated in the request for authority above would, if granted, be modified to conform with current Commission practice, and consequently read: General commodities (with exceptions), between points in Illinois. Common control may be involved. Applicant states that the requested authority can be tacked at Chicago, Decatur, and Peoria, Ill., as well as other points in Illinois, to serve 28 States and the District of Columbia in a territory east of a line formed by the eastern State boundary lines of North Dakota, South Dakota, Nebraska, Colorado, Arkansas, and Mississippi. Applicant presently holds authority in certificate No. MC 110683 (Sub-No. 38) to: (1) serve Chicago, Ill. as an off-route point; and (2) to transport general commodities between (a) Chicago, Ill. and Louisville, Ky., and (b) Terre Haute, Ind. and St. Louis, Mo., Peoria, Ill. and Decatur, Ill., therefore duplicating authority may be involved. If a hearing is deemed necessary, applicant requests it be held at Chicago, Ill. or Washington, D.C.

APPLICATIONS UNDER SECTIONS 5 AND 210a(b)

The following applications are governed by the Interstate Commerce Commission's special rules governing notice of filing of applications by motor carriers of property or passengers under sections 5(a) and 210a(b) of the Interstate Commerce Act and certain other proceedings with respect thereto. (49 CFR 1.240).

MOTOR CARRIERS OF PROPERTY

No. MC-F-11052. (Amendment) (UNITED-BUCKINGHAM FREIGHT LINES, INC.—MERGER—NORWALK TRUCK LINES, INC.; NORWALK TRUCK LINES, INC.—MERGER—NORWALK TRUCK LINES, INC. OF DELAWARE), published in the December 30, 1970, issue of the FEDERAL REGISTER. By amendment filed November 20, 1972, HELEN F. MANLOWE, executrix, of the estate of JOHN B. MANLOWE, deceased, South 2128 Wall St., Spokane, WA 99203, join in as party applicant to the proceeding.

No. MC-F-11700 (Correction) (CONTRACT FREIGHTERS, INC.—CONTROL AND MERGER—SOUTHEAST TRANSPORTATION COMPANY), published in the November 8, 1972, issue of the FEDERAL REGISTER on page 23766. Prior notice should have included, *fresh meats, and food products* (except canned goods), from points in Nebraska, to Springfield, Mo., the site of the plant of M.F.A. Packing Division at or near Macon, Mo., and points in Jasper, Newton, and Lawrence Counties, Mo. (except fresh meats from Fremont, Nebr., to Springfield, Mo.), with restriction.

No. MC-F-11731. Authority sought for purchase by LANG CARTAGE CORP., 338 South 17th Street, Milwaukee, WI 53233, of the operating rights and property of HILARD F. LANG AND MEDARD SCHMITZ, a partnership, doing business as LANG CARTAGE, also of Milwaukee, Wis. 53233, and for acquisition by VIOLA LANG, 17155 Oak Park Road, Brookfield, Wis., and MEDARD SCHMITZ, 1250 Indianwood Drive, Brookfield, Wis., of control of such rights and property through the purchase. Applicants' attorney: John L. Bruemmer, 121 West Doty Street, Madison, WI 53703. Operating rights sought to be transferred: *Such merchandise* as is dealt in by wholesale drug business houses, as a *contract carrier* over irregular routes, from La Crosse, Wis., to points in a defined area of Minnesota; *general commodities*, excepting, among others, classes A and B explosives, household goods and commodities in bulk, from Milwaukee, Wis., to points in a defined area of Wisconsin; *such merchandise* as is dealt in by retail mail order houses, from La Crosse, Wis., to points in a defined area of Minnesota, with restrictions. Vendee holds no authority from this Commission. However, it is affiliated with HENNES TRUCKING CO., 338 South 17th Street, Milwaukee, WI 53233, which is authorized to operate as a *contract carrier* in Ohio, West Virginia, In-

diana, Kentucky, Illinois, Wisconsin, Pennsylvania, Missouri, Arkansas, Iowa, Kansas, Michigan, Oklahoma, Tennessee, Nebraska, South Dakota, North Dakota, and Minnesota, and JOHN HENNES TRUCKING CO., 320 South 17th Street, Post Office Drawer 10-H, Milwaukee, WI 53201, which is authorized to operate as a *common carrier* in Illinois and Wisconsin. Application has not been filed for temporary authority under section 210a(b).

No. MC-F-11732. Authority sought for control by SEA-LAND SERVICE, INC., a water carrier, Corbin and Fleet Streets, Elizabeth, N.J. 07207, of SEA-LAND FREIGHT SERVICE, INC., a motor carrier, and for acquisition by McLEAN INDUSTRIES, INC., both of Elizabeth N.J. 07207, R. J. REYNOLDS TOBACCO COMPANY, 401 North Main Street, Winston-Salem, NC 27102, and R. J. REYNOLDS INDUSTRIES, INC., also of Winston-Salem, N.C. 27102, of control of Sea-Land Freight Service, Inc., through the acquisition by Sea-Land Service, Inc. Applicants' attorneys: Harry J. Jordan, Suite 502, Solar Building, 1000 16th Street NW., Washington, DC 20036, and J. W. McConnell, Box 1050, Corbin and Fleet Streets, Elizabeth, NJ 07207. Operating rights sought to be controlled: *General commodities*, except those of unusual value, household goods as defined by the Commission, and commodities in bulk other than animal feed and flour, as a *common carrier* over irregular routes, between points in Alaska (except those in the Alaska Panhandle), with restriction; *general commodities*, excepting among others, classes A and B explosives, household goods and commodities in bulk, between Seattle and Tacoma, Wash., on the one hand, and, on the other the Mount Rainier Ordnance Depot (Mobase), Wash., restricted to traffic destined to or originating at points in Alaska, between Tacoma, Wash., on the one hand, and, on the other, Seattle and McChord Air Force Base, Wash., between points in the Tacoma, Wash., commercial zone, as defined by the Commission, between points in the Seattle, Wash., commercial zone, as defined by the Commission, from Auburn, Wash., to Tacoma and Seattle, Wash.; *commodities* in bulk, in marine-type containers, between points in Alaska (except those in the Alaska Panhandle between points in the Seattle, Wash., commercial zone as defined by the Commission, with restriction; *fruits and vegetables*, fresh and frozen, *meats, lard, and lard substitutes, rendered pork fats, and dairy products*, as classified in (B) of the appendix to the report in *Modification of Permits-Packing House products*, 48 M.C.C. 628, from the U.S. Army depot at or near Auburn, Wash., to Seattle and Tacoma, Wash.; *ammunition*, from Bangor, Wash., to Tacoma, Wash.; *engine assembly and tank parts*, from Tacoma, Wash., to Mount Rainier Ordnance Depot, Wash., with restriction. Sea-Land Service, Inc., a water carrier under No. W-376 et al., is authorized to operate as a

common carrier in Massachusetts, Pennsylvania, Maryland, South Carolina, Florida, Alabama, Louisiana, Texas, California, Oregon, Washington, New York, Virginia, and Georgia. Application has not been filed for temporary authority under section 210a(b).

No. MC-F-11733. Authority sought for control by QUEENSWAY, INC., 196 North Keyser Avenue, Old Forge, PA 18518, of WILLIAM GILCHRIST, 509 Susquehanna Avenue, Old Forge, PA 18518, and for acquisition by WILLIAM S. GILCHRIST and JOHN GILCHRIST both of 196 North Keyser Avenue, Old Forge, PA 18518, of control of WILLIAM GILCHRIST, through the acquisition by QUEENSWAY, INC. Applicants' attorney: Kenneth R. Davis, 999 Union Street, Taylor, PA 18517. Operating rights sought to be controlled: *Household goods* as defined by the Commission, as a *common carrier*, over regular routes, between Wilkes-Barre, Pa., and New York, N.Y., serving the intermediate point of Scranton, Pa., and the off-route point of Hoboken, N.J.; *malt beverages*, in containers, over irregular routes, from Milwaukee, Wis., and Rochester, N.Y., to Bethlehem, Pa.; *general commodities*, excepting among others, classes A and B explosives, and commodities requiring special equipment, between points in Sullivan County, N.Y., on the one hand, and, on the other, certain specified points in New York and New Jersey, between points in Sullivan County, N.Y., on the one hand, and, on the other, points in Wayne County, Pa.; *such merchandise* as is dealt in by wholesale and retail food business houses, from New York, N.Y., to points in Wayne County, Pa.; *household goods*, as defined by the Commission, between Old Forge, Pa., and points within 3 miles of Old Forge, on the one hand, and, on the other, points in Connecticut, Delaware, Maryland, New Jersey, New York, and the District of Columbia; *hollow metal building products*, and materials, parts, and supplies used in the installation of hollow metal building products, from the plant sites of the Superior Fireproof Door and Sash Co., Inc., in Scranton, Pa., to points in Alabama, Arkansas, Connecticut, Delaware, Illinois, Indiana, Iowa, Kansas, Kentucky, Louisiana, Maryland, Michigan, Minnesota, Mississippi, Missouri, New Jersey, New York, Ohio, Oklahoma, Tennessee, Texas, Virginia, West Virginia, Wisconsin, and the District of Columbia; *materials, supplies, and equipment* used in the manufacture and installation of hollow metal building products, from the above-specified destination States to Scranton, Pa.; *hollow metal building products*, and *materials, parts, and supplies* used in the installation of hollow metal building products (except commodities in bulk), from the plantsite of the Superior Fireproof Door and Sash Co., Inc., in Scranton, Pa., to Bangor, Augusta, and Waterville, Maine, and points in Arizona, California, Colorado, Idaho, Massachusetts, Montana, Nebraska, Nevada,

New Mexico, North Dakota, Oregon, Pennsylvania, Rhode Island, South Dakota, Utah, Washington, and Wyoming; *lamps, lamp shades, plastic articles and flocked paper*, from Chicago, Ill., to points in New Jersey, New York, and Pennsylvania; *tile* (except clay tile), *facing or flooring*, from Chillicothe, Ohio, to points in New York, New Jersey, Pennsylvania, Virginia, Maryland, Connecticut, Massachusetts, Rhode Island, Maine, New Hampshire, Vermont, and the District of Columbia, with restrictions. Queensway, Inc., is authorized to operate as a common carrier in New York and Pennsylvania. Application has not been filed for temporary authority under section 210a(b).

No. MC-F-11734. Authority sought for purchase by CEDAR RAPIDS STEEL TRANSPORTATION, INC., Post Office Box 68, Cedar Rapids, IA 52406, of a portion of the operating rights and property of ARCHIE'S MOTOR FREIGHT, INCORPORATED, Post Office Box 4306, Richmond, VA 23224, and for acquisition by HERALD A. SMITH, JR., MIRIAM G. SMITH, both of 536 Valley Brook Drive SE., Cedar Rapids, IA, and PAUL R. SHAWVER, 2314 Blake Boulevard SE., Cedar Rapids, IA, of control of such rights and property through the purchase. Applicants' attorney: Robert E. Konchar, Suite 315 Commerce Exchange Building, 2720 First Avenue NE., Cedar Rapids, IA 52402. Operating rights sought to be transferred: *Specified commodities*, as a *common carrier*, over irregular routes, between specified points in the States of Maryland, Ohio, Pennsylvania, Virginia, West Virginia, and the District of Columbia, from McKeesport, Pa., to points in Alabama, Florida, Georgia, Mississippi, North Carolina, and South Carolina. Vendee is authorized to operate as a *common carrier* in all of the States in the United States (except Alaska and Hawaii). Application has been filed for temporary authority under section 210a(b).

No. MC-F-11735. Authority sought for purchase by GRAVES TRUCK LINE, INC., Post Office Box 838, Salina, KS 67401, of the operating rights and property of DIAMOND FREIGHTWAYS, INC., Friend, Nebr. 68359, and for acquisition by WILLIAM H. GRAVES, JOHN A. GRAVES, both of Salina, Kans. 67401, DWIGHT L. GRAVES, 3402 West Harry, Wichita, Kans., and LOWELL P. GRAVES, 92 Shawnee, Kansas City, Kans., of control of such rights and property through the purchase. Applicants' attorney: Einar Viren, 904 City National Bank Building, Omaha, Nebr. 68102. Operating rights sought to be transferred: *General commodities*, with usual exceptions, as a *common carrier*, over regular routes, between Omaha and Geneva, Nebr., serving certain specified intermediate points of Nebraska and the off-route point of Burrell, Nebr., between Sutton and Hastings, Nebr., serving no intermediate points, between Harvard and Grand Island, Nebr., serving all intermediate points, and the off-route

point of Clay Center, Nebr., between Harvard and Edgar, Nebr., serving all intermediate points, and the off-route points of Fairfield and Glenville, Nebr., between McCool Junction and Omaha, Nebr., serving all intermediate points and certain specified off-route points of Nebraska, between junction U.S. Highway 6 and Nebraska Highway 33, and Lincoln, Nebr., serving the intermediate point of Crete, Nebr., between Harvard and Lincoln, Nebr., serving the intermediate points of Sutton and Grafton, Nebr., and the off-route point of Clay Center, Nebr., between Geneva and Bruning, Nebr., serving no intermediate points; *general commodities*, with usual exceptions, over irregular routes, between points in Fillmore County, Nebr., on the one hand, and, on the other, certain specified points in Nebraska, between points in that part of Nebraska bounded on the north by Interstate Highway 80, on the east by Nebraska Highway 15, on the south by U.S. Highway 136, and on the west by Nebraska Highway 14, between points in that part of Nebraska bounded on the north by Interstate Highway 80, on the east by Nebraska Highway 15, on the south by U.S. Highway 136, and on the west by Nebraska Highway 14, on the one hand, and, on the other, points in Nebraska, between points in that part of Nebraska bounded on the north by Nebraska Highway 66, on the east by U.S. Highway 77, on the south by U.S. Highway 136, and on the west by Nebraska Highway 14, between points in that part of Nebraska bounded on the north by Nebraska Highway 66, on the east by U.S. Highway 77, on the south by U.S. Highway 136, and on the west by Nebraska Highway 14, on the one hand, and, on the other, points in Nebraska; *emigrant movables*, between points in Fillmore County, Nebr., on the one hand, and, on the other, points in Nebraska. Vendee is authorized to operate as a *common carrier* in Kansas, Missouri, Colorado, Nebraska, Wyoming, Iowa, Oklahoma, Texas, New Mexico, Arkansas, Louisiana, North Dakota, South Dakota, Kentucky, Mississippi, and Tennessee. Application has been filed for temporary authority under section 210a(b).

No. MC-F-11739. Authority sought for purchase by FRICK TRANSPORT, INC., Wawaka, Ind. 46794, of a portion of the operating rights of B & L MOTOR FREIGHT, INC., 140 Everett Avenue, Newark, OH 43055, and for acquisition by MERRILL FRICK, LOUISE FRICK, and DONALD BISH, all of Wawaka, Ind., and GEORGE BISH, Cromwell, Ind., of control of such rights through the purchase. Applicants' attorney: Donald W. Smith, 900 Circle Tower, Indianapolis, Ind. 46204. Operating rights sought to be transferred: *Fertilizer*, as a *common carrier* over irregular routes, from Lockland, Ohio, to Kokomo, Ind., and points in that part of Indiana within 70 miles of Kokomo. Vendee is authorized to operate as a *common carrier* in Illinois, Indiana, Ohio, and Michigan.

Application has not been filed for temporary authority under section 210a(b).

By the Commission.

[SEAL] ROBERT L. OSWALD,
Secretary.

[FR Doc.72-21464 Filed 12-13-72;8:48 am]

[Notice 181]

MOTOR CARRIER BOARD TRANSFER PROCEEDINGS

Synopses of orders entered by the Motor Carrier Board of the Commission pursuant to sections 212(b), 206(a), 211, 312(b), and 410(g) of the Interstate Commerce Act, and rules and regulations prescribed thereunder (49 CFR Part 1132), appear below:

Each application (except as otherwise specifically noted) filed after March 27, 1972, contains a statement by applicants that there will be no significant effect on the quality of the human environment resulting from approval of the application. As provided in the Commission's special rules of practice any interested person may file a petition seeking reconsideration of the following numbered proceedings within 20 days from the date of publication of this notice. Pursuant to section 17(8) of the Interstate Commerce Act, the filing of such a petition will postpone the effective date of the order in that proceeding pending its disposition. The matters relied upon by petitioners must be specified in their petitions with particularity.

No. MC-FC-73973. By order of November 21, 1972, the Motor Carrier Board approved the transfer to Northwest Transport, a corporation, Chino, Calif., of the operating rights in Permit No. MC 134804 (Sub-No. 1) issued April 20, 1972, to Auza-Hoffman, Inc., Flagstaff, Ariz., authorizing the transportation of paper products, from Flagstaff, Ariz., to points in Texas, New Mexico, California, Nevada, Colorado, Oregon, Washington, Idaho, Utah, Montana, Wyoming, Oklahoma, Kansas, Nebraska, and South Dakota; chemicals, supplies, and machinery used in the manufacture and sale of paper products, from points in the above-named States to Flagstaff, Ariz.; and scrap paper, between points in Arizona, Texas, New Mexico, California, Nevada, Colorado, Oregon, Washington, Idaho, Utah, Montana, Wyoming, Oklahoma, Kansas, Nebraska, and South Dakota, for the account of Ponderosa Paper Products, Inc., of Flagstaff, Ariz. Milton W. Flack, 4311 Wilshire Boulevard, Los Angeles, CA 90010, attorney for applicants.

No. MC-FC-73994. By order of November 29, 1972, the Motor Carrier Board approved the transfer to Ogallala Transfer, Inc., Oshkosh, Nebr., of a portion of the operating rights in Certificate No. MC-127602, issued to Denver-Midwest Motor Freight, Inc., Omaha, Nebr., authorizing the transportation of: general commodities, usual exceptions, be-

tween Denver, Colo., and points in Sedgwick County, Colo., on the one hand, and, on the other, Ogallala, Nebr. Earl H. Scudder, Jr., attorney, Post Office Box 82028, Lincoln, NE 68501.

No. MC-FC-74002. By order entered November 20, 1972, the Motor Carrier Board approved the transfer to Joseph Goula and Stephen J. Goula, a partnership, Seekonk, Mass., of the operating rights set forth in Certificate No. MC-59129, issued July 29, 1937, to Ernest Reposa, doing business as Atlantic Motor Express, Providence, R.I., authorizing the transportation of commodities, generally, with specified exceptions, between specified points in Rhode Island and Connecticut. Francis E. Nute, 1502 Bradford House, 100 Atwells Avenue, Providence, RI 02903.

No. MC-FC-74050. By order of November 22, 1972, the Motor Carrier Board approved the transfer to Bay State Transfer & Storage Co., Inc., Chicopee, Mass., of the operating rights in Certificate No. MC-33566 issued March 9, 1971, to J. J. Sullivan the Mover, Inc., Indian Orchard, Mass., authorizing the transportation of household goods between points in Massachusetts, on the one hand, and, on the other, points in Connecticut, Maine, New Hampshire, New Jersey, New York, Pennsylvania, Rhode Island, Vermont, Virginia, and Massachusetts, and between points in Hartford County, Conn., on the one hand, and, on the other, points in New Hampshire, Vermont, Rhode Island, New York, New Jersey, and Pennsylvania. David M. Marshall, Suite 200, 135 State Street, Springfield, MA 01103, attorney for applicants.

No. MC-FC-74051. By order of November 20, 1972, the Motor Carrier Board approved the transfer to R. R. Pemberton and D. J. Pemberton, a partnership, doing business as Roseville Motor Express and Crooksville Transfer, Roseville, Ohio, of the operating rights in Certificates Nos. MC-69877 and MC-69877 (Sub-No. 1) issued June 4, 1941, and April 2, 1964, respectively to R. F. Pemberton, doing business as Roseville Motor Express and Crooksville Transfer, Roseville, Ohio, authorizing the transportation of general commodities, with exceptions, between Zanesville and McLuney, Ohio, serving the intermediate point of Heath, Ohio, subject to certain restrictions. Joe F. Asher, 88 East Broad Street, Columbus, OH 43215, attorney for applicants.

[SEAL] ROBERT L. OSWALD,
Secretary.

[FR Doc.72-21466 Filed 12-13-72;8:48 am]

[Notice 166]

MOTOR CARRIER TEMPORARY AUTHORITY APPLICATIONS

DECEMBER 7, 1972.

The following are notices of filing of applications¹ 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.

¹Except 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.

MOTOR CARRIERS OF PROPERTY

No. MC 61825 (Sub-No. 55 TA) (Correction), filed November 2, 1972, published in the FEDERAL REGISTER November 29, 1972, corrected and republished in part as corrected this issue. Applicant: ROY STONE TRANSFER CORPORATION, V. C. Drive, Box 385, Collinsville, Va. 24078. NOTE: The purpose of this partial republication is to delete (Va. Public Service Corp.) shown in the applicant address in previous publication. The rest of the notice remains the same.

No. MC 127100 (Sub-No. 9 TA), filed November 14, 1972. Applicant: B & B MOTOR LINES, INC., 911 Summit Street, Toledo, OH 43604. Applicant's representative: Earl F. Boxell, Toledo Trust Building, Toledo, Ohio. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Malt beverages* (beer and ale) in containers, from Newport, Ky., to Toledo, Sandusky, Lima, and Defiance, Ohio, *empty containers on return trip*, from Toledo, Sandusky, Lima, and Defiance, Ohio, to Newport, Ky., for 90 days. Supporting shippers: Metropolitan Distributing Co., Toledo, Ohio; The Thornburgh Sales Co., Sandusky, Ohio; Shawnee Distributors, Inc., Lima, Ohio; The Defiance Beverage Co., Defiance, Ohio. Send protests to: Keith D. Warner, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 313 Federal Office Building, 234 Summit Street, Toledo, OH 43604.

No. MC 127115 (Sub-No. 4 TA), filed November 17, 1972. Applicant: MILLERS TRANSPORT, INC., 510 West Fourth North Street, Hyrum, UT 84319. Applicant's representative: Harry D. Pugsley, Suite 400, El Paso Natural Gas Building, Salt Lake City, Utah. Authority sought to operate as a *contract carrier*, by motor

vehicle, over irregular routes, transporting: *Foam and cellular expanded plastics, rubber and related accessories*, from Los Angeles and San Francisco, Calif., and Portland, Oreg., to points in Utah and Idaho south of Idaho County, and Reno and Elko, Nev., for 180 days. Supporting shipper: Allstate Foam Corp., 870 West 2600 South, Salt Lake City, UT 84119 (D. J. Benson, President). Send protests to: District Supervisor Lyle D. Helfer, Interstate Commerce Commission, Bureau of Operations, 5239 Federal Building, 125 South State Street, Salt Lake City, UT 84111.

No. MC 128256 (Sub-No. 15 TA), filed November 22, 1972. Applicant: O. W. BLOSSER, doing business as BLOSSER TRUCKING, 215 North Main Street, Middlebury, IN 46540. Applicant's representative: Alki E. Scopelitis, 815 Merchants Bank Building, Indianapolis, Ind. 46204. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Siding, roofing, and related component parts and accessories*, from Bristol, Ind., to points in Montevideo, Minn., and Marshfield, Wis., for 180 days. Supporting shipper: AMAX Building Products, division of AMAX Aluminum Mill Products, Inc., State Road 15 South, Bristol, Ind. 46507. Send protests to: District Supervisor J. H. Gray, Interstate Commerce Commission, Bureau of Operations, 345 West Wayne Street, Room 204, Fort Wayne, IN 46801.

No. MC 129656 (Sub-No. 7 TA), filed November 14, 1972. Applicant: TRI DELTA BUILDING MATERIALS CO., INC., 2245 East Jackson Street, Phoenix, AZ 85034. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Gypsum lath, gypsum wallboard, gypsum plaster and retarder*, from Blue Diamond, Nev., to points in Ventura, Orange, Los Angeles, San Diego, Riverside, and San Bernardino Counties, Calif., for 180 days. Supporting shipper: Flintkote, Building Products Group/Gypsum Products Division, Post Office Box 2312, Terminal Annex, Los Angeles, CA 90051. Send protests to: Andrew V. Baylor, District Supervisor, Interstate Commerce Commission, Bureau of Operations, Room 3427 Federal Building, 230 North First Avenue, Phoenix, AZ 85025.

No. MC 133233 (Sub-No. 22 TA), filed November 17, 1972. Applicant: CLARENCE L. WERNER, doing business as WERNER ENTERPRISES, 805 South 32d Avenue, Post Office Box 831, Council Bluffs, IA 51501. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Lumber*, from Afton and Evanston, Wyo., to points in Iowa, Illinois, Missouri, and Oklahoma, for 180 days. Supporting shipper: Lee Ekman, Star Studs, Inc., Afton, Wyo. Send protests to: Carol Russell, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 711 Federal Office Building, Omaha, Nebr. 68102.

No. MC 133659 (Sub-No. 2 TA), filed October 24, 1972. Applicant: LIVINGSTON STORAGE AND TRANSFER COMPANY, INC., 4301 Allied Drive, Columbus, GA 31907. Applicant's representative: Cliff O. Livingston (same address as above). Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Telephone equipment, materials and supplies, including tools used in the construction and maintenance of telephone systems and communications*, between Columbus, Ga., and points in the Counties of Muscogee, Marion, Chattahoochee, Heard, Meriwether, Harris, Troup, Stewart, Webster, Talbot, and Taylor, Ga., for 180 days. Supporting shipper: Western Electric, 6701 Roswell Road NE, Atlanta, GA 30328. Send protests to: William L. Scroggs, District Supervisor, Bureau of Operations, Interstate Commerce Commission, Room 309, 1252 West Peachtree Street NW., Atlanta, GA 30309.

No. MC 135691 (Sub-No. 2 TA) filed November 17, 1972. Applicant: DALLAS CARRIERS CORP., 7621 Inwood Road, Dallas, TX 75209. Applicant's representative: E. Stephen Heisley, Suite 805, 666 11th Street NW., Washington, DC 20001. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Meat, meat products and meat byproducts and articles distributed by packinghouses*, from points in Minnesota, Iowa, Nebraska, and Wisconsin to points in Texas, for 180 days. NOTE: Carrier does not intend to tack authority. Supporting shipper: F & W Wholesale Meat Co., 7621 Inwood Road, Dallas, TX 75209. Send protests to: District Supervisor E. K. Willis, Jr., Interstate Commerce Commission, Bureau of Operations, 1100 Commerce Street, Room 13C12, Dallas, TX 75202.

No. MC 135797 (Sub-No. 5 TA), filed October 24, 1972. Applicant: J. B. HUNT TRANSPORT, INC., 833 Warner Street SW., Atlanta, GA 30310. Applicant's representative: Virgil H. Smith, Suite 12, 1587 Phoenix Boulevard, Atlanta, GA 30349. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Feed and feed supplements, rice hulls, wood shavings, and plastic poultry feeders*, from the plantsite and warehouse facilities of the J. B. Hunt Co. at Lowell, Ark., to points in the continental United States of America (except Alaska and Arkansas), for 180 days. Supporting shipper: The J. B. Hunt Co., Post Office Box 200, Lowell, AR 72745. Send protests to: William L. Scroggs, District Supervisor, Interstate Commerce Commission, Bureau of Operations, Room 309, 1252 West Peachtree Street NW., Atlanta, GA 30309.

No. MC 135797 (Sub-No. 6 TA), filed November 6, 1972. Applicant: J. B. HUNT TRANSPORT, INC., 833 Warner Street SW., Atlanta, GA 30310. Applicant's representative: Virgil H. Smith, Suite 12, 1587 Phoenix Boulevard, Atlanta, GA 30349. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Feed and*

feed supplements, from plantsite of Pfizer, Inc., Lee's Summit, Mo., to points in the continental United States (except Alaska and Missouri), for 180 days. Supporting shipper: Pfizer, Inc., 235 East 42d Street, New York, NY 10017. Send protests to: William L. Scroggs, District Supervisor, Bureau of Operations, Interstate Commerce Commission, Room 309, 1252 West Peachtree Street NW., Atlanta, GA 30309.

No. MC 136386 (Sub-No. 3 TA), filed November 22, 1972. Applicant: GO LINES, INC., 13920 Mount McClellan Street, Reno, NV 89506. Applicant's representative: Harley E. Laughlin, Post Office Box 10875, Reno, NV 89510. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Such commodities as are dealt in or used by wholesale and retail import business houses, from the warehouse facilities of, or used by, Pier 1 Imports at Anaheim, Calif., to the retail store outlets or Pier 1 Imports at Las Vegas, and Reno, Nev.; Salt Lake City, Utah; Phoenix, Ariz.; Portland, Oreg.; Spokane, Tacoma, and Seattle, Wash.*, for 180 days. Supporting shipper: Pier 1 Imports, 2520 West Freeway, Fort Worth, TX 76102. Send protests to: District Supervisor Robert G. Harrison, Bureau of Operations, Interstate Commerce Commission, 203 Federal Building, 705 North Plaza Street, Carson City, NV 89701.

No. MC 136785 (Sub-No. 3 TA), filed November 20, 1972. Applicant: EDWARD ALBERT DRAEGER, doing business as DRAEGER TRUCK SERVICE, 611 Densmoor Street, Markesan, WI 53946. Applicant's representative: Edward A. Draeger (same address as above). Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: (1) *Molded polystyrene plastic articles*, from Markesan, Wis., to points in Arkansas, Indiana (except points in the Chicago, Ill., commercial zone as defined), Kentucky, Michigan, Missouri, Ohio, Pennsylvania, and Wisconsin; and (2) *raw polystyrene plastic beads used in the manufacturing of molded polystyrene plastic articles*, from points in Pennsylvania to Markesan, Wis., for 180 days. Supporting shipper: Robin Manufacturing Inc., Markesan, Wis. 53946. Send protests to: Barney L. Hardin, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 139 West Wilson Street, Room 202, Madison, WI 53703.

No. MC 136849 (Sub-No. 2 TA), filed November 22, 1972. Applicant: E. & H. DISTRIBUTING CO., 3853 South Highland Avenue, Las Vegas, NV 89104. Applicant's representative: William J. Lippman, 1819 H Street NW., Washington, DC 20006. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Meat and frozen foods*, from points in Los Angeles County, Calif., to Las Vegas, Nev., for account of Schulman Meats and Provisions and Virg Davidson Chudacoff Co., for 180 days. Supporting shippers: Schulman Meats & Provisions, 953 East

Sahara, Las Vegas, NV 89105; Virg Davidson Chudacoff Co., 10555 West Jefferson Boulevard, Culver City, CA 90230. Send protests to: District Supervisor Robert G. Harrison, Interstate Commerce Commission, Bureau of Operations, 203 Federal Building, 705 North Plaza Street, Carson City, NV 89701.

No. MC 138145 TA, filed October 24, 1972. Applicant: BRYAN TRANSFER & STORAGE CO., INC., 337 Seventh Street, Macon, GA 31201. Applicant's representative: M. C. Bryan (same address as above). Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Telephone equipment, materials and supplies*, including tools used in the construction and maintenance of telephone systems and communications, between Macon, Ga., and points in the Counties of Bibb, Peach, Dodge, Bleckley, Washington, Laurens, Monroe, Wilkinson, Houston, Jones, Pulaski, Twiggs, Macon, Baldwin, Jasper, Dooly, Upson, Johnson, and Crawford, Ga., for 180 days. Supporting shipper: Western Electric, 6701 Roswell Road NE., Atlanta, GA 30328. Send protests to: William L. Scroggs, District Supervisor, Interstate Commerce Commission, Bureau of Operations, Room 309, 1252 West Peachtree Street NW., Atlanta, GA 30309.

No. MC 138147 (Sub-No. 1 TA), filed November 17, 1972. Applicant: MICHAEL B. CASEY, doing business as KROSS KEY KARTAGE, Post Office Box 529, 1389 South Third Street, Memphis, TN 38101. Applicant's representative: A. Doyle Cloud, Jr., 2008 Clark Tower, 5100 Poplar Avenue, Memphis, TN 38137. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Veneer and core-stock*, restricted to traffic with a prior movement by water, between Memphis, Tenn., and its commercial zone, on the one hand, and Earle, Ark., on the other, for 180 days. Supporting shipper: Evans Products Co., Post Office Box 1188, 201 Dexter Street, Chesapeake, VA 23324. Send protests to: Floyd A. Johnson, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 933 Federal Office Building, 167 North Main Street, Memphis, TN 38103.

No. MC 138184 TA, filed November 16, 1972. Applicant: WALLACE TRUCKING COMPANY, Route 4, Box A71, Laurinburg, NC 28352. Applicant's representative: John Arch Wallace (same address as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Machinery and equipment*, used in planting, detasseling, and harvesting corn and grains, between points in Florida, North Carolina, Indiana, Illinois, Iowa, and Michigan, for 180 days. Supporting shipper: Pioneer Hi-Bred, Inc., 221 North Main Street, Tipton, IN 46072. Send protests to: Archie W. Andrews, District Supervisor, Bureau of Operations, Interstate Commerce Commission, Post Office Box 26896, Raleigh, NC 27611.

