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NOTICE TO AGENCIES

Agencies preparing documents for publication in the FEDERAL REGISTER are reminded that the revised rules of the Administrative Committee of the Federal Register go into effect on January 3, 1973. (1 CFR Chapter I, 37 F.R. 23602, November 4, 1972.)

These revised rules include the following significant changes:

1. Requirement for a preamble in each proposed rule making and final rule making document that describes the contents of the document in a manner sufficient to apprise a reader who is not an expert in the subject area of the general subject matter of the document.
2. Requirement for setting forth specific effective dates and action dates.
3. Change in publication dates of the daily FEDERAL REGISTER (Monday through Friday instead of Tuesday through Saturday). See 1 CFR 17.2, 18.12, and 18.17.

HIGHLIGHTS OF THIS ISSUE

This listing does not affect the legal status of any document published in this issue. Detailed table of contents appears inside.

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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.

Rules and Regulations

Title 32—NATIONAL DEFENSE

Chapter VII—Department of the Air Force

SUBCHAPTER B—SALES AND SERVICES

PART 816—RECREATION ACTIVITIES AND SERVICE PROGRAM

Subchapter B of Chapter VII of Title 32 of the Code of Federal Regulations is amended as follows:

Part 816 is retitled as set forth above and revised to read as follows:

Subpart A—Policy, Mission and Personnel Authorized to Use the Recreation Center

AUTHORITY: The provisions of this Part 816 issued under 10 U.S.C. 8012.

Subpart A—Policy, Mission and Personnel Authorized To Use the Recreation Center

§ 816.0 Purpose.

(a) This part states Air Force policy and the mission of the Air Force recreation activities and services program. It provides information on programing, activities, personnel, and funding support; and tells how to staff, administer, and operate Air Force recreation centers.

(b) Part 806 of this chapter states the basic policies and instructions governing the disclosure of records and tells members of the public what they must do to inspect or obtain copies of the material referenced herein.

§ 816.1 Policy.

All recreation activities and services sponsored by or held in an Air Force recreation center will be conducted in a manner free from discrimination to provide equal opportunity and treatment for all participants regardless of race, color, creed, sex, religion, or national origin. Accepted standards of decency, decorum, and good taste will be adhered to in any recreation program or activity conducted in the recreation center.

§ 816.2 Mission.

The recreation activities and service program, which is basically recreation center oriented, may take place in other base facilities (such as a swimming pool or picnic area) or off base (tours). It is designed to enhance the morale and efficiency of Air Force personnel through a broad range of creative, cultural, educational, social, and competitive recreation activities and services. The recreation activities and services program will be as comprehensive and balanced as local conditions permit. Priority will be given to the development of programs to meet the needs and interests of young airmen.

§ 816.3 Personnel authorized to use the recreation center and participate in the programs.

(a) The general recreation activities program and use of the recreation center is primarily for young airmen, their wives and guests.

(b) Officers, noncommissioned officers, and civilian employees normally will use the recreation center only for community affairs programs, participation in self-directed special interest group activities, tour programs, and centralized services (§ 816.9(e)(1)).

(c) Oversea commanders are authorized to permit host country nationals to participate in community affairs programs and self-directed special interest group activities.

(d) Visiting teams and boards will be permited to use the recreation center for nonrecreational purposes only if absolutely essential and no other base facility is available.

(e) Dependent youth eligible for the dependent youth activities (DYA) program will not use the recreation center unless participating in an activity sponsored by the DYA program as a scheduled part of the recreation activities and services program. Exceptions in this policy may be made to:

(1) Senior dependent youth (normally age 18) whose interests and maturity enable them to participate as young adults in self-directed special interest group activities such as arts, crafts, music, and drama.

(2) Dependent youth who have graduated from high school and are no longer eligible to participate in the DYA program.

(f) A system will be established to identify any dependent youth authorized to use the recreation center to insure that only authorized personnel use this privilege.

Subpart B—Recreation Centers, Staff, and Advisory Council

§ 816.4 Establishment and operation of recreation centers.

(a) The recreation center is a facility for leisure time activities for airmen. It is the hub of the recreation activities and services program and serves the base population with centralized services. It will be adequately provided with recreation supplies, furnishings, and equipment.

(b) Every active Air Force base will have a building specifically designated as a recreation center (category code 740–316). The building, or any portion thereof, will not be redesignated or used for other than the recreation activities and services program, as specified in paragraph (e) of this section, without prior approval of AFMPC/DPMSBS. Recreation center facilities, including structures, grounds, and approved outdoor areas operated as an integral part of the recreation center, will be maintained and serviced by the base civil engineer.

(c) The facility will be referred to as a "Recreation Center." No other designation is authorized unless used in conjunction with the term "Recreation Center." A contemporary localized name such as "Galaxy Recreation Center" or "Rap-Inn Recreation Center" is encouraged. The numerical designation of an Air Force organization will not be used, but memorialization of the facility is encouraged, and names will be submitted in accordance with AFR 900–9.

(d) The recreation center should be located in the base community center area or near other recreation facilities and be readily accessible to the airman population. It should have an identifying sign visible both day and night. The facility should include if space permits: A coffee house area; discotheque; snack bar/supper club; ballroom for dances, musical and dramatic productions to include staging facilities, lighting, and public address systems; game room; music room with large soundproof listening rooms; activity-meeting rooms; information-service area to include space for equipment issue, information data, and centralized services; check room; refreshment kitchen for activity use; storage space; offices; restrooms; janitor's closets; and adjacent patio.

(e) Offices or functions that are not a part of the recreation activities and services program will not be housed in the recreation center.

(f) Youth programs will not be conducted in the recreation center when other suitable facilities are available.

(g) Recreation programs will be given scheduling priority over other programs held in the recreation center such as briefings, commanders' call, conferences, and council and board meetings. The support of nonrecreation programs will depend upon the size of the recreation center staff, volunteers, and assistance from the sponsoring agency.

§ 816.5 Recreation center staff.

An essential ingredient of the recreation activities and services program is the need for the selecting, training, and development of a qualified and enthusiastic staff. Any compromise of this need is false economy. Qualified and trainable military personnel are mandatory.

(a) *Manpower determinants.* AFM 26–3 contains the appropriated fund manpower determinants.

(b) *Military personnel.* AFR 215–1 tells how airmen are assigned or employed in recreation center activities. Fulltime assigned military personnel are those having experience and/or academic training in recreation, personal recreation skills, leadership qualities, and successful experience in leading or conducting recreation activities.

(c) *Civilian employees.* (1) Employment of civilian personnel paid from appropriated funds and serving under civil service appointments will be in accordance with civil service commission requirements and Air Force regulations.

(2) Civilian personnel paid from nonappropriated welfare funds will be employed according to AFR 176–1 and AFM 176–5.

(d) *Volunteers.* Both military and civilian volunteers are essential to effective programing of recreation center activities. Military and civilian personnel, their families, and community civilians should be used to full advantage. Individuals and groups from nearby communities are an excellent resource of volunteer leadership and they can make a valuable contribution to fostering desirable base-community recreation relationships. Consideration should be given to organizing coed groups to get more participants involved in program planning. Basic information on recruiting, designating, and assigning volunteers is outlined in AFP 34–7–2.

(1) AF Form 2040, "Recreation Volunteer Personal Data," will be used as an application and data card for each regular volunteer. It will also serve as a register for the recreation volunteer identification cards that are issued and a directory of resource leadership.

(2) AF Form 2041, "Recreation Volunteer Identification," will be issued to each regular volunteer to use as an identification/pass. A 1- by 1½-inch photograph will be affixed to the top right corner of the card only when positive identification is necessary.

(3) When military vehicles are used to transport a group of young female volunteers to and from recreation center social functions, a responsible individual will be assigned as a chaperone-escort. Normally this individual will be a commissioned or senior noncommissioned officer or comparable civilian employee.

(i) The assigned escort will be thoroughly briefed on responsibilities with regard to safety and orderly transport of volunteers to and from the social event to preclude incidents which would reflect adversely on the Air Force.

(ii) Nonmilitary volunteers and entertainers will not be required to sign a liability release when being transported by a military vehicle.

§ 816.6 Recreation activities and service advisory council.

An active advisory council can be an effective tool for assisting the staff in program and facility planning and solving the numerous operational problems. A council is an adjunct to but not a replacement of adequate support from the commander. An advisory council may be established at each recreation center on an optional basis under the following guidelines.

(a) *Membership.* The council membership will be composed of interested airmen and volunteers representing a cross section of the installation. These individuals will serve as liaison between their organization and the recreation center. The recreation activities and services director will appoint council members by letter. The number of council members depends on the size of the installation. All members will be carefully selected for membership on the basis of their personal interest in leisure-time activities. The recreation activities and services director will serve as executive secretary and provide technical guidance to the council.

(b) *Meetings.* The advisory council will meet at least once each calendar quarter. Monthly meetings are preferable.

(c) *Minutes.* Minutes of meetings will be submitted through special services channels for approval by the base commander.

Subpart C—Program Philosophy and Types of Activities

§ 816.7 Program philosophy and role of the recreation center.

(a) As a military hub for leisure-time activities and services, the recreation center must have a distinctive appearance to reflect the current scene, and a friendly atmosphere to attract the young airman. The recreation center should be a place where things are happening, and there is an opportunity to participate.

(b) In-depth opportunities will be provided for the young adult to: participate according to his interests, communicate with others about current issues, problems, and solutions; stimulate the mind toward creative constructive thinking; and motivate, not simply entertain, in a meaningful atmosphere.

(c) The recreation center should serve as a sounding board where opinions may be expressed freely, analyzed, and discussed with the best and most highly qualified "people" resources that are available.

§ 816.8 Programing in the recreation center.

The primary objective in planning recreation activities and services is based on the premise that relevant entertainment and leisure activities create satisfaction. The program must be broad and varied and reflect current attitudes and interests. It must offer contemporary recreation activities and programs and the ever-changing patterns of the participants.

(a) Activities must be meaningful, stimulating, and challenging, and should promote a feeling of sharing, belonging, responsibility, and accomplishment.

(b) Emphasis will be placed on developing diversified, comprehensive programs of interesting activities to meet individual recreation needs and interests rather than on the programing of many minor events. Civilian resources, geographic location, and base mission are important elements in program development.

(c) Special emphasis will be given to contemporary social movements such as social awareness programs and community involvement. Each recreation center should sponsor or undertake at least one annual action project, such as recycling aluminum, glass, and paper. (See § 816.9(c)(9) for additional guidance.)

(d) Programs should be flexible to allow for emergency changes or substitutions and spontaneity.

(e) Multiple programing will be used to preclude limiting activities to one specific kind in one evening. Close coordination with related agencies and programs is essential to avoid conflicts of schedules and interests and assure best use of leadership, facilities, equipment, supplies, and transportation.

(f) Active participation by individuals and groups should be emphasized. Passive or spectator type participation should be encouraged only when active participation is not feasible or appropriate.

(g) Programs should be shared with off-base organizations, civic groups, schools, colleges, and universities.

(h) All social action type programs should be coordinated with the installation social actions office. Assistance can be obtained from this office for resource leadership (speakers) and program materials.

§ 816.9 Types of activities.

The broad spectrum of recreation activities and services is limited only by the imagination and resourcefulness of the recreation center staff. Generally, the following types of activities are offered in each recreation center.

(a) *Self-motivated recreation.* Facilities and equipment are provided without recreation center staff leadership, organization, or direction. A recreation center should lend itself to drop-in types of self-directed activity such as pool, bil-

liards, table tennis, table games, audio and television activities, instrumentation and playing music, lounging, socializing, reading, writing, and studying. If facilities are available, self-motivated recreation may be extended to outdoor programs.

(b) *Self-directed recreation.* Organized, self-directed special interest groups and organizations are encouraged to hold meetings and promote their particular recreation program when space and programing permit. Self-directed groups such as drama, chess, dance, art, photography, numismatics, modelers, bridge, stamp, language, music, travel, and audio-tape club/groups increase the diversity of the program.

(c) *Directed recreation.* Activities organized, conducted, or sponsored by the recreation center staff in close coordination with other base activities, and where appropriate, with community organizations. Examples are:

(1) *Large group activities.* Special basewide events, dances, holiday observances, picnics, parties, shows, birthday nights, and Monte Carlo nights.

(2) *Exhibits and demonstrations.* Travel slide shows, travel planning, white elephant sales, photo, arts, crafts, dance groups, sports, and similar educational programs.

(3) *Tournaments and contests.* Games, cards, talent, photography, squadron scrambles, and field days.

(4) *Entertainment.* Drama, productions, stage shows, musical groups and combos, choirs and choruses, jam sessions, battle of the bands, light shows, and film festivals.

(5) *Instructional classes.* Arts, crafts, gift wrapping, dancing, music, bridge, dog training, special cooking, family living, charm, and yoga.

(6) *Educational lectures.* Rap sessions, forums, avocational groups, literary workshops, music, and literary reviews.

(7) *Tour programs.* Tours are an important phase of community recreation service. They provide one of the best forms of social activity and attract military personnel in large numbers. Organized tours provide a medium for individuals to go sightseeing and visit historical landmarks, industry, natural attractions, and cultural/entertainment programs in the surrounding area, and, in the case of overseas, become better acquainted with the host nations.

(8) *Social awareness programs.* Ecology education, absentee voter registration, drug abuse, and other social problems.

(9) *Community involvement/movement programs.* Social services, domestic actions, civic projects, hospitals, orphanages, senior citizen centers, and prisons.

NOTE: A program for "Newcomers" should be held periodically to introduce new people to the recreation activities and services offered in the recreation center.

(d) *Coffeehouse activities.* Topics covering the most current and important issues, programed on the basis of interest, attendance, and availability of resource personnel having specialized knowledge of a particular subject. General categories involve subjects such as:

(1) *Self-reflection and introspection.* Morality, drugs, and marijuana (legal aspects, medical ramifications, psychological implications, morals, and general information), mind expansion (philosophy, astrology, graphology), and alcoholism.

(2) *Interpersonal relationships.* Family living (planned parenthood, zero population, etc.) and magazine articles and features (such as Human Sexuality and Psychology Today).

(3) *Educational opportunities.* On- and off-base education programs (high school, GED, colleges, technical training, and project transition), State employment, veterans benefits, and career opportunities.

(4) *Artistic expression.* Professional/military talent, art corner (instructions and demonstrations), history of art, music, dance, theater; yoga, karate and judo demonstrations; films and discussions; and sing-a-longs with a banjo or player piano.

(5) *Issues and answers.* Ecology, space, welfare reforms, racial-ethnic encounters, military life ("Meet your Commander" nights, new policies, chain of command, and situational encounters), military/civilian judicial procedures, legislative happenings ("Truth in Lending," voting age), financial wizardry (stock market, credit union, loans), and current news events.

NOTE: The recreation center staff members are not expected to serve as discussion leaders unless they have an appropriate background or expertise in the topic material. Resource personnel should be professionals or have an indepth background, knowledge or personal experience in the subject matter. Contact the base information office or social actions office in obtaining speakers.

(e) *Supplemental activities.* (1) Centralized services for the entire installation such as an information center, with travel information, code telephones, tickets for special events, and current information on locations and hours of operation of recreation facilities, chapel services, exchange services, housing office, family services, Red Cross, education services, library, local bus schedules, dining halls, schedules of recreation and cultural events, both on base and in the nearby community. If resources permit, equipment such as slide and movie projectors, tape recorders, and portable typewriters should be available for checkout.

(2) Services for isolated and deployed units.

Subpart D—Funding and Operations

§ 816.10 Funding, equipment, supplies and services.

Appropriated funds will be used to furnish equipment, supplies, custodial services, and maintenance to the maximum extent authorized to support the recreation center and recreation activities and services program. Nonappropriated welfare funds may be used to supplement appropriated funds as necessary and to the extent they are available. Furnishings and equipment for exchange operated activities in the recreation center are the responsibility of the Army and Air Force Exchange Service (AAFES). Furnishings and decor will be correlated between both activities.

§ 816.11 Facility environment.

(a) Air Force Recreation Centers will reflect an up-to-date look that will appeal and relate to today's young airmen. A "communicative" atmosphere must be created using the most advanced and dynamic ideas in decorating and design. Abundant use should be made of supergraphics, contemporary colors, blacklight, fluorescent material and paints, light boxes, projection screens, and contemporary art styles. Mobile units can be used to screen and divide large areas for special functions and group activities. "Total environmental development" through the use of screens can be fabricated for light shows and special effects.

(b) Planning for the construction or major alteration of a recreation center will include interior design, furnishings, and equipment to insure a comprehensive and properly equipped facility. Such planning requires close coordination between special services (recreation activities and services director), civil engineering, supply, and procurement.

§ 816.12 Incidental income.

Dues will not be charged for use of the recreation center. Admission may be charged to help defray the cost of events that require large expenditures and for special interest groups. These activities include, but are not limited to, professional entertainment, dances with combos/bands, instructional classes, tours, guest lectures, etc. Money derived from fees and charges in connection with an activity conducted in a recreation center is incidental income to the central base fund and will be controlled and accounted for accordingly.

Subpart E—Restrictions

§ 816.13 Restrictions on activities.

(a) The Army and Air Force Exchange Service (AAFES) operates all revenue producing activities in the recreation center. These activities include, but are not limited to, pizza beer bar/amusement centers, and coin-operated product service, amusement and game machines. The exchange general manager will cooperate with the recreation activities and services director so the exchange activity is operated in the best interest of the program in accordance with departmental regulations and AAFES operating procedures. Services which cannot be provided by AAFES may be operated by special services as an incidental income-producing activity under the central base fund, subject to major command approval required by AFR 147–7.

(b) Mechanical merchandising machines may be installed with the base commander's approval. Locations of machines will be coordinated with the recreation activities and services director.

(c) Gambling or gambling devices (such as punchboards and slot machines) will not be permitted within or about

the recreation center or its facilities. Mechanical recreation games equipment, requiring skill in operation equivalent to pool, billiards, shuffleboard, etc., such as minibowling, soccer games, and coin-operated amusement and game machines may be installed. The term "mechanical recreation games equipment" excludes machines which produce either monetary or merchandise payoffs.

(d) No alcoholic beverages will be consumed, sold, or given away in the recreation center.

(e) Beer with an alcoholic content not exceeding 3.2 percent by weight (considered nonintoxicating) may be dispensed in the recreation center for on-premise consumption only. Beer is normally dispensed in the snack bar/supper club or discotheque.

(f) Tobacco products and accessories such as lighters will not be used for prizes, awards, or giveaways.

§ 816.14 Bingo.

Games will be conducted as friendly contests, not as lotteries or gambling concessions.

(a) *Laws and restrictions.* Bingo may be played in recreation centers on installations within the United States (including Alaska and Hawaii), its territories, and possessions which are fully ceded. Bingo may also be played on installations which are not fully ceded where bingo is allowed by the State, territory, or possession.

(1) *Participation restriction.* Participation will be limited to authorized participants, and bona fide guests over 18 years of age. Dependent youth will not be allowed to participate unless they are eligible to use the recreation center (§ 816.3(e)).

(2) *Foreign areas.* Local laws and internal agreements will be observed. Persons not authorized to receive customs free imports will comply with local customs procedures when receiving customs free imports as bingo prizes. Those authorized to receive U.S. currency or military payment certificates will be paid cash in the host country's currency.

(3) *Publicity.* To prevent violation of postal laws and regulations, bingo games will not be publicized in media distributed through the U.S. mail.