No. MC 138360 TA, filed November 6, 1972. Applicant: EDWARD J. BAUGH, doing business as BAUGH TRUCKING COMPANY, 8121 Melton Road, Gary, IN 46408. Applicant's representative: Nelson J. Kimball, 2310 Colorado State Bank Building, Denver, Colo. 80202. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Meats and meat products*, from the terminal facility of Scott Truck Line, Inc., in Gary, Ind., to Elmsford, Rochester, Mount Kisco, Maspeth, and New York, N.Y., Hartford and Stamford, Conn., Philadelphia and Allentown, Pa., Baltimore, Md., and Washington, D.C., and points in the commercial zone of each named city. Restricted to shipments originating in Colorado and having a prior motor carrier movement by Scott Truck Line, Inc., for 180 days. NOTE: Applicant does intend to interline with Scott Truck Line, Inc., at points in the Chicago, Ill., commercial zone to provide joint line service from points in Colorado to the destinations involved here. Supporting shippers: Scott Truck Line, Inc., Denver, Colo.; United Packing Co., Denver, Colo.; Litvak Meat Co., Inc., Denver, Colo. Send protests to: District Supervisor J. H. Gray, Bureau of Operations, Interstate Commerce Commission, 345 West Wayne Street, Room 204, Fort Wayne, IN 46802.

By the Commission.

[SEAL] ROBERT L. OSWALD,
Secretary.

[FR Doc. 72-21465 Filed 12-13-72; 8:48 am]

NOTICE OF FILING OF MOTOR CARRIER INTRASTATE APPLICATIONS

DECEMBER 8, 1972.

The following applications for motor common carrier authority to operate in intrastate commerce seek concurrent motor carrier authorization in interstate or foreign commerce within the limits of the intrastate authority sought, pursuant to section 206(a)(6) of the Interstate Commerce Act, as amended October 15, 1962. These applications are governed by Special Rule 1.245 of the Commission's rules of practice, published in the FEDERAL REGISTER, issue of April 11, 1963, page 3533, which provides, among other things, that protests and requests for information concerning the time and place of State commission hearings or other proceedings, any subsequent changes therein, any other related matters shall be directed to the State commission with which the application is filed and shall not be addressed to or filed with the Interstate Commerce Commission.

California Docket No. 53714, filed November 28, 1972. Applicant: ANELLO TRUCKING CO. (a California corporation), 1999 Stone Avenue, San Jose, CA 95125. Applicant's representative: E. H. Griffiths, 1182 Market Street, Suite 207, San Francisco, CA 94102. Certificate of public convenience and necessity sought to operate a freight service as follows:

Transportation of *general commodities*, except as hereinafter provided: Between all points and places in the San Francisco territory, which is described as follows: San Francisco territory includes all the city of San Jose and that area embraced by the following boundary: Beginning at the point the San Francisco-San Mateo County boundary line meets the Pacific Ocean; thence easterly along said boundary line to a point 1 mile west of U.S. Highway 101; southerly along an imaginary line 1 mile west of and paralleling U.S. Highway 101 to its intersection with Southern Pacific Co. right of way at Arastradero Road; southeasterly along the Southern Pacific Co. right of way to Pollard Road, including industries served by the Southern Pacific Co. spur line extending approximately 2 miles southwest from Simla to Permanente; easterly along Pollard Road to West Parr Avenue; easterly along West Parr Avenue to Capri Drive; southerly along Capri Drive to East Parr Avenue; easterly along East Parr Avenue to the Southern Pacific Co. right of way; southerly along the Southern Pacific Co. right of way to the Campbell-Los Gatos city limits; easterly along said limits and the prolongation thereof to the San Jose-Los Gatos Road; northeasterly along San Jose-Los Gatos Road to Foxworthy Avenue; easterly along Foxworthy Avenue to Almaden Road; southerly along Almaden Road to Hillsdale Avenue; easterly along Hillsdale Avenue to U.S. Highway 101; northwesterly along U.S. Highway 101 to Tully Road; northeasterly along Tully Road to White Road; northwesterly along White Road to McKee Road; southwestly along McKee Road to Capitol Avenue; northwesterly along Capitol Avenue to State Highway 17 (Oakland Road); northerly along State Highway 17 to Warm Springs; northerly along the unnumbered highway via Mission San Jose and Niles to Hayward; northerly along Foothill Boulevard to Seminary Avenue; easterly along Seminary Avenue to Mountain Boulevard; northerly along Mountain Boulevard and Moraga Avenue to Estates Drive; westerly along Estates Drive, Harbor Drive and Broadway Terrace to College Avenue; northerly along College Avenue to Dwight Way; easterly along Dwight Way to Berkeley-Oakland boundary line; northerly along said boundary line to the campus boundary of the University of California; northerly and westerly along the campus boundary of the University of California to Euclid Avenue; northerly along Euclid Avenue to Marin Avenue; westerly along Marin Avenue to Arlington Avenue; northerly along Arlington Avenue to U.S. Highway 40 (San Pablo Avenue); northerly along U.S. Highway 40 to and including the City of Richmond; southwestly along the highway extending from the city of Richmond to Point Richmond; southerly along an imaginary line from Point Richmond to the San Francisco waterfront at the foot of Market Street; westerly along said waterfront and shore line to the

Pacific Ocean; southerly along the shore line of the Pacific Ocean to point of beginning. Except that applicant shall not transport any shipments of: (1) Used household goods and personal effects not packed in accordance with the crated property requirements set forth in paragraph (d) of Item No. 10-C of Minimum Rate Tariff No. 4-A. (2) Automobiles, trucks and buses, viz.: new and used, finished or unfinished passenger automobiles (including jeeps), ambulances, hearses and taxis; freight automobiles, automobile chassis, trucks, truck chassis, truck trailers, trucks and trailers combined, buses and bus chassis. (3) Livestock, viz.: bucks, bulls, calves, cattle, cows, dairy cattle, ewes, goats, hogs, horses, kids, lambs, oxen, pigs, sheep, sheep camp outfits, sows, steers, stags, or swine. (4) Liquids, compressed gases, commodities in semiplastic form and commodities in suspension in liquids in bulk, in tank trucks, tank trailers, tank semitrailers, or a combination of such highway vehicles. (5) Commodities when transported in bulk in dump trucks or in hopper-type trucks. (6) Commodities when transported in motor vehicles equipped for mechanical mixing in transit. (7) Cement. (8) Logs. (9) Commodities of unusual or extraordinary value. (10) Fresh fruits and vegetables. Both intrastate and interstate authority sought. Hearing: Date, time, and place not shown. Requests for procedural information including the time for filing protests concerning this application should be addressed to the California Public Utilities Commission, State Building, Civic Center, 455 Golden Gate Avenue, San Francisco, CA 94102 and should not be directed to the Interstate Commerce Commission.

By the Commission.

[SEAL] ROBERT L. OSWALD,
Secretary.

[FR Doc.72-21461 Filed 12-13-72; 8:47 am]

[Notice 136]

ASSIGNMENT OF HEARINGS

DECEMBER 11, 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. No amendments will be entertained after the date of this publication.

MC 120616 Sub-2, A. V. Dedmon Trucking, now being assigned hearing January 17, 1973 (1 day), at Raleigh, N.C., in a hearing room to be later designated.

MC 129600 Sub-8, Polar Transport, Inc., now being assigned hearing January 17, 1973 (1 day), at Boston, Mass., in a hearing room to be later designated.

MCC-7823, New England-New York Transport, Inc.—Investigation and Revocation of Certificates, now being assigned hearing January 18, 1973 (2 days), at Boston, Mass., in a hearing room to be later designated.

MC 71164 Sub-4, Land-Sea-Air Service, Inc., now being assigned hearing January 22, 1973 (2 days), at Boston, Mass., in a hearing room to be later designated.

MC-F-11487, Auclair Transportation, Inc.—Control and Merger—Paul V. Adams Trucking, Inc., and MC 9429 Sub-6, Paul V. Adams Trucking, Inc., and MC-F-11552, Auclair Transportation, Inc.—Purchase (portion)—Bonded Trucking & Rigging, Inc., FD 27182, Auclair Transportation, Inc., Notes, now being assigned hearing January 24, 1973 (3 days), at Boston, Mass., in a hearing room to be later designated.

No. 35634, Lighterage at New York Harbor, Erie Lackawanna Rwy., continued to January 17, 1973, at the office of the Interstate Commerce Commission, Washington, D.C.

MC 129823 Sub-2, Eastern Motor Lines, Inc., doing business as Marshall's Express, now being assigned hearing January 29, 1973, at the offices of the Interstate Commerce Commission, Washington, D.C.

MC 123383 Sub-61, Boyle Brothers, Inc., now being assigned hearing January 30, 1973, at the offices of the Interstate Commerce Commission, Washington, D.C.

MC-F-11358, Cedar Rapids Steel Transportation, Inc.—Purchase (portion)—Lee Bros., Inc., now being assigned hearing January 30, 1973, at the offices of the Interstate Commerce Commission, Washington, D.C.

MC-F-11436, Milton Transportation, Inc.—Purchase—Milton Trucking, Inc., and MC 136343, Milton Transportation, Inc., and MC 134776 Sub-20, Milton Trucking, Inc., now being assigned hearing February 5, 1973, at the offices of the Interstate Commerce Commission, Washington, D.C.

MC 133095 Sub-30, Texas Continental Express, Inc., now being assigned hearing February 6, 1973, at the office of the Interstate Commerce Commission, Washington, D.C.

AB 6 Sub 7, Burlington Northern, Inc., Abandonment Between Brisbin and Gardiner, Park County, Mont., now being assigned hearing January 18, 1973 (2 days), at Livingston, Mont., in a hearing room to be later designated.

[SEAL] ROBERT L. OSWALD,
Secretary.

[FR Doc.72-21544 Filed 12-13-72; 8:50 am]

[Rev. S.O. 994, ICC Order 78, Amdt. 1]

LONG ISLAND RAIL ROAD CO.

Rerouting or Diversion of Traffic

Upon further consideration of ICC Order No. 78 (The Long Island Rail Road Co.) and good cause appearing therefor: It is ordered, That:

ICC Order No. 78 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 15, 1972, unless otherwise modified, changed, or suspended.

It is further ordered, That this amendment shall become effective at 11:59 p.m., December 8, 1972, and that 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 it be filed with the Director, Office of the Federal Register.

Issued at Washington, D.C., December 8, 1972.

INTERSTATE COMMERCE
COMMISSION,
R. D. PFAHLER,
Agent.

[SEAL]

[FR Doc.72-21546 Filed 12-13-72; 8:50 am]

[Notice 182]

MOTOR CARRIER BOARD TRANSFER PROCEEDINGS

Synopses of orders entered by the Motor Carrier Board of the Commission pursuant to sections 212(b), 206(a), 211, 312(b), and 410(g) of the Interstate Commerce Act, and rules and regulations prescribed thereunder (49 CFR Part 1132), appear below:

Each application (except as otherwise specifically noted) filed after March 27, 1972, contains a statement by applicants that there will be no significant effect on the quality of the human environment resulting from approval of the application. As provided in the Commission's special rules of practice any interested person may file a petition seeking reconsideration of the following numbered proceedings within 20 days from the date of publication of this notice. Pursuant to section 17(8) of the Interstate Commerce Act, the filing of such a petition will postpone the effective date of the order in that proceeding pending its disposition. The matters relied upon by petitioners must be specified in their petitions with particularity.

No. MC-FC-73866. By order of November 27, 1972, the Motor Carrier Board approved the transfer to B. T. Services, Inc., doing business as Columbia Trucking Co., Hammond, Ind., of the operating rights in Certificates Nos. MC-118612 (Sub-No. 2) and MC-118612 (Sub-No. 6), issued August 26, 1964, and May 7, 1971, to Columbia Trucking Co., Inc., Hammond, Ind., authorizing the transportation of asphalt and tar in bulk, in tank vehicles, from Gary, Whiting, East Chicago, and Hammond, Ind., to points in Cook, DuPage, McHenry, Will, Winnebago, Kane, DeKalb, Kendall, Kankakee, and Grundy Counties, Ill.; and crude coal tar, in tank vehicles, from the plantsite and storage facilities of Bethlehem Steel Corp., at Burns Harbor, Ind., to Cicero, Ill. Thomas F. Quinn, 715 First Federal Building, Indianapolis, Ind., 46204, attorney for applicants.

No. MC-FC-73877. By order of November 22, 1972 the Motor Carrier Board approved the transfer to Virginia Furniture Carriers, Inc., Bassett, Va., of Certificates Nos. MC-40830 and MC-40830

(Sub-No. 4) issued September 29, 1944 and September 4, 1951, to G. A. Puryear and J. E. Puryear, doing business as Puryear Truck Line, South Boston, Va., authorizing transportation of: Commodities of a general commodity nature, between specified points and areas in Virginia, Maryland, North Carolina, Pennsylvania, West Virginia, and Ohio. Frank B. Hand, Jr., attorney, Post Office Box 446, Winchester, VA 22601.

No. MC-FC-73915. By order of November 27, 1972, the Motor Carrier Board approved the transfer to Bayse Transportation Service, Inc., Salem, Va., of the operating rights in Certificates Nos. MC-5285, MC-5285 (Sub-No. 4), and MC-5285 (Sub-No. 6) issued August 13, 1956, June 21, 1949, and March 12, 1962, respectively, to W. M. Bayse, doing business as Bayse Transportation Service, Salem, Va., authorizing the transportation of machinery for cigarettes and tobacco stemming, radially, between Salem, Va., and Durham, Rocky Mount, Winston-Salem, Smithfield, Raleigh, and Charlotte, N.C.; canned fruits and vegetables, from points in Roanoke, Montgomery, and Botetourt Counties, Va., to points in West Virginia and North Carolina, and from Roanoke and Radford, Va., to points in Roanoke, Bedford, Botetourt, Franklin, Montgomery, and Floyd Counties, Va., to points in a specified area in Tennessee; canned fruit and vegetable juice, canned fruit and vegetable drinks, and canned fruits and vegetables, from Newport, Sevierville, Tellico Plains, and Jefferson City, Tenn., to points in that part of Virginia on and west of U.S. Highway 29; and groceries, with exceptions, from Roanoke, Va., to points in a specified area in Tennessee. Claude D. Carter, Sixth Floor, Boxley Building, Roanoke, Va. 24005, attorney for applicants.

No. MC-FC-74007. By order of November 21, 1972, the Motor Carrier Board approved the transfer to Package Delivery Service, Inc., Toledo, Ohio, of the operating rights in Permits Nos. MC-128820 (Sub-No. 2) and MC-128820 (Sub-No. 4) issued January 31, 1968, and June 14, 1972, respectively, to James A. Sturdevant, doing business as Package Delivery Service, Toledo, Ohio, authorizing the transportation of such merchandise as is dealt in and sold by retail or chain department stores, in retail delivery service, from Toledo, Ohio, to points in Lenawee, Washtenaw, Wayne, and Monroe Counties, Mich., for Sears, Roebuck and Co., of Toledo, Ohio, and from Toledo, Ohio, to points in Hillsdale, Jackson, Lenawee, Monroe, Washtenaw, and Wayne Counties, Mich., for J. C. Penney Co., Inc., of Ann Arbor, Mich. Arthur A. Cline, 420 Security Building, Toledo, Ohio 43604, attorney for applicants.

[SEAL]

ROBERT L. OSWALD,
Secretary.

[FR Doc.72-21545 Filed 12-13-72; 8:50 am]

[Notice 102]

MOTOR CARRIER, BROKER, WATER CARRIER, AND FREIGHT FORWARDER APPLICATIONS

DECEMBER 8, 1972.

The following applications (except as otherwise specifically noted, each applicant (on applications filed after March 27, 1972) states that there will be no significant effect on the quality of the human environment resulting from approval of its application), are governed by Special Rule 1100.247¹ of the Commission's general rules of practice (49 CFR, as amended), published in the FEDERAL REGISTER issue of April 20, 1966, effective May 20, 1966. These rules provide, among other things, that a protest to the granting of an application must be filed with the Commission within 30 days after date of notice of filing of the application is published in the FEDERAL REGISTER. Failure seasonably to file a protest will be construed as a waiver of opposition and participation in the proceeding. A protest under these rules should comply with section 247(d)(3) of the rules of practice which requires that it set forth specifically the grounds upon which it is made, contain a detailed statement of protestant's interest in the proceeding (including a copy of the specific portions of its authority which protestant believes to be in conflict with that sought in the application, and describing in detail the method—whether by joinder, interline, or other means—by which protestant would use such authority to provide all or part of the service proposed), and shall specify with particularity the facts, matters, and things relied upon, but shall not include issues or allegations phrased generally. Protests not in reasonable compliance with the requirements of the rules may be rejected. The original and one (1) copy of the protest shall be filed with the Commission, and a copy shall be served concurrently upon applicant's representative, or applicant if no representative is named. If the protest includes a request for oral hearing, such requests shall meet the requirements of section 247(d)(4) of the special rules, and shall include the certification required therein.

Section 247(f) of the Commission's rules of practice further provides that each applicant shall, if protests to its application have been filed, and within 60 days of the date of this publication, notify the Commission in writing (1) that it is ready to proceed and prosecute the application, or (2) that it wishes to withdraw the application, failure in which the application will be dismissed by the Commission.

Further processing steps (whether modified procedure, oral hearing, or other procedures) will be determined

¹ Copies of Special Rule 247 (as amended) can be obtained by writing to the Secretary, Interstate Commerce Commission, Washington, D.C. 20423.

generally in accordance with the Commission's general policy statement concerning motor carrier licensing procedures, published in the FEDERAL REGISTER issue of May 3, 1966. This assignment will be by Commission order which will be served on each party of record. Broadening amendments will not be accepted after the date of this publication except for good cause shown, and restrictive amendments will not be entertained following publication in the FEDERAL REGISTER of a notice that the proceeding has been assigned for oral hearing.

No. MC 340 (Sub-No. 24) filed September 19, 1972. Applicant: QUERNER TRUCK LINES, INC., 1131-33 Austin Street, San Antonio, TX 78208. Applicant's representative: M. Ward Bailey, 2412 Continental Life Building, Fort Worth, Tex. 76102. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Meats, meat products, meat by-products, and articles distributed by meat packinghouses*, as described in Sections A and C of Appendix I to the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209 and 766 (except hides and commodities in bulk, in tank vehicles) from points in Texas on and south of Interstate Highway 10 to points in the United States (except Alaska and Hawaii). NOTE: Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at San Antonio or Dallas, Tex.

No. MC 2900 (Sub-No. 232) filed November 13, 1972. Applicant: RYDER TRUCK LINES, INC., 2050 Kings Road, Jacksonville, FL 32203. Applicant's representative: Robert H. Cleveland, Post Office Box 2408, Jacksonville, FL 32203. Authority sought to operate as a *common carrier*, by motor vehicle, over regular routes, transporting: *Alcoholic beverages* including but not limited to whiskey, serving Louisville, Ky., as an off-route point in connection with otherwise authorized regular routes. NOTE: If a hearing is deemed necessary, applicant requests it be held at Louisville, Ky., Washington, D.C., or Atlanta, Ga.

No. MC 4405 (Sub-No. 499) filed November 7, 1972. Applicant: DEALERS TRANSIT, INC., 2200 East 170th Street, Post Office Box 361, Lansing, IL 60438. Applicant's representative: Robert E. Joyner, 2008 Clark Tower, 5100 Poplar Avenue, Memphis, TN 38137. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Trailers, semitrailers, and trailer chassis*, other than those designed to be drawn by passenger automobiles, in initial truckaway and drive-away service; from points in Bryan County, Okla., to points in Alaska, Alabama, Connecticut, Delaware, Florida, Illinois, Indiana, Kansas, Kentucky, Maine, Maryland, Massachusetts, Michigan, Minnesota, New Hampshire, New

Jersey, New York, North Carolina, North Dakota, Ohio, Pennsylvania, Rhode Island, South Carolina, South Dakota, Tennessee, Vermont, Virginia, West Virginia, and Wisconsin; and (2) *tractors in secondary movements in driveway service only when drawing trailers, semi-trailers, and trailer chassis in initial movements, from points in Bryan County, Okla., to points in Alaska and Vermont.* NOTE: Applicant states that the requested authority cannot be tacked with its existing authority. Applicant further states that no duplicating authority is being sought. Common control may be involved. If a hearing is deemed necessary, applicant requests it be held at Oklahoma City, Okla., or Dallas, Tex.

No. MC 11185 (Sub-No. 129) filed November 7, 1972. Applicant: J-T TRANSPORT COMPANY, INC., 3501 Manchester Trafficway, Kansas City, MO 64129. Applicant's representative: Warren A. Goff, 2008 Clark Tower, 5100 Poplar Avenue, Memphis, TN 38137. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Expanded polystyrene insulation, laminated or unlaminated, and materials and supplies used in the installation thereof*, from Wichita, Kans., to points in Arkansas, Colorado, Iowa, Missouri, Nebraska, and Oklahoma, under contract with W. R. Grace & Co. NOTE: Common control may be involved. If a hearing is deemed necessary, applicant requests it be held at Kansas City, Mo.

No. MC 14552 (Sub-No. 45) filed November 8, 1972. Applicant: J. V. McNICHOLAS TRANSFER CO., a Corporation, 555 West Federal Street, Youngstown, OH 44501. Applicant's representative: Paul F. Beery, 88 East Broad Street, Suite 1660, Columbus, OH 43215. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Steel roofing, flooring, bridgedeck, and parts thereof*, from the plantsite of Reeves-Bowman Division, Cyclops Corp., at Carnegie, Pa., to points in Delaware, Illinois, Indiana, Kentucky, Maryland, New Jersey, New York, Virginia, West Virginia, Ohio, and points in the lower peninsula of Michigan, and (2) *equipment, and materials supplies used in manufacture of steel roofing* (except commodities in bulk), from points in the above named States to the plantsite of Reeves-Bowman Division, Cyclops Corp., at Carnegie, Pa. Restriction: The service requested in parts (1) and (2) above are to be restricted to traffic originating at and/or destined to the name origins and destinations. NOTE: Applicant holds contract carrier authority under MC 123991 and subs, therefore dual operations may be involved. If a hearing is deemed necessary, applicant requests it be held at Columbus, Ohio.

No. MC 14702 (Sub-No. 46), filed November 6, 1972. Applicant: OHIO FAST FREIGHT, INC., Post Office Box 808, Warren, OH 44482. Applicant's representative: Paul F. Beery, 88 East Broad

Street, Columbus, OH 43215. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Brass tubing*, from New Milford, Conn., to points in Ohio, Indiana, the lower peninsula of Michigan, and the Chicago, Ill., Commercial Zone; and (2) *brass and aluminum sheets, brass rods, and brass wire*, from Waterbury, Conn., to points in Ohio, Indiana, the lower peninsula of Michigan and the Chicago, Ill., Commercial Zone. NOTE: Applicant states that the requested authority can be tacked with its existing authority, however, applicant does not intend to tack, and therefore, has not described the tacking possibilities. If a hearing is deemed necessary, applicant requests it be held at Columbus, Ohio.

No. MC 16965 (Sub-No. 4), filed November 8, 1972. Applicant: FRANKLIN TRUCKING, INC., 210 East Washington Street, Post Office Box 412, Hartford City, IN. Applicant's representative: Donald W. Smith, 900 Circle Tower, Indianapolis, Ind. 46204. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Building materials*, between the plantsite of Overhead Door Co. of Indiana at Hartford City, Ind., on the one hand, and, on the other, points in Illinois, Iowa, Kansas, Kentucky, Michigan, Minnesota, Missouri, Nebraska, North Dakota, South Dakota, Ohio, Pennsylvania, Tennessee, West Virginia, and Wisconsin. NOTE: Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Indianapolis, Ind., or Chicago, Ill.

No. MC 27063 (Sub-No. 22), filed November 2, 1972. Applicant's LIBERTY TRANSFER COMPANY, INC., 1601 Cuba Street, Baltimore, MD. Applicant's representative: S. Harrison Kahn, Suite 733 Investment Building, Washington, D.C. 20005. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: (1) *Green coffee*, from New York, N.Y., to Landover, Md., and (2) *Such merchandise as is dealt in by wholesale and retail and chain grocery and food business houses, and in connection therewith, equipment, materials, and supplies used in the conduct of such business*, from Newark, N.J., to Baltimore, Md., under contract with The Great Atlantic & Pacific Tea Co. NOTE: If a hearing is deemed necessary, applicant requests it be held at New York, N.Y., or Washington, D.C.

No. MC 29910 (Sub-No. 125), filed November 6, 1972. Applicant: ARKANSAS-BEST FREIGHT SYSTEM, INC., 301 South 11th Street, Fort Smith AR 72901. Applicant's representative: Don A. Smith, Post Office Box 43, Kelley Building, Fort Smith, AR 72901. Authority sought to operate as a *common carrier*, by motor vehicle, over regular routes, transporting: *General commodities* (except commodities in bulk, livestock, classes A and B explosives, and commodities which because of size and weight require the use of special equipment), serving the plantsite facilities of Good-

year Tire & Rubber Co. at or near Silsbee, Tex., as an off-route point in connection with applicant's regular-route operations to and from Houston, Tex. NOTE: If a hearing is deemed necessary, applicant requests it be held at Houston, Tex., or New Orleans, La.

No. MC 30513 (Sub-No. 11), filed November 2, 1972. Applicant: NORTH STATE MOTOR LINES, INC., Post Office Box 4108, Rocky Mount, NC 27801. Applicant's representative: Edward G. Villalon, 1032 Pennsylvania Building, Pennsylvania Avenue and 13th Street NW., Washington, D.C. 20004. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Dry fertilizer and dry fertilizer materials*, (a) between Danville, Va., on the one hand, and, on the other, points in North Carolina and (b) between Kinston, N.C., on the one hand, and, on the other, points in South Carolina. NOTE: Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Washington, D.C.

No. MC 30513 (Sub-No. 12), filed November 2, 1972. Applicant: NORTH STATE MOTOR LINES, INC., Post Office Box 4108, Rocky Mount, NC 27801. Applicant's representative: Edward G. Villalon, 1032 Pennsylvania Building, Pennsylvania Avenue and 13th Street NW., Washington, D.C. 20004. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Reconstituted, reconstructed, or homogenized tobacco*, from Danville, Va., to Louisville, Ky. NOTE: Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Washington, D.C.

No. MC 30844 (Sub-No. 439) filed November 10, 1972. Applicant: KROBLIN REFRIGERATED XPRESS, INC., Post Office Box 5000, Waterloo, IA 50704. Applicant's representative: Truman A. Stockton, The 1650 Grant Street Building, Denver, CO. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Glass and glassware* from Columbus, Ohio, to points in Iowa, Kansas, Minnesota, Missouri, and Nebraska. NOTE: Common control may be involved. Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Columbus, Ohio, or Washington, D.C.

No. MC 30844 (Sub-No. 443) filed November 13, 1972. Applicant: KROBLIN REFRIGERATED XPRESS, INC., Post Office Box 5000, Waterloo, IA 50704. Applicant's representative: Truman A. Stockton, The 1650 Grant Street Building, Denver, CO. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Rubber articles*, from Milville, N.J., to Holdrege, Nebr. NOTE: Common control may be involved. Applicant states that

the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Philadelphia, Pa., or Washington, D.C.

No. MC 30844 (Sub-No. 440) filed November 13, 1972. Applicant: KROBLIN REFRIGERATED XPRESS, INC., Post Office Box 5000, Waterloo, IA 50704. Applicant's representative: Truman A. Stockton, The 1650 Grant Street Building, Denver, Colo. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Meat, meat products, meat by-products, and articles distributed by meat packinghouses*, as described in Sections A and C of Appendix I to the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209 and 766 (except hides and commodities in bulk), (1) from Shreveport, La., and Memphis, Tenn., to points in Connecticut, Delaware, Maine, Maryland, Massachusetts, New Hampshire, New Jersey, New York, North Carolina, Ohio, Pennsylvania, Rhode Island, South Carolina, Vermont, Virginia, West Virginia, and the District of Columbia; (2) from Ottumwa, Iowa to points in North Carolina and South Carolina, and (3) from Estherville, Iowa to points in Virginia, restricted to shipments originating at the plantsites and facilities of John Morrell & Co., at the above-named origins. NOTE: Common control may be involved. Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Chicago, Ill., or Washington, D.C.

No. MC 30844 (Sub-No. 441) filed November 13, 1972. Applicant: KROBLIN REFRIGERATED XPRESS, INC., Post Office Box 5000, Waterloo, IA 50704. Applicant's representative: Truman A. Stockton, The 1650 Grant Street Building, Denver, CO. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Candy and confectionery, novelties and dessert preparations, advertising matter, store display stands or racks, electric signs, store displays in vehicle equipped with mechanical refrigeration*, from Chicago, Ill., to (1) points in Delaware, Maryland, Massachusetts, New Jersey, New York, Pennsylvania, and Rhode Island and (2) points in North Carolina, South Carolina, Tennessee, Virginia, and West Virginia. NOTE: Common control may be involved. Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Chicago, Ill., or Washington, D.C.

No. MC 30844 (Sub-No. 442) filed November 13, 1972. Applicant: KROBLIN REFRIGERATED XPRESS, INC., Post Office Box 5000, Waterloo, IA 50704. Applicant's representative: Truman A. Stockton, The 1650 Grant Street Building, Denver, CO. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transport-

ing: *Meats, meat products, meat by-products, packinghouse products, and packinghouse byproducts* (except commodities in bulk), from Chicago, Ill., (1) to points in Maryland, New York, New Jersey, Massachusetts, Connecticut, Rhode Island, Delaware, West Virginia, Virginia, and the District of Columbia and (2) points in Pennsylvania on and east of U.S. Highway 15 (from the Maryland-Pennsylvania State line to its intersection with the Pennsylvania-New York State line). NOTE: Common control may be involved. Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Chicago, Ill., or Washington, D.C.

No. MC 52110 (Sub-No. 130), filed November 10, 1972. Applicant: BRADY MOTORFRATE, INC., 2150 Grand Avenue, Des Moines, IA 50312. Applicant's representative: Cecil L. Gottsch, 11th Floor Des Moines Building, Des Moines, Iowa 50312. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Meats, meat products, and meat byproducts, and articles distributed by meat packinghouses*, as described in Appendix I to the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209 and 766 (except hides and commodities in bulk), from Mankato, Kans., to points in Connecticut, Delaware, Illinois, Indiana, Iowa, Kentucky, Maine, Maryland, Massachusetts, Michigan, Minnesota, Missouri, New Hampshire, New Jersey, New York, Ohio, Pennsylvania, Rhode Island, Vermont, Virginia, West Virginia, Wisconsin, and the District of Columbia, restricted to traffic originating at the facilities of Dubuque Packing Co. at Mankato, Kans. NOTE: Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Des Moines, Iowa, Wichita, Kans., or Washington, D.C.

No. MC 52921 (Sub-No. 17), filed October 25, 1972. Applicant: RED BALL, INC., Post Office Box 520, Sapulpa, OK 74066. Applicant's representative: Sam Roberts, 501 Philtower Building, Tulsa, Okla. 74103. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Food stuffs and food products*, between Albuquerque, N. Mex., and points in Louisiana, Arkansas, Texas, Oklahoma, Kansas, and Missouri. NOTE: Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Albuquerque, N. Mex., or Tulsa, Okla.

No. MC 61396 (Sub-No. 236), filed November 2, 1972. Applicant: HERMAN BROS., INC., 2501 North 11th Street, Post Office Box 189, Omaha, NE 68101. Applicant's representative: Dale G. Herman (same address as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Cement*, from the

plantsite of Penn-Dixie Cement Corp. at or near West Des Moines, Iowa, to points in Illinois, Iowa, Kansas, Minnesota, Missouri, Nebraska, North Dakota, South Dakota, and Wisconsin. NOTE: Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Des Moines, Iowa, or Omaha, Nebr.

No. MC 61825 (Sub-No. 56), filed November 10, 1972. Applicant: ROY STONE TRANSFER CORPORATION, V. C. Drive, Post Office Box 385, Collinsville, VA 24078. Applicant's representative: George S. Hales (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Salt*, in packages; *pepper*, in packages, in mixed shipments with salt in packages; and *materials and supplies used in the agricultural, water treatment, food processing, wholesale grocery, and institutional supply industries*, in mixed shipments with salt in packages, from Ritman, Ohio, to points in North Carolina, South Carolina, and Virginia. NOTE: Common control may be involved. Applicant states that the requested authority cannot be tacked with its existing authority. Applicant further states no duplicating authority sought. If a hearing is deemed necessary, applicant requests it be held at Washington, D.C.

No. MC 69116 (Sub-No. 148), filed November 6, 1972. Applicant: SPECTOR FREIGHT SYSTEM, INC., 205 West Wacker Drive, Chicago, IL 60606. Applicant's representative: Carl L. Steiner, 39 South La Salle Street, Chicago, IL 60603. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Iron and steel articles, contractors' equipment, supplies and materials; and aluminum articles*, from Indian Oaks, Ill., to points in Connecticut, Delaware, Illinois, Indiana, Iowa, Kansas, Maine, Maryland, Massachusetts, Michigan, Minnesota, Missouri, New Hampshire, New Jersey, New York, Ohio, Pennsylvania, Rhode Island, and Wisconsin. NOTE: Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Chicago, Ill.

No. MC 69833 (Sub-No. 105), filed November 1, 1972. Applicant: ASSOCIATED TRUCK LINES, INC., Vanderberg Center, Grand Rapids, Mich. 49502. Applicant's representative: Harry Pohlard (same address as above). Authority sought to operate as a *common carrier*, by motor vehicle, over regular routes, transporting: *General commodities* (except articles of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), between Toledo, Ohio, and Columbus, Ohio, from Toledo, Ohio, over Interstate Highway 280 to its junction with Ohio Highway 420, thence over Ohio Highway 420 to its junction with U.S. Highway 23, thence over U.S. Highway 23 to Columbus, Ohio, and return over

the same route, serving the intermediate points of Marion and Delaware, Ohio. NOTE: If a hearing is deemed necessary, applicant requests it be held at Columbus or Cleveland, Ohio.