(b) *Control and administration.* Bingo will be self-supporting; therefore, appropriate charges must be made to preclude subsidization from the central base fund.

Subpart F—Administration and Personnel Policies

§ 816.15 Recreation center administration.

All programs should be objective in nature with full consideration of the interests of all participants. Effective management is imperative; however, policies and procedures must be practical and based on commonsense. Procedures that discourage participation or overcontrol to the point of restricting a recreation activity or service will not be established. Policies that only reflect the personal desires of the recreation center staff are not desirable. The following are basic requirements:

(a) The recreation center will remain open 7 days a week if resources and conditions permit. It will be open on all holidays. Hours of operation will be established to allow maximum attendance during off-duty time and not for staff convenience.

(b) Daily attendance figures and other appropriate data will be maintained for evaluating and analyzing the program and recreation center operation. General daily attendance will be obtained by averaging an hourly head count for self-motivated activities to give man-hour attendance. For self-directed recreation, directed recreation, coffeehouse activities, supplemental activities, and nonrecreation activities by outside agencies, the actual or peak figure of attendance will be shown for each group or activity. This method reflects both recreation man-hours and actual participation figures; furnishes a gage of use and popularity of various programs, services, and facilities; and provides information for scheduling program activities at hours popular with base personnel.

(c) Adequate financial and supply records will be maintained.

(d) Operating instructions will be issued for each major phase of the program center operation. This includes, but is not limited to:

(1) A current organizational functional chart (AFM 26–2).

(2) Employees' current duty schedules, assignments, and job descriptions.

(3) On-the-job training programs for appropriate staff members, new employees, and volunteers.

(4) Fire and safety precautions.

(5) Local policy and instruction on use of the recreation center by other agencies. This should include policy on use of facilities, compliance procedures, how to request use of facilities, standing reservations, canceling reservations, responsibility of recreation center staff, and responsibilities of the using agency.

§ 816.16 Staff personnel policies.

The complexity of administering and managing a viable recreation program is demanding and requires creative and visionary leadership of the highest professional caliber. The overall supervision and support of recreation center activities and leadership will be stressed at all levels. Staff members will insure the elimination of outmoded, ineffective, nonprofessional, and limited programs that do not generate participation. The recreation center staff should serve as a catalyst in the organization of self-directed special interest groups and assist them in program planning.

(a) *Duty hours.* Duty hours for professional civilian employees and staff members call for an uncommon tour of duty which includes evenings, holidays, and weekends. Program requirements are the prime factor in determining duty schedules. If more than one professional civilian is employed the evening schedule will be rotated.

(b) *Mess and quarters.* Civilian employees required to be on duty during day and evening hours will be eligible for suitable on-base quarters and appropriate mess privileges. The same privileges should be accorded recreation center student trainees.

(c) *Exchange and commissary.* Use of the base exchange and commissary are authorized Department of Defense civilian employees at certain locations (Part 823 of Subchapter C of this chapter).

(d) *Medical and dental care.* Emergency medical and dental care may be obtained in accordance with Part 815 of this subchapter.

(e) *Transportation.* Personnel transacting program business are authorized official transportation.

(f) *Recruitment.* The recruitment, selection, and processing of professional civilian employees are the responsibility of each installation. Oversea positions are handled by the Central Oversea Recruiting Office, Directorate of Civilian Personnel, HQ USAF. Major command and Numbered Air Force recreation staffs will provide recruiting assistance upon request. Requests will reflect the grade and type of position and information on the availability and cost of on-base quarters or housing in adjacent communities.

§ 816.17 Standards of dress and personal appearance for participants.

All recreation activities and services programs in the recreation center will be offered in a comfortable, casual, and leisurely atmosphere. Participants and guests will be permitted to dress according to their personal preference, except that standards of dress and personal appearance will be in conformance with AFM 35–10 or AFR 30–16, as appropriate. Work clothing (utility and flight uniforms and organizational clothing) may be worn in the recreation center unless it is inappropriate for the particular program (for example, a dance or reception). Additional dress requirements may be imposed for special events.

By order of the Secretary of the Air Force.

JOHN W. FAHRNEY,
Colonel, USAF, Chief, Legislative Division, Office of the Judge Advocate General.

[FR Doc.72-22243 Filed 12-27-72;8:47 am]

SUBCHAPTER F—AIRCRAFT

PART 861—AIR FORCE AERO CLUBS

Part 861, Subchapter F of Chapter VII of Title 32 of the Code of Federal Regulations is revised to read as follows:

Sec.
861.0 Policy.
861.1 Purpose of aero clubs.
861.2 Base supervision of aero club operation.
861.3 The Board of Governors (BOG).
861.4 Club officers.
861.5 Club manager.

Sec.

AUTHORITY: The provisions of this Part 861 issued under 10 U.S.C. 8012.

§ 861.0 Policy.

(a) This part outlines the policies that apply worldwide in the Air Force aero club program. It explains the purpose of such a club, and tells who is eligible for the various categories of membership. It explains the commercial insurance policies that apply to each club. It does not apply to members of the Air Force Reserve or the Air National Guard unless they are associate members of an aero club. A commander outside the continental United States may make modifications as necessary to comply with policies and procedures established by his host government, provided he does not deviate from the intent of this part or other appropriate Air Force regulations governing Air Force aero clubs.

(b) Part 806 of this chapter states the basic policies and instructions governing the disclosure of records and tells members of the public what they must do to inspect or obtain copies of the material referenced herein.

§ 861.1 Purpose of aero clubs.

(a) Aero clubs are established as recreational activities to promote morale and will be operated without discrimination regarding race, color, creed, sex, or national origin. They are established to give eligible personnel an opportunity to:

(1) Enjoy safe, low cost, light aircraft operations,

(2) Develop skills in aeronautics,

(3) Develop an awareness and appreciation of aviation requirements and techniques, and

(4) Provide a social activity for members.

(b) The commander may also use aero club aircraft in support of the USAF Survival, Recovery, and Reconstruction Plan (USAF SRR Plan), if such use is authorized by the club's constitution and bylaws.

§ 861.2 Base supervision of aero club operation.

Commanders' responsibilities include: Staff surveillance, procedures to insure compliance with this part and Federal Aviation regulations and other appropriate directives, financial accounting, Federal Aviation Administration coordination, sale of petroleum, base facilities, aircraft-airframe standardization, authority to pilot loan aircraft, and inspections.

NOTE: If an aero club does not establish operations on the base, it may use a civilian airport. If the use of facility is acquired by a license (use in common with others), the club will request approval from the base commander for this use. If the use of the facility is acquired by a lease (exclusive possession), the club must request approval from AFMPC/DPMSF, Washington, D.C. 20330. Any contract for a civilian airport must permit inspections by the Air Force.

§ 861.3 The Board of Governors (BOG).

The board will be comprised of five to 11 active or associate voting members (the majority of the voting body will be active members). Three of these voting members will be: (a) A senior officer (rated pilot) from the directorate of operations, (b) the base or wing flying safety officer, and (c) a representative from the directorate of maintenance/material. Additional members may be appointed or elected based upon local club requirements. The board will meet at least monthly. Minutes will be kept and forwarded through the chief of special services to the commander for approval. The board of governors is responsible for insuring that the club operates in a safe, efficient, and businesslike manner.

§ 861.4 Club officers.

Each club will provide specific job descriptions and responsibilities for each position. Club officers may be designated to hold more than one position (that is, the board of governors operations officer could also hold the position of club operations officer).

§ 861.5 Club manager.

Each club will have a manager. The manager should be a full-time employee paid from aero club revenues. Major commands are authorized to allow a club to operate with a qualified volunteer serving as manager.

(a) *Relationship of manager to Board of Governors.* The manager is employed by the board and is under the supervision of the president. The board is responsible for providing a job description and operating instructions (OI's) to guide the manager in conducting the club's business.

(b) *Selection of the manager.* The board of governors will select the manager. It will check the qualifications of potential employees to insure selection of a capable, mature, conscientious manager who possesses sound judgment and good business sense.

(c) *Administrative functions of the manager.* The club manager conducts the club's daily business. He insures that club facilities are kept clean and orderly, and coordinates all daily club activities and problems with the president of the board of governors. He must thoroughly understand and discharge all responsibilities assigned to him and will:

(1) Maintain:

(i) A flight schedule logbook for all flights on a first-come, first-served basis.

(ii) The necessary bulletin boards, charts, status boards, and the pilot's information file.

(iii) Currency records.

(2) Provide job descriptions for all club employees.

(3) Supervise club employees.

(4) Immediately report mishaps, late aircraft, or other information pertinent to safety to the base safety officer.

(5) Keep constant surveillance of club supply function to insure:

(i) Proper accountability and adequate storage for property.

(ii) Prompt disposal of excesses.

(6) Insure that he or a qualified supervisor (clearance official), designated in writing, is on duty at all times while students or pilots with less than 200 hours are flying in the local area. Procedures will be established with the Federal Aviation Administration or base operations to provide a means of notification of overdue aircraft or other emergencies. The notification procedures must provide a means for base operations or Federal Aviation Administration to notify a responsible aero club official.

§ 861.6 Flight instructors.

Flight instructors are designated by the board of governors and will perform duties on the basis of a contract for personnel services. Guidelines for personal services contracts are provided in AFM 176–5 and AFM 176–16, attachment 26. Flight instructors will not perfom flight instructor duties in an employee status. status.

(a) Each flight instructor must hold a valid Federal Aviation Administration flight instructor certificate.

(b) Aero club members who are Federal Aviation Administration-certified flight instructors may be compensated for off-duty instructions at a rate established by the board of governors.

(c) As an exception to AFR 176–1, paragraph 11c, major commands may grant a waiver to permit an individual member of an aero club board of governors to serve as a club flight instructor.

§ 861.7 Chief flight instructor.

A chief flight instructor will be designated by the board of governors and will supervise and monitor the activities of all club instructors. He will be a certified flight instructor and when possible meet the requirements of the Federal Aviation regulations, 14 CFR Part 141.

§ 861.8 Categories of membership.

There are three categories of membership: active, associate, and introductory. In these categories, the term "children" refers to any unmarried legitimate child, adopted child, or stepchild, who has not passed his 21st birthday, or his 23d birthday if he is enrolled in a full-time course in an institution of higher learning approved by the Secretary of Defense or the

Secretary of Health, Education, and Welfare.

(a) *Active.* Limited to active duty military personnel of the U.S. Armed Forces.

(b) *Associate.* May be extended on a space available basis to:

(1) The dependents, spouse, and children of an active duty military member.

(2) A retired military member, dependents, spouse, and children.

(3) A civilian DOD employee, dependents, spouse, and children. (This includes employees paid from nonappropriated funds.)

(4) An Air Force, Army, or Naval Academy cadet.

(5) A military member of a foreign government who is on duty with the Department of Defense (DOD).

(6) A member elected to the U.S. Congress or a statutory appointee of the Federal Government, with the approval of HQ USAF/DPMSBS.

(7) A Federal Government employee working on a military installation.

(8) In an oversea location, any Federal Government employee in the area, or a U.S. citizen who is working on a military installation, if the local commander determines that club membership is in the best interest of the United States.

(9) The unremarried widow and children of a deceased active duty or retired member of the U.S. Armed Forces.

(10) Retired DOD personnel, but only in the aero club where they were members at the time of retirement.

(c) *Introductory.* May be extended to an individual who is eligible for active or associate membership. The length of the introductory membership will not exceed 30 days and is not renewable within 2 years.

§ 861.9 Selection of members.

To be an aero club member:

(a) Applicant must submit an application, monthly dues, and initiation fee (if applicable).

(b) Application must be reviewed and approved by the manager (who must verify that applicant is eligible for membership) and at least one voting member of the board of governors. At this point the applicant may enjoy privileges, subject to final review and approval.

(c) Application approval must be recorded in the minutes of the next regularly scheduled board meeting.

(d) Applicant must be issued a membership card signed by the club president.

§ 861.10 Members' responsibilities.

Each aero club member must:

(a) Be familiar with the following applicable directives.

(b) Pay established dues in advance. Dues will be based on identical rates for all members. However, the board of governors is authorized to approve lower dues and initiation fees for additional members of a family.

(c) Provide assistance in the day-to-day operation of the club as requested by the board of governors.

§ 861.11 Membership privileges.

Members in good standing are extended the following privileges:

(a) Only an active member, associate member, introductory member receiving instruction from a club flight instructor or a club flight instructor (flying in official capacity) may pilot an aero club aircraft. (The commander may authorize a specific one-time exception to permit a prospective buyer to fly a club-owned aircraft on a local flight with a club member: *Provided,* The buyer signs a covenant not to sue.) An aero club pilot may not carry any passengers in an aero club aircraft except:

(1) A Federal Aviation Administration flight inspector, examiner, or examiner designee who is checking aircraft airworthiness, or is officially examining an aero club member.

(2) A Federal Aviation Administration airplane and propulsion (A. & P.) mechanic whose presence in aircraft is necessary to sign off maintenance performed on the aircraft.

(3) Individuals designated by the major command (may not be delegated) for the purpose of evaluating aero club pilot standardization.

(4) An active, associate, or introductory member of an Air Force aero club.

(5) Dependents, spouse, children, mother, father, brothers, or sisters of an aero club member, if the sponsor is also aboard.

(6) Active duty military personnel and civilian Department of Defense employees on official temporary duty, provided the pilot is a club member who is on temporary duty to the same location.

(7) A full-time aero club employee on a flight specified by the board of governors.

(b) Introductory members may ride as passengers on local flights only with another club member who possesses a current commercial or higher rating, and may receive a maximum of 6 hours of dual instruction from a club flight instructor.

§ 861.12 Transfer of membership.

When an aero club member transfers from a station, he will not be required to pay a club initiation fee at the new station if he presents a letter of good standing and meets the requirements of § 861.8. Aero clubs are authorized to accept a letter of good standing from other military aero clubs.

§ 861.13 Covenant not to sue for property damage or loss, injury or death and indemnity agreement.

(a) Each aero club member who is not an active duty member of one of the Armed Forces of the United States will not be permitted to use aero club aircraft until he or she executes a covenant not to sue for property damage or loss, injury, or death, and indemnity agreement (paragraph (c) of this section). When executed, the covenant will remain on file with his or her application. A new covenant will be executed at least once each 12 months.

(b) Before any flight, all passengers authorized to ride in aero club aircraft who are not active duty members of any of the Armed Forces of the United States will be required to execute a one-time covenant not to sue for property damage or loss, injury, or death, and indemnity agreement (paragraph (c) of this section). Each person must execute a separate covenant and agreement. One member of a family may not execute a covenant and agreement for the entire family. In the case of a minor, a parent or legal guardian will be required to execute the covenant and agreement on behalf of the minor. The same executed covenant may be used for known successive flights when it would be impractical for the passenger to execute additional covenants and agreements. For example, a cross-country flight from Tinker Air Force Base to Scott Air Force Base, from Scott Air Force Base to Bergstrom Air Force Base, and then from Bergstrom Air Force Base to Tinker Air Force Base entails three separate flights, but only one executed covenant and agreement by each passenger is needed. When executed, each covenant and agreement will remain on file for at least 90 calendar days at the aero club office where the sponsor is a member.

(c) Format for covenant not to sue and indemnity agreement.

Place

Date

I, (Printed name) ,[1] am about to voluntarily participate in various activities, including flying activities, of the Aero Club as a pilot, student pilot, copilot, instructor, or passenger. In consideration of the Aero Club permitting me to participate in these activities, I, for my heirs, administrators, executors, and assignees, hereby covenant and agree that I will never institute, prosecute, or in any way aid in the institution of prosecution of, any demand, claim, or suit against the U.S. Government and/or its officers, agents, or employees, acting officially or otherwise, for any loss, damage, or injury to my person or my property which may occur from any cause whatsoever as a result of participation in the Aero Club.

If I should demand, claim, sue, or aid in any way in such a demand, claim, or suit, I agree to indemnify the U.S. Government for all damages, expenses, and costs it may incur as a result thereof.

I understand and agree that I am assuming the risk of any personal injury or property damage to me that may result while participating in Aero Club activities, including

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[1] If a minor so indicate and state age. If the minor is capable of signing have him sign. If he is not capable, have parent sign for him, i.e., "John Jones by Harry Jones, his father" and sign below.

For minors

I/We _____ of the above-said minor child do hereby (1) consent to him/her participating in the _____ Aero Club activities, (2) agree to reimburse the U.S. Government for any damage incurred by it for which my child would be liable were he over 21 years of age.

_____ _____

Date Parent's Signature

The above form is to be completed for all minors, regardless of age and regardless of whether the parent has executed the indemnity agreement form on behalf of the minor.

such injuries or damage that may be caused by the negligence of the U.S. Government.

I also understand and agree that I may be held liable for any damage or loss to the U.S. Government which is caused by my gross negligence, willful misconduct, or fraud.

The term U.S. Government as used herein includes the Aero Club and any officer, agent or employee of the U.S. Government/ or the Aero Club, acting officially or otherwise.

Date:

Signature

Signature, Aero Club Officer

§ 861.14 Aero club records.

(a) Each aero club will maintain a training folder for each club member, to include as a minimum:

(1) Membership data (include category—active, associate, or introductory member—and basis for eligibility; that is, DCS/P GS–13; retired Army major; etc.).

(2) A pilot's initial checkout record and other required standardization flights.

(3) Aircraft questionnaires for aircraft the member is authorized to pilot.

(4) Covenants not to sue (if required).

(5) Other data at the discretion of the board of governors.

(b) Records of aircraft and individual club members remain active as long as the aircraft and member remain active.

§ 861.15 Policy on flight training under the "Veterans' Pension and Readjustment Act of 1967."

To ensure that the opportunity to receive advance flying training is available to club members during their free time, an aero club may conduct flight training under the Veterans' Pension and Readjustment Act of 1967: *Provided*, The local and major commanders grant approval and exercise positive guidance and control. If the above training is provided, the base education office will handle the administration of all active duty students.

§ 861.16 General membership meeting.

A general membership meeting will be conducted at least once a year for the purpose of conducting business and electing of officers.

§ 861.17 Pilot restrictions.

(a) The maximum duty day is 12 hours for a single pilot or 16 hours with two qualified pilots in a dual-controlled aircraft. Flight duty day begins when the pilot reports for the flight or when he reports for his first duty of the day, whichever is earlier. Minimum crew rest between duty days is 12 hours.

(b) No aerobatic maneuvers may be flown below an altitude of 2,500 feet above ground level (AGL). A club member may perform only maneuvers that are specifically permitted by the aircraft manufacturer's handbook, Federal Aviation regulations, and club rules. The board of governors will publish the type of aerobatics that may be flown.

(c) Stalls, steep turns (over 45 degrees bank), slow flight and unusual altitude will not be performed below 1,500 feet AGL. Maneuvers that must be performed below 1,500 feet AGL for pilot certification are authorized.

(d) An aero club member will not pilot an aero club aircraft on a night cross-country flight unless he holds a valid Federal Aviation Administration instrument rating, and is instrument current in the aero club. Pilots without a Federal Aviation Administration instrument rating may fly local visual flight rules (VFR) night flights provided visual contact is maintained with an airport in the local area authorized for night solo use. Aerobatics, unusual attitudes, and instrument practice at night are prohibited. Night instrument training conducted by an instrument certified instructor is authorized.

(e) Touch-and-go landings by solo students are not permitted. Other pilots may perform touch-and-go landings only at runways designated in writing by the commander.