No. MC 83835 (Sub-No. 96), filed November 13, 1972. Applicant: WALES TRANSPORTATION, INC., Post Office Box 6186, Dallas, Tex. 75222. Applicant's representative: James W. Hightower, 136 Wynnewood Professional Building, Dallas, Tex. 75224. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Iron and steel articles*, as described in Appendix V of *Description in Motor Carrier Certificates*, Ex Parte No. MC 45, 64 M.C.C. 209, between Tulsa and the Port of Catoosa, Okla., on the one hand, and, on the other, points in Alabama, Arizona, Arkansas, California, Colorado, Florida, Georgia, Idaho, Iowa, Kansas, Louisiana, Mississippi, Missouri, Montana, Nebraska, Nevada, New Mexico, Oklahoma, Oregon, Tennessee, Texas, Utah, Washington, and Wyoming. NOTE: Applicant states that the requested authority can be tacked at Tulsa, Okla., with its existing size and weight authority; and also it can be tacked with applicant's iron and steel authority from Houston, Baytown, Galveston, and Corpus Christi, Tex., to serve points or territories which the applicant does not identify. Persons interested in the tacking possibilities are cautioned that failure to oppose the application may result in an unrestricted grant of authority. If a hearing is deemed necessary, applicant requests it be held at Dallas, Tex., or Oklahoma City, Okla.

No. MC 83835 (Sub-No. 97), filed November 13, 1972. Applicant: WALES TRANSPORTATION, INC., Post Office Box 6186, Dallas, TX 75222. Applicant's representative: James W. Hightower, 136 Wynnewood Professional Building, Dallas, Tex. 75224. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Plastic pipe, tubing, valves and fittings, compounds, joint sealer, bonding cement, primer, coating, thinner, and accessories* used in the installation thereof (except commodities in bulk, in tank vehicles), between Burns Flat, Okla., on the one hand, and, on the other, points in the United States (except Hawaii). NOTE: Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Dallas, Tex., or Oklahoma City, Okla.

No. MC 85465 (Sub-No. 50), filed November 2, 1972. Applicant: WEST NEBRASKA EXPRESS, INC., Post Office Box 952, Scottsbluff, NE 69361. Applicant's representative: Stockton and Lewis, The 1650 Grant Street Building, Denver, CO 80203. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Dehydrated potatoes and potato products*, from Pine Bluffs, Wyo., to points in and east of North Dakota,

South Dakota, Nebraska, Kansas, Oklahoma, and Texas. NOTE: Applicant states that the requested authority cannot be tacked with its existing authority. Common control may be involved. If a hearing is deemed necessary, applicant requests it be held at Cheyenne, Wyo., or Pocatello, Idaho.

No. MC 89684 (Sub-No. 81) (Amendment), filed September 28, 1972, published in the FEDERAL REGISTER issue of October 27, 1972, and republished this issue. Applicant: WYCOFF COMPANY, INC., 560 South Second West, Salt Lake City, UT 84110. Applicant's representative: Harry D. Pugsley, 400 El Paso Gas Building, Salt Lake City, Utah 84111. Authority sought to operate as a *common carrier*, by motor vehicle, over regular routes, transporting: *General commodities* (except Classes A and B explosives, poisons, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment or handling), restricted to 150 pounds per piece and in the aggregate of 1,000 pounds from one consignor to one consignee in one day, (1) between Denver, Colo., and Alpine, Wyo.: from Denver over Interstate Highway 25 to Fort Collins, Colo., thence over U.S. Highway 287 to Laramie, Wyo., thence over Interstate Highway 80 to junction U.S. Highway 30N, thence over U.S. Highway 30N to junction U.S. Highway 89, thence over U.S. Highway 89 to Alpine, Wyo., serving all intermediate points between Geneva, Idaho, and Alpine, Wyo., and the offroute points of Fairview, Auburn, and Freedom, Wyo., and return over the same route; (2) between Boise, Idaho, and Geneva, Idaho; from Boise, Idaho, over U.S. Highway 30N and Interstate Highway 80 to Burley, Idaho, thence over U.S. Highway 30N and Interstate Highway 15W to Pocatello, Idaho, thence over Interstate Highway 15 and U.S. Highway 91 to Idaho Falls, Idaho, thence over U.S. Highway 26 to Alpine, Wyo., thence over U.S. Highway 89 to Geneva, and return over the same route serving all intermediate points between Alpine, Wyo., and Geneva, Idaho, and the offroute points of Freedom, Auburn, and Fairview, Wyo.; (3) between Twin Falls, Idaho, and Geneva, Idaho; from Twin Falls, over Interstate Highway 80N to Burley, Idaho, thence over U.S. Highway 30N and Interstate 15W to Pocatello, Idaho, thence over Interstate Highway 15 and U.S. Highway 91 to Idaho Falls, Idaho, thence over U.S. Highway 26 to Alpine, Wyo., thence over U.S. Highway 89 to Geneva, and return over the same route, serving all intermediate points between Alpine, Wyo., and Geneva, Idaho, and the offroute points of Fairview, Auburn, and Freedom, Wyo.;

(4) between Pocatello, Idaho, and Geneva, Idaho; from Pocatello and Blackfoot, Idaho, over Interstate Highway 15 and U.S. Highway 91 to Idaho Falls, Idaho, thence over U.S. Highway 26 to Alpine, Wyo., thence over U.S. Highway 89 to Geneva, Idaho and return over the same route, serving all intermediate points between Alpine, Wyo.

and Geneva, Idaho and the offroute points of Fairview, Auburn, and Freedom, Wyo.; (5) between Provo, Utah, and Alpine, Wyo.: from Provo, Utah, over Interstate Highway 15 to Salt Lake City, Utah, thence over U.S. Highway 189 to Kemmerer, Wyo., thence over U.S. Highway 30N to junction U.S. Highways 30N and 89, thence over U.S. Highway 89 to Alpine, Wyo., and return over the same route, serving all intermediate points between Geneva, Idaho and Alpine, Wyo., and the offroute points of Fairview, Auburn and Freedom, Wyo.; (6) between Ogden, Utah and Alpine, Wyo.: from Ogden, over Interstate Highways 80N and 80 to junction U.S. Highway 189, thence over U.S. Highway 189 to Kemmerer, Wyo., thence over U.S. Highway 30N to junction U.S. Highway 89, thence over U.S. Highway 89 to Alpine, Wyo. and return over the same route, serving all intermediate points, between Geneva, Idaho and Alpine, Wyo. and the offroute points of Fairview, Auburn, and Freedom, Wyo.; and (7) between Salt Lake City, Utah and Alpine, Wyo.: from Salt Lake City, Utah over Interstate Highway 80 to junction U.S. Highway 189, thence over U.S. Highway 189 to Kemmerer, Wyo., thence over U.S. Highway 30N to junction U.S. Highway 89, thence over U.S. Highway 89 to Alpine, Wyo. and return over the same route, serving all intermediate points, between Geneva, Idaho and Alpine, Wyo. and the offroute points of Fairview, Auburn, and Freedom, Wyo.; (8) between Blackfoot, Idaho and Geneva, Idaho: from Blackfoot over Interstate Highway 15 and U.S. Highway 91 to Idaho Falls, Idaho, thence over U.S. Highway 26 to Alpine, Wyo., thence over U.S. Highway 89 to Geneva and return over the same route serving all intermediate points between Alpine and Geneva and the offroute points of Freedom, Auburn, and Fairview, Wyo.; (9) between Idaho Falls, Idaho and Geneva, Idaho: from Idaho Falls, over U.S. Highway 26 to Alpine, Wyo., thence over U.S. Highway 89 to Geneva and return over the same route, serving all intermediate points between Alpine and Geneva and the offroute points of Freedom, Auburn, and Fairview, Wyo.;

(10) Between Salt Lake City, Utah and Geneva, Idaho: from Salt Lake City over Interstate Highway 80N to Tremonton, Utah, thence over U.S. Highway 191 and Interstate 15 to Downey, Idaho, thence over Interstate 15 and U.S. Highway 91 to Idaho Falls, thence over U.S. Highway 26 to Alpine, Wyo., thence over U.S. Highway 89 to Geneva, and return over the same route, serving all intermediate points between Alpine and Geneva and the offroute points of Fairview, Auburn, and Freedom, Wyo.; (11) between Provo, Utah and Geneva, Idaho: from Provo over Interstate Highway 80N to Tremonton, Utah, thence over U.S. Highway 191 and Interstate 15 to Downey, Idaho, thence over Interstate Highway 15 and U.S. Highway 91 to Idaho Falls, Idaho, thence over U.S. Highway 26 to Alpine, Wyo., thence over U.S. Highway 89 to Geneva, Idaho, and return over the same

routes, serving all intermediate points between Alpine and Geneva and the off-route points of Freedom, Auburn, and Fairview, Wyo.; and (12) between Ogden, Utah and Geneva, Idaho: from Ogden over Interstate Highway 80N to Tremonton, Utah, thence over U.S. Highway 191 and Interstate 15 to Downey, Idaho, thence over Interstate Highway 15 and U.S. Highway 91 to Idaho Falls, thence over U.S. Highway 26 to Alpine, Wyo., thence over U.S. Highway 89 to Geneva and return over the same routes, serving all intermediate points between Alpine and Geneva and the offroute points of Freedom, Auburn, and Fairview, Wyo. NOTE: The purpose of this republication is to add routes (8) through (12) to the applicant's requested authority. If a hearing is deemed necessary, applicant requests it be held at Salt Lake City, Utah.

No. MC 100623 (Sub-No. 38), filed November 2, 1972. Applicant: HOURLY MESSENGERS, INC., doing business as H. M. PACKAGE DELIVERY SERVICE, 20th Street and Indiana Avenue, Philadelphia, Pa. 19132. Applicant's representative: Harold G. Hernly, 2030 North Adams Street, Suite 510, Arlington, VA 22201. Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: *General commodities* (except Classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), between points in Maryland, Virginia, and the District of Columbia, restricted against the transportation of any package or article weighing more than 50 pounds or exceeding 108 inches in length and girth combined and each package or article shall be considered as a separate and distinct shipment, and further restricted against the transportation of packages or articles weighing in the aggregate more than 300 pounds from one consignor at one location to one consignee at one location on any one day. NOTE: Common control may be involved. Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Washington, D.C.

No. MC 103051 (Sub-No. 262), filed November 10, 1972. Applicant: FLEET TRANSPORT COMPANY, INC., 934 44th Avenue North, Post Office Box 90408, Nashville, TN 37209. Applicant's representative: Gregory A. Presnell, Akerman Senterfitt, Eidson & Wharton, Post Office Box 231, 17th Floor, CNA Building, Orlando, FL 32802. Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: *Petroleum and petroleum products*, in bulk, in tank vehicles, from points in Decatur County, Ga., to points in Alabama and Florida. NOTE: Common control may be involved. Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Atlanta, Ga.

No. MC 105350 (Sub-No. 21), filed October 26, 1972. Applicant: NORTH PARK TRANSPORTATION CO., a Corporation, 5150 Columbine Street, Denver, CO 80216. Applicant's representative: Leslie R. Kehl, 420 Denver Club Building, Denver, Colo. 80202. Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: *Fabricated steel products*, from Denver and Pueblo, Colo., to points in Wyoming. NOTE: Common control may be involved. Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Denver, Colo.

No. MC 106904 (Sub-No. 17), filed November 13, 1972. Applicant: TOPEKA MOTOR FREIGHT, INC., 1701 State Line, Kansas City, KS 66101. Applicant's representative: D. S. Hulst, Post Office Box 225, Lawrence, KS 66044. Authority sought to operate as a common carrier, by motor vehicle, over regular routes, transporting: *General commodities* (except those of unusual value, Classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), serving the warehouse site of Western Electric located at or near Underwood, Iowa, as an off-route point in connection with applicant's presently authorized operations. NOTE: If a hearing is deemed necessary, applicant requests it be held at Omaha, Nebr.

No. MC 107064 (Sub-No. 90), filed November 10, 1972. Applicant: STEERE TANK LINES, INC., Post Office Box 2998, Dallas, TX 75221. Applicant's representative: Hugh T. Matthews, 630 Fidelity Union Tower, Dallas, Tex. 75201. Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: *Blackstrap molasses*, in bulk, in tank vehicles, from New Orleans, La., to Farmington, N. Mex. NOTE: Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Dallas, Tex.

No. MC 107487 (Sub-No. 3), filed October 10, 1972. Applicant: COLUMBIA CITY FREIGHT LINES, INC., Rural Route No. 9, Columbia City, Ind. 46725. Applicant's representative: Donald W. Smith, 900 Circle Tower, Indianapolis, Ind. 46204. Authority sought to operate as a common carrier, by motor vehicle, over regular routes, transporting: *General commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment); (1) Between Columbia City, Ind., and Howe, Ind.; from Columbia City, Ind., over Indiana Highway 9 to junction Indiana Highway 120, thence over Indiana Highway 120 to Howe, Ind., and return over the same route, serving all intermediate points (except Valentine, Brimfield, Burr Oak, and Merriam, Ind.); (2) Between

Columbia City, Ind., and Bristol, Ind.; from Columbia City, Ind., over Indiana Highway 9 to junction U.S. Highway 6, thence over U.S. Highway 6 to junction Indiana Highway 13, thence over Indiana Highway 13 to junction Indiana Highway 120, thence over Indiana Highway 120 to Bristol, Ind., and return over the same route serving all intermediate points (except Millersburg, Wawaka, Burr Oak, and Merriam, Ind.); and (3) Between Bristol, Ind., and Howe, Ind.; from Bristol, Ind., over Indiana Highway 120 to Howe, Ind., serving as an alternate route in connection with applicant's regular route authority for operating convenience only. NOTE: common control may be involved. If a hearing is deemed necessary, applicant requests it be held at Indianapolis, Ind.

No. MC 107515 (Sub-No. 820), filed November 2, 1972. Applicant: REFRIGERATED TRANSPORT CO., INC., Post Office Box 308, Forest Park, GA 30050. Applicant's representative: Paul M. Daniell, Post Office Box 872, Atlanta, GA 30301. Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: *Foodstuffs* (except commodities in bulk), in vehicles equipped with mechanical refrigeration, from St. Louis, Mo., to points in Kentucky, Tennessee, Alabama, Georgia, Florida, North Carolina, South Carolina, Virginia, West Virginia, Maryland, Delaware, Pennsylvania, New Jersey, New York, Connecticut, Rhode Island, Massachusetts, and the District of Columbia, restricted to traffic originating at St. Louis. NOTE: Common control and dual operations may be involved. Applicant states that the requested authority cannot be tacked with its existing authority. Applicant further states that no duplicating authority is sought. If a hearing is deemed necessary, applicant requests it be held at St. Louis, Mo.

No. MC 107515 (Sub-No. 824), filed November 6, 1972. Applicant: REFRIGERATED TRANSPORT CO., INC., Post Office Box 308, Forest Park, GA 30050. Applicant's representatives: Paul M. Daniell and Edward Wolcott, Post Office Box 872, Atlanta, GA 30301. Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: *Frozen foodstuffs*, from Noblesville, Ind., to points in Alabama, Florida, Georgia, Kentucky, Mississippi, North Carolina, South Carolina, Tennessee, Virginia, and West Virginia. NOTE: Common control may be involved. Applicant controls Refrigerated Transport, Inc., which holds a permit in No. MC 126436 and Subs thereunder, therefore dual operations may also be involved. Applicant states that the requested authority can be tacked at Gainesville, Ga., to serve the additional States of Arkansas, Louisiana, Oklahoma, and Texas. If a hearing is deemed necessary, applicant requests it be held at Indianapolis, Ind., or Louisville, Ky.

No. MC 108461 (Sub-No. 120), filed October 25, 1972. Applicant: WHITFIELD TRANSPORTATION, INC., Post

Office Drawer 9897 (300-316 North Clark Road), El Paso, TX 79989. Applicant's representative: J. P. Rose (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over regular routes, transporting: *General commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), (1) serving Clovis, N. Mex., as an intermediate point in connection with carrier's presently authorized routes in MC 108461 (Sub-No. 99); and (2) serving Magdalena, N. Mex., as an offroute point in connection with carrier's present routes as authorized in lead docket MC 108461 between Albuquerque, N. Mex., and El Paso, Tex.: From Socorro, N. Mex., over U.S. Highway 60 to Magdalena, N. Mex., and return over the same route, serving no intermediate points. **NOTE:** Common control may be involved. If a hearing is deemed necessary, applicant requests it be held at Clovis, N. Mex., Albuquerque, N. Mex., or Dallas, Tex.

No. MC 109449 (Sub-No. 15), filed November 8, 1972. Applicant: KUJAK BROS. TRANSFER, INC., 352 Junction Street, Winona, MN 55987. Applicant's representative: Charles E. Nieman, 1160 Northwestern Bank Building, Minneapolis, Minn. 55402. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Sand and gravel*, from Winona, Minn., and points within 5 miles of Winona, to points in Monroe County, Wis. **NOTE:** Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Minneapolis, St. Paul, or Winona, Minn.

No. MC 112391 (Sub-No. 37), filed October 13, 1972. Applicant: HADLEY AUTO TRANSPORT, 7428 Paramount Boulevard, Post Office Box 96, Pico Rivera, CA. Applicant's representative: Phil Jacobson, 510 West Sixth Street, Los Angeles, CA 90014. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Automobiles, trucks, and chassis* in secondary movement in truckaway service, from Port of Richmond, Calif., to points in Oregon, California, and Nevada under a continuing contract with Ford Motor Co. **NOTE:** If a hearing is deemed necessary, applicant requests it be held at Los Angeles, Calif., or Washington, D.C.

No. MC 112520 (Sub-No. 265), filed October 27, 1972. Applicant: McKENZIE TANK LINES, INC., Post Office Box 1200, Tallahassee, FL 32302. Applicant's representative: W. Guy McKenzie, Jr. (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Chemicals*, in bulk, in tank vehicles, from Brunswick and Savannah, Ga., to points in Alabama, Florida, and South

Carolina. **NOTE:** Common control may be involved. Applicant states that the requested authority can possibly be tacked with its existing authority but states that under such combinations of authorities it would be extremely circuitous, therefore it has no present intentions to tack. If a hearing is deemed necessary, applicant requests it be held at Atlanta, Ga.

No. MC 112520 (Sub-No. 266), filed November 13, 1972. Applicant: McKENZIE TANK LINES, INC., Post Office Box 1200, Tallahassee, FL 32302. Applicant's representative: W. Guy McKenzie, Jr. (same address as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Bluck liquor skimmings, brine, saline solution, and sodium sulfate*, in bulk, in tank vehicles, between Jacksonville, Fla., and Clyattville, Ga. **NOTE:** Applicant states that tacking possibilities exist with presently held authorities, but operations under such combinations would be extremely circuitous, therefore applicant does not contemplate tacking. Common control may be involved. If a hearing is deemed necessary, applicant requests it be held at Atlanta, Ga.

No. MC 112713 (Sub-No. 148), filed November 6, 1972. Applicant: YELLOW FREIGHT SYSTEM, INC., Box 8462, 92d at State Line, Kansas City, Mo. 64114. Applicant's representative: John M. Records (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over regular routes, transporting: *General commodities*, (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), serving the warehouse and storage facilities of Western Electric Co. located near Underwood, Iowa, as an off-route point in connection with applicant's presently authorized operations to and from Omaha, Nebr. **NOTE:** Common control may be involved. If a hearing is deemed necessary, applicant requests it be held at Omaha, Nebr., or Kansas City, Mo.

No. MC 112989 (Sub-No. 26), filed November 13, 1972. Applicant: WEST COAST TRUCK LINES, INC., Post Office Box 668, Coos Bay, OR 97420. Applicant's representative: John G. McLaughlin, 100 Southwest Market Street, Portland, OR 97201. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Iron and steel articles consisting of cable and tendons*, from Panorama City, Calif., to points in Arizona and Nevada. **NOTE:** Applicant states that the requested authority could be tacked with its existing authority under MC 112989 (Sub-No. 16) at Panorama City and provide service from points in Oregon, if required, to points in Arizona and Nevada. If a hearing is deemed necessary, applicant requests it be held at Los Angeles, Calif.

No. MC 113666 (Sub-No. 70), filed November 9, 1972. Applicant: FREEPORT TRANSPORT, INC., 1200 Butler Road, Freeport, PA 16229. Applicant's representative: Daniel R. Smetanick (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Anhydrous ammonia*, in bulk, in tank vehicles, from ports of entry on the international boundary line between the United States and Canada located in Michigan and New York to points in Michigan, New York, Ohio, and Pennsylvania; (2) *beta naphthol* (except in bulk), from Willow Island, W. Va., to points in New York, New Jersey, Illinois, and South Carolina; (3) *dry animal and poultry feed and feed ingredients*, from Willow Island, W. Va., and Pearl River, N.Y., to points in Kansas, Iowa, Illinois, Georgia, Arkansas, Missouri, and Montana; (4) *nitric acid*, in bulk, in tank vehicles, from Olean, N.Y., to points in Connecticut, Maryland, Massachusetts, New Jersey, New York, Ohio, Pennsylvania, West Virginia, Virginia, and the District of Columbia; (5) *nitrogen fertilizer solution*, in bulk, in tank vehicles, from Olean, N.Y., to points in Connecticut, Indiana, Maine, Maryland, Massachusetts, Michigan, New Hampshire, New Jersey, New York, Ohio, Pennsylvania, Rhode Island, Vermont, Virginia, West Virginia, and the District of Columbia; and (6) *aluminum oxide and silicone carbide*, from the ports of entry on the international boundary line between the United States and Canada located in New York and Michigan to points in New York, Pennsylvania, Delaware, Maryland, Virginia, West Virginia, Ohio, Indiana, Illinois, Wisconsin, Michigan, and Minnesota. **NOTE:** Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Pittsburgh, Pa., or Washington, D.C.

No. MC 113974 (Sub-No. 47), filed November 6, 1972. Applicant: PITTSBURGH & NEW ENGLAND TRUCKING CO., a corporation, 211 Washington Avenue, Dravosburg, PA 15034. Applicant's representative: Henry M. Wick, Jr., 2310 Grant Building, Pittsburgh, Pa. 15219. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Roofing, building, and asphalt paving materials* (except commodities in bulk), from points in Wayne County, N.C., to points in Alabama, Arkansas, Connecticut, Delaware, Florida, Georgia, Illinois, Indiana, Iowa, Kansas, Kentucky, Louisiana, Maine, Maryland, Massachusetts, Michigan, Minnesota, Mississippi, Missouri, Nebraska, New Hampshire, New Jersey, New York, North Carolina, North Dakota, Ohio, Oklahoma, Pennsylvania, Rhode Island, South Carolina, South Dakota, Tennessee, Texas, Vermont, Virginia, West Virginia, and Wisconsin, and *commodities used in the manufacture and*

distribution of roofing, building, and asphalt paving materials (except commodities in bulk), from points in the above-described destination territory to points in Wayne County, N.C. NOTE: Common control may be involved. Applicant states that the requested authority can be tacked with a portion of its existing authority under MC 113974 (Sub-Nos. 9 and 23) and serve points in Alabama, Arkansas, Connecticut, Delaware, Illinois, Indiana, Kentucky, Louisiana, Maryland, Massachusetts, Michigan, Mississippi, New Jersey, New York, North Carolina, Ohio, Pennsylvania, Rhode Island, South Carolina, Tennessee, Virginia, West Virginia, and the District of Columbia, but indicates that it has no present intention to tack. Persons interested in the tacking possibilities are cautioned that failure to oppose the application may result in an unrestricted grant of authority. If a hearing is deemed necessary, applicant requests it be held at Washington, D.C., or Tampa, Fla.

No. MC 114045 (Sub-No. 373), filed August 28, 1972. Applicant: TRANSCOLD EXPRESS, INC., Post Office Box 5842, Dallas, TX 75222. Applicant's representative: J. B. Stuart (same address as applicant). Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: Drugs, medicines, toilet preparations, soap, shampoo, diagnostic products, chemicals, animal food supplements, printed matter, advertising materials, and related articles, in vehicles equipped with mechanical refrigeration, from Nutley and Belvidere, N.J., to Pasadena and San Leandro, Calif., and Dallas, Tex. NOTE: Common control may be involved. Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at New York, N.Y., or Washington, D.C.

No. MC 114194 (Sub-No. 169), filed November 6, 1972. Applicant: KREIDER TRUCK SERVICE, INC., 8003 Collinsville Road, East St. Louis, IL 62201. Applicant's representative: Ernest A. Brooks II, 1301 Ambassador Building, St. Louis, Mo. 63101. Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: Corn products and blends, in bulk, from the plantsite and storage facilities of the Hubinger Co., at Elk Grove Village, Ill., to points in Illinois, Indiana, Kentucky, Michigan, Minnesota, Ohio, Tennessee, West Virginia, and Wisconsin, restricted to traffic originating at the Hubinger Co., at Elk Grove Village, Ill. NOTE: Applicant states that the requested authority can be tacked with its existing authority; however, applicant has no present intention to tack. If a hearing is deemed necessary, applicant requests it be held at St. Louis, Mo., or Chicago, Ill.

No. MC 115814 (Sub-No. 9), filed November 2, 1972. Applicant: MARK TRUCKING, INC., Trella Street (Post Office Box 5701), Belleville, PA 17004. Applicant's representative: James W. Hagar, 100 Pine Street (Post Office Box

1166), Harrisburg, PA 17108. Authority sought to operate as a contract carrier, by motor vehicle, over irregular routes, transporting: (1) Foodstuffs and food preparations, from Belleville, Pa., to points in Delaware, Maryland, New Jersey, New York, and Ohio, under a continuing contract with Abbotts Dairies, Division of Fairmont Foods Corp.; (2) salt, except in bulk, from Watkins Glen, N.Y., and dicalcium phosphate (except in bulk), from Camden, N.J., to Belleville, Pa., under a continuing contract with Belleville Flour Mills Co.; and (3) salt (except in bulk), from Watkins Glen, N.Y., and dicalcium phosphate (except in bulk), from Camden, N.J., to Reedsville, Pa., under a continuing contract with Reedsville Milling Co. NOTE: If a hearing is deemed necessary, applicant requests it be held at Washington, D.C.

No. MC 115818 (Sub-No. 12), filed October 27, 1972. Applicant: WESTBURY TRANSPORT, INC., 397 East 54th Street, East Paterson, NJ 07407. Applicant's representative: Edward M. Alfano, 2 West 45th Street, New York, NY 10036. Authority sought to operate as a contract carrier, by motor vehicle, over irregular routes, transporting: Carpeting, padding, floor tile, and materials and supplies (except in bulk), used in the installation of the above-named commodities from the warehouse site of Korvettes, Division of Arlen Realty & Development Corp., located at or near Carle Place, Long Island, N.Y., on the one hand, and, on the other, points in New Jersey and Connecticut, under continuing contract, or contracts, with Korvettes, Division of Arlen Realty & Development Corp. NOTE: If a hearing is deemed necessary, applicant requests it be held at New York, N.Y.

No. MC 116014 (Sub-No. 60), filed November 13, 1972. Applicant: OLIVER TRUCKING COMPANY, INC., Post Office Box 53, Winchester, KY 40391. Applicant's representative: John M. Nader, Post Office Box E, Bowling Green, KY 42101. Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: Lumber, paneling and composition board, and accessories used in the installation of such commodities, from points in Shelby, Davidson, Madison, and Tipton Counties, Tenn., to points in Georgia, Delaware, Illinois, Indiana, Kentucky, Maryland, Michigan, North Carolina, Ohio, Pennsylvania, South Carolina, Virginia, West Virginia, Wisconsin, and the District of Columbia. NOTE: Applicant states that the requested authority can be tacked with its existing authority; however, applicant also states that it has no present intention to tack and, thus, does not identify tacking possibilities. If a hearing is deemed necessary, applicant requests it be held at Louisville, Ky.; Nashville or Memphis, Tenn.; Washington, D.C.; or Columbus, Ohio.

No. MC 116014 (Sub-No. 61), filed November 13, 1972. Applicant: OLIVER TRUCKING COMPANY, INC., Post Office Box 53, Winchester, KY 40391.

Applicants' representative: John M. Nader, Post Office Box E, Bowling Green, KY 42101. Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: Plywood from Elkhart, Ind., to Charlotte, Webberville, and Richville, Mich. NOTE: Applicant states that the requested authority can be tacked with its existing authority but indicates that it has no present intention to tack and therefore does not identify the points or territories which can be served through tacking. Persons interested in the tacking possibilities are cautioned that failure to oppose the application may result in an unrestricted grant of authority. If a hearing is deemed necessary, applicant requests it be held at Louisville, Ky., Norfolk, Va., or Washington, D.C.

No. MC 117823 (Sub-No. 44), filed November 10, 1972. Applicant: DUNKLEY REFRIGERATED TRANSPORT, INC., 1915 South Eighth West, Salt Lake City, UT 84104. Applicant's representative: Lon Rodney Kump, 720 Newhouse Building, Salt Lake City, Utah 84111. Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: Foodstuffs, in mechanically refrigerated vehicles, from points in Cache County and Salt Lake County, Utah, to points in Oregon, Washington, and Idaho. NOTE: Applicant states that the requested authority can be tacked with its Sub-32 authority authorizing the transportation of foodstuffs from points in California to points in Utah for performing a service to the State of Idaho. Common control and dual operations may be involved. If a hearing is deemed necessary, applicant requests it be held at Salt Lake City, Utah.

No. MC 117883 (Sub-No. 175), filed November 9, 1972. Applicant: SUBLER TRANSFER, INC., 791 East Main Street, Versailles, OH 45380. Applicant's representative: Edward J. Subler, Post Office Box 62, Versailles, OH. Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: Meats, meat products, meat by-products, and articles distributed by meat packinghouses, as described in Sections A and C of Appendix I to the report in Descriptions in Motor Carrier Certificates, 61 M.C.C. 209 and 766 (except hides and commodities in bulk), from Butler, Wis., to points in Connecticut, Delaware, Maine, Maryland, Massachusetts, New Hampshire, New Jersey, New York, Ohio, Pennsylvania, Rhode Island, Vermont, Virginia, West Virginia, and the District of Columbia. Restriction: Restricted to traffic originating at the plantsite and storage facilities of Wisconsin Packing Co. at Butler, Wis., and destined to the named destinations. NOTE: If a hearing is deemed necessary, applicant requests it be held at Chicago, Ill.

No. MC 117883 (Sub-No. 176), filed November 10, 1972. Applicant: SUBLER TRANSFER, INC., 791 East Main Street,

Versailles, OH 45380. Applicant's representative: Edward J. Subler, Post Office Box 62, Versailles, OH 45380. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Cleaning, buffing, and polishing compounds; hand sprayers; brooms; mops and mop parts, plastic cooking bags; scouring pads; filters, carpet sweepers; and other related household articles; nutritional foods and related articles and materials, supplies and equipment used or useful in the manufacture, distribution or sale of the aforementioned commodities*, from Urbana, Ohio to points in Illinois, Wisconsin, Minnesota, Iowa, Missouri, Kansas, and Nebraska. Restriction: Restricted to traffic originating at the plantsite or storage facilities of Drackett Products Co. at or near Urbana, Ohio. NOTE: Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Columbus, Ohio.

No. MC 117940 (Sub-No. 83), filed November 2, 1972. Applicant: NATION-WIDE CARRIERS, INC., Post Office Box 104, Maple Plain, MN 55359. Applicant's representative: Donald Stern, 530 Univac Building, 7100 West Center Road, Omaha, NE 68106. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Ice cream and frozen confectionery products*, (1) from Toledo, Ohio, and Madison, Wis., to Maple Plain, Minn., and (2) from Green Bay, Wis., to Maple Plain, Minn., and from Maple Plain, Minn., to Denver, Colo., and Rapid City, S. Dak. NOTE: Applicant also holds contract carrier authority under MC 114789 and subs, therefore dual operations may be involved. Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Minneapolis, Minn.

No. MC 118468 (Sub-No. 31), filed November 6, 1972. Applicant: UMTHUN TRUCKING CO., a Corporation, 910 South Jackson, Eagle Grove, IA 50533. Applicant's representative: J. Max Harding, 605 South 14th Street, Post Office Box 82028, Lincoln, NE 68501. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Lumber and lumber products*, (1) from points in Michigan, Ohio, Indiana, Kentucky, Tennessee, Arkansas, Missouri, Illinois, Wisconsin, Minnesota, North Dakota, South Dakota, Nebraska, Kansas, Montana, Wyoming, and Colorado to Eagle Grove, Iowa; Madison, Wis., and St. Paul, Minn.; (2) from Eagle Grove, Iowa to points in Wisconsin, Illinois, Missouri, Kansas, Nebraska, South Dakota, North Dakota, and Minnesota; (3) from Madison, Wis., to points in Michigan, Illinois, Indiana, Iowa, Minnesota, and Missouri; and (4) from St. Paul, Minn., to points in North Dakota, South Dakota, Iowa, Wisconsin, and Michigan. Restriction: All shipments to originate or terminate at the plant sites

and warehouse facilities of Emmer Bros., Co., Inc., and its affiliates. Limited to a transportation service to be performed under a continuing contract with Emmer Bros. & Co., Inc., and its affiliates. NOTE: Common control and dual operations may be involved. If a hearing is deemed necessary, applicant requests it be held at Omaha, Nebr., or Sioux City, Iowa.

No. MC 118482 (Sub-No. 9), filed November 13, 1972. Applicant: SMYTH OVERSEAS VAN LINES, INC., 11616 Aurora Avenue North, Seattle, WA 98133. Applicant's representative: Alan F. Wohlstetter, 1700 K Street NW., Washington, DC 20006. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Household goods*, as defined by the Commission, between Minneapolis, Minn., on the one hand, and, on the other, points in Alaska. NOTE: Common control may be involved. Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Seattle, Wash.

No. MC 119226 (Sub-No. 86), filed November 2, 1972. Applicant: LIQUID TRANSPORT CORP., 3901 Madison Avenue, Indianapolis, IN 46227. Applicant's representative: Robert W. Loser, 1009 Chamber of Commerce Building, Indianapolis, Ind. 46204. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Corn products and blends*, in bulk, from Lafayette, Ind., to points in the United States (except Alaska and Hawaii). NOTE: Common control and dual operations may be involved. Applicant states that the requested authority can be tacked with its existing authority at Lafayette, Ind. and transport corn oil and corn syrup from points in Ohio, Michigan, Kentucky, and Illinois and serve most points except a portion of Maine, but indicates it has no intention to tack. Applicant further states no duplicating authority sought. If a hearing is deemed necessary, applicant requests it be held at Indianapolis, Ind., St. Louis, Mo., or Chicago, Ill.

No. MC 119390 (Sub-No. 15), filed November 10, 1972. Applicant: MAIRS TRANSPORT LTD., Box 1122, Coquitlam, BC, Canada. Applicant's representative: J. Stewart Black, 1322 Laburnum Street, Vancouver, BC, Canada. Authority sought to operate as a *common carrier*, by motor vehicle, over regular routes, transporting: *Bulk lime* in tank trailer with blower, from Seattle to international boundary at Blaine, Wash., over Interstate Highway No. 5. NOTE: If a hearing is deemed necessary, applicant requests it be held at Seattle, Wash., or Portland, Oreg.

No. MC 120028 (Sub-No. 6), filed November 8, 1972. Applicant: CRAW CARTING, INC., 200 Exchange Street, Rochester, NY 14614. Applicant's representative: S. Michael Richards, 44 North Avenue, Webster, NY 14580. Authority sought to operate as a *common carrier*,

by motor vehicle, over irregular routes, transporting: *Wines and advertising matter* when moving in mixed loads with wines, restricted to traffic having a prior or subsequent movement by rail, from Hammondsport and Naples, N.Y., to Rochester, N.Y. NOTE: If a hearing is deemed necessary, applicant requests it be held at Rochester, N.Y.

No. MC 120092 (Sub-No. 3), filed November 2, 1972. Applicant: JENNEY FREIGHT LINE, INC., 1224 North Main Avenue, Tucson, AZ 85705. Applicant's representative: Donald E. Fernnaus, Suite 312, 4040 East McDowell Road, Phoenix, AZ 85008. Authority sought to operate as a *common carrier*, by motor vehicle, over regular routes, transporting: *General commodities* (except those of unusual value, classes A and B explosives, livestock, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), between Phoenix and Tucson, Ariz., from Phoenix over Interstate Highway 10, and return over the same route, serving no intermediate points, and serving Tucson, Ariz., for the purpose of joinder only. NOTE: If a hearing is deemed necessary, applicant requests it be held at Tucson or Phoenix, Ariz.

No. MC 123255 (Sub-No. 30), filed October 27, 1972. Applicant: B & L MOTOR FREIGHT, INC., 140 Everett Avenue, Newark, OH 43055. Applicant's representative: C. F. Schnee, Jr. (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Malt beverages*, from Rochester, N.Y., to points in Ohio. NOTE: Applicant also holds contract carrier authority under MC 81968 and subs therefor, dual operations and common control may be involved. Applicant states that the requested authority can be tacked with its existing authority but does not identify the points or territories which can be served through tacking. Persons interested in the tacking possibilities are cautioned that failure to oppose the application may result in an unrestricted grant of authority. If a hearing is deemed necessary, applicant requests it be held at Columbus, Ohio.

No. MC 123407 (Sub-No. 109), filed November 6, 1972. Applicant: SAWYER TRANSPORT, INC., South Haven Square, U.S. Highway 6, Valparaiso, Ind. 46383. Applicant's representative: Robert W. Sawyer (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Unfinished and prefinished paneling and composition board*, from the plantsite and port of New Orleans, La., to points in Alabama, Florida, Georgia, Mississippi, and Tennessee. NOTE: Applicant states that the requested authority can be tacked with its existing authority; however, applicant has no present intention of tacking at this time. Persons interested in the tacking possibilities are cautioned that failure to oppose the application may

result in an unrestricted grant of authority. If a hearing is deemed necessary, applicant requests it be held at New Orleans, La.

No. MC 123407 (Sub-No. 110), filed November 7, 1972. Applicant: SAWYER TRANSPORT, INC., South Haven Square, U.S. Highway 6, Valparaiso, Ind. 46383. Applicant's representative: Robert W. Sawyer (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Rafters, joists and roof trusses and material*, from points in Frederick County, Va., to points in the United States in and east of North Dakota, South Dakota, Nebraska, Kansas, Oklahoma, and Texas; and (2) *materials used in the manufacture and distribution of rafters, joists, and roof trusses*, from the above described destinations to points in Frederick County, Va. NOTE: Applicant states that the requested authority can be tacked with its existing authority; however, applicant has no intention to tack at this time. Persons interested in the tacking possibilities are cautioned that failure to oppose the application may result in an unrestricted grant of authority. If a hearing is deemed necessary, applicant requests it be held at Washington, D.C.

No. MC 123681 (Sub-No. 23), filed November 6, 1972. Applicant: WIDING TRANSPORTATION, INC., Post Office Box 03159, Portland, OR 97203. Applicant's representative: David C. White, 2400 Southwest Fourth Avenue, Portland, OR 97201. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Dry sodium chlorate*, in bulk, from Portland, Oreg., to points in California and Arizona. NOTE: Applicant states that the requested authority cannot be tacked with its existing authority. Applicant further states that no duplicating authority is being sought. If a hearing is deemed necessary, applicant requests it be held at Portland, Oreg.

No. MC 124211 (Sub-No. 222), filed November 7, 1972. Applicant: HILT TRUCK LINE, INC., Post Office Box 988, Downtown Station, Omaha, NE 68101. Applicant's representative: Thomas L. Hilt (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Household and institutional furnishings*, (1) between points in Lake County, Ill., Taylor County, W. Va., and Milwaukee, Wis., on the one hand, and, on the other, points in the United States (except Alaska and Hawaii); and (2) between points in Orange County, Calif., on the one hand, and, on the other, points in Lake County, Ill., and Milwaukee Wis. NOTE: Applicant states that the requested authority cannot be tacked with its existing authority. Applicant further states it is not aware of any duplicating authority, however, in event present authority should be construed as duplicating any portion of the proposed services, applicant would be amenable to the Com-

mission's usual duplicating authority restriction. If a hearing is deemed necessary, applicant requests it be held at Milwaukee, Wis., Chicago, Ill., or Washington, D.C.

No. MC 124692 (Sub-No. 96), filed November 13, 1972. Applicant: SAMMONS TRUCKING, a corporation, Post Office Box 1447, Missoula, MT 59801. Applicant's representative: Gene P. Johnson, 425 Gate City Building, Fargo, N. Dak. 58102. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Lumber, wood products, and millwork*, from points in Washington, Oregon, Idaho, and Montana to points in Arizona, California, Colorado, Nevada, Utah and New Mexico. NOTE: Applicant states that the requested authority cannot be tacked with its existing authority. Common control may be involved. If a hearing is deemed necessary, applicant requests it be held at Portland, Oreg., or Seattle, Wash.

No. MC 124692 (Sub-No. 97), filed November 13, 1972. Applicant: SAMMONS TRUCKING, a corporation, Post Office Box 1447, Missoula, MT 59801. Applicant's representative: Donald W. Smith, 900 Circle Tower Building, Indianapolis, Ind. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Iron and steel and iron and steel articles*, from Kansas City, Mo., to points in Arizona, California, and Nevada, restricted to traffic originating at the plant and warehouse facilities of Armco Steel Corporation. NOTE: Applicant states that the requested authority cannot be tacked with its existing authority. Common control may be involved. If a hearing is deemed necessary, applicant requests it be held at Kansas City or St. Louis, Mo.

No. MC 124793 (Sub-No. 2), filed November 2, 1972. Applicant: LOU'S TRANSPORT CO., LIMITED, 610 Dixon Road, Rexdale 604, ON, Canada. Applicant's representative: Gross, Shuman, Wiltse & Laub, 1410 Liberty Bank Building, Buffalo, N.Y. 14202. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Mined zinc concentrate*, in bulk, in dump vehicles, from ports of entry on the international boundary line between the United States and Canada in New York, to Edwards and Balmat, N.Y., under a continuing contract, or contracts, with Lynx-Canada Explorations, Ltd., at Toronto, Ontario, Canada. NOTE: Common control may be involved. If a hearing is deemed necessary, applicant requests it be held at Buffalo or Syracuse, N.Y.

No. MC 124947 (Sub-No. 19), filed November 9, 1972. Applicant: MACHINERY TRANSPORTS, INC., Post Office Box 2338, 608 Cass Street, East Peoria, IL 61611. Applicant's representative: T. M. Brown, 600 Leininger Building, Oklahoma, City, Okla. 73112. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Wallboard and plywood handling*

equipment, from Fort Worth, Tex., to points in the United States (including Alaska but excluding Hawaii). NOTE: Applicant states that the requested authority cannot be tacked with its existing authority. Common control may be involved. If a hearing is deemed necessary, applicant requests it be held at Fort Worth or Dallas, Tex.

No. MC 125785 (Sub-No. 16), filed November 3, 1972. Applicant: SATURN EXPRESS, INC., 8716 L Street, Omaha, NE. 68127. Applicant's representative: Patrick E. Quinn, 605 South 15th Street, Post Office Box 82028, Lincoln, NE 68501. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Ceramic tile*, from Ironton, Ohio; Florence, Ala.; and Jackson, Miss.; to points in West Virginia, Virginia, North Carolina, South Carolina, Georgia, Florida, New York, Pennsylvania, and Massachusetts, under contract with Mosaic Tile Co. NOTE: If a hearing is deemed necessary, applicant requests it be held at Birmingham, Ala., or Memphis, Tenn.

No. MC 125813 (Sub-No. 13), filed October 27, 1972. Applicant: CRESSLER TRUCKING, INC., 153 West Orange Street, Shippensburg, PA 17257. Applicant's representative: John M. Musselman, 410 North Third Street, Harrisburg, PA 17108. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) (a) *Valves, castings, air separators, vacuum breakers, thermostatic traps, float traps, bucket traps, thermo-disc traps, temperature regulators, pressure regulators, water hammer arresters, expansion joints, elbows and their fittings and connectors, vent tees, and distribution flow tees*; (b) *components, accessories, and parts of plumbing, heating, air conditioning, and drainage systems*; (c) *pumps and pump parts*, and (d) *installation manuals and advertising materials for the commodities in parts (a), (b), and (c) above*, (A) between Shippensburg, Pa., and Peru, Ind., on the one hand, and, on the other, points in Arizona, Arkansas, Colorado, Idaho, Iowa, Louisiana, Kansas, Minnesota, Missouri, Montana, Nebraska, New Mexico, Nevada, North Dakota, Oklahoma, South Dakota, Utah, and Wyoming; and (B) between Shippensburg, Pa., and Peru and Indianapolis, Ind., on the one hand, and, on the other, points in Georgia; and (2) *components, accessories and parts of heating and air conditioning systems*, between Peru, Ind., on the one hand, and, on the other, points in California, Oregon, Washington, and Texas. NOTE: Applicant states that the requested authority cannot be tacked with its existing authority. Common control may be involved. If a hearing is deemed necessary, applicant requests it be held at Harrisburg, Pa., or Washington, D.C.

No. MC 126018 (Sub-No. 2), filed November 6, 1972. Applicant: PREM-PAK, INC., RFD No. 1, Houlton, Maine 04730. Applicant's representative: Mary

E. Kelley, 11 Riverside Avenue, Medford, MA 02155. Authority sought to operate as a *common carrier*, by motor vehicle, over regular and irregular routes, transporting: (1) Regular route: *General commodities* (except those of unusual value, classes A and B explosives, livestock, household goods as defined by the Commission, commodities in bulk, commodities requiring special equipment, and those injurious or contaminating to other lading), serving Wakefield, Mass., as an off-route point in connection with applicant's existing regular route between Malden and Boston, Mass.; and (2) Irregular route: *paper products*, from Wakefield, Mass., to points in Maine. NOTE: Application is accompanied by a motion to dismiss. Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant does not specify a location.

No. MC 126049 (Sub-No. 13), filed October 20, 1972. Applicant: DODEN TRUCKING COMPANY, INC., Woden, Iowa 50484. Applicant's representative: Clayton L. Wornson, 824 Brick and Tile Building, Mason City, Iowa 50401. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Bulk and packaged ice cream, ice milk and sherbet; and ice cream, ice milk, sherbet, and fruit flavored novelty items*, between Mason City, Iowa on the one hand, and, on the other, St. Louis and Kansas City, Mo. NOTE: Applicant states that the requested authority could be tacked with its existing authority. However, applicant has no present intention to tack. If a hearing is deemed necessary, applicant requests it be held at Mason City or Des Moines, Iowa.

No. MC 126305 (Sub-No. 48), filed November 8, 1972. Applicant: BOYD BROTHERS TRANSPORTATION CO., INC., Rural Delivery 1, Clayton, Ala. 36016. Applicant's representative: George A. Olsen, 69 Tonnele Avenue, Jersey City, NJ 07306. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Brick and clay products*, from Salisbury, N.C., to points in the United States in and east of North Dakota, South Dakota, Nebraska, Kansas, Oklahoma, and Texas. NOTE: Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Montgomery or Birmingham, Ala., or Washington, D.C.

No. MC 127042 (Sub-No. 107), filed November 6, 1972. Applicant: HAGEN, INC., 4120 Floyd Boulevard, Post Office Box 98, Leeds Station, Sioux City IA 51108. Applicant's representative: Donald L. Stern, 530 Univac Building, 7100 West Center Road, Omaha, NE 68106. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Onion products*, from points in Nebraska to points in the United States (except Hawaii and

Alaska); and (2) *breeding* from East St. Louis, Ill., and Chicago, Ill., to Wahoo, Nebr. NOTE: Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Omaha, Nebr., or Kansas City, Mo.

No. MC 127840 (Sub-No. 35), filed November 13, 1972. Applicant: MONTGOMERY TANK LINES, INC., 612 Maple, Willow Springs, IL 60480. Applicant's representative: William H. Towle, 127 North Dearborn Street, Chicago, IL 60602. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Hog mucosa*, in bulk, from points in the United States (except Alaska and Hawaii), to Chicago and North Chicago, Ill. NOTE: Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Chicago, Ill.

No. MC 128383 (Sub-No. 22), filed November 9, 1972. Applicant: PINTO TRUCKING SERVICE, INC., 1414 Calcon Hook Road, Sharon Hill, PA 19079. Applicant's representative: James W. Patterson, 2107 The Fidelity Building, Philadelphia, Pa. 19109. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *General commodities* (except commodities in bulk, commodities the transportation of which, because of size and weight, require the use of special equipment) having a prior or subsequent movement by air, between John F. Kennedy International Airport, New York, N.Y., on the one hand, and, on the other, Weir Cook Airport, Indianapolis, Ind.; Hopkins Airport, Cleveland, Ohio, and Vandalia Airport, Dayton, Ohio. NOTE: Applicant states that the authority sought herein could be joined at John F. Kennedy International Airport with operating authority now held by applicant in MC 128383 and Sub Nos. 3 and 6 to provide service between Weir Cook Airport; Hopkins Airport, and Vandalia Airport, on the one hand, and, on the other, points named in applicant's MC 128383 and Sub Nos. 3 and 6. Applicant further states that by joinder at John F. Kennedy International Airport the authority sought herein could be tacked with authority sought in pending applications to permit through service from Weir Cook; Hopkins, and Vandalia Airports to and from points named in such pending applications. If a hearing is deemed necessary, applicant requests it be held at New York, N.Y., or Indianapolis, Ind.

No. MC 128642 (Sub-No. 8), filed December 4, 1972. Applicant: SKYLINE TRANSPORT, INC., 6120 Eastbourne Avenue, Baltimore, MD 21224. Applicant's representatives: J. Meredith Russell (same address as applicant), and H. Neil Garson, Court Square West Building, 1400 North Uhle Street, Arlington, VA 22201. Authority sought to operate

as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Corn products and blends thereof*, in bulk, from Dayton, Ohio, to points in Alabama, Connecticut, Delaware, Florida, Georgia, Illinois, Indiana, Kentucky, Maine, Maryland, Massachusetts, Michigan, Mississippi, New Hampshire, New Jersey, New York, North Carolina, Ohio, Pennsylvania, Rhode Island, South Carolina, Tennessee, Vermont, Virginia, West Virginia, Wisconsin, and the District of Columbia. NOTE: Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Washington, D.C.

No. MC 128902 (Sub-No. 7), filed November 1, 1972. Applicant: SCHÖNEGGE, INC., Route 20 East, Box 525, Norwalk, OH 44859. Applicant's representative: Richard H. Brandon, 79 East State Street, Columbus, OH 43215. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: (A) *Parts* for truck cab assemblies, (1) from the plantsite of Sheller-Globe Corp., Norwalk Assembly Division, Norwalk, Ohio to Scranton, Pa.; and (2) from Somerville, N.J., to the plantsite of Sheller-Globe Corp., Norwalk Assembly Division, Norwalk, Ohio; (B) *truck cab assemblies and parts* therefor between the plantsite of Sheller-Globe Corp., Norwalk Assembly Division at Norwalk, Ohio, on the one hand, and, on the other, Philadelphia, Pa., under contract with Sheller-Globe Corp., Norwalk Assembly Division, Norwalk, Ohio. NOTE: If a hearing is deemed necessary, applicant requests it be held at Columbus, Ohio.

No. MC 129588 (Sub-No. 6) (amendment), filed August 28, 1972, published in the FEDERAL REGISTER issue of September 28, 1972, and republished this issue. Applicant: R. J. ANDREWS, doing business as R. J. (RED) ANDREWS TRUCK LINE, Post Office Box 4, Corsicana, TX 75110. Applicant's representative: James W. Hightower, 136 Wynnewood Professional Building, Dallas, Tex. 75224. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: (1) *Adhesives, chemical coatings, cleaning compounds, electric heaters, fireplace accessories, furniture polish and furniture parts, lighting fixtures, lamps and shades, new furniture, paint, plastic articles, sealants, wallcoverings, wall decors, wax and wax remover, and equipment, materials, and supplies* used in or in connection with the manufacture and distribution of the commodities named above, between points in Alabama, Arkansas, Colorado, Connecticut, Delaware, Florida, Georgia, Illinois, Indiana, Iowa, Kansas, Kentucky, Louisiana, Maine, Maryland, Massachusetts, Michigan, Minnesota, Mississippi, Missouri, Nebraska, New Jersey, New Hampshire, New Mexico, New York, North Carolina, Ohio, Oklahoma, Pennsylvania, Rhode Island, South Carolina, Tennessee,

Texas, Vermont, West Virginia, Wisconsin, Wyoming, and the District of Columbia; (2) *New furniture, furniture parts, and plastic shutters, and equipment, materials, and supplies* used in or in connection with the manufacture and distribution of these commodities, between Avon Park, Fla., Butler, Pa., Canton and Jackson, Miss., Coal City, Ill., Conyers, Ga., Dover, N.H., Fort Smith, Ark., Gainesville and Yoakum, Tex., Roland, Iowa, and Tennant, N.J., on the one hand, and, on the other, points in those States named in (1) above; (3) *Lighting fixtures, lamps and shades, electric heaters, wall decors, and fireplace accessories, and equipment, materials, and supplies* used in or in connection with the manufacture and distribution of these commodities, between Brooklyn, N.Y., Chattanooga, Tenn., Fall River, Mass., Kansas City, Mo., Nesquehoning, Pottsville, and Schuylkill Haven, Pa., on the one hand, and, on the other, points in those States named in (1) above; (4) *Cleaning compounds, paint and paint material, furniture polish, wax and wax remover, and sealants* moving in mixed shipments with cleaning compounds and/or paint and paint material, and *equipment, materials, and supplies* used in or in connection with manufacture and distribution of these commodities; between Garland, Tex., on the one hand, and, on the other, points in those States named in (1) above; and (5) *Cleaning compounds, paint and paint material, furniture polish, wax and wax remover, and sealants* moving in mixed shipments with cleaning compounds and/or paint and paint material, between Chicago, Chicago Heights, Elgin, and Joliet, Ill., Greensboro, N.C., Pennsauken, N.J., and Columbus, Ohio. Restriction: Restricted in (1), (2), (3), (4), and (5) against the transportation of commodities in bulk and further restricted to operations performed under a continuing contract with DeSoto, Inc. NOTE: The purpose of this republication is to add sections (2) through (5) above to the applicant's request for authority. Applicant states that the requested authority cannot be tacked with its existing authority, and that no duplicating authority is sought.

No. MC 129961 (Sub-No. 1), filed November 9, 1972. Applicant: CHESTNUT TRUCKING COMPANY, a corporation, 200-224 Chestnut Street, Reading, PA 19602. Applicant's representative: Chester A. Zyblut, 1522 K Street NW., Washington, DC 20005. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Health and recreational equipment*, from Reading, Pa., to points in California, Connecticut, Delaware, Idaho, Illinois, Indiana, Maine, Maryland, Massachusetts, Montana, Nevada, New Hampshire, New Jersey, New York, North Dakota, Ohio, Oregon, Vermont, Virginia, Washington, West Virginia, and the District of Columbia, under contract with Manson-Billard, Inc. NOTE: If a hearing is deemed necessary, applicant requests it be held at Philadelphia, Pa., or Washington, D.C.

No. MC 133231 (Sub-No. 10), filed November 10, 1972. Applicant: ROBERT A. BRINKER, INC., 21 Diaz Street, Iselin, NJ 08830. Applicant's representative: George A. Olsen, 69 Tonnele Avenue, Jersey City, NJ 07306. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Organs, benches, books and materials, equipment and supplies* used or useful in the manufacturing and sale of organs, between the facilities of Magnus Organ Corp., located at Avenel and Linden, N.J., on the one hand, and, on the other, points in Massachusetts, Connecticut, Rhode Island, New York, New Jersey, Pennsylvania, Maryland, Delaware, Virginia, Ohio, and the District of Columbia, under contract with Magnus Organ Corp., Linden, N.J. NOTE: If a hearing is deemed necessary, applicant requests it be held at Newark, N.J., or New York, N.Y.

No. MC 133579 (Sub-No. 2), filed November 10, 1972. Applicant: RICK WARNER FORD, a corporation, 47 West Sixth South, Salt Lake City, UT 84101. Applicant's representative: Lon Rodney Kump, 720 Newhouse Building, Salt Lake City, UTAH 84111. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Wrecked, disabled, stolen, repossessed and abandoned vehicles, and replacement vehicles therefor*, by use of wrecker equipment, between points in Utah, Nevada, Idaho, California, Colorado, Wyoming, Arizona, New Mexico, Montana, Washington, and Oregon. NOTE: Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Salt Lake City, Utah.

No. MC 133977 (Sub-No. 16), filed November 9, 1972. Applicant: GENE'S, INC., 10115 Brookville Salem Road, Clayton, OH 45315. Applicant's representative: Paul F. Beery, 88 East Broad Street, Columbus, OH 43215. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Foodstuffs* (except commodities in bulk), in vehicles equipped with mechanical refrigeration, from Washington Court House, Ohio to points in Iowa and the District of Columbia, and return shipments of the above commodities on return. NOTE: Applicant holds a permit in No. MC 134238 and subs thereunder, therefore dual operations may be involved. Applicant states that the requested authority duplicates that authority it holds in certificate No. MC 133977, authorizing the transportation of cream, liquid cream substitute, sauces, dressings, and salads, from the plant site of Avoset Corp. at Washington Court House, Ohio to the District of Columbia. Applicant further states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Columbus, Ohio.

No. MC 134278 (Sub-No. 6), filed November 9, 1972. Applicant: CHARLES

R. GOODMAN, doing business as C. R. GOODMAN TRUCKING CO., 4255 South Second West, Salt Lake City, Utah 84107. Applicant's representative: Irene Warr, 430 Judge Building, Salt Lake City, Utah 84111. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Meats, meat products and meat by-products and articles distributed by meat packinghouses* as described in sections A and C of appendix I to the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209 and 766, from the plantsite of Wilson Beef & Lamb Co. at Ogden, Utah, to points in California under contract with Wilson Beef & Lamb Co. NOTE: Common control may be involved. If a hearing is deemed necessary, applicant requests it be held at Salt Lake City or Ogden, Utah.

No. MC 134734 (Sub-No. 8), filed November 8, 1972. Applicant: NATIONAL TRANSPORTATION, INC., Box 31, Norfolk, Nebr. 68701. Applicant's representative: Lanny N. Fauss, Box 37096, Millard, Nebr. 68137. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Cranberry products*, from Kenosha, Wis., and North Chicago, Ill., to points in Oklahoma and Colorado, under contract with Ocean Spray Cranberries, Inc., of Hanson, Mass. NOTE: If a hearing is deemed necessary, applicant requests it be held at Chicago, Ill., or Omaha, Nebr.

No. MC 134922 (Sub-No. 36), filed November 1, 1972. Applicant: B. J. McADAMS, INC., Route 6, Box 15, North Little Rock, AR 72118. Applicant's representative: L. C. Cypert (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Ground waste paper, liquid adhesives in drums, and clay*, in containers, from Houston, Tex., to points in Arizona, California, Colorado, Idaho, Montana, Nevada, New Mexico, Oregon, Utah, Washington, and Wyoming. NOTE: Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Houston, Tex.

No. MC 135053 (Sub-No. 1), filed November 9, 1972. Applicant: FINE ART SERVICES TRANSPORT, LTD., 142 Curzon Avenue, Toronto 8, ON Canada. Applicant's representative: Gerald K. Gimmel, 666 11th Street NW., Suite 805, Washington, DC 20001. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Fine arts, objects of art, antiques, and exhibits*, and (2) *displays and rugs* not included in (1) above, between the ports of entry on the international boundary line between the United States and Canada located in New York, on the one hand, and, on the other, points in New York. NOTE: If a hearing is deemed necessary, applicant requests it be held at Buffalo, N.Y., or Toronto, Canada.

No. MC 135234 (Sub-No. 9) (Amendment), filed August 16, 1972, published in

the FEDERAL REGISTER issue of September 21, 1972, and republished this issue. Applicant: COMMERCIAL CARTAGE, INC., Stop 24 Winfield Road, St. Albans, WV 25177. Applicant's representatives: Marvin L. Meadows (same address as applicant), and George, Greek, King, McMahon & McConnaughey, Columbus Center, 100 East Broad Street, Columbus, OH 43215. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Electric cable and aluminum coils* from the plantsite and shipping facilities of Alcan Aluminum Corp. at or near Williamsport and Jersey Shore, Pa., and Tucker, Ga., to points in Alabama, Connecticut, Delaware, District of Columbia, Florida, Georgia, Illinois, Indiana, Kentucky, Louisiana, Maryland, Massachusetts, Michigan, Mississippi, New Jersey, New York, North Carolina, Ohio, Pennsylvania, Rhode Island, South Carolina, Tennessee, Texas, Virginia, West Virginia, and Wisconsin, and return shipments of *aluminum rod and empty reels*, on return to the plantsite and shipping facilities of Alcan Aluminum Corp., at or near Williamsport and Jersey Shore, Pa., and Tucker, Ga. Restriction: (A) Restricted to traffic originating at or destined to the named plantsite and shipping facilities; and (B) restricted to service performed under continuing contract or contracts with Alcan Aluminum Corp. of Cleveland, Ohio. NOTE: The purpose of this amendment is to change the "between" language of the application to a "from and to" form; to impose origin and destination restrictions; to limit the service proposed to a single shipper; and to add a new representative. If a hearing is deemed necessary, applicant requests it be held at Charleston, W. Va., or Columbus, Ohio.

No. MC 135280 (Sub-No. 7), filed November 10, 1972. Applicant: PEP LINES TRUCKING CO., a corporation, 15120 Third Avenue, Highland Park, MI 48203. Applicant's representative: J. A. Kundtz, 1100 National City Bank Building, Cleveland, OH 44114. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Such merchandise* as is dealt in by wholesale and retail general mercantile establishments, and in connection therewith, *materials and supplies* used in the conduct of such business, between Akron, Barberton, and Niles, Ohio, on the one hand, and, on the other, points in Mercer, Venango, Lawrence, Butler, Beaver, and Allegheny Counties, Pa., under continuing contract or contracts with Montgomery Ward & Co., Inc. NOTE: Applicant also holds common carrier authority under MC 120184 and subs, therefore dual operations and common control may be involved. If a hearing is deemed necessary, applicant requests it be held at Washington, D.C.

No. MC 135606 (Sub-No. 2), filed November 6, 1972. Applicant: MARC A. ROBIN, 600 Delaware Avenue, Throop (Borough), PA 18512. Applicant's representative: Thomas J. Jones, 502-5 Brooks

Building, Scranton, Pa. 18503. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Used batteries*, between points in the Borough of Throop (Lackawanna County), Pa., on the one hand, and, on the other, points in New York, N.Y.; Newark, N.J., and points in New Jersey-New York commercial zones. NOTE: Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Philadelphia, Pa., or New York, N.Y.

No. MC 135633 (Sub-No. 2), filed October 27, 1972. Applicant: NATIONWIDE AUTO TRANSPORTERS, INC., 2185 Lemoine Avenue, Fort Lee, NJ 07042. Applicant's representative: Harold G. Hernly, Jr., 2030 North Adams Street, Suite 510, Arlington, VA 22201. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Automobiles*, in secondary movement, in driveway service, (1) between points in Arizona, Oregon, and Nevada; and (2) between points in Arizona, Oregon, and Nevada, on the one hand, and, on the other, points in the United States (including Alaska but excluding Hawaii). NOTE: Applicant states that the present authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at San Francisco, Calif., or Washington, D.C.

No. MC 135833 (Sub-No. 10), filed October 25, 1972. Applicant: B & C SPECIALIZED CARRIERS, INC., 6524 Brookville Road, Indianapolis, IN 46219. Applicant's representative: Alki E. Scopelitis, 815 Merchants Bank Building, Indianapolis, IN 46204. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Precast concrete and materials and supplies* used in the installation erection thereof, from the plant and warehouse sites of Precast/Schokbeton, Inc., located at Kalamazoo, Mich., to points in Illinois, Indiana, Ohio, Kentucky, and Pennsylvania. NOTE: Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Chicago, Ill., or Detroit, Mich.

No. MC 135936 (Sub-No. 12), filed November 3, 1972. Applicant: LIEBMAN TRANSPORTATION CO., INC., U.S. Highway 65 North, Iowa Falls, Iowa 50126. Applicant's representative: C. H. Rogers, Post Office Box 1022, Highway 20 North, Iowa Falls, IA 50126. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Meat, meat products, meat byproducts and articles distributed by meat packinghouses* as described in sections A and C of Appendix I to the report in *Descriptions in Motor Carrier Certificates* 61 M.C.C. 209 and 766 (except hides and commodities in bulk), from Mankato, Kans., to points in Penn-

sylvania, New York, New Jersey, Virginia, West Virginia, Connecticut, Rhode Island, Delaware, Vermont, New Hampshire, Massachusetts, Maine, Maryland, North Carolina, South Carolina, Georgia, and the District of Columbia. NOTE: Common control may be involved. If a hearing is deemed necessary, applicant requests it be held at Washington, D.C.

No. MC 136894 (Sub-No. 2), filed October 12, 1972. Applicant: MYRON V. MORRIS & HORACE R. STURGIS, a partnership, doing business as HOLMOR TRANSPORT COMPANY, Main Street, Post Office Box 435, Bingham, ME 04920. Applicant's representative: Myron V. Morris (same address as applicant). Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: (1) *Wood chips* in bulk, from the international boundary line between the United States-Canada located at or near Jackman, Maine, to Jay, Maine; and (2) *lumber*, in bales from Greenville, Maine, to points in New Hampshire, Massachusetts, Rhode Island, and Connecticut, under contract with the Beaudry Lumber Inc., Sherbrook, Province of Quebec, Canada. NOTE: If a hearing is deemed necessary, applicant requests it be held at Portland, Maine, or Boston, Mass.

No. MC 136914 (Sub-No. 1), filed November 2, 1972. Applicant: WALLACE E. BROWN, Route 2, Box 130, Grand Junction, TN 38039. Applicant's representative: A. Doyle Cloud, Jr., 2008 Clark Tower, 5100 Poplar Avenue, Memphis, TN 38137. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Dairy products and noncarbonated fruit-flavored drinks* in mechanically refrigerated vehicles, from the plantsite of Dean Foods Co., Inc. at Memphis, Tenn., to points in Mississippi. NOTE: If a hearing is deemed necessary, applicant requests it be held at Memphis, Tenn.

No. MC 136943 (Sub-No. 1), filed October 30, 1972. Applicant: H. J. GASQUE TRUCKING SERVICE, 718 Second Street, Sheffield, AL 35660. Applicant's representative: Ronald K. Kolins, 1625 Eye Street NW., Suite 622, Washington, DC 20006. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: (1) *Fresh pork bellies, hams, frozen pork, and frozen mutton* from Cherokee and Perry, Iowa; Beardstown, Chicago, East Peoria, and East St. Louis, Ill.; St. Louis, Mo.; and Cudahy, Madison, and Milwaukee, Wis., to Florence, Ala.; and (2) *pork skins, inedible*, from Florence, Ala., to Woburn, Mass., and Grayslake, Ill., under contract with Bama Meats, Inc. NOTE: If a hearing is deemed necessary, applicant requests it be held at Birmingham, Ala. or Atlanta, Ga.