(f) Pilots will flight plan and terminate all flights at designation with a minimum of 1 hour fuel remaining.

§ 861.18 Carrying passengers and crew members.

(a) Passengers will not be carried in aero club aircraft during training flights, qualification check flights, or maintenance test flights.

(b) Only the instructor and the member or members receiving a flight check are permitted aboard during qualification check flights.

(c) Only the instructor and member or members receiving instruction are permitted aboard during training flights.

(d) An FAA-certified A&P and IA mechanic may accompany maintenance check flights if he is required to sign off maintenance performed on the aircraft.

§ 861.19 Pilot qualifications and currency.

To fly an aero club aircraft as pilot-in-command, members must satisfy Federal Aviation Administration requirements and the requirements of this part.

§ 861.20 Minimum flight time to maintain currency in club aircraft.

A pilot who loses currency in specific type aircraft will be required to accomplish an initial checkout.

(a) *Visual flying.* (1) a Student pilot must demonstrate proficiency at least once each 30 days to his instructor by a dual instructional flight of at least 1 hour and five landings. He will not fly solo until he has passed a pre-solo progress check given by the chief flight instructor or designated instructor. A student will maintain currency in only one aircraft.

(2) Private pilots with less than 200 hours pilot time must accomplish a minimum of 1 hour flight time and five landings each 60 calendar days in each specific type of aircraft in which qualified.

(3) Commercial pilots, instructor pilots, and private pilots with more than 200 hours pilot time must accomplish a minimum of 1 hour flight time and five landings each 90 calendar days in each specific type aircraft in which qualified.

(b) *Night currency.* Accomplish a minimum of 1 hour of night flight time, with five takeoffs and five landings to a full stop, within the time period appropriate to his day currency requirements.

(c) *Instrument currency.* Maintained in aero club aircraft per this part and Federal Aviation regulation, 14 CFR Part 61.

§ 861.21 Training program.

A definite, standardized course of instruction is essential to every pilot, regardless of certificates and ratings. Each aero club must establish a primary ground school which is mandatory for all students and a primary flight training program based on the curriculum outlined in Federal Aviation regulation, Part 141. The chief flight instructor or his designated representative will conduct progress checks for student pilots before release for solo and before release for solo cross-country and as required by Federal Aviation regulations. Each aero club is encouraged to seek Federal Aviation Administration certification for its training program. Standardization of training programs will be enhanced by the following.

(a) The chief flight instructor will develop operating instructions for all flight instructors. These operating instructions will contain as a minimum:

(1) Flight instructor's duties and responsibilities.

(2) Standardization of flight check procedures.

(3) Outlines of training curriculums in accordance with Federal Aviation regulation, 14 CFR Part 141, for each training program conducted by the Aero Club.

(4) Endorsement requirements for student certificates and logbooks from Federal Aviation regulation, 14 CFR Part 61.

(b) Standard dual and solo training cross-country routes will be established. Deviations will be permitted only with written permission from the chief instructor. In all cases, the following criteria must be met:

(1) There must be graduated degrees of difficulty in navigation.

(2) Where possible, both controlled and uncontrolled strange airports must be utilized.

(3) Training in civil weather briefings and flight plan filing and closing procedures must be accomplished.

(4) Training in visual and navigational aids orientation procedures must be accomplished.

(5) Detailed operating instructions for deteriorating weather and lost procedures will be developed and a copy will be aboard the aircraft during flight.

(6) Training must be provided in the interpretation and use of all operating instructions contained in the appropriate aircraft owner's manual, or equivalent aircraft operating instructions.

(7) Calculation and use of density altitude must be stressed.

(c) All student solo cross-country flights will be conducted during daylight hours only. When all dual cross-country requirements have been met and a stu-

dent has completed 5 hours of solo cross-country into airfields where the student has previously executed satisfactory traffic patterns with an instructor, he may fly the remainder of his solo cross-country requirements into strange airports.

(d) Student solo cross-country routes will be closed courses requiring no more than 3 hours of flying time and a total of 6 hours total flight and ground time to complete.

(e) All pilots (including rated military) without light aircraft cross-country experience within 2 years will be required to accomplish a minimum of 2 flight hours of dual navigation instruction by a certified flight instructor, followed by an oral test on flight planning prior to acting as pilot-in-command for a cross-country flight.

(f) Training in simulated forced landings is authorized: *Provided*, The aircraft is not allowed to descend below 250 feet AGL unless the landing is on an authorized runway. A student will practice forced landings only with an instructor.

§ 861.22 Accident prevention program.

Safety is an essential consideration of aero club operations. In a large part, safety consists of avoiding mishaps and is the individual responsibility of every aero club member. To assist each member in his efforts to eliminate mishaps, an accident prevention program will be implemented. The success of an accident prevention program depends on the exercise of each member's responsibility, the ability and aggressiveness of the club and base flying safety officers, and the extent to which they are supported by the board of governors and the commander. The Directorate of Aerospace Safety (IGDS) is the office of primary responsibility for all aero club safety matters.

§ 861.23 Attendance at safety meetings.

Attendance will be mandatory for all club members. A member who fails to attend one or more meetings invalidates his currency. He will be denied all club flying privileges until he has reviewed the minutes of the meetings or has been briefed on the contents of the meeting by the club safety officer or his designated briefing representative. Records of attendance and make-up reading or safety officer briefing will be maintained for 1 year.

§ 861.24 Contracts and leases.

Before consummating any contract or lease, the aero club will obtain the guidance and concurrence of the base staff judge advocate.

(a) Aircraft lease agreements must provide that the aero club will have exclusive control of the aircraft during the entire period of the lease.

(b) No part of rental charges or lease-purchase payment may include a fee for public liability or property damage insurance. Commercial purchase of such coverage is prohibited (See §§ 861.29, 861.30).

§ 861.25 Dues and initiation fees.

(a) Dues and initiation fees are set forth in the aero club bylaws.

(b) If the aero club constitution authorizes introductory memberships, the initiation fee is not payable until the prospective member applies for active or associate membership.

§ 861.26 Collection of overdue accounts.

Members must settle all individual accounts on or before the 15th day of the month following the month in which the debts are incurred. The board of governors will deny club privileges to habitual delinquents and those failing to pay when notified of delinquency and will:

(a) Notify personnel with a delinquent account directly and ask each to pay upon receipt of notification. If a member fails to pay when he is notified of delinquency, report the facts in writing to the installation commander and send an information copy of the report to the member's commander. Do not extend additional credit until he settles the delinquent account.

(b) Require aero club members who are enrolled in the Veterans' Administration Program to pay 10 percent of the Veterans' Administration charges by the 15th day of the month following the month in which the debts were incurred. The remainder of the Veterans' Administration charge will be paid within 90 days before it is considered delinquent.

§ 861.27 Aero club aircraft.

(a) *Definitions*—(1) *Club-operated aircraft.* Any aircraft in the possession of an aero club, without regard to airworthiness.

(2) *Government-loaned aircraft.* Department of Defense aircraft designated for aero club use.

(3) *Club-owned aircraft.* Any aircraft operated by an aero club will be considered to be club-owned, provided it is not a leased, concessionaire-operated, privately owned, or government-loaned aircraft.

(4) *Leased (rental) aircraft.* Any aircraft operated by an aero club on which the written lease (rental) agreement does not provide that a part of rental charge accrues to the benefit of the aero club with an option to purchase aircraft within a specific time period.

(5) *Lease-purchase aircraft.* Any aircraft operated by an aero club on which the written lease-purchase agreement provides for a portion of rental charges to accrue to the benefit of the aero club for their eventual optional purchase of the aircraft within a specified time period. (Caution: No part of rental charges or lease-purchase payment may include a fee for public liability, passenger liability, or property damage insurance.)

(b) *Aircraft groupings.* (1) Group I—Club-owned aircraft valued at $1,500 or more.

(2) Group II—All other club-owned aircraft.

(3) Group III—Government-loaned aircraft.

(4) Group IV—Leased aircraft.

(5) Group V—Leased/purchase aircraft.

§ 861.28 Aircraft hull repair.

Effective July 1, 1961, the Air Force Welfare Board authorized the establishment of an aircraft hull program. This is a mutual financial assistance plan designed to assist all U.S. Air Force Aero Clubs in the repair of hull damage to aero club-owned aircraft valued at $1,500 or more. Aero Club participation in this program is mandatory.

§ 861.29 Policy on obtaining commercial insurance.

A club member's aircraft is a privately owned aircraft and, unless the aircraft is exclusively leased to an aero club, insurance is the responsibility of the owner (Part 855 of this subchapter applies if owner desires permission to operate aircraft from an Air Force base).

(a) *Optional commercial insurance.* This applies to hull insurance on club-leased aircraft (Groups IV and V); club-owned aircraft (Group II) valued at less than $1,500; and Government-loaned aircraft (Group III). If commercial hull insurance is acquired on Government-loaned aircraft, the insurance policy must contain the clauses required by AFR 176–8 and an endorsement which provides that the carrier waives its rights to the salvage value of the insured aircraft.

(b) *Commercial insurance not authorized.* (1) Hull insurance on club-owned aircraft valued at $1,500 or more (Group I).

(2) Except as required by a host country, and as approved by HQ USAF/DPPW, Washington, D.C. 20330, public liability (including passenger liability) and property damage insurance coverage for any Air Force aero club-operated Group I, II, III, IV, or V aircraft reported on AF Form 270. (See AFR 176–8 for mandatory Air Force welfare board self-insurance programs for liability and hull insurance.)

§ 861.30 Other insurance.

(a) *Public liability and property damage insurance.* AFR 176–8 prohibits an aero club from procuring commercial insurance for protection against claims on lawsuits which may arise from personal injury, death, or property damage. Such claims involving an aero club, its employees or membership are settled as provided in Part 842 of Subchapter D of this chapter.