No. MC 138012 (Sub-No. 1), filed November 10, 1972. Applicant: NORMAN ARLINGTON SPRUILL, 105 Hastings Lane, Elizabeth City, NC 27909. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular

routes, transporting: *Mobile homes and house trailers*, between points in Gates, Chowan, Perquimans, Pasquotank, Camden, Currituck, and Dare Counties, N.C., and Suffolk, Norfolk, Portsmouth, Virginia Beach, Chesapeake, and Newport News, Va. NOTE: If a hearing is deemed necessary, applicant requests it be held at Elizabeth City, N.C., or Norfolk, Va.

No. MC 138100 (Correction) filed September 18, 1972, published in the FEDERAL REGISTER issue of November 16, 1972, and republished as corrected this issue. Applicant: MELLOW TRUCK EXPRESS, INC., Post Office Box 17063, Portland, OR 97217. Applicant's representative: David C. White, 2400 Southwest Fourth Avenue, Portland, OR 97201. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Lumber* (including shakes, shingles, and roof panels), *wooden fencing, particleboard, chipboard, fiberboard, and hardboard* (except gypsum board, paperboard, and pulpboard), between points in Washington, Oregon, California, Idaho, and Nevada; (2) *prefabricated wooden buildings, wooden cabinets and doors*, from Portland, Oreg., to points in Oregon, Washington, Idaho, Montana, California, and Nevada; and (3) *feed, feed ingredients, and fertilizer* (except liquid commodities in bulk), from points in California to points in Oregon and Washington. NOTE: Applicant holds contract carrier authority under MC 128285 and subs thereunder. By the instant application, applicant seeks to convert its contract carrier permits to a certificate of public convenience and necessity. Applicant further states that no extension of authority is sought. Upon the grant of this application, applicant will surrender its permits for cancellation. Therefore no duplicating authority or dual operations will result. The purpose of this republication is to add the commodity "fiberboard" to Part (1) above. If a hearing is deemed necessary, applicant requests it be held at Portland, Oreg.

No. MC 138132 (Sub-No. 1), filed October 23, 1972. Applicant: JAMES AND SONS, INC., Post Office Box 3387, Durango, CO 81301. Applicant's representative: John P. Thompson, 450 Capitol Life Building, Denver, Colo. 80203. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Dry animal feed*, from Commerce City, Colo., to San Juan County, N. Mex.; (2) *Dry animal feed ingredients*, from Montezuma County, Colo., to Bernalillo County, N. Mex., and Maricopa County, Ariz.; and (3) *Cotton seed meal and cotton seed cake*, (a) from points in Arizona and Texas to San Juan County, N. Mex., and (b) from points in Arizona, New Mexico, and Texas to La Plata and Montezuma Counties, Colo. NOTE: If a hearing is deemed necessary, applicant requests it be held at Durango or Denver, Colo.

No. MC 138169, filed October 10, 1972. Applicant: NORTHERN TRANS-

PORTATION SERVICE, 7 Clover Street (Post Office Box 265), Rutland, VT 05701. Applicant's representative: Thomas W. Lynch, Box 569, Middlebury, VT 05753. Authority sought to operate as a *common carrier*, by motor vehicle, over regular routes, transporting: *General commodities* (except those of unusual value, household goods, explosives, commodities in bulk, commodities requiring special equipment and those commodities which may be injurious and contaminating to other lading) between points in Vermont and Chicago, Ill.; from the terminal in Rutland, Vt., over U.S. Highway 4, west to junction New York Highway 149; thence over New York Highway 149 west to junction Interstate Highway 87; thence over Interstate Highway 87 south to junction New York Highway 29; thence over New York Highway 29 west to junction Interstate Highway 90; thence over Interstate Highway 90 west to junction Interstate Highway 80/90; thence over Interstate Highway 80/90 to Chicago, Ill., and return over the same route, serving all intermediate points in Vermont. NOTE: Common control may be involved. If a hearing is deemed necessary, applicant requests it be held at Rutland or Montpelier, Vt.

No. MC 138177 (Sub-No. 2), filed November 17, 1972. Applicant: BROWN TRUCKING, INC., 3109 Clearbrook, Memphis, TN 38118. Applicant's representative: John Paul Jones, 189 Jefferson Avenue, Memphis, TN 38103. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Sand and gravel*, from points in Cross County, Ark., to points in Shelby County, Tenn. NOTE: If a hearing is deemed necessary, applicant requests it be held at Memphis, Tenn.

No. MC 138186, filed October 26, 1972. Applicant: ARROW VAN LINES, INC., 122 East Liveoak (Post Office Box 853), Altus, OK 83521. Applicant's representative: Rufus H. Lawson, 2400 Northwest 23d Street (Post Office Box 75124), Oklahoma City, OK 73107. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Household goods*, as defined by the Commission, and *unaccompanied baggage*, between points in Oklahoma, restricted to the transportation of traffic having a prior or subsequent movement, in containers, beyond the points authorized, and further restricted to the performance of pickup and delivery service in connection with packing, crating, and containerization, or unpacking, uncrating, and decontainerization of such traffic. NOTE: Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Oklahoma City, Okla., or Dallas, Tex.

No. MC 138188 filed November 9, 1972. Applicant: CAUDILL MOBILE MILL, INC., Post Office Box 85, Butlerville, Ind. 47223. Applicant's representative: Kirkwood Yockey, Suite 300, Union Federal Building, Indianapolis, Ind. 46204. Au-

thority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Cat food, dog food, health products, hog and cattle supplements*, from Louisville, Ky., to North Vernon and Butlerville, Ind.; (2) *fertilizer*, from Toledo, Ohio and Louisville, Ky., to points in Jennings County, Ind.; (3) *seeds*, from Louisville, Ky., to points in Jennings County, Ind.; (4) *salt*, from Cleveland, Ohio, to points in Jennings County and Scott County, Ind.; (5) *insecticides and rodenticides and weed killer*, from Toledo, Ohio and Louisville, Ky., to points in Jennings County, Ind.; (6) *tires, batteries, farm gates, fencing, fence posts, electric fence chargers and hardware*, from Toledo, Ohio and Louisville, Ky., to points in Jennings County, Ind.; (7) *eggs*, from points in Jennings County, Ind., to Cleveland and Toledo, Ohio and Detroit, Mich.; (8) *egg cartons*, from Detroit, Mich., and Cleveland, Toledo, Dayton, and Middletown, Ohio, to points in Jennings County and Jackson County, Ind. NOTE: If a hearing is deemed necessary, applicant requests it be held at Indianapolis, Ind., or Cincinnati, Ohio.

No. MC 138190 filed November 2, 1972. Applicant: DARCI TRUCKING, INC., 3137 East North Avenue, Fresno, CA 93725. Applicant's representative: Donald Murchison, 9454 Wilshire Boulevard, Suite 400, Beverly Hills, CA 90212. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Aquariums, accessories and supplies*, from points in Los Angeles and Santa Clara Counties, Calif., to points in Arizona, California, Colorado, Idaho, Montana, New Mexico, Oregon, Utah, Washington, and Wyoming, under contract with Metaframe Corp. NOTE: If a hearing is deemed necessary, applicant requests it be held at Los Angeles, Calif.

No. MC 138193 filed November 1, 1972. Applicant: JOHN M. JUDGE, 331 East Leamy Avenue, Springfield, PA 19064. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Antique automobiles, racing automobiles, show cars, and special interest automobiles*, in secondary movement, in truckaway service, between all points in the United States (except Hawaii and Alaska). NOTE: If a hearing is deemed necessary, applicant requests it be held at Philadelphia or Harrisburg, Pa.

No. MC 138203 filed November 3, 1972. Applicant: CURTIS BROTHERS TRUCKING COMPANY, INC., Route 6, Box 221 E, Falmouth, VA 22401. Applicant's representative: Daniel B. Johnson, 716 Perpetual Building, Washington, D.C. 20004. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Wood box spring frames, pallets, lumber, treated lumber, treated timber, railroad ties, treated round stock including poles, pilings and posts*, from Fredericksburg, Va., and points in King George, Spotsylvania, Stafford, and

Carolina Counties, Va., to points in New York, New Jersey, Pennsylvania, Maryland, Delaware, West Virginia, Ohio, North Carolina, South Carolina, and the District of Columbia. **NOTE:** Applicant states that Curtis Brothers Trucking Co., Inc. is successor in interest to the partnership of E. N. Curtis and C. C. Curtis, formerly doing business as Curtis Brothers Trucking Co. under certificate No. MC 134745 and permit No. MC 133045. By the instant application applicant seeks to convert the contract carrier permit to a certificate or portion thereof since the contracting shipper has indicated a need for the transportation of other commodities. Also since there are a number of supporting shippers that have indicated a need for a transportation service for other commodities as well as the named contracting shipper it is conceivable that dual operations would exist, therefore this application seeks to bring all of applicant's operations into those of a common carrier. If a hearing is deemed necessary, applicant requests it be held at Fredericksburg, Va.

No. MC 138212, in lieu of No. MC 112668 (Sub-No. 55) (amendment) filed August 16, 1972, published in the FEDERAL REGISTER issue of September 7, 1972, and republished this issue. Applicant: HARVEY R. SHIPLEY & SONS, INC., Finksburg, Md. 21048. Applicant's representatives: Norman E. Shipley (same address as applicant) and Theodore Polydoroff, Suite 600, 1250 Connecticut Avenue, NW., Washington, DC 20036. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: (1) *Electrical controllers*, from the plantsite of Rowan Controller, Inc., at or near Westminster, Md., to points in Alabama, Connecticut, Delaware, Florida, Georgia, Illinois, Indiana, Kentucky, Maine,

Maryland, Massachusetts, Michigan, Mississippi, New Hampshire, New Jersey, New York, North Carolina, Ohio, Pennsylvania, Rhode Island, South Carolina, Tennessee, Vermont, Virginia, West Virginia, Wisconsin, and the District of Columbia, restricted to a transportation service to be rendered under a continuing contract or contracts with ITE Imperial Corp. and Rowan Controller, Inc., a wholly owned subsidiary of ITE Imperial Corp; and (2) *Heating and air-conditioning units*, from the plantsite of PowRmatic, Inc., at or near Finksburg, Md., to points in Alabama, Connecticut, Delaware, Florida, Georgia, Illinois, Indiana, Kentucky, Maine, Maryland, Massachusetts, Michigan, Mississippi, New Hampshire, New Jersey, New York, North Carolina, Ohio, Pennsylvania, Rhode Island, South Carolina, Tennessee, Vermont, Virginia, West Virginia, Wisconsin, and the District of Columbia, restricted to a transportation service to be rendered under a continuing contract or contracts with PowRmatic, Inc. **NOTE:** The application, as amended, has been assigned Docket No. MC 138212, in lieu of No. MC 112668 (Sub-No. 55) which was previously published. The purpose of this amendment is: To change the carriage from common to contract; to impose origin and destination restrictions; to limit the service proposed to three shippers; and to add a new representative. Applicant holds motor common carrier authority in No. MC 112668 and Subs thereunder, therefore dual operations may be involved. If a hearing is deemed necessary, applicant requests it be held at Washington, D.C.

APPLICATION FOR BROKERAGE LICENSE

No. MC 130183, filed November 13, 1972. Applicant: AMERICAN TOURS, INCORPORATED, doing business as

AMERICAN TOURS, 1306 Jackie Drive, Chesapeake, VA 23324. For a license (BMC 5) to engage in operations as a *broker*, at Chesapeake, Va., in arranging for the transportation by motor vehicle, in interstate or foreign commerce, of *passengers and their baggage*, in all-expense tours, as individuals and groups, in charter operations, beginning and ending at points in Chesapeake, Portsmouth, Norfolk, Virginia Beach, Hampton, and Newport News, Va., and extending to points in the United States (including Alaska but excluding Hawaii).

APPLICATION FOR FREIGHT FORWARDER

No. FF-388 (Sub-No. 1) (RED BALL FORWARDERS, INC. FREIGHT FORWARDER APPLICATION) (2), filed November 29, 1972. Applicant: RED BALL FORWARDERS, INC., 200 Illinois Building, Indianapolis, IN 46204. Applicant's representative: Clyde E. Herring, 1111 E Street NW., Washington, DC 20004. Authority sought under section 410, Part IV of the Interstate Commerce Act, for a permit to institute operation as a freight forwarder, in interstate or foreign commerce, through the use of the facilities of common carriers by railroad, water, air, or motor vehicle in the transportation of: *Household goods* as defined by the Commission in 17 M.C.C. 467, *used automobiles*, restricted to the movement of privately owned noncommercial automobiles of a householder when involving a change of residence, and *unaccompanied baggage*, between points in the United States (including Alaska, Hawaii, and the District of Columbia).

By the Commission.

[SEAL]

ROBERT L. OSWALD,
Secretary.

[FR Doc.72-21459 Filed 12-13-72; 8:45 am]

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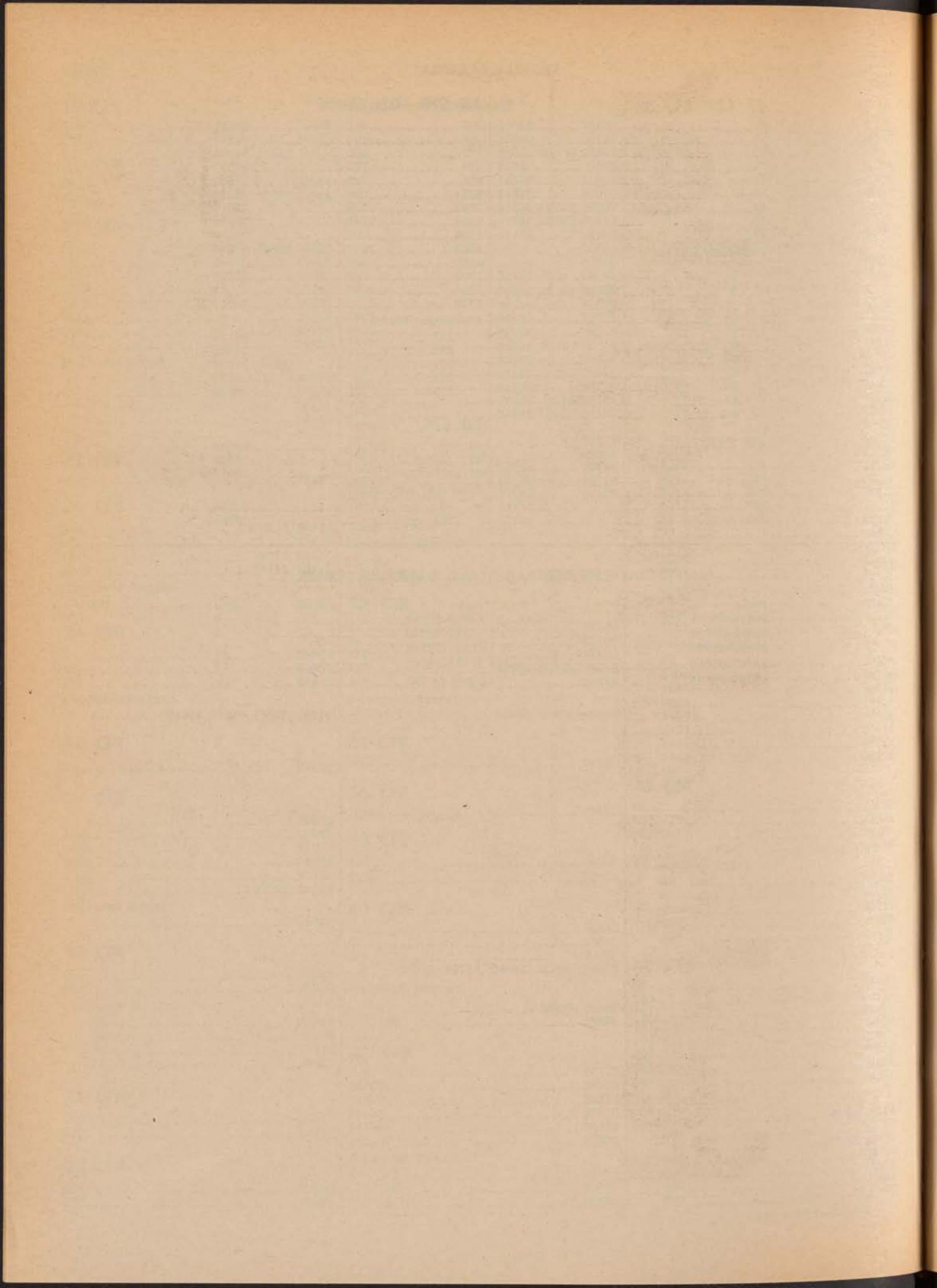
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THURSDAY, DECEMBER 14, 1972
WASHINGTON, D.C.

Volume 37 ■ Number 241

PART II



COST ACCOUNTING STANDARDS BOARD

■

Certain Definitions and
Allocation of Home Office
Expenses to Segments

Title 4—ACCOUNTS

Chapter III—Cost Accounting Standards Board

PART 400—DEFINITIONS

Miscellaneous Amendments

Section 400.1(a) is amended by inserting the following definitions alphabetically:

§ 400.1 Definitions.

(a) * * *

Home office. An office responsible for directing or managing two or more, but not necessarily all, segments of an organization. It typically establishes policy for, and provides guidance to the segments in their operations. It usually performs management, supervisory, or administrative functions, and may also perform service functions in support of the operations of the various segments. An organization which has intermediate levels, such as groups, may have several home offices which report to a common home office. An intermediate organization may be both a segment and a home office.

* * * * *

Operating revenue. Amounts accrued or charged to customers, clients, and tenants, for the sale of products manufactured or purchased for resale, for services, and for rentals of property held primarily for leasing to others. It includes both reimbursable costs and fees under cost-type contracts and percentage-of-completion sales accruals except that it includes only the fee for management contracts under which the contractor acts essentially as an agent of the Government in the erection or operation of Government-owned facilities. It excludes incidental interest, dividends, royalty, and rental income, and proceeds from the sale of assets used in the business.

* * * * *

Segment. One of two or more divisions, product departments, plants, or other subdivisions of an organization reporting directly to a home office, usually identified with responsibility for profit and/or producing a product or service. The term includes Government-owned contractor-operated (GOCO) facilities, and joint ventures and subsidiaries (domestic and foreign) in which the organization has a majority ownership. The term also includes those joint ventures and subsidiaries (domestic and foreign) in which the organization has less than a majority of ownership, but over which it exercises control.

Tangible capital assets. Assets that have physical substance, more than minimal value, and are expected to be held by an enterprise for continued use or

possession beyond the current accounting period for the services they yield.

(84 Stat. 796, sec. 103; 50 U.S.C. App. 2168)

ARTHUR SCHOENHAUT,
Executive Secretary.

[FR Doc.72-21504 Filed 12-13-72; 8:45 am]

PART 403—ALLOCATION OF HOME OFFICE EXPENSES TO SEGMENTS

The Standard on Allocation of Home Office Expenses to Segments is one of a series being promulgated by the Cost Accounting Standards Board pursuant to section 719 of the Defense Production Act of 1950, as amended, Public Law 91-379, 50 U.S.C. app. 2168, which provides for the development of Cost Accounting Standards to be used in connection with negotiated national defense contracts.

Work on this Standard was initiated as the result of a variety of continuing problems between contractors and the Government concerning equitable allocations of home office expenses to segments involved in negotiated defense contracts. The problems include disagreements on: (i) The propriety in certain circumstances of using particular allocation bases, such as cost of sales or direct labor for allocating home office expenses to segments; (ii) whether and to what extent certain kinds of segments such as GOCO's, foreign subsidiaries and partially owned subsidiaries should be included in the allocation base; and (iii) the homogeneity of expense pools.

The allocation of home office expenses to segments is not now specifically governed or guided by an authoritative accounting statement. Home office expenses allocated to segments and then to contracts can constitute an important element of total contract cost. The lack of authoritative standards to guide contractors, procurement officers, auditors, and others, provides a great potential for disagreement and controversy over contract costs. Assurance of equity in cost determinations and contract settlement is singularly lacking.

This Standard prescribes criteria for allocation of the expenses of a home office to segments of an organization. The criteria are based primarily on the beneficial or causal relationship between such expenses and the receiving segments. The Standard governs how a contractor may allocate expenses of its corporate headquarters to various divisions, subsidiaries, plants, or other subsidiaries of the corporation. The Board believes that application of this Standard will result in sound cost accounting and will provide a great degree of uniformity in the determination of costs of negotiated defense contracts.

Research establishes that some home office expenses are incurred for specific segments and can be assigned directly to them. Other expenses, not incurred for a specific segment, have clear relationships

to two or more segments, relationships which are measurable with reasonable objectivity. A third type of home office expense possesses no readily measurable relationship to segments.

The Cost Accounting Standards Board finds that a Cost Accounting Standard to govern the allocation of home office expenses is desirable to reduce wasteful and expensive controversy and to obtain equity for the contracting parties. The Standard published today requires that those home office expenses incurred for specific segments are to be allocated directly to those segments to the maximum extent practical. Those that can be allocated to segments on the basis of objective measurable relationships are to be accumulated and allocated by means of logical and homogeneous expense pools established for this purpose. The remaining or residual home office expenses are then to be allocated as discussed below.

The Board expects that this Standard will operate to reduce residual expenses to a relatively minor amount and by this means also reduce controversy and inequity. Where this is the case, the Board sees no reason to require one particular technique to allocate these expenses. Accordingly, where residual expenses are no greater than a specified percentage of operating revenues, the Standard allows the use of any appropriate allocation technique. However, if residual expenses exceed such specified percentages, the Board believes that its objective of reducing controversy and avoiding inequity would best be served by selecting a single allocation technique to be used. Its research in this connection has led the Board to conclude that for this purpose, a three-factor formula is superior to other allocation bases and techniques for the allocation of residual expenses.

Early research on this Standard included an extensive review of available literature on the subject, a review of decisions of contract appeals boards and courts, and a study of home office management philosophy and operations of 40 companies representing a wide variety of industries.

This research led to the publication of a proposed Cost Accounting Standard in the FEDERAL REGISTER of June 30, 1972, with an invitation for interested parties to submit written data, views, and comments to the Board. To better assure that those who had already expressed interest or provided assistance had an opportunity to comment, the Board supplemented the FEDERAL REGISTER notice by sending copies of the FEDERAL REGISTER materials directly to 196 organizations and individuals, of which 86 companies were invited to furnish the Board with estimates of any additional or reduced costs which could arise from the implementation of the Standard.

Responses were received from 130 sources, including individual companies, Government agencies, professional associations, industry associations, public accounting firms, and others. All of these comments and data have been carefully

considered by the Board. Those comments which are of particular significance are discussed below together with an explanation of resultant substantive changes to the Standard as published in the FEDERAL REGISTER of June 30, 1972.

As will be seen from the following discussion, the Board was greatly benefited by the many comments it received on the Standard as published in FEDERAL REGISTER of June 30, 1972. The Board takes this opportunity to express its considerable debt to those who devoted time and skill to assisting the Board in this endeavor and to thank the many companies and individuals involved.

(1) *Materiality.* Many commentators urged that the Standard contain a general statement on materiality. The Board has previously stated that the administration of its rules, regulations, and Cost Accounting Standards should be reasonable and not seek to deal with insignificant amounts of cost. The Board does not believe that any further general statement is needed at this time. However, where specific changes could be made to clarify the intent of this Standard with respect to materiality, they have been made as further discussed below.

While most commentators agreed with the concept of maximum direct allocation of home office expenses, and accumulation of nondirectly allocated home office expenses into logical, homogeneous expense pools, a few of these commentators believed that the Standard did not adequately incorporate the concept of materiality for this purpose. The Board agrees that materiality is an important consideration in determining whether to specify that an expense is to be allocated directly or by means of a separate expense pool. Accordingly, § 403.40 of the Standard has been revised to state that expenses are to be allocated to the maximum extent "practical" and that expenses not directly allocated are to be grouped into separate homogeneous expense pools "if significant in amount and in relation to total home office expenses."

In addition, a number of commentators questioned the need for using what they considered to be a relatively complex formula to allocate residual expenses even when they are minor in amount. This requirement was contained in the Standard as published in the FEDERAL REGISTER of June 30, 1972. The Board believes the formula to be relatively simple, well understood, already used by many companies to satisfy State tax requirements, and based on financial data that is readily available. Nevertheless, the Board agrees that other allocation techniques may be acceptable if residual expenses are not material. Accordingly, § 403.40(c) of the Standard being published today permits the use of any allocation base representative of total activity if residual expenses are less than a specified percentage of operating revenue.

The Board also considered a materiality test conducted periodically which would permit a contractor, otherwise covered, to choose not to follow the Standard if its application would result

in little or no change in the total amount he allocates to his segments with Government business. The Board in this instance rejected this approach for the following reasons:

(a) Such an approach would put undue emphasis on the effect of this Standard on the allocation of costs to or away from Government contracts.

(b) The administrative problems and time spent by both the Government and the contractor in estimating the contract cost consequences of application of the Standard periodically and negotiating the pro forma application of the Standard for comparative test purposes would outweigh any benefits that might be derived from waiver of the entire Standard on the basis of materiality of result.

(c) There would be no assurance that a contractor's own procedures, which in the test year happened to provide nearly identical results to the results which would be provided through use of the Standard, would in other, subsequent years also produce the same nearly identical results. In effect, the results in the test year may have been an aberration.

(d) In light of the general acceptance by the majority of commentators of the concept of direct charging and grouping of homogeneous expense pools, the provisions for materiality considerations previously described are deemed sufficient.

(e) The Board has applied the concept of materiality to the extent it believes practical in this Standard. The Board, however, as noted in its prefatory comments on the first two published Standards (37 F.R. 4141), will give consideration to stating a concept of materiality applicable to all Standards if subsequent events indicate the desirability and feasibility of doing so.

The Board has eliminated a requirement, originally contained in the June 30, 1972, proposal, for interdepartmental allocations of home office expenses. This proposal would have required part of the cost of certain home office functions to be allocated to other home office functions before being reallocated to segments. The Board accepts the views of a number of commentators that this procedure would be complex and unwarranted in the light of a relatively insignificant effect on the allocation of home office expenses.

The proposed Standard, as published in the FEDERAL REGISTER of June 30, 1972, required that all segments be included in an allocation base unless it could be demonstrated that any segment did not receive benefit from, or contribute to the cause of, an expense to be allocated. A number of commentators observed that it would be virtually impossible to demonstrate that a segment received no benefit. Others commented that a segment should not be included in an allocation base if it received only negligible benefit. The June 30, 1972 proposal has been revised to accommodate these comments and to emphasize again the application of the concept of materiality.

(2) *Hierarchy of allocation methods.* A number of commentators were con-

cerned that a provision in the FEDERAL REGISTER of June 30, 1972, that costs be " * * * allocated on the basis of expenses caused by the segments, benefits received by the segments, or benefits available to the segments," did not provide adequate guidance for the selection of appropriate allocation bases. The Board believes that with the exception of centralized service functions, the allocation criteria contained in the fundamental requirement are sufficiently specific so as not to require additional guidance. The Board is persuaded, however, that it is desirable to establish more definitive criteria for the selection of an appropriate allocation base for centralized service functions. For this purpose, the Board has added in § 403.50(b) a hierarchy of allocation methods. The hierarchy is based on achieving the most realistic representation of the beneficial or causal relationship that is practical in the circumstances.

(3) *Allocation of residual expenses.* With few exceptions, commentators objected to the establishment of a single formula to allocate costs of managing the company as a whole, i.e., residual costs. Many noted that the formula, in conjunction with a broadly inclusive definition of a "segment," would produce inequitable allocations to certain segments. Most often concern was expressed that the allocations would have to be made to segments which receive little benefit from the home office, such as independent subsidiary corporations, subsidiaries in which the organization has only a minority ownership, foreign segments, and Government-owned contractor-operated (GOCO) plants. Others were concerned that the formula was unduly complex to administer and that the results of its use would not be worth the effort, particularly where home office expenses are relatively minor in amount.

The most commonly suggested alternative to the formula was that the Standard should provide "criteria" for allocation, rather than a specific method or procedure. Some suggested, for example, that the Standard require only that the allocation base be representative of the activity of the segments. Most often the recommended criteria were phrased in such general terms as equity, fairness, and reasonableness. Some suggested total cost input, cost of sales, revenue, payroll, number of employees, or value-added, as a single allocation base.

The Board recognizes that where residual expenses are minor in amount in relation to a contractor's total business volume, the use of other techniques is unlikely to affect materially the amount allocated to a given segment, and is even less likely to affect materially the allocations to individual contracts. The Board has therefore provided in § 403.40(c) that, where residual expenses are no greater than a specified percentage of the organization's operating revenue, they may be allocated by means of any appropriate allocation technique. To develop the percentages specified in the

Standard, the Board considered both actual statistics of various companies and the results of a staff study to determine the effect of the Standard on the home office allocations of a number of companies. The choice of an alternative technique for allocation of residual expenses is expected to be available to many contractors whose home offices perform relatively few functions, or which adequately employ direct allocation or allocations by means of other homogeneous expense pools.

The Board has concluded that where residual expenses are material in amount, a single allocation technique should be specified. Accordingly, § 403.40 (c) of the Standard requires the use of the three-factor formula if residual expenses are in excess of the specified percentage of total company revenues. If residual expenses are material in amount, the Board believes that selection of a single allocation technique is necessary to reduce costly controversy in an area where disputes have been commonplace. Furthermore, the Board is of the view that the greater the amount of residual expenses, the greater the likelihood that the use of a single factor base for all contractors could result in inequitable allocations. The use of the three factors in the formula minimizes any distortion that may result from any one of the factors.

The three-factor formula is selected because it takes into account the major subjects of management concern, i.e., volume or activity, employees, and invested capital. Some companies consider that the time, effort, and attention of top management attributable to various segments are approximately proportionate to the volume or activity of those segments. Revenue is considered by some companies to be a generally reliable and convenient measure of volume or activity. Other companies believe that top management efforts are primarily devoted to the employees of an organization and, therefore, advocate the use of payroll for allocating the cost of these efforts. Still others believe that a major top management concern is the management and deployment of the capital invested in the organization; for the purpose of this formula, the net book value of tangible capital assets and inventories is considered by the Board to be a reasonable representation of invested capital.

(4) *The formula factors.* In addition to permitting an alternative to the three-factor formula for allocating residual expenses, the Board has made certain modifications to the formula itself.

A number of commentators opposed the inclusion of intraorganizational sales in the revenue factor. Several of these commentators were concerned that this procedure would "pyramid" the allocation of home office expenses to those products which progress through several segments of an organization before they are finally sold to outside customers. Others noted that a segment established primarily to sell products produced by

other segments would receive a disproportionately large share of home office expenses under the formula. However, a segment which sells much or all of its output to other segments would receive a disproportionately small allocation of home office expenses if such sales were excluded from the revenue factor. The Board, therefore, has concluded that the operating revenue of a segment shall include sales to other segments, but such operating revenue shall be reduced by purchases from other segments. This procedure will assure an appropriate allocation to each segment, regardless of whether it sells to other segments or to outside customers while at the same time avoiding "pyramiding" of home office expenses.

As originally published in the FEDERAL REGISTER of June 30, 1972, the Standard required the inclusion of rental property in the property factor of the formula. Such property was to be valued at eight times the annual rental rates. Many commentators opposed the inflexible valuation of such property. Others believed the inclusion of rental property at all was entirely inappropriate. Questions were also raised whether, and to what extent, minor, short-term leases would have to be included. In view of these comments, the Board has concluded that tangible capital assets to be included in the formula should be those capitalized in accordance with a contractor's established practices.

The Board, however, did not adopt the recommendation of many commentators that the value of Government-furnished property be included in computing the property factor of each segment. These commentators were of the view that Government property requires as much, or more, management attention as owned property. The Board believes that such administration is mostly accomplished at the segment level, and therefore, residual expenses of the home office are not significantly related. Rather, property is included in the formula as a measure of top management's attention to invested capital.

(5) *Allocation of residual expenses to special segments.* As originally published in the FEDERAL REGISTER of June 30, 1972, the Standard would have required, as a general rule, the allocation of a proportionate share of residual expenses to all segments pursuant to the three-factor formula. For this purpose, "segments" included domestic and foreign subsidiaries owned more than 50 percent, as well as those subsidiaries owned between 20 percent and 50 percent if the home office exercised significant guidance and control.

Numerous comments were received in regard to these provisions. Commentators observed variously that the percentage of ownership is not in proportion to the benefits received from the home office, that the amount of guidance and control is not in proportion to the percentage of ownership, or that the benefits received are not in proportion to the amount of guidance and control. Some

commentators noted that the absence of significant guidance and control is difficult to demonstrate. A number of commentators were particularly concerned about the resultant allocations to subsidiaries owned less than 50 percent, foreign subsidiaries, unconsolidated subsidiaries, and sales subsidiaries. Many commentators observed that subsidiaries often perform their own home office functions, that the necessary information to make the required allocation would not always be available, that subsidiaries could not always be billed for home office costs, or that such allocations would cause tax and legal problems. Various commentators recommended alternatively that allocations to subsidiaries be based on management judgment, on the degree of guidance and control, or on the basis of benefit, rather than on any ownership criteria. Others recommended variously that no allocation be made to subsidiaries owned less than 100 percent, to subsidiaries owned less than 50 percent, or to subsidiaries which are unconsolidated. Still others suggested partial allocations in various forms. One industry association recommended that allocations to subsidiaries be based on advance agreements with the Government.

Upon analysis of the comments received on this subject, the Board is persuaded that a requirement to allocate a pro rata share of residual expenses by means of the formula or other allocation base to all segments, without exception, could result in inequitable allocations in certain situations. In the opinion of the Board, this problem is not necessarily limited to subsidiary corporations, but can extend to other segments. Accordingly, the Board has provided in § 403.40 (c) (3) of the Standard that, where the Contracting Officer and the contractor agree that a particular segment receives significantly more or less benefit from residual expenses than would be reflected by the allocation of such expenses pursuant to the formula or other representative base, they may agree to establishing a special allocation of residual expenses to such segment. Any such special allocation must reasonably reflect the benefits received by the segment. Guidance to implement this provision is contained in a new paragraph (d) under § 403.50 of the Standard.

(6) *GOCO's.* Some commentators urged that GOCO facilities be excluded from the definition of segments to receive allocations of home office expenses, arguing that the GOCO facilities receive little or no benefits from home office activities. Several commentators were concerned that this Standard would result in contractors being required to make greater allocations to GOCO's than would be reimbursed to them under the terms of some GOCO contracts. The Board believes that contractual problems associated with the allocation of costs to a GOCO contract pursuant to this Standard, where such costs represent significantly more or less benefit than the GOCO contract actually receives, can be

dealt with by agreement, as discussed in the preceding section. The Board intends to consider in the near future the pervasive question of the treatment required by relevant Federal agencies of the costs allocated in accordance with any Standard.

(7) *State and local income and franchise taxes.* The Board believes that the nature of this expense is essentially the same for all companies and that there is little justification for the observed multiplicity of allocation methods being used to allocate to segments their share of corporate State and local income taxes and franchise taxes. By means of an illustration in the FEDERAL REGISTER publication of June 30, 1972, the Board proposed the allocation of State and local income taxes on the basis of the profit and loss of each segment and specifically requested comments on this particular illustration. Numerous comments were received. While some commentators agreed with the proposed illustration, most did not. Of those that did not, most advocated an allocation method which would allocate such taxes on the basis of the same factors used to compute a segment's share of total corporate taxable income, that generally being the percentage of payroll, sales, and property of the segment to the corporate total of each of these factors. Several commentators noted that they use different allocation bases, such as income or sales, but that these result in approximately the same allocation as one based on the same factors used to compute the tax.

After evaluating the comments, the Board continues to be of the view that the nature of this expense is essentially the same for all companies. Further, allocation of this expense on the same basis used to compute a segment's share of total corporate taxable income is, in the Board's judgment, more in accord with the concept of allocating home office expenses on the basis of the beneficial or causal relationships between such expenses and receiving segments. The Board has therefore revised the illustration for the allocation of State and local taxes to permit "any base or method which results in an allocation that equals or approximates a segment's proportionate share of the tax imposed by the jurisdiction in which the segment does business, as measured by the same factors used to determine taxable income for that jurisdiction." As a practical matter, this means that the tax for any State must be allocated only to those segments that contribute to the factors used to measure taxable income for that State. If there are several segments that do business within a State, each segment's share of that State's tax is to be measured by the proportionate contribution made by such segment to the total of the factors for that State.

(8) *Cost-benefits.* Many commentators addressed themselves to the last sentence of section 719(g) of the Act which provides that in promulgating such standards, the Board shall take

into account the probable costs of implementation compared to the probable benefits."

The Board has not neglected its obligation and continues to measure the costs and benefits involved in implementing both proposed and promulgated standards. Its experience to date leads to the conclusion that the kind and amount of empirical data called for by some commentators is neither available nor possible of accumulation. In the final analysis, the Board must determine whether the information that has been assembled and evaluated is sufficient to enable it to make reasonable judgments.

In making this determination with respect to the present Standard, the Board gave careful consideration to the evidence bearing on the likely initial and continuing implementation costs involved, both for contractors and for affected agencies of the Government. At the same time, consideration was given to the benefits which will be achieved through simplified negotiation, administration, audit, and settlement procedures; one of the major gains of standards, to contractors and the Government alike, is the reduction in the number of costly controversies. After evaluating the Standard being promulgated today, the Board finds that the probable benefits of this Standard clearly outweigh the probable cost of implementation.

(9) *Exemptions.* A number of educational institutions requested that they be exempted from the provisions of this Standard. There appears to be no disagreement that many educational institutions have "home offices" similar in many respects to those of commercial organizations. However, the educational institutions contend that, unlike commercial organizations, they develop overhead rates for institutionwide functional activities, such as education or research, in lieu of overhead rates for organizational segments. According to these educational institutions, it would serve no purpose, therefore, to require allocation of an institution's "home office" expenses to organizational segments. In addition, a number of these commentators noted that there are problems in defining the segments of an educational institution; e.g., whether a segment is a campus, a school, a department or some other organization.

The Board is persuaded that in the light of the present practices of educational institutions in carrying out Government contracts, little purpose would be served at this time by requiring educational institutions to adhere to a standard which prescribes criteria for allocating home office expenses to organizational segments. The Board recognizes that Office of Management and Budget Circular No. A-21, which contains the cost principles applicable to grants and contracts with educational institutions, does not presently require development of indirect cost rates for individual segments of an educational institution. Therefore, for the time being,

those organizations which are subject to Office of Management and Budget Circular No. A-21 are exempted from the provisions of this Standard.

In addition, the Board is exempting State and local governments subject to Office of Management and Budget Circular No. A-87 from the provisions of this Standard pending further study of the applicability of this Standard to such organizations.

(10) *Effective date.* As originally published in the FEDERAL REGISTER of June 30, 1972, the Standard would have had to be followed by a contractor for his first fiscal year following the receipt of a contract to which the Standard is applicable. A number of commentators observed that if a contractor received a contract shortly after the effective date of the Standard and his fiscal year began shortly thereafter, little time would be available to implement the Standard. Most of these commentators requested that at least 6 months be allowed to make the necessary preparations to implement the Standard. To accommodate these requests, the Standard, now being published, requires that it must be followed for a contractor's fiscal year beginning after September 30, 1973.

(11) *Other comments.* In addition to those changes already discussed, the Board has made a number of other changes as a result of the comments received. While these are considered to be of a minor or editorial nature, the Board calls particular attention to the following additional comments.

Various commentators stated that this Standard would require contractors to accumulate and allocate home office expenses on a different basis than that used for internal management purposes. As a consequence, these commentators were concerned that the Standard would necessitate two separate sets of records. Others urged that the Standard specifically permit the use of memorandum records. The Board notes that even in the absence of this Standard, many contractors now use memorandum records to make home office allocations for purposes of Government contracts because they do not make formal allocations of home office expenses to segments, or do so on a different basis. The Board sees no need to disturb the practice of using memorandum records for home office allocations, nor does it view this as being a significant burden on contractors who find the need to do so. However, the Board does not consider it necessary or appropriate to refer specifically to the use of memorandum records by means of this Standard.

Certain commentators recommended that the Standard be specific as to the use of estimated or budgeted amounts, either for pricing purposes or for purposes of actual allocations. The use of estimates or budgets for pricing purposes or for purposes of provisional rates for cost accumulation is customary, and is

not considered by the Board to require specific authority by the terms of this Standard.

There is also being published today (37 F.R. 26678) an amendment to Part 400, Definitions, to incorporate in that part the words and phrases defined in § 403.30 of the Standard.

Sec.	
403.10	General applicability.
403.20	Purpose.
403.30	Definitions.
403.40	Fundamental requirement.
403.50	Techniques for application.
403.60	Illustrations.
403.70	Exemptions.
403.80	Effective date.

AUTHORITY: The provisions of this Part 403 are issued under 84 Stat. 796, sec. 103, 50 U.S.C. App. 2168.

§ 403.10 General applicability.

This Standard shall be used by defense contractors and subcontractors under Federal contracts entered into after the effective date hereof, and by all relevant Federal agencies in estimating, accumulating, and reporting expenses in connection with the pricing, administration, and settlement of all negotiated prime contract and subcontract national defense procurements with the United States in excess of \$100,000 other than contracts or subcontracts where the price negotiated is based on (a) established catalog or market prices of commercial items sold in substantial quantities to the general public, or (b) prices set by law or regulation.

§ 403.20 Purpose.

(a) The purpose of this Cost Accounting Standard is to establish criteria for allocation of the expenses of a home office to the segments of the organization based on the beneficial or causal relationship between such expenses and the receiving segments. It provides for (1) identification of expenses for direct allocation to segments to the maximum extent practical; (2) accumulation of significant nondirectly allocated expenses into logical and relatively homogeneous pools to be allocated on bases reflecting the relationship of the expenses to the segments concerned; and (3) allocation of any remaining or residual home office expenses to all segments. Appropriate implementation of this Standard will limit the amount of home office expenses classified as residual to the expenses of managing the organization as a whole.

(b) This Standard does not cover the reallocation of a segment's share of home office expenses to contracts and other cost objectives.

§ 403.30 Definitions.

(a) The following definitions of terms which are prominent in this Standard are reprinted from Part 400 of this chapter for convenience. Other terms which are used in this Standard and are defined in Part 400 of this chapter have the meanings ascribed to them in that part unless the text demands a

different definition or the definition is modified in paragraph (b) of this section:

(1) *Allocate.* To assign an item of cost, or a group of items of cost, to one or more cost objectives. This term includes both direct assignment of cost and the reassignment of a share from an indirect cost pool.

(2) *Home office.* An office responsible for directing or managing two or more, but not necessarily all segments of an organization. It typically establishes policy for and provides guidance to the segments in their operations. It usually performs management, supervisory, or administrative functions, and may also perform service functions in support of the operations of the various segments. An organization which has intermediate levels, such as groups, may have several home offices which report to a common home office. An intermediate organization may be both a segment and a home office.

(3) *Operating revenue.* Amounts accrued or charged to customers, clients, and tenants, for the sale of products manufactured or purchased for resale, for services, and for rentals of property held primarily for leasing to others. It includes both reimbursable costs and fees under cost-type contracts and percentage-of-completion sales accruals except that it includes only the fee for management contracts under which the contractor acts essentially as an agent of the Government in the erection or operation of Government-owned facilities. It excludes incidental interest, dividends, royalty, and rental income, and proceeds from the sale of assets used in the business.

(4) *Segment.* One of two or more divisions, product departments, plants, or other subdivisions of an organization reporting directly to a home office, usually identified with responsibility for profit and/or producing a product or service. The term includes Government-owned contractor-operated (GOCO) facilities, and joint ventures and subsidiaries (domestic and foreign) in which the organization has a majority ownership. The term also includes those joint ventures and subsidiaries (domestic and foreign) in which the organization has less than a majority of ownership, but over which it exercises control.

(5) *Tangible capital assets.* Assets that have physical substance, more than minimal value, and are expected to be held by an enterprise for continued use or possession beyond the current accounting period for the services they yield.

(b) The following modifications of definitions set forth in Part 400 of this chapter are applicable to this standard: None.

§ 403.40 Fundamental requirement.

(a) (1) Home office expenses shall be allocated on the basis of the beneficial or causal relationship between supporting and receiving activities. Such expenses shall be allocated directly to

segments to the maximum extent practical. Expenses not directly allocated, if significant in amount and in relation to total home office expenses, shall be grouped in logical and homogeneous expense pools and allocated pursuant to paragraph (b) of this section. Such allocations shall minimize to the extent practical the amount of expenses which may be categorized as residual (those of managing the organization as a whole). These residual expenses shall be allocated pursuant to paragraph (c) of this section.

(2) No segment shall have allocated to it as an indirect cost, either through a homogeneous expense pool, or the residual expense pool, any cost, if other costs incurred for the same purpose have been allocated directly to that or any other segment.

(b) The following subparagraphs provide criteria for allocation of groups of home office expenses.

(1) *Centralized service functions.* Expenses of centralized service functions performed by a home office for its segments shall be allocated to segments on the basis of the service furnished to or received by each segment. Centralized service functions performed by a home office for its segments are considered to consist of specific functions which, but for the existence of a home office, would be performed or acquired by some or all of the segments individually. Examples include centrally performed personnel administration and centralized data processing.

(2) *Staff management of certain specific activities of segments.* The expenses incurred by a home office for staff management or policy guidance functions which are significant in amount and in relation to total home office expenses shall be allocated to segments receiving more than a minimal benefit over a base, or bases, representative of the total specific activity being managed. Staff management or policy guidance to segments is commonly provided in the overall direction or support of the performance of discrete segment activities such as manufacturing, accounting, and engineering (but see subparagraph (6) of this paragraph).

(3) *Line management of particular segments or groups of segments.* The expense of line management shall be allocated only to the particular segment or group of segments which are being managed or supervised. If more than one segment is managed or supervised, the expense shall be allocated using a base or bases representative of the total activity of such segments. Line management is considered to consist of management or supervision of a segment or group of segments as a whole.

(4) *Central payments or accruals.* Central payments or accruals which are made by a home office on behalf of its segments shall be allocated directly to segments to the extent that all such payments or accruals of a given type or class

can be identified specifically with individual segments. Central payments or accruals are those which but for the existence of a number of segments would be accrued or paid by the individual segments. Common examples include centrally paid or accrued pension costs, group insurance costs, State and local income taxes and franchise taxes, and payrolls paid by a home office on behalf of its segments. Any such types of payments or accruals which cannot be identified specifically with individual segments shall be allocated to benefited segments using an allocation base representative of the factors on which the total payment is based.

(5) *Independent research and development and bidding and proposal costs.* Notwithstanding any other provisions herein, the costs of independent research and development and bidding and proposal efforts allocated by a home office shall continue to be allocated pursuant to provisions of existing laws, regulations, and other controlling factors.

(6) *Staff management not identifiable with any certain specific activities of segments.* The expenses incurred by a home office for staff management, supervisory, or policy functions, which are not identifiable to specific activities of segments shall be allocated in accordance with paragraph (c) of this section as residual expenses.

(c) *Residual expenses.* (1) All home office expenses which are not allocable in accordance with paragraph (a) of this section and subparagraphs (1) through (5) of paragraph (b) of this section shall be deemed residual expenses. Typical residual expenses are those for the chief executive, the chief financial officer, and any staff which are not identifiable with specific activities of segments. Residual expenses shall be allocated to all segments under a home office by means of a base representative of the total activity of such segments, except where subparagraph (2) or (3) of this paragraph applies.

(2) Residual expenses shall be allocated pursuant to subparagraph (1) of § 403.50(c) if the total amount of such expenses for the contractor's previous fiscal year (excluding any unallowable costs and before eliminating any amounts to be allocated in accordance with subparagraph (3) of this paragraph) exceeds the amount obtained by applying the following percentage(s) to the aggregate operating revenue of all segments for such previous year:

3.35 percent of the first \$100 million;
0.95 percent of the next \$200 million;
0.30 percent of the next \$2.7 billion;
0.20 percent of all amounts over \$3 billion.

The determination required by this subparagraph for the 1st year the contractor is subject to this Standard shall be based on the pro forma application of this Standard to the home office expenses and aggregate operating revenue for the contractor's previous fiscal year.

(3) Where a particular segment receives significantly more or less benefit

from residual expenses than would be reflected by the allocation of such expenses pursuant to subparagraph (1) or (2) of this paragraph (see § 403.50(d)), the Government and the contractor may agree to a special allocation of residual expenses to such segment commensurate with the benefits received. The amount of a special allocation to any segment made pursuant to such an agreement shall be excluded from the pool of residual expenses to be allocated pursuant to subparagraph (1) or (2) of this paragraph, and such segment's data shall be excluded from the base used to allocate this pool.

§ 403.50 Techniques for application.

(a) (1) Separate expense groupings will ordinarily be required to implement § 403.40. The number of groupings will depend primarily on the variety and significance of service and management functions performed by a particular home office. Ordinarily, each service or management function will have to be separately identified for allocation by means of an appropriate allocation technique. However, it is not necessary to identify and allocate different functions separately, if allocation in accordance with the relevant requirements of § 403.40 (b) can be made using a common allocation base. For example, if the personnel department of a home office provides personnel services for some or all of the segments (a centralized service function) and also establishes personnel policies for the same segments (a staff management function), the expenses of both functions could be allocated over the same base, such as the number of personnel, and the separate functions do not have to be identified.

(2) Where the expense of a given function is to be allocated by means of a particular allocation base, all segments shall be included in the base unless: (i) Any excluded segment did not receive significant benefits from, or contribute significantly to the cause of the expense to be allocated and, (ii) any included segment did receive significant benefits from or contribute significantly to the cause of the expense in question.

(b) (1) Section 403.60 illustrates various expense pools which may be used together with appropriate allocation bases. The allocation of centralized service functions shall be governed by a hierarchy of preferable allocation techniques which represent beneficial or casual relationships. The preferred representation of such relationships is a measure of the activity of the organization performing the function. Supporting functions are usually labor-oriented, machine-oriented, or space-oriented. Measures of the activities of such functions ordinarily can be expressed in terms of labor hours, machine hours, or square footage. Accordingly, costs of these functions shall be allocated by use of a rate, such as a rate per labor hour, rate per machine hour or cost per square foot, unless such measures are unavailable or impractical

to ascertain. In these latter cases the basis for allocation shall be a measurement of the output of the supporting function. Output is measured in terms of units of end product produced by the supporting function, as for example, number of printed pages for a print shop, number of purchase orders processed by a purchasing department, number of hires by an employment office.

(2) Where neither activity nor output of the supporting function can be practically measured, a surrogate for the beneficial, or causal relationship must be selected. Surrogates used to represent the relationship are generally measures of the activity of the segments receiving the service; for example, for personnel services reasonable surrogates would be number of personnel, labor hours, or labor dollars of the segments receiving the service. Any surrogate used should be a reasonable measure of the services received and, logically, should vary in proportion to the services received.

(c) (1) Where residual expenses are required to be allocated pursuant to § 403.40(c) (2), the three factor formula described below must be used. This formula is considered to result in appropriate allocations of the residual expenses of home offices. It takes into account three broad areas of management concern: The employees of the organization, the business volume, and the capital invested in the organization. The percentage of the residual expenses to be allocated to any segment pursuant to the three factor formula is the arithmetical average of the following three percentages for the same period:

(i) The percentage of the segment's payroll dollars to the total payroll dollars of all segments.

(ii) The percentage of the segment's operating revenue to the total operating revenue of all segments. For this purpose, the operating revenue of any segment shall include amounts charged to other segments and shall be reduced by amounts charged by other segments for purchases.

(iii) The percentage of the average net book value of the sum of the segment's tangible capital assets plus inventories to the total average net book value of such assets of all segments. Property held primarily for leasing to others shall be excluded from the computation. The average net book value shall be the average of the net book value at the beginning of the organization's fiscal year and the net book value at the end of the year.

(2) The first time a change is made from a technique previously followed to the techniques specified in § 403.50(c) (1), such change shall be deemed to be within the scope of paragraph (a) (3) of the clause appearing at § 331.5 of the Board's regulation entitling a contractor to an equitable adjustment under paragraph (a) (4) (A) of the contract clause.

(d) The following subparagraphs provide guidance for implementing the requirements of § 403.40(c) (3).

(1) An indication that a segment received significantly less benefit in relation to other segments can arise if a segment, unlike all or most other segments, performs on its own many of the functions included in the residual expense. Another indication may be that, in relation to its size, comparatively little or no costs are allocable to a segment pursuant to § 403.40(b) (1) through (5). Evidence of comparatively little communication or interpersonal relations between a home office and a segment, in relation to its size, may also indicate that the segment receives significantly less benefit from residual expenses. Conversely, if the opposite conditions prevail at any segment, a greater allocation than would result from the application of § 403.40 (c) (1) or (2) may be indicated. This may be the case, for example, if a segment relies heavily on the home office for certain residual functions normally performed by other segments on their own.

(2) Segments which may require special allocations of residual expenses pursuant to § 403.40(c) (3) include, but are not limited to foreign subsidiaries, GOCO's, domestic subsidiaries with less than a majority ownership, and joint ventures.

(3) The portion of residual expenses to be allocated to a segment pursuant to § 403.40(c) (3) shall be the cost of estimated or recorded efforts devoted to the segments.

(e) Home office functions may be performed by an organization which for some purposes may not be a part of the legal entity with which the Government has contracted. This situation may arise, for example, in instances where the Government contracts directly with a corporation which is wholly or partly owned by another corporation. In this case, the latter corporation serves as a "home office," and the corporation with which the contract is made is a "segment" as those terms are defined and used in this Standard. For purposes of contracts subject to this Standard, the contracting corporation may only accept allocations from the other corporation to the extent that such allocations meet the requirements set forth in this Standard for allocation of home office expenses to segments.

§ 403.60 Illustrations.

(a) The following table lists some typical pools, together with illustrative allocation bases which could be used in appropriate circumstances:

Home office expense or function

Centralized service functions:

- 1. Personnel administration.....
- 2. Data processing services.....
- 3. Centralized purchasing and subcontracting.....
- 4. Centralized warehousing.....
- 5. Company aircraft service.....
- 6. Central telephone service.....

(b) The selection of a base for allocating centralized service functions shall be governed by the criteria established in § 403.50 (b).

Home office expense or function

Staff management of specific activities:

- 1. Personnel management.
- 2. Manufacturing policies (quality control, industrial engineering, production, scheduling, tooling, inspection and testing, etc.).
- 3. Engineering policies.
- 4. Material/purchasing policies.
- 5. Marketing policies.

Central payments or accruals:

- 1. Pension expenses.....
- 2. Group insurance expenses.....
- 3. State and local income taxes and franchise taxes.

Illustrative allocation bases

- 1. Number of personnel, labor hours, payroll, number of hires.
- 2. Manufacturing cost input, manufacturing direct labor.
- 3. Total engineering costs, engineering direct labor, number of drawings.
- 4. Number of purchase orders, value of purchases.
- 5. Sales, segment marketing costs.

- 1. Payroll or other factor on which total payment is based.
- 2. Payroll or other factor on which total allocation that equals or approximates a segment's proportionate share of the tax imposed by the jurisdiction in which the segment does business, as measured by the same factors used to determine taxable income for that jurisdiction.

(c) The listed allocation bases in this section are illustrative. Other bases for allocation of home office expenses to segments may be used if they are substantially in accordance with the beneficial or causal relationships outlined in § 403.40.

§ 403.70 Exemptions.

(a) Any contractor or subcontractor who is not required to submit a disclosure statement pursuant to § 351.4 of the Board's regulations in this chapter is exempt from this Standard. If subsequently the contractor or subcontractor is required pursuant to a modification of § 351.4 of this chapter to submit a Disclosure Statement as a condition of a subsequent contract award, this Standard shall then become applicable in accordance with paragraph (a) (3) of the contract clause set out in § 331.5 of the Board's regulations in this chapter.

(b) This Standard shall not apply to contractors who are subject to the provisions of Office of Management and Budget Circular No. A-21 (Principles for Determining Costs Applicable to Re-

search and Development under Grants and Contracts with Educational Institutions and Principles for Determining Costs Applicable to Training and Other Educational Services under Grants and Contracts with Educational Institutions) or Circular No. A-87 (Principles for Determining Costs Applicable to Grants and Contracts with State and Local Governments).

§ 403.80 Effective date.

This Standard shall be followed by each contractor as of the beginning of his next fiscal year after September 30, 1973. The effective date of this Standard is reserved.

ARTHUR SCHOENHAUT,
Executive Secretary.

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PART III



DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service



MILK IN INDIANA MARKETING AREA

Recommended Decision

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

[7 CFR Part 1049]

[Docket No. AO 319-A20]

MILK IN THE INDIANA MARKETING AREA

Notice of Recommended Decision and Opportunity To File Written Exceptions on Proposed Amendments to Tentative Marketing Agreement and to Order

Notice is hereby given of the filing with the Hearing Clerk of this recommended decision with respect to proposed amendments to the tentative marketing agreement and order regulating the handling of milk in the Indiana marketing area.

Interested parties may file written exceptions to this decision with the Hearing Clerk, U.S. Department of Agriculture, Washington, D.C. 20250, by the 15th day after publication of this decision in the FEDERAL REGISTER. The exceptions should be filed in quadruplicate. All written submissions made pursuant to this notice will be made available for public inspection at the office of the Hearing Clerk during regular business hours (7 CFR 1.27(b)).

The above notice of filing of the decision and of opportunity to file exceptions thereto is issued pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601 et seq.), and the applicable rules of practice and procedure governing the formulation of marketing agreements and marketing orders (7 CFR Part 900).

PRELIMINARY STATEMENT

The hearing on the record of which the proposed amendments, as hereinafter set forth, to the tentative marketing agreement and to the order as amended, were formulated, was conducted at Indianapolis, Ind., on October 11, 1972, pursuant to notice thereof which was issued on September 21, 1972 (37 F.R. 20182).

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

1. Diversion of producer milk.
2. Louisville plan.
3. Charges on overdue accounts.
4. Order format.

FINDINGS AND CONCLUSIONS

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

1. *Diversion of producer milk.* The provisions of the order with respect to diversion of producer milk to nonpool plants should be modified. A cooperative association should be enabled to divert as producer milk in each of the months September through March up to 40 percent of the milk of its producer members. A handler who is the operator of a pool plant should be in position to divert during each such month up to 40

percent of the producer milk, for which he is the handler, exclusive of the milk of producers who are members of a cooperative association that is diverting milk under the percentage limitation described above.

The order now provides that the total quantity of milk that a cooperative association or a pool plant operator may divert as producer milk in each of the months of September through March shall not exceed 35 percent of the producer milk deliveries as described above. The order also provides an alternative basis for diversion during each of these months that permits milk of an individual producer to be diverted for the same number of days that milk of the producer is received at a pool plant. During each of the months April through August, a pool plant operator or a cooperative association may divert the milk production of a producer from a pool plant to a nonpool plant on any number of days during such month. In all months, diversion of the milk of any producer to a nonpool plant is permitted only if at least 1 day's production of the milk of such producer is received at a pool plant during the month. Of these diversion provisions, only the percentage limitations for the months September through March were considered at the hearing.

The revised diversion provisions, as adopted herein, were proposed by Hoosier Milk Marketing Agency, Inc., an organization of cooperative associations representing a substantial majority of the producers on the market. A representative of the proponent testified at the hearing in favor of the proposal. No opposition to the proposal was expressed either at the hearing or in briefs.

Over the last 2 years, production for the market has increased significantly while the number of producers has decreased. Average daily deliveries per producer increased by nearly 6 percent between 1970 and 1971. Comparing the first 8 months of 1972 to the same period for 1971, average daily deliveries per producer increased by over 7 percent. Class I sales increases for the same periods have not been as large as these increases in production. This tendency for individual producers to increase their daily deliveries is expected to continue.

One large cooperative association supplying the market submitted at the hearing that the present 35-percent diversion limitation does not provide it with the flexibility it requires in the face of current and anticipated marketing conditions. It has already had difficulty maintaining the producer status of some of its members as a result of increased production per member. For the months January through August 1972, the cooperative's member milk production increased 12 percent over the same months for 1971, while its membership increased by less than 2 percent. Loss of a single, large fluid milk account by one of the handlers this cooperative association supplies would seriously jeopardize the producer status of its members under the current diversion provisions.

A number of cooperative associations representing producers on the market are the principal or sole suppliers of high volume handlers. Handlers so supplied service large accounts for various types of outlets, including supermarket chain stores, dairy, and convenience chain stores, schools, and military establishments. Many of these accounts are serviced on a contract basis and may shift from one handler to another on the expiration of a contract. When a handler supplied primarily by one cooperative association loses such an account to a handler supplied primarily by another cooperative association or to a handler regulated under another order, the former cooperative may be left, for a time at least, with a considerable amount of milk for which there is no fluid outlet.

Another factor that could result in the need for diversion of a substantial volume of milk by a cooperative would be the closing of a large plant and the transfer of the route disposition to plants in other markets. There has been a trend in recent years for multiple-plant handlers operating in a number of markets to close their less efficient plants and concentrate their processing operations in large plants capable of serving several markets. Should this happen in the Indiana market, it could cause a serious problem for the cooperative that had supplied the closed plant.

In the event of plant closings or account losses such as those described above, manufacturing plants frequently provide the only immediately available outlet for a cooperative's member milk supplies or a handler's regular milk supplies. Diversion of milk directly from farms to manufacturing plants is the most efficient means of disposing of such supplies. The 40-percent diversion limitation adopted herein will promote orderly marketing in the face of these complex marketing problems by minimizing the impact of such circumstances on the producer status of dairy farmers who have been the regular suppliers of the market.

2. *Louisville Plan.* The order should be amended to provide that the uniform rate withheld from the pool under the Louisville seasonal incentive payment plan shall be 20 cents per hundredweight for each of the months April through July.

The order now provides for the withholding by the market administrator of 8 percent of the average monthly basic formula price for the preceding calendar year, subject to a maximum of 30 cents, with respect to each hundredweight of producer milk delivered to the market during each of the months April through July. Payback to producers of the aggregate moneys accumulated during the pay-in period is made at a monthly rate of 25 percent in each of the months September through December.

A representative of the proponent (Hoosier Milk Marketing Agency, Inc.) testified at the hearing that the pay-in amount provided for in the order has resulted in misalignment of Indiana pro-

ducer prices relative to producer prices paid in northern Illinois and Wisconsin markets during the payout months. In response to the resulting interorder price relationships, some shifting of producers between markets has occurred during this period. Proponent testified that this situation has caused some producer unrest and has impaired the effectiveness of the Louisville plan.

In 1971 the average number of producers supplying the market during the payout period exceeded the average number of producers supplying the market during the pay-in period by nearly 250, or over 5 percent. Despite this situation, removal of the Louisville plan from the order was not favored by those participating in the hearing. Proponent contended that a seasonal incentive payment plan is still needed in the market not only to insure uniform production throughout the year, but also to maintain proper price alignment between the Indiana market and order markets located in Kentucky, Illinois, and Ohio that also utilize such plans.

The normal pattern of milk production results in a greater supply during the spring and early summer than during the remainder of the year. Seasonal incentive payment plans, such as the one under consideration, encourage a more uniform pattern of milk production by withholding from the uniform price computation in the flush production season funds to be added back in the short supply season. Since these funds are distributed to all producers who supply the market during the payout period, it is possible for dairy farmers who do not regularly supply the market to become producers only during these months. This seasonal pattern of producer market-shifting may occur when, as a result of too great a spread between spring and fall prices, interorder producer price differences during the short supply season more than offset transportation costs between order markets. The diluted producer prices that result during the fall months from the temporary addition of such producers to the market tend to discourage producers regularly associated with the market from managing their production in accordance with the intent of the plan.

The Ohio Valley, Louisville-Lexington-Evansville, central Illinois and southern Illinois orders, which about the Indiana marketing area, continue to use the Louisville plan to even out production. Proponent stated that deletion of the plan from the Indiana order would shift to the adjoining markets the aforementioned problems currently being experienced in this market. The resulting price spread would provide a strong incentive for Ohio, Illinois, and Kentucky producers to shift to Indiana in the spring and an equally strong incentive for Indiana producers to shift to the Ohio Valley, Louisville-Lexington-Evansville, or Illinois markets in the fall months.

Official notice is taken of the uniform prices for Indiana and surrounding markets as published in the Federal Milk Order Market Statistics, a publication of

the Dairy Division, Agricultural Marketing Service, U.S. Department of Agriculture, for the months of April, May, June, July, September, October, November, and December 1971.

During April, May, June, and July 1971, the months when the deductions were made in the computation of the uniform price, the average uniform price under the Indiana marketing order was \$5.52. In the adjoining markets, which also have "Louisville" plans, the average prices in the same months were: Central Illinois, \$5.35; southern Illinois, \$5.50; Louisville, \$5.27; and Ohio Valley, \$5.59. Under the Chicago Regional order, the milkshed of which overlaps that of the Indiana milkshed in parts of Illinois, Indiana, Michigan, and Wisconsin, the uniform price during the same months was \$5.37. The Chicago Regional order does not have a "Louisville" plan.

During the months of September, October, November, and December 1971, in which uniform prices were increased by the addition of the monies withheld in the spring, the respective average uniform prices were: Indiana, \$6.19; central Illinois, \$5.96; southern Illinois, \$6.21; Louisville-Lexington-Evansville, \$6.32; and Ohio Valley, \$6.36.

The uniform price under the Chicago Regional order averaged \$5.54 for the same 4-month period.

Had the 20-cent rate been in effect in 1971, the average uniform price under the Indiana order would have been \$5.55 in the April-July period and \$6.09 in the September-December period. Had there been no "Louisville" plan in effect, the uniform price would have averaged \$5.75 in the April-July period and \$5.89 in the September-December period. The 14-cent difference between the spring and fall prices would have reduced the incentive to producers to maintain an even production pattern. The substantially lower uniform price in the September-December period contrasted to the higher prices prevailing in some of the surrounding markets would have provided an incentive to Indiana producers to shift to those markets.

The pay-in rate of 20 cents per hundredweight adopted herein will tend to eliminate much of the temporary producer shifting that has occurred between the Indiana market and the markets located in northern Illinois and Wisconsin. The resulting uniform price to producers in the fall will reduce the incentive for producers to shift to the Indiana market from the Chicago Regional market to take advantage of the seasonally higher prices. At the same time, it will be high enough that Indiana producers will not have an incentive to shift to the Ohio Valley, Louisville-Lexington-Evansville, southern Illinois or central Illinois markets in the fall. The difference between the spring and fall prices will be sufficient to encourage Indiana producers to continue to produce enough milk in the fall and winter months to fully supply the needs of the market.