(b) *Fidelity and other casualty insurance.* For protection of other club assets, such as, parts sales inventory, etc., coverage will be procured as prescribed in section F, AFR 176–8.

(c) *Insurance for employee benefits.* Aero club civilian employees are afforded workmen's compensation benefits and are authorized to participate in the U.S. Air Force nonappropriated funds group

insurance program as provided in AFR 176–8.

By order of the Secretary of the Air Force.

JOHN W. FAHRNEY,
Colonel, USAF, Chief, Legislative Division, Office of The Judge Advocate General.

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SUBCHAPTER H—AIR FORCE RESERVE OFFICERS' TRAINING CORPS

PART 875—DELAY IN ACTIVE DUTY FOR AFROTC GRADUATES

Part 875 of Subchapter H of Chapter VII of Title 32 of the Code of Federal Regulations is revised to read as follows:

Sec.
875.0 Purpose.
875.1 Definitions.
875.2 Forms used with this part.
875.3 Responsibilities.
875.4 General policies.
875.5 How to apply.
875.6 Air Force Personnel Center processing procedures.
875.7 Processing procedures for law applicants.
875.8 Delays granted and maximum delay periods.
875.9 Application instructions and approval authority.

AUTHORITY: The provisions of this Part 875 issued under 10 U.S.C. 8012.

§ 875.0 Purpose.

(a) This part provides policies and procedures for delaying the entry on extended active duty (EAD) of Air Force Reserve Officers' Training Corps (AFROTC) graduates commissioned as second lieutenants in the Air Force. It includes application instructions for delays to pursue graduate studies, legal or nurse licensing, internship, or to alleviate a hardship condition. This part applies to Air University (AU), Air Force Institute of Technology (AFIT), AFROTC, its detachments and members, and Air Reserve Personnel Center (ARPC).

(b) Part 806 of this chapter states the basic policies and instructions governing the disclosure of records and tells members of the public what they must do to inspect or obtain copies of the material referenced herein.

§ 875.1 Definitions.

(a) *Accredited education institution.* A college or university in the United States or Puerto Rico listed as being accredited in the latest issue of the Education Directory, Part 3, "Higher Education," published by the U.S. Department of Health, Education, and Welfare. Accredited law schools are those in the United States or Puerto Rico approved by the American Bar Association.

(b) *Additional delay.* A delay granted to pursue a doctorate after receiving a master's degree, complete a medical or pharmacy internship, or complete the requirements for legal licensing.

(c) *Appeal.* A request for review by the HQ USAF Educational Delay Board of a decision by ARPC, AFIT, or the HQ USAF Educational Delay Board.

(d) *Educational delay.* A delay granted an AFROTC graduate to pursue a full-time course of instruction in graduate or professional studies at an accredited educational institution in the United States or Puerto Rico to obtain an additional academic degree or certificate or to complete requirements for nurse licensing.

(e) *Extension of delay.* A delay granted beyond either the maximum period listed in § 875.8 or the initial period authorized by the approving authority.

(f) *Full-time course of instruction.* An uninterrupted course of instruction defined as full time under regulations of an accredited educational institution. Delayee may accept research or teaching assistantships or fellowships provided such acceptance will not cause extension of his program beyond the maximum period authorized in § 875.8 and full-time student status is maintained. Unless required by the school, attendance at summer sessions is encouraged but is not mandatory.

§ 875.2 Forms used with this part.

(a) AF Form 477, "Application for Delay from Entry on Extended Active Duty (AFROTC)," to be completed by a cadet/officer requesting an educational or hardship delay.

(b) AF Form 1082, "Educational Delay Education Plan," to be completed and submitted with AF Form 477.

(c) AF Form 478, "Application for Delay to Complete Legal Licensing Requirements," to be completed for additional delay to complete requirements for admission to the bar of a State, territory, or the District of Columbia. All law students will submit this form. Those who do not desire a legal licensing delay will so state on the form.

(d) AF Form 1084, "Application for Delay to Complete Nurse Licensing Requirements," to be completed for initial delay.

§ 875.3 Responsibilities.

(a) *HQ USAF*—(1) *Career Management Division, Office of The Judge Advocate General, HQ USAF/JAEC.* Completes action prescribed in § 875.7.

(2) *Professional Education Branch, HQ USAF/DPPEC.* Publishes annually, a 3-year projection of degree production limits.

(b) *Air Force Military Personnel Center*—(1) *Officer Procurement Branch, AFMPC/DPMMPO.*

(i) Monitors the overall educational delay program.

(ii) Conducts HQ USAF Educational Delay Board.

(2) *Medical Personnel Procurement Division, AFMPC/SGS.*

(i) Provides recommendations to the HQ USAF Educational Delay Board on educational delay applicants for study beyond the master's degree level leading to degrees in the medical services.

(ii) Develops and provides HQ USAF/DPPEC with a 3-year forecast of production limits for study leading to assignments in the medical services.

(c) *Air University (AFIT).* The Commandant, AFIT:

(1) Monitors the status of personnel on educational delays, delay extensions, and additional delays except law graduates on legal licensing delays and nurses on licensing delays.

(2) Maintains adequate records to insure that each person is complying with the provisions of his delay agreement.

(3) Insures instructions to delay officers necessary to maintain adequate control and supervision during the period they are delayed. Such instructions are binding upon the individual, and failure to comply with them is cause for immediate termination of delay.

(4) Exercises approval authority and completes actions prescribed in § 875.9.

(5) Notifies ARPC of requirement to reappoint in the medical services officers awarded medical degrees.

(6) Notifies ARPC of changes as they occur in delay status of officers. Provides ARPC with the documents required to initiate active duty assignment action 7 months before projected graduation date, or immediately, if an officer's delay status is terminated.

(d) *Air Reserve Personnel Center.* (1) Monitors the status of personnel on hardship delays, nurse licensing delays, legal licensing delays, and officers who have completed delays and are awaiting entry on EAD.

(2) Completes actions prescribed in §§ 875.6, 875.7, and 875.9.

(3) Orders all AFROTC graduates to EAD.

(4) Assigns graduates to the Obligated Reserve Section (ORS) of ARPC concurrently with their appointment as USAFR officers. (All AFROTC graduates become Ready Reservists upon their execution of the oath of office as U.S. Air Force Reserve (USAFR) officers.)

(5) Insures that AFROTC graduates entering on EAD have completed a medical examination and have been certified as being physically qualified under the provisions outlined in AFM 160–1, chapter 4.

(e) *Professors of Aerospace Studies (PAS).* (1) Insures that each cadet is briefed on the regulation at the time the detachment completes the initial AFROTC Form 26A. Particular emphasis is to be given to the information shown in paragraph (f) of this section and § 875.4.

(2) Counsel each cadet on the financial problems inherent in completing an additional period of study.

(3) Complete actions prescribed in § 875.9.

(4) Require each AFROTC cadet to:

(i) State his intent concerning plans for graduate work when he completes AFROTC Form 26A.

(ii) Confirm his intent to apply for delay 7 months before his scheduled commissioning date.

(iii) Forward a delay application to arrive at ARPC, 3800 York Street, Denver, CO 80205, within the time periods prescribed in § 875.9.

(5) Inform each AFROTC cadet, when completing AF Form 477, that:

(i) If he is granted a delay and does not take it, his call to EAD will not have

been programed and more than 90 days delay may occur between his desired EAD date and his entry on EAD.

(ii) An application for delay which arrives at ARPC less than 90 days before his scheduled commissioning date or later than February 1 for law applicants normally will not be approved.

(iii) Educational delays for students who enroll in other than accredited educational institutions will be terminated.

(6) Render assistance upon request to AFROTC graduates on educational delay within the limitations of detachment resources.

(f) *AFROTC graduates granted delays must*: (1) Comply with all applicable provisions of this part and all instructions received from AFIT.

(2) Notify AFIT within 5 days of any change of address (either permanent or current mailing address).

(3) Forward a grade report to AFIT/CIE, Wright-Patterson Air Force Base, Ohio 45433, at the end of each grading period.

(4) Notify AFIT/CIE immediately if he fails to continue in full-time pursuit of the approved delay program or becomes aware that he cannot complete the requirements of the delay program as scheduled.

(5) Complete degree requirements in the shortest possible time in the approved academic specialty at the accredited educational institution for which approved.

(6) Upon termination of delay, forward AFIT/CIE an official transcript reflecting all work completed and degree certification if applicable.

§ 875.4 General policies.

(a) *Delay policies.* Approval of educational delays will be oriented toward Air Force requirements in all academic areas. Doctoral delays normally will be approved only against projected requirements for the specific academic specialty being pursued. Air Force requirements change; consequently, approval of an educational delay in no way constitutes any assurance of assignment to duties in or related to the individual's academic specialty. Further, should Air Force requirements dictate, delays may be terminated at any time and officers ordered to immediate EAD. Granting of a delay in no way relieves an officer from fulfilling his contractual agreement to serve on EAD upon termination of his delay or sooner if so ordered. AFROTC graduates not granted a delay will normally enter EAD within 1 year of commissioning. Those granted a delay will normally enter EAD within 90 days after their delay is terminated.

(b) *Unauthorized delays.* Delays will not be granted to:

(1) Pursue less than a full-time course of instruction.

(2) Receive advanced education leading to a degree of doctor of chiropractic or podiatry.

(3) Study theology.

(4) Work with the Peace Corps.

(5) Accept civilian employment by reasons of hardship or otherwise.

(6) Obtain a second degree at the same academic level.

(7) Attend other than an accredited educational institution as defined in subparagraph (1) of this paragraph.

(c) *Period of delay.* (See § 875.8.)

(d) *Involuntary termination of delays.* Delays may be involuntarily terminated only by the HQ USAF Educational Delay Board.

(e) *Rated assignments for officers on or completing educational delays.* Category IP (pilot candidate) and IN (navigator candidate) cadets who:

(1) Are accepted into the medical services upon completion of delays will not be entered into flying training.