Interest was expressed at the hearing in a "dairy farmer for other markets" provision that would prevent dairy farm-

ers not regularly associated with the market from taking undue advantage of the Louisville plan. Proponent was not prepared to propose such a provision at the hearing but agreed that the matter deserved further study.

In the Indiana market the moneys withheld under the seasonal incentive payment plan are invested in interest-bearing securities and both the principal and the interest earned thereon are returned to producers during the payout period. The order should be amended to reflect this practice of returning to the pool during the fall months interest earned on Louisville plan funds.

3. *Charges on overdue accounts.* The rate prescribed under the order on overdue obligations to the producer-settlement, administrative, and marketing service funds should be increased from one-half of 1 percent per month to three-fourths of 1 percent per month. The interest so provided should be applied on the sixth day following the date such obligations are due and on the same day of each succeeding month, rather than on the first day of the month following the due date and on the first day of each succeeding month as now provided in the order.

Proponent cooperative associations proposed that the rate be increased as provided herein and that the charge be applied on the first day following the day obligations to the producer-settlement, administrative, and marketing service funds are due. A representative of these cooperative associations testified that a charge of one-half of 1 percent per month is unrealistic in light of present day commercial rates for carrying charges and that it encourages delinquency in payment of the several order obligations by providing handlers with an inexpensive source of operating capital.

Representatives of several handlers regulated under the order expressed opposition to the cooperatives' proposal both at the hearing and in briefs. One such representative testified that an increase of 50 percent in the rate charged handlers for overdue accounts would be excessive and unwarranted in light of prevailing local credit conditions.

It is essential that payments to the funds maintained by the market administrator be made promptly so that the order may be administered in an efficient and timely manner. A charge on overdue accounts is intended to encourage such prompt settlement of accounts. It should not be so low as to provide handlers with an inexpensive source of credit and thus constitute a basis for holding back payments due the market administrator.

In September 1972, the market administrator billed 41 handlers for payments to the administrative fund and 26 of these handlers, or 63 percent, made such payments a week or more late. In the same month, 27 handlers were billed for payments to the producer-settlement fund and 17 of these handlers (again 63 percent) made such payments a week or more late. Since this month was not particularly unusual in terms of late pay-

ments, it appears that the present rate assessed on late payments is too low to accomplish what is intended and, in fact, may be providing a number of handlers with a relatively inexpensive source of short-term operating funds at the expense of producers.

In support of the proposal to begin application of interest charges on the day following the date handler obligations become due, proponent cooperatives testified that such a change also would further encourage prompt settlement of accounts and thereby insure prompt payment in full to producers whose milk is delivered to handlers who rely on payments from the producer-settlement fund to meet their producer payrolls.

The same handlers that opposed the increased charge on overdue accounts also opposed this change in the date of application of such charge. They proposed that the charge on overdue obligations be applied on the sixth day following the date such obligations become due. A handler representative testified that the 5-day period during which no interest would be charged is needed to accommodate routine delays in mail deliveries to and from the market administrator's office.

The market administrator normally mails handlers' billings no earlier than 2 days prior to the date payments are due. This fact alone makes it difficult for a handler to settle his accounts on time. If, in addition, consideration is given to the time normally required for pickup and delivery of mail and the occurrence of a weekend or a holiday immediately prior to or on the due date, it is evident that the application of interest charges on the day following the due date might penalize those handlers who make an effort to pay their obligations promptly. A period of 5 days between the date payments become due and the date interest is assessed will encourage prompt payment without penalizing handlers for uncontrollable mail delays.

In order to insure that handlers pay only the adopted rate per month on overdue accounts, it is necessary to provide in the order that charges be applied on the same day each month. Also, since the interest charge itself becomes an obligation after it is added to a handler's original obligation, the order should provide for the compounding of interest charges from month to month.

For the reasons stated above, it is concluded that the sections of the order concerning charges on overdue accounts should be amended as provided herein.

4. *Order format.* The format of the Indiana order should be revised to provide a more compact order and a more precise grouping of related order provisions. In addition to redesignation of section numbers (and codified subunits), certain changes should be made in section titles, introductory paragraphs, and section content. In making these modifications, which conform with a basic and uniform format for all orders, no change is contemplated either in the intent or application of any provisions so affected.

The need for rearrangement of the order provisions in large part reflects the cumulative effect of past amendments that have resulted in a number of unused subunits that disrupt the continuity of the order. The redesignation of codified units will also accommodate future changes in the order.

RULINGS ON PROPOSED FINDINGS AND CONCLUSIONS

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

GENERAL FINDINGS

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

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

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

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

RECOMMENDED MARKETING AGREEMENT AND ORDER AMENDING THE ORDER

The recommended marketing agreement is not included in this decision because the regulatory provisions thereof would be the same as those contained in the order, as hereby proposed to be amended. The following order amending

the order, as amended, regulating the handling of milk in the Indiana marketing area is recommended as the detailed and appropriate means by which the foregoing conclusions may be carried out:

PART 1049—MILK IN INDIANA MARKETING AREA

Subpart—Order Regulating Handling

GENERAL PROVISIONS

Sec. 1049.1 General provisions.

DEFINITIONS

1049.2 Indiana marketing area.
1049.3 Route disposition.
1049.4 [Reserved]
1049.5 Distributing plant.
1049.6 Supply plant.
1049.7 Pool plant.
1049.8 Nonpool plant.
1049.9 Handler.
1049.10 Producer-handler.
1049.11 [Reserved]
1049.12 Producer.
1049.13 Producer milk.
1049.14 Other source milk.
1049.15 Fluid milk product.
1049.16 [Reserved]
1049.17 Filled milk.
1049.18 Cooperative association.

HANDLER REPORTS

1049.30 Reports of receipts and utilization.
1049.31 Payroll reports.
1049.32 Other reports.

CLASSIFICATION OF MILK

1049.40 Classes of utilization.
1049.41 Shrinkage.
1049.42 Classification of transfers and diversions.
1049.43 General classification rules.
1049.44 Classification of producer milk.
1049.45 Market administrator's reports and announcements concerning classification.

CLASS PRICES

1049.50 Class prices.
1049.51 Basic formula price.
1049.52 Plant location adjustments for handlers.
1049.53 Equivalent price.
1049.54 Handler butterfat differentials.
1049.55 Announcement of class prices and handler butterfat differentials.

UNIFORM PRICE

1049.60 Handler's value of milk for computing uniform price.
1049.61 Computation of uniform price (including weighted average price).
1049.62 Announcement of uniform price and producer butterfat differential.

PAYMENTS FOR MILK

1049.70 Producer-settlement fund.
1049.71 Payments to the producer-settlement fund.
1049.72 Payments from the producer-settlement fund.
1049.73 Payments to producers and to cooperative associations.
1049.74 Producer butterfat differential.
1049.75 Plant location adjustments to producers and on nonpool milk.
1049.76 Payments by handler operating a partially regulated distributing plant.
1049.77 Adjustment of accounts.
1049.78 Charges on overdue accounts.

ADMINISTRATIVE ASSESSMENT AND MARKETING SERVICE DEDUCTION

- Sec. 1049.85 Assessment for order administration.
- 1049.86 Deduction for marketing services.

ADVERTISING AND PROMOTION PROGRAM

- 1049.110 Agency.
- 1049.111 Composition of the Agency.
- 1049.112 Term of office.
- 1049.113 Selection of Agency members.
- 1049.114 Agency operating procedure.
- 1049.115 Powers of the Agency.
- 1049.116 Duties of the Agency.
- 1049.117 Advertising, research, education, and promotion program.
- 1049.118 Limitation of expenditures by the Agency.
- 1049.119 Personal liability.
- 1049.120 Procedure for requesting refunds.
- 1049.121 Duties of the market administrator.
- 1049.122 Liquidation.

AUTHORITY: The provisions of this Part 1049 issued under secs. 1-19, 48 Stat. 31, as amended; 7 U.S.C. 601-674.

GENERAL PROVISIONS

§ 1049.1 General provisions.

The terms, definitions, and provisions, in Part 1000 of this chapter are hereby incorporated by reference and made a part of this order.

DEFINITIONS

§ 1049.2 Indiana marketing area.

"Indiana marketing area" (hereinafter referred to as the "marketing area") means all the territory within the boundaries of each of the Indiana counties listed below, including territory wholly or partly within such boundaries occupied by Government (municipal, State, or Federal) reservations, installations, institutions, or other similar establishments:

- | | |
|--------------|-------------|
| Adams. | La Porte. |
| Allen. | Lawrence. |
| Bartholomew. | Madison. |
| Blackford. | Marion. |
| Boone. | Marshall. |
| Brown. | Miami. |
| Cass. | Monroe. |
| Clay. | Montgomery. |
| Clinton. | Morgan. |
| Decatur. | Noble. |
| De Kalb. | Owen. |
| Delaware. | Parke. |
| Elkhart. | Porter. |
| Fayette. | Putnam. |
| Fountain. | Randolph. |
| Franklin. | Rush. |
| Fulton. | Shelby. |
| Grant. | Steuben. |
| Hamilton. | St. Joseph. |
| Hancock. | Starke. |
| Hendricks. | Tippecanoe. |
| Henry. | Tipton. |
| Howard. | Union. |
| Huntington. | Vermillion. |
| Jackson. | Vigo. |
| Jay. | Wabash. |
| Johnson. | Warren. |
| Kosciusko. | Wayne. |
| Lagrange. | Wells. |
| Lake. | Whitley. |

§ 1049.3 Route disposition.

"Route disposition" means a delivery (including that custom-packaged for another person, disposition from a plant store or from a distribution point and

distribution by a vendor or vending machine) of any fluid milk product classified as Class I milk other than a delivery in bulk form to any milk processing plant.

§ 1049.4 [Reserved]

§ 1049.5 Distributing plant.

"Distributing plant" means a plant approved by any duly constituted health authority for the processing or packaging of milk for fluid consumption in the marketing area and from which there is route disposition during the month in the marketing area.

§ 1049.6 Supply plant.

"Supply plant" means a plant in which some milk approved by any duly constituted health authority for fluid consumption in the marketing area is assembled and shipped in bulk as milk, cream, or skim milk to a distributing plant during the month.

§ 1049.7 Pool plant.

Except as provided in paragraph (c) of this section, "pool plant" means a plant specified in paragraph (a) or (b) of this section.

(a) A distributing plant with:

(1) Total route disposition exclusive of packaged fluid milk products received from other plants and filled milk, in an amount not less than 50 percent of Grade A milk received at such plant during the month from dairy farmers (excluding receipts of producer milk by diversion pursuant to § 1049.13) and supply plants, except that a plant meeting such percentage requirement for the preceding month may remain qualified under this subparagraph in the current month; and

(2) Route disposition within the marketing area during the month of at least 10 percent of such receipts, such route sales to be exclusive of packaged fluid milk products received from other plants and filled milk: *Provided*, That any plant meeting the requirements of this paragraph in each of the months of September through May, inclusive, shall continue to have pool plant status in the months of June, July, and August, immediately following if there is route disposition, except filled milk, from the plant in the marketing area during such month.

(b) A supply plant from which not less than 50 percent of the Grade A milk received from dairy farmers at such plant during the month is shipped to plants qualifying for the month pursuant to paragraph (a) of this section. A plant qualified pursuant to this paragraph in each of the immediately preceding months of September through February shall remain so qualified for the months of April through August unless written application is filed with the market administrator on or before the first day of any such month to designate such plant as a nonpool plant for such month and for each subsequent month through August during which it would otherwise not qualify under this paragraph.

(c) The term "pool plant" shall not apply to:

(1) A producer-handler plant;

(2) A distributing plant which the Secretary determines has a greater proportion of route disposition (except filled milk) in another marketing area regulated by another order issued pursuant to the Act and such plant is fully subject to regulation of such other order: *Provided*, That a distributing plant which was a pool plant under this order in the immediately preceding month shall continue to be subject to all of the provisions of this part until the third consecutive month in which a greater proportion of its route disposition (except filled milk) is made in such other marketing area, unless, notwithstanding the provisions of this paragraph, it is regulated by such other order;

(3) A distributing plant which meets the requirements set forth in paragraph (a) of this section which also meets the requirements of another order on the basis of its distribution in such other marketing area and which the Secretary determines has a greater quantity of route disposition (except filled milk) during the month in this marketing area than in such other marketing area but which plant is nevertheless fully regulated under such other order;

(4) A supply plant which during the month is fully subject to the pricing and pooling provisions of another order issued pursuant to the Act, unless such plant is qualified as a pool plant pursuant to paragraph (b) of this section and a greater volume of fluid milk products (except filled milk) is moved to pool distributing plants qualified on the basis of route sales in this marketing area; and

(5) That portion of a plant that is physically separated from the Grade A portion of such plant, is operated separately and is not approved by any health authority for the receiving, processing, or packaging of any fluid milk product for Grade A disposition.

§ 1049.8 Nonpool plant.

"Nonpool plant" means any milk or filled milk receiving, manufacturing, or processing plant other than a pool plant. The following categories of nonpool plants are further defined as follows:

(a) "Other order plant" means a plant that is fully subject to the pricing and pooling provisions of another order issued pursuant to the Act.

(b) "Producer-handler plant" means a plant operated by a producer-handler as defined in any order (including this part) issued pursuant to the Act.

(c) "Partially regulated distributing plant" means a nonpool plant that is neither an other order plant nor a producer-handler plant, from which there is route disposition in consumer-type packages or dispenser units in the marketing area during the month.

(d) "Unregulated supply plant" means a nonpool supply plant that is not an other order plant or a producer-handler plant, from which fluid milk products are shipped during the month to a pool plant.

§ 1049.9 Handler.

"Handler" means:

- (a) Any person in his capacity as the operator of a pool plant;
- (b) Any cooperative association with respect to producer milk diverted for the account of such association pursuant to § 1049.13;
- (c) [Reserved]
- (d) Any person who operates a partially regulated distributing plant;
- (e) A producer-handler; or
- (f) Any person who operates another order plant described in § 1049.7(c).

§ 1049.10 Producer-handler.

"Producer-handler" means a person who operates a dairy farm and a distributing plant and who receives no fluid milk products from other dairy farmers or from sources other than pool plants, and no milk products other than fluid milk products for reconstitution into fluid milk products: *Provided*, That such person provides proof satisfactory to the market administrator that the care and management of all dairy animals and other resources used in his own farm production and the operation of the processing and distributing business are at the personal enterprise and risk of such person.

§ 1049.11 [Reserved]

§ 1049.12 Producer.

"Producer" means any person, other than a producer-handler as defined in any order (including this part) issued pursuant to the Act, who in compliance with Grade A inspection requirements of a duly constituted health authority, produces milk for distribution as fluid milk products within the marketing area or produces milk acceptable for fluid consumption at Federal, State, or municipal institutions, which milk is received at a pool plant or is diverted pursuant to § 1049.13. "Producer" shall not include any person with respect to milk which is fully subject to the class pricing and producer payment provisions of another order issued pursuant to the Act.

§ 1049.13 Producer milk.

"Producer milk" means all skim milk and butterfat contained in milk of any producer, other than milk received at a pool plant by diversion from a plant at which such milk would be fully subject to pricing and pooling under the terms and provisions of another order issued pursuant to the Act, which is:

(a) Received at one or more pool plants during the month (milk may be diverted during the month by a handler from a pool distributing plant to another pool plant(s) for not more days of production of producer milk than is physically received at the diverting pool plant).

(b) Received at a pool plant at least one day during the month and then diverted by the operator of a pool plant or by a cooperative association to a nonpool plant during the month under any of the following conditions:

(1) During April through August the operator of a pool plant or a cooperative

association may divert the milk production of a producer from a pool plant to a nonpool plant (other than that of a producer-handler) on any number of days during the month.

(2) During September through March the milk of a producer diverted by the operator of a pool plant or a cooperative association to a nonpool plant (other than that of a producer-handler) shall be limited to the amounts specified in subdivisions (i) and (ii) of this subparagraph:

(i) The operator of a pool plant may divert the milk of producers (except producer members of a cooperative association which is diverting milk under the percentage limit of subdivision (ii) of this subparagraph) for not more days of production of producer milk than is physically received at the diverting pool plant or he may divert an aggregate quantity not exceeding 40 percent of the milk of all such producers.

(ii) A cooperative association may divert the milk of its individual member producers for not more days of production of producer milk than is physically received at a pool plant or it may divert an aggregate quantity of the milk of member producers not exceeding 40 percent of all such milk either caused to be delivered to pool plants or diverted to nonpool plants by the cooperative association.

(3) When milk is diverted in excess of the limit by a handler who elects to divert on the basis of days-of-production, only that milk of the individual producer which was received at a pool plant or which was diverted to a nonpool plant for not more days of production than is physically received at a pool plant shall be considered producer milk.

(4) When milk is diverted to a nonpool plant in excess of the percentage limit by a handler who elects to divert on a percentage basis, eligibility as producer milk shall be forfeited on a quantity of milk equal to such excess. In such instances the diverting handler shall specify the dairy farmers whose milk is ineligible as producer milk. If the handler fails to designate such dairy farmers whose milk is ineligible, producer milk status shall be forfeited with respect to all milk diverted to nonpool plants by such handler.

(5) If, notwithstanding the provisions of this paragraph, diverted milk is fully subject to the pricing and pooling provisions of another Federal order, it shall not be producer milk under this order.

(c) Diverted milk shall be deemed to be received by the handler at the pool plant or nonpool plant to which the milk is diverted, unless diverted to a plant located in any part of the marketing area or to a plant at which no location adjustment would apply pursuant to § 1049.52, in which case such diverted milk shall be deemed to be received at the pool plant from which diverted.

§ 1049.14 Other source milk.

"Other source milk" means all skim milk and butterfat contained in or represented by:

(a) Receipts during the month of fluid milk products, except: (1) Fluid milk products received from pool plants either by transfer or diversion, (2) producer milk (including own farm production), or (3) inventory of fluid milk products on hand at the beginning of the month;

(b) Products, other than fluid milk products, from any source (including those produced at the plant) which are reprocessed or converted into or combined with another product in the plant during the month; and

(c) Any disappearance of nonfluid milk products not otherwise accounted for.

§ 1049.15 Fluid milk product.

"Fluid milk product" means milk, skim milk, filled milk, buttermilk, milk drinks (plain or flavored), "fortified" products, "dietary" milk products, concentrated milk or skim milk, reconstituted milk, skim milk, or milk drinks (plain or flavored), and cream or any mixture in fluid form of cream, milk or skim milk (except eggnog, yogurt, milk shake mix, frozen dessert mix, sour cream, aerated cream products, evaporated and plain or sweetened condensed milk or skim milk, and sterilized products packaged in hermetically sealed metal or glass containers). This definition shall not include a product which contains 6 percent or more nonmilk fat (or oil).

§ 1049.16 [Reserved]

§ 1049.17 Filled milk.

"Filled milk" means any combination of nonmilk fat (or oil) with skim milk (whether fresh, cultured, reconstituted or modified by the addition of nonfat milk solids), with or without milkfat, so that the product (including stabilizers, emulsifiers or flavoring) resembles milk or any other fluid milk product; and contains less than 6 percent nonmilk fat (or oil).

§ 1049.18 Cooperative association.

"Cooperative association" means any cooperative marketing association of producers which the Secretary determines, after application by the association:

(a) To be qualified under the provisions of the Act of Congress of February 18, 1922, as amended, known as the "Capper-Volstead Act";

(b) To have full authority in the sale of milk of its members and is engaged in making collective sales of or marketing milk or milk products for its members; and

(c) To have all of its activities under the control of its members.

HANDLER REPORTS

§ 1049.30 Reports of receipts and utilization.

On or before the eighth day after the end of each month, each handler for each of his pool plants and a cooperative association with respect to milk for which it is the handler shall report to the market administrator for such month, in the

detail and on forms prescribed by the market administrator as follows:

(a) The quantities of skim milk and butterfat contained in:

(1) Receipts of producer milk (including own farm production);

(2) Fluid milk products received by transfer or diversion from pool plants;

(3) Other source milk;

(4) A separate report of producer milk diverted pursuant to § 1049.13: *Provided*, That on or before the day prior to diverting producer milk pursuant to § 1049.13 each handler shall notify the market administrator of his intention to divert such milk, the date or dates of such diversion, and the plant to which such milk is to be diverted; and

(5) Inventories of fluid milk products on hand at the beginning and end of the month;

(b) The utilization of all skim milk and butterfat required to be reported pursuant to this section, including separate statements of route disposition, except filled milk, and filled milk inside the marketing area; and

(c) Such other information with respect to receipts and utilization of skim milk and butterfat as the market administrator may prescribe.

§ 1049.31 Payroll reports.

(a) On or before the 20th day after the end of each month, each handler, except a producer-handler and a handler in his capacity as the operator of a plant specified in § 1049.7(c) (2), (3), or (4), shall report to the market administrator in the detail and on forms prescribed by the market administrator, his producer payroll for that month which shall show for each producer:

(1) His name and address;

(2) The total pounds of milk received from such producer and the number of days, if less than the entire month, on which milk was received from such producer;

(3) The average butterfat content of such milk; and

(4) The net amount of such handlers payment, together with the price paid and the amount and nature of any deductions;

(b) Each handler, except one who elects to make payments pursuant to § 1049.76(a), operating a partially regulated distributing plant shall report to the market administrator on or before the 20th day after the end of the month for each dairy farmer from whom milk was received the same information as required from handlers operating pool plants pursuant to paragraph (a) of this section.

§ 1049.32 Other reports.

(a) Each producer-handler shall make reports to the market administrator at such time and in such manner as the market administrator shall request.

(b) Each handler specified in § 1049.9 (d) who operates a partially regulated distributing plant shall report as required of handlers operating pool plants pursuant to § 1049.30, except that receipts in Grade A milk shall be reported in lieu of those in producer milk. Such report shall include a separate statement showing

the quantity of route disposition of reconstituted skim milk in fluid milk products in the marketing area.

(c) Each handler operating a plant described in § 1049.7(c) (2), (3), or (4) shall, with respect to total receipts and utilization or disposition of skim milk and butterfat at such plant, report to the market administrator at such time and in such manner as the market administrator may require and allow verification of such reports by the market administrator.

CLASSIFICATION OF MILK

§ 1049.40 Classes of utilization.

Subject to the conditions set forth in §§ 1049.41 through 1049.44, the skim milk and butterfat required to be reported pursuant to § 1049.30 shall be classified as follows:

(a) *Class I milk.* Class I milk shall be all skim milk and butterfat:

(1) Disposed of from the plant in the form of fluid milk products, other than those classified pursuant to paragraph (b) (2), (3), (4), and (5), of this section, except that fluid milk products which have been fortified by the addition of milk solids shall be Class I only up to the weight of an equal volume of an unmodified fluid milk product of the same nature and butterfat content; and

(2) Not specifically accounted for as Class II milk;

(b) *Class II milk.* Class II milk shall be:

(1) Skim milk and butterfat used to produce any product other than a fluid milk product;

(2) Skim milk and butterfat contained in fluid milk products disposed of for livestock feed or in products which are dumped, if the market administrator has been notified in advance and afforded the opportunity to verify such dumping;

(3) Skim milk and butterfat in fluid milk products delivered in bulk to and used at commercial food establishments devoted exclusively to the manufacture of bakery products, candy, or processed foods packaged in hermetically sealed glass or metal containers;

(4) Skim milk contained in that portion of fortified fluid milk products not classified as Class I milk pursuant to paragraph (a) (1) of this section;

(5) Skim milk and butterfat contained in inventory of fluid milk products on hand at the end of the month; and

(6) Contained in shrinkage of skim milk and butterfat, respectively, prorated pursuant to § 1049.41(b) (2) and (3) for each pool plant, not to exceed the quantities calculated pursuant to subdivisions (i) through (vi) of this subparagraph:

(i) Two percent of receipts of skim milk and butterfat physically received direct from producers and milk received in bulk by diversion from another pool plant pursuant to § 1049.13;

(ii) Plus 1.5 percent of milk or skim milk received by transfer from other pool plants in bulk;

(iii) Plus 1.5 percent of receipts of milk or skim milk in bulk from an other

order plant, exclusive of the quantity for which Class II utilization was requested by the operator of such plant and the handler;

(iv) Plus 1.5 percent of receipts of milk or skim milk in bulk from unregulated supply plant, exclusive of the quantity for which Class II utilization was requested by the handler;

(v) Less 1.5 percent of bulk transfers of milk or skim milk to a pool plant of another handler; and

(vi) Less 1.5 percent of bulk transfers of milk or skim milk to nonpool plants.

(7) In shrinkage of skim milk and butterfat, respectively, assigned pursuant to § 1049.41(b) (1).

§ 1049.41 Shrinkage.

The market administrator shall assign shrinkage to each handler's receipts at each pool plant as follows:

(a) Compute the total shrinkage of skim milk and butterfat; and

(b) Prorate the resulting amounts among (1) skim milk and butterfat in other source milk received in bulk fluid form, exclusive of that specified in § 1049.40(b) (6) (ii), (iii), and (iv); (2) skim milk and butterfat in producer milk (excluding milk diverted to other plants pursuant to § 1049.13); and (3) skim milk and butterfat in bulk receipts of milk and skim milk including diversions or transfers from other pool plants, from other order plants and unregulated supply plants, exclusive of the quantities received from other order plants and unregulated supply plants for which Class II utilization was requested by the handlers, in excess of transfers of bulk milk or skim milk to other plants.

§ 1049.42 Classification of transfers and diversions.

Skim milk or butterfat in the form of a fluid milk product shall be classified:

(a) At the utilization indicated by the operators of both plants, otherwise as Class I milk, if transferred or diverted to another pool plant subject in either event to the following conditions:

(1) The skim milk or butterfat so assigned to either class shall be limited to the amount thereof remaining in such class in the transferee plant after computations pursuant to § 1049.44(a) (8) and the corresponding step of § 1049.44(b);

(2) If the transferor plant received during the month other source milk to be allocated pursuant to § 1049.44(a) (3), the skim milk and butterfat so transferred or diverted shall be classified so as to allocate the least possible Class I utilization to such other source milk; and

(3) If the transferor handler received during the month other source milk to be allocated pursuant to § 1049.44(a) (7) or (8) and the corresponding steps of § 1049.44(b), the skim milk and butterfat so transferred up to the total of such receipts shall not be classified as Class I milk to a greater extent than would be applicable to a like quantity of such other source milk received at the transferee plant.

(b) As Class I milk, if moved from a pool plant to a producer-handler.

(c) As Class I milk, if transferred or diverted in bulk to a nonpool plant that is neither an other order plant nor a producer-handler plant, unless the requirements of subparagraphs (1) and (2) of this paragraph are met, in which case the skim milk and butterfat so transferred or diverted shall be classified in accordance with the assignment resulting from subparagraph (3) of this paragraph:

(1) The transferring or diverting handler claims classification pursuant to the assignment set forth in subparagraph (3) of this paragraph in his report submitted to the market administrator pursuant to § 1049.30 for the month within which such transaction occurred;

(2) The operator of such nonpool plant maintains books and records showing the utilization of all skim milk and butterfat received at such plant which are made available if requested by the market administrator for the purpose of verification; and

(3) The skim milk and butterfat so transferred shall be classified on the basis of the following assignment of utilization at such nonpool plant in excess of receipts of packaged fluid milk products from all pool plants and other order plants:

(i) Any route disposition in the marketing area shall be first assigned to the skim milk and butterfat in the fluid milk products so transferred or diverted from pool plants, next pro rata to receipts from other order plants and thereafter to receipts from dairy farmers who the market administrator determines constitute regular sources of supply of Grade A milk for such nonpool plant;

(ii) Any route disposition in the marketing area of another order issued pursuant to the Act shall be first assigned to receipts from plants fully regulated by such order, next pro rata to receipts from pool plants and other order plants not regulated by such order, and thereafter to receipts from dairy farmers who the market administrator determines constitute regular sources of supply for such nonpool plant;

(iii) Class I utilization in excess of that assigned pursuant to subdivisions (i) and (ii) of this subparagraph shall be assigned first to remaining receipts from dairy farmers who the market administrator determines constitute the regular source of supply for such nonpool plant and Class I utilization in excess of such receipts shall be assigned pro rata to unassigned receipts at such nonpool plant from all pool and other order plants; and

(iv) To the extent that Class I utilization is not so assigned to it, the skim milk and butterfat so transferred shall be classified as Class II milk.

(d) As follows, if transferred or diverted to an other order plant in excess of receipts from such plant in the same category as described in subparagraph (1), (2), or (3) of this paragraph:

(1) If transferred in packaged form, classification shall be in the classes to

which allocated as a fluid milk product under the other order;

(2) If transferred in bulk form, classification shall be in the classes to which allocated as a fluid milk product under the other order (including allocation under the conditions set forth in subparagraph (3) of this paragraph);

(3) If the operators of both the transferor and transferee plants so request in the reports of receipts and utilization filed with their respective market administrators, transfers in bulk form shall be classified at Class II to the extent of the Class II utilization (or comparable utilization under such other order) available for such assignment pursuant to the allocation provisions of the transferee order;

(4) If information concerning the classification to which allocated under the other order is not available to the market administrator for purposes of establishing classification pursuant to this paragraph, classification shall be as Class I, subject to adjustment when such information is available;

(5) For purposes of this paragraph, if the transferee order provides for more than two classes of utilization, skim milk and butterfat allocated to a class consisting primarily of fluid milk products shall be classified as Class I, and skim milk and butterfat allocated to other classes shall be classified as Class II; and

(6) If the form in which any fluid milk product is transferred to an other order plant is not defined as a fluid milk product under such other order, classification shall be in accordance with the provisions of § 1049.40.

§ 1049.43 General classification rules.

In determining the classification of producer milk pursuant to § 1049.44, the following rules shall apply:

(a) Each month the market administrator shall correct for mathematical and other obvious errors, the reports submitted by each handler pursuant to this part and compute the total pounds of skim milk and butterfat, respectively, in each class at each of the plants of such handler.

(b) If any of the water contained in the milk from which a product is made, is removed before the product is utilized or disposed of by the handler, the pounds of skim milk used or disposed of in such product shall be considered to be an amount equivalent to the nonfat milk solids contained in such product plus all the water originally associated with the milk solids.

§ 1049.44 Classification of producer milk.

After making the computations pursuant to § 1049.43, the market administrator shall determine the classification of producer milk received at each pool plant each month as follows:

(a) Skim milk shall be allocated in the following manner:

(1) Subtract from the total pounds of skim milk in Class II the pounds of skim milk classified as Class II pursuant to § 1049.40(b)(6);

(2) Subtract from the remaining pounds of skim milk in each class the pounds of skim milk in fluid milk products received in packaged form from other order plants, except that to be subtracted pursuant to subparagraph (3)(v) of this paragraph, as follows:

(i) From Class II milk, the lesser of the pounds remaining or 2 percent of such receipts; and

(ii) From Class I milk, the remainder of such receipts;

(3) Subtract in the order specified below from the pounds of skim milk remaining in each class, in series beginning with Class II, the pounds of skim milk in each of the following:

(i) Other source milk in a form other than that of a fluid milk product;

(ii) Receipts of fluid milk products (except filled milk) for which Grade A certification is not established, and receipts of fluid milk products from unidentified sources;

(iii) Receipts of fluid milk products from a producer-handler, as defined under this or any other Federal order;

(iv) Receipts of reconstituted skim milk in filled milk from unregulated supply plants; and

(v) Receipts of reconstituted skim milk in filled milk from other order plants which are regulated under an order providing for individual handler pooling, to the extent that reconstituted skim milk is allocated to Class I at the transferor plant;

(4) Subtract, in the order specified below, from the pounds of skim milk remaining in Class II:

(i) The pounds of skim milk in receipts of fluid milk products from unregulated supply plants, that were not subtracted pursuant to subparagraph (3)(iv) of this paragraph, for which the handler requests Class II utilization, but not in excess of the pounds of skim milk remaining in Class II;

(ii) The pounds of skim milk remaining in receipts of fluid milk products from unregulated supply plants, that were not subtracted pursuant to subparagraph (3)(iv) of this paragraph, which are in excess of the pounds of skim milk determined as follows:

(a) Multiply the pounds of skim milk remaining in Class I milk (excluding Class I transfers between pool plants of the handler) at all pool plants of the handler by 1.25;

(b) Subtract from the result the sum of the pounds of skim milk at all such plants in producer milk, in receipts from other pool handlers and in receipts in bulk from other order plants, that were not subtracted pursuant to subparagraph (3)(v) of this paragraph; and

(c) (1) Multiply any resulting plus quantity by the percentage that receipts of skim milk in fluid milk products from unregulated supply plants remaining at this plant is of all such receipts remaining at all pool plants of such handler, after any deductions pursuant to subdivision (i) of this subparagraph.

(2) Should such computation result in a quantity to be subtracted from Class II which is in excess of the pounds of skim

milk remaining in Class II, the pounds of skim milk in Class II shall be increased to the quantity to be subtracted and the pounds of skim milk in Class I shall be decreased a like amount. In such case the utilization of skim milk at other pool plant(s) of such handler shall be adjusted in the reverse direction by an identical amount in sequence beginning with the nearest other pool plant of such handler at which such adjustment can be made.