(2) Complete Ph. D. degrees normally will not be required to enter into flying training. (These officers may be entered into flying training if they express a desire and are otherwise qualified.)

(3) Complete law delays but are not assigned to judge advocate duties will be entered into flying training upon termination of their delay if they are otherwise qualified.

(4) Are on or complete delays through the master's degree level and are not assigned to the medical service will be entered into flying training if they are otherwise qualified.

(f) *Judge advocate assignments for law graduates.* Law graduates not selected for judge advocate duties may be ordered to EAD in other than judge advocate assignments (§ 875.7(b)). Law graduates who are selected for judge advocate duties but fail to pass their first bar examination normally will be assigned to other than judge advocate duties.

(g) *Physical qualifications.* To qualify for entry on EAD, officers must meet the physical qualifications outlined in AFM 160–1, chapter 4, unless a waiver is obtained from the Office of the Surgeon, AFMPC/SG. An officer who does not possess a current medical examination, completed within 18 months of entry on EAD, will be required to undergo a medical examination before entry on EAD. An officer who fails to voluntarily complete such a medical examination will be ordered to a special tour of active duty for training (ACDUTRA) for 15 days, unless sooner terminated, to complete a medical examination. This period will be for diagnostic purposes only, and not to correct disqualifying defects. Officers found physically qualified will be ordered to EAD.

§ 875.5 How to apply.

(a) *Initial education delay.* A cadet must submit an AF Form 477 or AF Form 1084 according to §§ 875.8 and 875.9. Applicants for Ph. D. degrees which bypass a master's degree will include a complete explanation of available master's degree programs. This explanation will include the applicant's desire to pursue the master's degree program and its estimated completion date in the event the Ph. D. delay is denied. When no master's degree program is offered, a confirming statement from a school official is required.

(1) *College acceptance.* A cadet may submit an AF Form 477 prior to college acceptance if he has not received final acceptance by the cutoff date for submission. However, the application must include evidence that the cadet has formally applied to graduate school, or has been conditionally accepted for graduate school. (Formal acceptance must be submitted immediately upon receipt.)

(2) *Educational plan.* A completed educational plan, AF Form 1802, will be submitted with each delay request. (If a completed plan cannot be obtained by the cutoff date for submission of the delay application, a tentative plan must be submitted or the applicant may provide a detailed narrative description of the specialized study area he intends to pursue.) The educational plan will show enrollment in the first class beginning after appointment (summer enrollment is encouraged but not required).

(3) *Additional requirements for law school applicants.* Applicants requesting delays for initial entry into law school to begin during the next fiscal year (July 1–June 30) must submit application through their PAS to arrive at ARPC not later than February 1 of the preceding year. It must contain the following documents: Transcript of grades, Law Scholastic Aptitude Test (LSAT) score, Air Force Officer Qualifying Test (AFOQT) scores, field training evaluation, letter of evaluation by PAS, and a signed statement of understanding that acceptance in no way guarantees assignment to judge advocate duties (AF Form 477).

(b) *Hardship delay.* A cadet must submit AF Form 477 according to §§ 875.8 and 875.9. His application must include complete and documented justification for the delay and date of inception of hardship condition.

(c) *Additional delay.* An applicant must submit AF Form 477 or 478 according to §§ 875.8 and 875.9.

§ 875.6 Air Reserve Personnel Center processing procedures.

The Commander, ARPC, his designated representative, or a board established by him, will consider and approve or disapprove, within degree production limits established by HQ USAF/DPPEC, applications submitted according to

§ 875.9 for which he is the approval authority. Other applications will be reviewed for completeness and forwarded to AFMPC/DPMMPO, Randolph Air Force Base, Tex. 78148. Requests will be processed expeditiously and applicants will be notified of ARPC decisions within 2 weeks. When a delay is denied, applicants will be notified by certified mail, return receipt requested.

§ 875.7 Processing procedures for law applicants.

(a) The number of AFROTC graduates who receive educational delays to study law must be limited because of the specialized nature of the law career field and because the majority of AFROTC law graduates anticipate assignment in this field. This limitation will be based on annual judge advocate requirements. The annual educational delay law quota, determined by the Judge Advocate General, will be based on projected needs plus a 15-percent attrition factor and a 10-percent selection factor. A 3-year projected educational delay law quota will be provided HQ USAF/DPPEC annually. As more law graduates will be available each year than can be assigned to judge advocate duties, selection to attend law school in an educational delay status will in no way guarantee an assignment to duty as a judge advocate. Applicants will sign a statement of understanding concerning this point in their initial delay application and again in their application for delay to complete legal licensing requirements. A board of judge advocate officers nominated by the Judge Advocate General and appointed by ARPC will meet annually the first week in March to consider applications for initial entry into law school beginning the next fiscal year. Selections will be conditioned upon acceptance by an accredited law school. ARPC will notify applicants of the board's decision by April 1, if possible. In the event there are insufficient law applicants to fill the educational delay law quota, late applications will be considered by ARPC until the law quota is filled.

NOTE: The above board will not consider law delay applicants who will have completed one or more terms of law school prior to commissioning. Applications from these cadets will be processed under § 875.6.

(b) The Judge Advocate General will convene boards to select AFROTC law graduates for assignment to judge advocate duties. AFROTC, for students in a precommissioning status, and ARPC, for students in a delay status, will identify those to be considered by the Judge Advocate General board. ARPC will provide timely notice and instructions to those to be considered to allow students to complete required actions. HQ USAF/JAEC will provide ARPC a roster of selectees and nonselectees for individual notification.

§ 875.8 Delays granted and maximum delay periods.

Rule	A If the person—	B Then delay may be granted for—	C And will not exceed—
1	Has applied for enrollment in the 1st class beginning after commissioning (summer school attendance is encouraged but not mandatory).	Study leading to a master's degree	2 years.[1]
2		Study leading to a law degree	3 years.[1]
3		Study required for a degree in medicine, dentistry, veterinary medicine, or osteopathic medicine.	4 years.[1]
4		Study leading to a doctorate degree without award of a master's degree (§ 875.5(a)).	4 years.[1]
5	Has completed degree requirements except internship training.	Completion of internship	1 year.[2]
6	Has completed academic work for award of a master's degree.	Study leading to doctorate level degree	2 years.[1]
7	Is enrolled in an institution that requires a 5-year course to obtain a B.S. degree and has satisfied requirements for a B.A. degree.	Attainment of a B.S. degree	1 year.[1]
8	Has completed law degree requirements but has not been admitted to the practice of law before the highest court of a State or Federal court.	Completion of legal licensing requirements	1 year.[3]
9	Has completed baccalaureate degree in nursing but has not been granted a license to practice nursing by a State board of examiners.	Completion of nurse licensing requirements	1 year.[4]
10	Can submit documentary evidence that his entry on EAD would cause undue personal hardship.	Hardship reasons	1 year.[5]

[1] When shorter periods are approved they will be binding. Periods of graduate schooling completed while in a precommissioning status will be applied against maximum delay periods. Extensions up to the time limit shown may be approved by AFIT. Further extensions must be approved by AFMPC/DPMMPO.

[2] Internships are normally approved only for medical and pharmacy. Other internships may be approved only if they are a published requirement for graduation. Upon completion of an internship, the student will forward to AFIT/CIE, Wright-Patterson Air Force Base, Ohio 45433, documentary evidence that his internship training has been successfully completed.

[3] Completion of legal licensing requirements in no way guarantees assignment to judge advocate duties. Officers who do not complete legal licensing requirements will be called to EAD in other than judge advocate duties. Legal licensing delays are terminated when an officer is admitted to practice law.

[4] A nurse licensing delay will be terminated following State board examination and registration in one State, the District of Columbia, the Commonwealth of Puerto Rico, or a territory of the United States. A person not granted a license to practice nursing by a State board of examiners within the maximum delay period will be called to EAD in an Air Force specialty other than nursing.

[5] Hardships which can be removed in less than 1 year will be granted for the lesser period. A hardship condition exists:

(a) When the illness of a member of the reservist's family (that is, wife, child, brother, sister, parent, or any person who stands in loco parentis to the reservist) is such that, in the opinion of an attending physician, fatality appears imminent or the reservist's immediate departure may have a serious effect upon the patient.

(b) When entry on EAD, after the death of a member of the reservist's family (see (a) above), would create a hardship on the surviving members and the reservist's presence is necessary to settle the estate.

§ 875.9 Application instructions and approval authority.