(iii) The pounds of skim milk in receipts of fluid milk products in bulk from an other order plant, that were not subtracted pursuant to subparagraph (3)(v) of this paragraph, in excess of similar transfer to such plant, but not in excess of the pounds of skim milk remaining in Class II milk if Class II utilization was requested by the operator of such plant and the handler;

(5) Subtract from the pounds of skim milk remaining in each class, in series beginning with Class II, the pounds of skim milk in inventory of fluid milk products on hand at the beginning of the month;

(6) Add to the remaining pounds of skim milk in Class II milk the pounds subtracted pursuant to subparagraph (1) of this paragraph;

(7) (i) Subtract from the pounds of skim milk remaining in each class, pro rata to the total pounds of skim milk remaining in each class in all pool plants of the receiving handler, the pounds of skim milk, in receipts of fluid milk products from unregulated supply plants that were not subtracted pursuant to subparagraphs (3)(iv) and (4)(i) or (ii) of this paragraph;

(ii) Should such proration result in the amount to be subtracted from any class exceeding the pounds of skim milk remaining in such class in the pool plant at which such skim milk was received, the pounds of skim milk in such class shall be increased to the amount to be subtracted and the pounds of skim milk in the other class shall be decreased a like amount. In such case the utilization of skim milk at other pool plant(s) of such handler shall be adjusted in the reverse direction by an identical amount in sequence beginning with the nearest other pool plant of such handler at which such adjustment can be made;

(8) Subtract from the pounds of skim milk remaining in each class the pounds of skim milk in receipts of fluid milk products in bulk from another order plant, in excess in each case of similar transfers to the same plant, that were not subtracted pursuant to subparagraphs, (3)(v) and (4)(iii) of this paragraph pursuant to the following procedure:

(i) Subject to the provisions of subdivisions (ii) and (iii) of this subparagraph, such subtraction shall be pro rata to whichever of the following represents the higher proportion of Class II milk;

(a) The estimated utilization of skim milk in each class, by all handlers, as announced for the month pursuant to § 1049.45(a); or

(b) The pounds of skim milk in each class remaining at all pool plants of the handler;

(ii) Should proration pursuant to subdivision (i) of this subparagraph result in the total pounds of skim milk to be subtracted from Class II at all pool plants of the handler exceeding the pounds of skim milk remaining in Class II at such plants, the pounds of such excess shall be subtracted from the pounds of skim milk remaining in Class I after such proration at the pool plants at which received;

(iii) Except as provided in subdivision (ii) of this subparagraph, should proration pursuant to either subdivision (i) or (ii) of this subparagraph result in the amount to be subtracted from either class exceeding the pounds of skim milk remaining in such class in the pool plant at which such skim milk was received, the pounds of skim milk in such class shall be increased to the amount to be subtracted and the pounds of skim milk in the other class shall be decreased a like amount. In such case the utilization of skim milk at other pool plant(s) of such handler shall be adjusted in the reverse direction by an identical amount in sequence beginning with the nearest other pool plant of such handler at which such adjustment can be made;

(9) Subtract from the pounds of skim milk remaining in each class the pounds of skim milk received in fluid milk products from pool plants of other handlers according to the classification assigned pursuant to § 1049.42(a); and

(10) If the pounds of skim milk remaining in both classes exceed the pounds of skim milk in producer milk, subtract such excess from the pounds of skim milk remaining in each class in series beginning with Class II. Any amount so subtracted shall be known as "overage";

(b) Butterfat shall be allocated in accordance with the procedure outlined for skim milk in paragraph (a) of this section; and

(c) Combine the amounts of skim milk and butterfat determined pursuant to paragraphs (a) and (b) of this section into one total for each class and determine the weighted average butterfat content of producer milk in each class.

§ 1049.45 Market administrator's reports and announcements concerning classification.

The market administrator shall make the following reports and announcements concerning classification.

(a) Whenever required for purpose of allocating receipts from other order plants pursuant to § 1049.44(a)(8) and the corresponding step of § 1049.44(b) the market administrator shall estimate and publicly announce the utilization (to the nearest whole percentage) in each class during the month of skim milk and butterfat, respectively, in producer milk of all handlers. Such estimate shall be based upon the most current available data and shall be final for such purpose;

(b) Report to the market administrator of the other order as soon as possible

after the report of receipts and utilization for the month is received from a handler who has received fluid milk products from an other order plant, the classification to which such receipts are allocated pursuant to § 1049.44 pursuant to such report, and thereafter any change in such allocation required to correct errors disclosed in verification of such report;

(c) Furnish to each handler operating a pool plant who has shipped fluid milk products to an other order plant, the classification to which the skim milk and butterfat in such fluid milk products were allocated to the market administrator of the other order on the basis of the report of the receiving handler; and, as necessary, any changes in such classification arising in the verification of such report; and

(d) On or before the 14th day after the end of each month, report to each cooperative association, upon request by such association, the percentage of the milk caused to be delivered by the cooperative association or its members which was utilized in each class at each pool plant receiving such milk. For the purpose of this report, the milk so received shall be allocated to each class at each pool plant in the same ratio as all producer milk received at such plant during the month.

CLASS PRICES

§ 1049.50 Class prices.

Subject to the provisions of §§ 1049.52 and 1049.55, the class prices for the month per hundredweight of milk containing 3.5-percent butterfat shall be as follows:

(a) *Class I price.* The Class I price shall be the basic formula price for the second preceding month plus \$1.47.

(b) *Class II price.* The Class II price shall be the basic formula price computed pursuant to § 1049.51, but not to exceed an amount computed as follows:

(1) Multiply by 4.2 the simple average of the wholesale selling prices (using the midpoint of any price range as one price) of Grade A (92-score) bulk butter per pound at Chicago, as reported by the Department for the month;

(2) Multiply by 8.2 the weighted average of carlot prices per pound of spray process nonfat dry milk for human consumption, f.o.b. manufacturing plants in the Chicago area, as published for the period from the 26th day of the preceding month through the 25th day of the current month by the Department; and

(3) From the sum of the results arrived at under subparagraphs (1) and (2) of this paragraph subtract 48 cents, and round to the nearest cent.

§ 1049.51 Basic formula price.

The "basic formula price" shall be the average price per hundredweight for manufacturing grade milk, f.o.b. plants in Minnesota and Wisconsin, as reported by the Department for the month, adjusted to a 3.5 percent butterfat basis and rounded to the nearest cent. For such adjustment, the butterfat differential (rounded to the nearest one-tenth cent) per one-tenth percent butterfat shall be

0.12 times the simple average of the wholesale selling prices (using the midpoint of any price range as one price) of Grade A (92-score) bulk butter per pound at Chicago, as reported by the Department for the month. For the purpose of computing the Class I price, the resulting price shall be not less than \$4.33.

§ 1049.52 Plant location adjustments for handlers.

(a) For producer milk which is received at a pool plant located outside the area for which zero location adjustment is specified in subparagraph (1) (i) of this paragraph, which milk is classified as Class I milk or assigned Class I location adjustment credit pursuant to paragraph (b) of this section, and for other source milk for which a location adjustment is applicable, the price computed pursuant to § 1049.50(a) shall be reduced on the basis of the applicable amount or rate for the location of such plant pursuant to subparagraph (1) or (2) of this paragraph, respectively. For the purpose of this section and § 1049.75, the distances to be computed shall be on the basis of the shortest hard-surfaced highway distances as determined by the market administrator:

(1) At any plant located within:

Rate of adjustment
per hundredweight
(cents)

- | | |
|---|----|
| (i) The State of Ohio or any Indiana county not specifically named in subdivision (ii) through (iv) of this subparagraph..... | 0 |
| (ii) Any of the Indiana counties of: Adams, Allen, Blackford, Cass, Carroll, De Kalb, Huntington, Jay, La Grange, Miami, Noble, Steuben, Wabash, Wells, White, Whitley..... | 4 |
| (iii) Any of the Indiana counties of: Benton, Elkhart, Fulton, Jasper, Kosciusko, Marshall, Newton, Pulaski, St. Joseph, and Berrien and Cass Counties, Mich..... | 8 |
| (iv) Any of the Indiana counties of: Lake, La Porte, Porter, Starke..... | 12 |

(2) For any plant at a location outside the territory specified in the preceding subparagraph (1) of this paragraph, the applicable adjustment rate per hundredweight shall be based on the shortest highway distance between the plant and the nearest of the Monument Circle, Indianapolis, Ind., or the main post offices of Fort Wayne, South Bend, or Valparaiso, Ind., and shall be 1.5 cents for each 10 miles or fraction thereof from such point plus the amount of the location adjustment pursuant to subparagraph (1) of this paragraph applicable at the respective point.

(b) For the purpose of calculating adjustments pursuant to this section, transfers between pool plants shall be assigned Class I disposition at the transferee plant, in excess of the receipts at such plant from producers and the volume assigned as Class I to receipts from other order plants and unregulated supply plants, such assignment to be made first to transferor plants at which no location adjustment is applicable and then in sequence beginning with the plant at which the least location adjustment would apply.

§ 1049.53 Equivalent price.

If for any reason a price quotation or factor required by this part for computing class prices or for other purposes is not available in the manner described, the market administrator shall use a price or factor determined by the Secretary to be equivalent to the price or factor which is required.

§ 1049.54 Handler butterfat differentials.

For milk containing more or less than 3.5 percent butterfat, class prices for the month pursuant to § 1049.50 shall be increased or decreased, respectively, for each one-tenth percent butterfat variation at the appropriate rate, rounded to the nearest one-tenth cent, determined as follows:

(a) *Class I price.* Multiply the Chicago butter price described in § 1049.51 for the preceding month by 0.120.

(b) *Class II price.* Multiply the Chicago butter price described in § 1049.51 for the month by 0.113.

§ 1049.55 Announcement of class prices and handler butterfat differentials.

On or before the fifth day of each month, the market administrator shall announce publicly:

(a) The Class I price for the following month;

(b) The Class I butterfat differential for the current month; and

(c) The Class II price and Class II butterfat differential, both for the preceding month.

UNIFORM PRICE.

§ 1049.60 Handler's value of milk for computing uniform price.

The net pool obligation of each pool handler during each month shall be a sum of money computed by the market administrator as follows:

(a) Multiply the quantity of producer milk in each class, as computed pursuant to § 1049.44(c), by the applicable class prices (adjusted pursuant to §§ 1049.52 and 1049.55);

(b) Add the amount obtained from multiplying the pounds of overage deducted from each class pursuant to § 1049.44(a)(10) and the corresponding step of § 1049.44(b) by the applicable class prices;

(c) Add the amount obtained from multiplying the difference between the Class II price for the preceding month and the Class I price for the current month by the hundredweight of skim milk and butterfat subtracted from Class I pursuant to § 1049.44(a)(5) and the corresponding step of § 1049.44(b);

(d) Add an amount equal to the difference between the value at the Class I price applicable at the pool plant and the value at the Class II price with respect to skim milk and butterfat in other source milk subtracted from Class I pursuant to § 1049.44(a)(3) and the corresponding step of § 1049.44(b), except that for receipts of fluid milk products assigned to Class I pursuant to § 1049.44(a)(3) (iv) and (v) and the corresponding step of § 1049.44(b) the Class I price

shall be adjusted to the location of the transferor plant; and

(e) Add an amount equal to the value at the Class I price, adjusted for location of the nearest nonpool plant(s) from which an equivalent volume was received, with respect to skim milk and butterfat subtracted from Class I pursuant to § 1049.44(a)(7) and the corresponding step of § 1049.44(b).

§ 1049.61 Computation of uniform price (including weighted average price).

For each month the market administrator shall compute a "uniform price" as follows:

(a) Combine into one total the values computed pursuant to § 1049.60 for all handlers who filed the reports prescribed by § 1049.30 for the month and who made the payments pursuant to § 1049.71 (a) for the preceding month;

(b) Add an amount equal to the total value of the location adjustments computed pursuant to § 1049.75;

(c) Subtract, if the average butterfat content of the milk specified in paragraph (f) of this section is more than 3.5 percent, or add, if such butterfat content is less than 3.5 percent an amount computed by multiplying the amount by which the average butterfat content of such milk varies from 3.5 percent by the butterfat differential computed pursuant to § 1049.74 and multiplying the result by the total hundredweight of such milk;

(d) Subtract an amount computed by multiplying the total hundredweight of producer milk included pursuant to paragraph (a) of this section by 5 cents;

(e) Add an amount equal to one-half of the unobligated balance in the producer-settlement fund;

(f) Divide the resulting amount by the sum of the following for all handlers included in these computations:

(1) The total hundredweight of producer milk; and

(2) The total hundredweight for which a value is computed pursuant to § 1049.60(e);

(g) Subtract not less than 4 cents nor more than 5 cents per hundredweight. The result shall be the "weighted average price" per hundredweight of milk. For the months of January, February, March, and August, such result also shall be the uniform price per hundredweight of milk of 3.5 percent butterfat content that is received from producers;

(h) For the months of April through July and September through December, subtract from the amount resulting from the computations pursuant to paragraphs (a) through (e) of this section the amount obtained from multiplying the hundredweight of milk specified in paragraph (f)(2) of this section by the weighted average price;

(i) For the months of April through July, subtract the amount obtained from multiplying the hundredweight of producer milk specified in paragraph (f)(1) of this section by 20 cents. The amount so subtracted, and interest subsequently earned thereon (less any money not available for crediting under this paragraph because of insufficient payment by

a handler to the producer-settlement fund) shall be credited to the producer-settlement fund and remain as an obligated amount until disbursed pursuant to paragraph (j) of this section;

(j) For the month of September add one-fourth of the total money that has been credited to the producer-settlement fund pursuant to paragraph (i) of this section as of the eighth day of the following month. Similarly, for the months of October and November, add one-third and one-half, respectively, of the remainder that has been so credited. For the month of December, add the remainder of the money credited to the producer-settlement fund pursuant to paragraph (i) of this section;

(k) Divide the resulting sum by the total hundredweight of producer milk included in these computations; and

(l) Subtract not less than 4 cents nor more than 5 cents per hundredweight. The result shall be the "uniform price" for milk received from producers.

§ 1049.62 Announcement of uniform price and producer butterfat differential.

The market administrator shall publicly announce on or before the 14th day of each month:

(a) The uniform price for the preceding month; and

(b) The producer butterfat differential for the preceding month.

PAYMENTS FOR MILK

§ 1049.70 Producer-settlement fund.

The market administrator shall maintain a separate fund, known as the "producer-settlement fund," which shall function as follows:

(a) All obligated amounts pursuant to § 1049.61(i) and all payments pursuant to §§ 1049.71, 1049.76, and 1049.78 shall be credited to this fund.

(b) Payments pursuant to §§ 1049.72 and 1049.78 shall be debited to this fund.

(c) Any amount due to a handler shall be offset against amounts due from such handler.

§ 1049.71 Payments to the producer-settlement fund.

(a) On or before the 15th day after the end of the month each handler shall pay to the market administrator the amount, if any, by which the total amounts specified in subparagraph (1) of this section exceed the amounts specified in subparagraph (2) of this section:

(1) The total of the net pool obligation computed pursuant to § 1049.60 for such handler; and

(2) The sum of—

(i) The value of such handler's producer milk at the applicable uniform prices specified in § 1049.73; and

(ii) The value at the weighted average price(s) applicable at the location of the plant(s) from which received plus 5 cents (not to be less than the value at the Class II price) with respect to other source milk for which a value is computed pursuant to § 1049.60(e).

(b) Each handler operating a plant specified in § 1049.7(c), if such plant is subject to the classification and pricing provisions of another order which provides for individual handler pooling, shall pay to the market administrator for the producer-settlement fund on or before the 25th day after the end of the month an amount computed as follows:

(1) Determine the quantity of route disposition of reconstituted skim milk in filled milk in the marketing area which was allocated to Class I at such other order plant. If route disposition of reconstituted skim milk in filled milk is made from such plant in marketing areas regulated by two or more market-wide pool orders, the reconstituted skim milk assigned to Class I shall be prorated according to such disposition in each area; and

(2) Compute the value of the quantity assigned in subparagraph (1) of this paragraph to Class I disposition in this area, at the Class I price under this part applicable at the location of the other order plant and subtract its value at the Class II price.

§ 1049.72 Payments from the producer-settlement fund.

On or before the 16th day after the end of each month the market administrator shall pay to each handler the amount, if any, by which the amount computed pursuant to § 1049.71(a)(2) exceeds the amount computed pursuant to § 1049.71(a)(1). Should the unobligated balance of the fund be insufficient to make all payments pursuant to this section such payments shall be reduced uniformly and completed on or before the next date for making such payments following the date on which funds become available.

§ 1049.73 Payments to producers and to cooperative associations.

(a) Each handler shall pay each producer for producer milk for which payment is not made to a cooperative association pursuant to paragraph (b) of this section, as follows:

(1) On or before the last day of each month, for producer milk received during the first 15 days of the month at not less than the Class II price for the preceding month; and

(2) On or before the 18th day after the end of each month, for each hundredweight of producer milk received during such month, an amount computed at not less than the uniform price adjusted pursuant to §§ 1049.74, 1049.75 and 1049.86, less any payment made pursuant to subparagraph (1) of this paragraph. If by such date the handler has not received full payment from the market administrator pursuant to § 1049.72 for such month, he may reduce pro rata his payments to producers by not more than the amount of such underpayment. Payment to producers shall be completed thereafter not later than the date for making payments pursuant to this paragraph next following receipt of the balance due from the market administrator.

(b) Each handler shall make payment to the cooperative association for producer milk which it caused to be delivered to such handler, if such cooperative association is authorized to collect such payments for its members and exercises such authority, an amount equal to the sum of the individual payments otherwise payable for such producer milk, as follows:

(1) On or before the 26th day of each month for producer milk received during the first 15 days of the month; and

(2) On or before the 16th day after the end of each month for milk received during such month.

(c) Each handler shall pay to each cooperative association, on or before the 10th day of the following month, for milk the handler receives during the month from a pool plant operated by such association, not less than the minimum prices for milk in each class, subject to the applicable location and butterfat differentials.

(d) In making payments for producer milk pursuant to this section, each handler shall furnish each producer or cooperative association from whom he has received milk a supporting statement in such form that it may be retained by the recipient which shall show:

(1) The month and identity of the producer;

(2) The daily and total pounds and the average butterfat content of producer milk;

(3) The minimum rate or rates at which payment to the producer is required pursuant to this order;

(4) The rate which is used in making the payment if such rate is other than the applicable minimum rate;

(5) The amount, or the rate per hundredweight, and nature of each deduction claimed by the handler; and

(6) The net amount of payment to such producer or cooperative association.

§ 1049.74 Producer butterfat differential.

The uniform price for producer milk shall be increased or decreased for each one-tenth of 1 percent that the butterfat content of such milk is above or below 3.5 percent, respectively, at the rate determined by multiplying the pounds of butterfat in producer milk allocated to Class I and Class II milk pursuant to § 1049.44 by the respective butterfat differential for each class, dividing the sum of such values by the total pounds of such butterfat and rounding the resultant figure to the nearest one-tenth cent.

§ 1049.75 Plant location adjustments to producers and on nonpool milk.

(a) The uniform price for producer milk received or which is deemed to have been received at a pool plant shall be reduced according to the location of the pool plant at the rates set forth in § 1049.52; and

(b) For purposes of computations pursuant to §§ 1049.71(a) and 1049.72, the weighted average price shall be adjusted

PROPOSED RULE MAKING

at the rates set forth in § 1049.52 applicable at the location of the nonpool plant from which the milk was received.

§ 1049.76 Payments by handler operating a partially regulated distributing plant.

Each handler who operates a partially regulated distributing plant shall pay to the market administrator for the producer-settlement fund on or before the 25th day after the end of the month either of the amounts (at the handler's election) calculated pursuant to paragraph (a) or (b) of this section. If the handler fails to report pursuant to §§ 1049.30 and 1049.32(b) the information necessary to compute the amount specified in paragraph (b) of this section, he shall pay the amount computed pursuant to paragraph (a) of this section:

(a) An amount computed as follows:

(1) Determine the respective route dispositions of skim milk and butterfat made as Class I milk (other than to pool plants) in the marketing area;

(2) Deduct the respective amounts of skim milk and butterfat received as Class I milk at the partially regulated distributing plant from pool plants and other order plants except that deducted under a similar provision of another order issued pursuant to the Act;

(3) Deduct the quantity of route disposition of reconstituted skim milk in fluid milk products made in the marketing area;

(4) Combine the amounts of skim milk and butterfat remaining into one total and determine the weighted average butterfat content; and

(5) From the value of such milk at the Class I price applicable at the location of the nonpool plant, subtract its value at the weighted average price applicable at such location plus 5 cents or the Class II price, whichever is greater, and add for the quantity of reconstituted skim milk specified in subparagraph (3) of this paragraph its value computed at the Class I price applicable at the location of the nonpool plant less the value of such skim milk at the Class II price;

(b) Except as a handler may elect the option pursuant to paragraph (a) of this section, an amount computed as follows:

(1) (i) The obligation that would have been computed pursuant to § 1049.60 at such plant shall be determined as though such plant were a pool plant. For purposes of such computation, receipts at such nonpool plant from a pool plant or an other order plant shall be assigned to the utilization at which classified at the pool plant or other order plant and transfers from such nonpool plant to a pool plant or an other order plant shall be classified as Class II milk if allocated to such class at the pool plant or other order plant and be valued at the weighted average price of the respective order if so allocated to Class I milk, except that reconstituted skim milk in filled milk shall be valued at the Class II price. There shall be included in the obligation so computed a charge in the amount specified in § 1049.60(e) and a credit in

the amount specified in § 1049.71(a) (2) (ii) with respect to receipts from an unregulated supply plant, except that the credit for receipts of reconstituted skim milk in filled milk shall be at the Class II price, unless an obligation with respect to such plant is computed as specified below in this subparagraph.

(ii) If the operator of the partially regulated distributing plant so requests, and provides with his reports pursuant to §§ 1049.30 and 1049.32(b) similar reports with respect to the operations of any other nonpool plant which serves as a supply plant for such partially regulated distributing plant by shipments to such plant during the month equivalent to the requirements of § 1049.7(b), with agreement of the operator of such plant that the market administrator may examine the books and records of such plant for purposes of verification of such reports, there will be added the amount of the obligation computed at such nonpool supply plant in the same manner and subject to the same conditions as for the partially regulated distributing plant.

(2) From this obligation there will be deducted the sum of (i) the gross payments made by such handler for Grade A milk received during the month from dairy farmers at such plant and like payments made by the operator of a plant(s) included in the computations pursuant to subparagraph (1) of this paragraph and (ii) any payments made for such month to the producer-settlement fund of another order issued pursuant to the Act due to the plant being a partially regulated distributing plant under such other order.

§ 1049.77 Adjustment of accounts.

Whenever verification by the market administrator of reports or payments of any handler discloses errors resulting in money due (a) the market administrator from such handler (b) such handler from the market administrator, or (c) any producer or cooperative association from such handler, the market administrator shall promptly notify such handler of any amount so due and payment thereof shall be made not later than the date for making payment next following such disclosure.

§ 1049.78 Charges on overdue accounts.

Any unpaid obligation of a handler pursuant to § 1049.71(a), 1049.76, 1049.77(a), 1049.78, 1049.85, or 1049.86(a) shall be increased three-fourths of 1 percent on the sixth day following the date such obligation is due and on the same day of each succeeding month until such obligation is paid.

ADMINISTRATIVE ASSESSMENT AND MARKETING SERVICE DEDUCTION

§ 1049.85 Assessment for order administration.

As his pro rata share of the expense of administration of the order, each handler shall pay to the market administrator on or before the 15th day after the end of the month 4 cents per hundredweight or such lesser amount as the Secretary may prescribe, with respect to:

(a) Producer milk, including such handler's own farm production;

(b) Other source milk at a pool plant allocated to Class I pursuant to §§ 1049.44(a) (3) and 1049.44(a) (7) and the corresponding steps of § 1049.44(b); and

(c) Route disposition in the marketing area from a partially regulated distributing plant that exceeds the hundredweight of Class I milk received during the month at such plant from pool plants and other order plants.

§ 1049.86 Deduction for marketing services.

(a) Except as set forth in paragraph (b) of this section, each handler in making payments to each producer pursuant to § 1049.73 shall deduct 5 cents per hundredweight or such lesser amount as the Secretary may prescribe with respect to producer milk received by such handler (except such handler's own farm production) during the month, and shall pay such deductions to the market administrator not later than the 15th day after the end of the month. Such money shall be used by the market administrator to verify or establish weights, samples, and tests of producer milk and to provide producers with market information. Such services shall be performed by the market administrator or by an agent engaged by and responsible to him.

(b) In the case of producers for whom a cooperative association is performing, as determined by the Secretary, the services set forth in paragraph (a) of this section, each handler shall make, in lieu of the deductions specified in paragraph (a) of this section, such deductions as are authorized by such producers and, on or before the 15th day after the end of each month, pay over such deductions to the association rendering such services.

ADVERTISING AND PROMOTION PROGRAM

§ 1049.110 Agency.

"Agency" means an agency organized by producers and producers' cooperative associations, in such form and with methods of operation specified in this part, which is authorized to expend funds made available pursuant to § 1049.121(b) (1), on approval by the Secretary, for the purposes of establishing or providing for establishment of research and development projects, advertising (excluding brand advertising), sales promotion, educational, and other programs, designed to improve or promote the domestic marketing and consumption of milk and its products. Members of the Agency shall serve without compensation but shall be reimbursed for reasonable expenses incurred in the performance of duties as members of the Agency.

§ 1049.111 Composition of the Agency.

Each cooperative association or combination of cooperative associations as provided for under § 1049.113(b) with 3 percent or more of the total participating producers (producers who have not requested refunds for the most recent quarter) is authorized one Agency representative plus one additional Agency representative for each addi-

tional full 10 percent of the participating member producers it represents. Cooperative associations with less than 3 percent of the total participating producers that have elected not to combine pursuant to § 1049.113(b), and participating producers who are not members of cooperatives are authorized to select from such group, in total, one Agency representative for the first full 3 percent plus one additional Agency representative for each additional full 10 percent that such producers constitute of the total participating producers. For the purpose of the Agency's initial organization, all persons defined as producers shall be considered as participating producers.

§ 1049.112 Term of office.

The term of office of each member of the Agency shall be 1 year, or until a replacement is designated by the cooperative association or is otherwise appropriately elected.

§ 1049.113 Selection of Agency members.

The selection of Agency members shall be made pursuant to paragraphs (a), (b), and (c) of this section. Each person selected shall qualify by filing with the market administrator a written acceptance promptly after being notified of such selection.

(a) Each cooperative association authorized one or more representatives to the Agency shall notify the market administrator of the name and address of each representative who shall serve at the pleasure of the cooperative.

(b) For purposes of this program, cooperative associations may elect to combine their participating memberships and, if the combined total of participating producers of such cooperatives is 3 percent or more of the total participating producers, such cooperatives shall be eligible to select a representative(s) to the Agency under the rules of § 1049.111 and paragraph (a) of this section.

(c) Selection of Agency members to represent participating nonmember producers and participating producer members of a cooperative association(s) having less than the required 3 percent of the producers participating in the advertising and promotion program and who have not elected to combine memberships as provided in paragraph (b) of this section, shall be supervised by the market administrator in the following manner:

(1) Promptly after the effective date of this amending order, and annually thereafter, the market administrator shall give notice to participating producer members of such cooperatives and participating nonmember producers of their opportunity to nominate one or more Agency representatives, as the case may be, and also shall specify the number of representatives to be selected.

(2) Following the closing date for nominations, the market administrator shall announce the nominees who are eligible for Agency membership and shall conduct a referendum among the individual producers eligible to vote.

Election to membership shall be determined on the basis of the nominee (or nominees) receiving the largest number of eligible votes. If an elected representative subsequently discontinues producer status or is otherwise unable to complete his term of office, the market administrator shall appoint as his replacement the participating producer who received the next highest number of eligible votes.

§ 1049.114 Agency operating procedure.

A majority of the Agency members shall constitute a quorum and any action of the Agency shall require a majority of concurring votes of those present and voting, unless the Agency determines that more than a simple majority shall be required.

§ 1049.115 Powers of the Agency.

The Agency is empowered to:

(a) Administer the terms and provisions within the scope of Agency authority pursuant to § 1049.110;

(b) Make rules and regulations to effectuate the purposes of Public Law 91-670;

(c) Recommend amendments to the Secretary; and

(d) With the approval of the Secretary, enter into contracts and agreements with persons or organizations as deemed necessary to carry out advertising and promotion programs and projects specified in §§ 1049.110 and 1049.117.

§ 1049.116 Duties of the Agency.

The Agency shall perform all duties necessary to carry out the terms and provisions of this program including, but not limited to, the following:

(a) Meet, organize, and select from among its members a chairman and such other officers and committees as may be necessary, and adopt and make public such rules as may be necessary for the conduct of its business;

(b) Develop programs and projects pursuant to §§ 1049.110 and 1049.117;

(c) Keep minutes, books, and records, and submit books and records for examination by the Secretary and furnish any information and reports requested by the Secretary;

(d) Prepare and submit to the Secretary for approval prior to each quarterly period a budget showing the projected amounts to be collected during the quarter and how such funds are to be disbursed by the Agency;

(e) When desirable, establish an advisory committee(s) of persons other than Agency members;

(f) Employ and fix the compensation of any person deemed to be necessary to its exercise of powers and performance of duties;

(g) Establish the rate of reimbursement to the members of the Agency for expenses in attending meetings, and pay the expenses of administering the Agency; and

(h) Provide for the bonding of all persons handling Agency funds in an amount and with surety thereon satisfactory to the Secretary.

§ 1049.117 Advertising, research, education, and promotion program.

The Agency shall develop and submit to the Secretary for approval all programs or projects undertaken under the authority of this part. Such programs or projects may provide for:

(a) The establishment, issuance, effectuation, and administration of appropriate programs or projects for the advertising and promotion of milk and milk products on a nonbrand basis;

(b) The utilization of the services of other organizations to carry out Agency programs and projects if the Agency finds that such activities will benefit producers under this part; and

(c) The establishment, support, and conduct of research and development projects and studies that the Agency finds will benefit all producers under this part.

§ 1049.118 Limitation of expenditures by the Agency.

(a) Not more than 5 percent of the funds received by the Agency pursuant to § 1049.121(b)(1) shall be utilized for administrative expense of the Agency.

(b) Agency funds shall not, in any manner, be used for political activity or for the purpose of influencing governmental policy or action, except in recommending to the Secretary amendments to the advertising and promotion program provisions of this part.

(c) Agency funds may not be expended to solicit producer participation.

(d) Agency funds may be used only for programs and projects promoting the domestic marketing and consumption of milk and its products.

§ 1049.119 Personal liability.

No member of the Agency shall be held personally responsible, either individually or jointly with others, in any way whatsoever to any person for errors in judgment, mistakes, or other acts, either of commission or omission, of such member in performance of his duties, except for acts of willful misconduct, gross negligence, or those which are criminal in nature.

§ 1049.120 Procedure for requesting refunds.

Any producer may apply for refund under the procedure set forth under paragraphs (a) through (c) of this section.

(a) Refund shall be accomplished only through application filed with the market administrator in the form prescribed by the market administrator and signed by the producer. Only that information necessary to identify the producer and the records relevant to the refund may be required of such producer.

(b) Except as provided in paragraph (c) of this section, the request shall be submitted within the first 15 days of December, March, June, or September for milk to be marketed during the ensuing calendar quarter beginning on the first day of January, April, July, and October, respectively.

(c) A dairy farmer who first acquires producer status under this part after the

15th day of December, March, June, or September, as the case may be, and prior to the start of the next refund notification period as specified in paragraph (b) of this section, may, upon application filed with the market administrator pursuant to paragraph (a) of this section, be eligible for refund on all marketings against which an assessment is withheld during such period and including the remainder of the calendar quarter involved. This paragraph also shall be applicable to all producers during the period following the effective date of this amending order to the beginning of the first full calendar quarter for which the opportunity exists for such producers to request refunds pursuant to paragraph (b) of this section.

§ 1049.121 Duties of the market administrator.

Except as specified in § 1049.116, the market administrator, in addition to other duties specified by this part, shall perform all the duties necessary to administer the terms and provisions of the advertising and promotion program including, but not limited to, the following:

(a) Within 30 days after the effective date of this amending order, and an-

nually thereafter, conduct a referendum to determine representation on the Agency pursuant to § 1049.113(c);

(b) Set aside the amounts subtracted under § 1049.61(d) into an advertising and promotion fund, separately accounted for, from which shall be disbursed:

(1) To the Agency each month, all such funds less any necessary amount held in reserve to cover refunds pursuant to subparagraphs (2) and (3) of this paragraph, and payments to cover expenses of the market administrator incurred in the administration of the advertising and promotion program (including audit).

(2) Refund to producers the amounts of mandatory checkoff for advertising and promotion programs required under authority of State law applicable to such producers, but not in amounts that exceed a rate of 5 cents per hundredweight on the volume of milk pooled by any such producer for which deductions were made pursuant to § 1049.61(d).

(3) After the end of each calendar quarter, make a refund to each producer who has made application for such refund pursuant to § 1049.120. Such refund shall be computed at the rate of 5 cents

per hundredweight of such producer's milk pooled for which deductions were made pursuant to § 1049.61(d) for such calendar quarter, less the amount of any refund otherwise made to be producer pursuant to subparagraph (2) of this paragraph.

(c) Promptly after the effective date of this amending order, and thereafter with respect to new producers, forward to each producer a copy of the provisions of the advertising and promotion program (§§ 1049.110 through 1049.122).

(d) Audit the Agency's records of receipts and disbursements.

§ 1049.122 Liquidation.

In the event that the provisions of this advertising and promotion program are terminated, any remaining uncommitted funds applicable thereto shall revert to the producer-settlement fund of § 1049.70.

Signed at Washington, D.C., on December 8, 1972.

JOHN C. BLUM,
Deputy Administrator,
Regulatory Programs.

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