Rule	A If request is for—	B And purpose of delay is to obtain—	C Then person will apply—	D Using—	E And address request—	F Approving authority is—
1	Initial delay.	B.S. or master's degree (other than by a nurse candidate).	In sufficient time to arrive at ARPC no later than 90 days or earlier than 240 days before commissioning.	AF Form 477.	Through PAS to ARPC.[1]	ARPC[2][3]
2		Nursing license		AF Form 1084.		
3		A law degree	In sufficient time to arrive at ARPC not later than Feb. 1.[4]	AF Form 477.		
4		Master's degree by a nurse candidate.				AFMPC/DPMMPO[3][6]
5		Medical degree				
6		Doctorate degree				
7	Extension of delay	A degree for which delay has been approved under § 875.8, rules 1, 2, 3, 4, or 6, and degree requirements cannot be met within the maximum time allowed.	90 days or more before termination date or when the need arises.	AF Form 477 and a personal letter of justification.	Direct to AFIT, info cy to ARPC.	AFIT or AFMPC/DPMMPO[6][7]
8	Additional delay.	Doctorate other than medical	No later than 90 days before completion of master's degree.	AF Form 477.		AFMPC/DPMMPO[8]
9		Medical internship for physicians, dentists, osteopaths, veterinarians, pharmacists, and clinical psychologists.	Within 72 hours of notice of selection for internship.			AFIT[7][8]
10		Legal license	No later than 150 days before graduation from law school.	AF Form 478.	Direct to ARPC.	ARPC[9]
11	Hardship delay	A delay	As soon as hardship arises	AF Form 477.		
12	Appeal of delay decision.	Delay for which request was previously denied.	Within 5 workdays from receipt of denial.	Personal letter.	Direct to ARPC or AFIT, as appropriate.	AFMPC/DPMMPO[3][6]

[1] PAS will insure completeness of the request before indorsement to ARPC.
[2] A copy of the approved delay request, supporting documents, and educational plans, if applicable, will be forwarded to AFIT.
[3] For initial delays, ARPC will provide expeditious notification of approval/disapproval actions to applicants and their PAS. The PAS will insure that cadets with approved applications, who have not already done so, sign new AFROTC category agreements specifying the date of separation option (Part 870 of this subchapter).
[4] Law delay applicants who will have completed one or more terms of law school prior to commissioning must submit their application in sufficient time to arrive at ARPC no later than 90 days or earlier than 240 days before commissioning.
[5] HQ USAF Educational Delay Board results will be forwarded to ARPC and AFIT for action or information. ARPC or AFIT, as appropriate, will provide expeditious notification of board results to applicants. On approved requests for which ARPC takes initial action, ARPC will forward AFIT a copy of the approved delay request, supporting documents, and educational plan, if applicable.
[6] AFIT may approve extensions up to the time limits shown in § 875.8. Applications in excess of those time limits will be forwarded to AFMPC/DPMMPO.
[7] AFIT will inform ARPC of all actions that change an officer's date of availability for EAD.
[8] Upon approval, AFIT will notify ARPC who will reappoint officers into the Medical Corps (see Part 881 of Subchapter I).
[9] All students in their senior year of law school will submit an AF Form 478. Those who do not desire a legal licensing delay will so state on the form.

By order of the Secretary of the Air Force.

JOHN W. FAHRNEY,
Colonel, USAF, Chief, Legislative Division, Office of The Judge Advocate General.

[FR Doc.72-22245 Filed 12-27-72;8:46 am]

Title 6—ECONOMIC STABILIZATION

Rulings—Internal Revenue Service, Department of the Treasury

[Price Commission Ruling 1972-291]

AGGREGATE ANNUAL REVENUES OF INSTITUTIONAL PROVIDERS OF HEALTH SERVICES

Withdrawal of Price Commission Ruling

Price Commission ruling 1972-271, 37 F.R. 23321 (1972) is withdrawn at the request of the General Counsel of the Price Commission.

This ruling has been approved by the General Counsel of the Price Commission.

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

Approved: December 22, 1972.

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

[FR Doc.72-22307 Filed 12-27-72;8:47 am]

[Price Commission Ruling 1972-292]

REPORTING REQUIREMENT—PUBLIC UTILITY

Price Commission Ruling

Facts. X is a public utility with aggregate annual revenues exceeding $100 million. The State where X is doing business does not have a regulatory agency with statewide jurisdiction over the schedule of rates X charges to all of its customers. However, rate increases are subject to approval by each separate town council located within the increase area.

X's board of directors has authorized the utility to seek rate increases for most of the towns within X's service area. The particular increase for each town will vary and each town may approve, modify, or disapprove the rate increase on a separate date; however, the single source of the rate increase is a decision or group of related decisions by the Board of Directors. No one increase to each town will increase X's aggregate annual revenues by 1 percent but when all increases are added together, this will cause X's aggregate annual revenues to exceed 1 percent.

Issue. Does X have to report such price increases and if so when does X report such increases?

Ruling. If the source of all the rates can be traced back to a decision or group of related decisions by a utility's board of directors, a public utility whose final rates are approved individually by separate political subdivisions of a State must report that price increase to the Price Commission if the rates approved by all the subdivisions will increase the utility's aggregate annual revenues by more than 1 percent. Economic stabilization regulation, 6 CFR 300.308(b) (1972),

requires a tier I public utility to report to the Price Commission "* * * a final rate which would cause an increase of more than 1 percent in the aggregate annual revenues * * *" of that utility.

X is required to report the rate increase to the Price Commission, indicating the rate and dollar amount of each increase for each town at the time when the last town within X's service area takes final action on the proposed rate increase. X may not implement the rate increase for any particular town until the expiration of the 60-day working period after the final action by the last town, unless at an earlier date the Price Commission determines that the rate increase complies with section 300.303.

This ruling has been approved by the General Counsel of the Price Commission.

Dated: December 22, 1972.

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

Approved: December 22, 1972.

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

[FR Doc.72-22306 Filed 12-27-72;8:47 am]

Title 7—AGRICULTURE

Chapter VIII—Agricultural Stabilization and Conservation Service (Sugar), Department of Agriculture

SUBCHAPTER B—SUGAR REQUIREMENTS AND QUOTAS

[Sugar Reg. 811, Amdt. 14]

PART 811—CONTINENTAL SUGAR REQUIREMENTS AND AREA QUOTAS

Requirements, Quotas and Quota Deficits for 1972

Basis and purpose and bases and considerations. This amendment is issued pursuant to the authority vested in the Secretary of Agriculture by the Sugar Act of 1948, as amended (61 Stat. 922, as amended; 7 U.S.C. 1101) hereinafter referred to as the "Act." The purpose of this amendment to Sugar Regulation 811, as amended, is to determine and prorate or allocate the deficits in quotas established pursuant to the Act.

Section 204(a) of the Act provides that the Secretary shall as often as facts are ascertainable by him but in any event not less frequently than each 60 days after the beginning of each calendar year, determine whether, any area or country will not market the quota for such area or country.

On the basis of the quota established for Puerto Rico for the calendar year 1972 findings were heretofore made (36 F.R. 21871, 37 F.R. 3629, 12217) that Puerto Rico would be unable to market its quota by 680,000 short tons, raw value, and accordingly a quota deficit was determined for Puerto Rico for 680,000 tons. On the basis of the latest information on prospective marketings of Puerto Rican sugar during 1972 it is herein found that Puerto Rico will be unable to fill its sugar quota by an additional 24,000 short tons, raw value. Therefore, a total deficit is herein determined in the 1972 quota for Puerto Rico of 704,000 short tons, raw value.

On the basis of information recently available to the Department, Hawaii will be able to supply only 1,114,638 short tons, raw value, of its currently effective 1972 quota. Accordingly, a deficit of 103,600 short tons, raw value, is herein determined in the 1972 sugar quota for Hawaii.

On the basis of information currently available to the Department, Panama will be able to market only 41,933 short tons, raw value, of its currently effective quota. Accordingly, it is hereby found that Panama will be unable to market deficits previously prorated to it by 1,567 tons. Therefore, a deficit is herein determined in the quota currently established for Panama of 1,567 short tons, raw value.

On the basis of the quota established for the Domestic Beet Sugar Area for the calendar year 1972 and a finding previously made that the Domestic Beet Sugar Area would be able to supply only 3,400,000 short tons, raw value, of its 1972 quota, a deficit in the quota of 292,000 short tons, raw value, was determined for the Domestic Beet Sugar Area. On the basis of latest information on sugar production, inventories and prospective marketings, it is hereby found that the Domestic Beet Sugar Area will be able to supply at least 50,000 short tons, raw value, more sugar than previously estimated. Therefore, the total deficit in the 1972 quota for the Domestic Beet Sugar Area previously determined to be 292,000 short tons, raw value, is herein determined to be 242,000 short tons, raw value.

The Philippines, which has not participated in recent deficit allocations because of inability to market additional sugar, has recently informed the Department that they will be able to supply 30,000 more short tons, raw value, of sugar than their currently effective 1972 quota of 1,401,761 tons.

The total additional deficits determined herein for Hawaii, Puerto Rico, and Panama of 129,167 short tons, raw value, are partially offset by a reduction of 50,000 short tons, raw value in the deficit previously determined for the Domestic Beet Sugar Area. Net deficits established herein of 79,167 short tons, raw value, are allocated by assigning 30,000 tons to the Philippines; and by prorating the remainder to Western Hemisphere countries who have previously indicated they are able to supply additional sugar.

The marketing opportunities for the Domestic Beet Sugar Area, Hawaii, and Puerto Rico within the basic quotas established for the areas will not be limited as a result of deficit determinations and prorations provided in this Part 811.

It is hereby determined that deficits previously declared and that declared herein constitute all known deficits on which data are currently ascertainable by the Department.

By virtue of the authority vested in the Secretary of Agriculture by the Act, Part 811 of this chapter is hereby amended by amending §§ 811.11, 811.12 and 811.13 as follows:

1. Section 811.11 is amended by amending paragraph (a)(2) to read as follows:

§ 811.11 Quotas for domestic areas.

(a) * * *

(2) It is hereby determined pursuant to section 204(a) of the Act for the calendar year 1972 the Domestic Beet Sugar Area, Hawaii, and Puerto Rico will be unable by 242,000, 103,600, and 704,000 short tons, raw value, respectively, to fill the quotas established for such areas in subparagraph (1) of this paragraph. Pursuant to section 204(b) of the Act the determination of such deficits shall not affect the quotas established in subparagraph (1) of this paragraph.

* * * * *

2. Section 811.12 is amended by amending paragraph (a) to read as follows:

§ 811.12 Proration and allocation of deficits in quotas.

(a) The total deficits determined in quotas established under section 202 of the Act in short tons, raw value, are as follows: Domestic beet sugar area 242,000; Hawaii 103,600; Puerto Rico 704,000; the West Indies 3,751; Haiti 4,721; Bahamas 23,667; Bolivia 5,659; and Uganda 15,252. The deficits for the domestic areas and Western Hemisphere countries totaling 1,087,398 tons are reallocated by allocating 305,741 tons to the Republic of the Philippines (the maximum quantity which it can supply in 1972), providing a special allocation of 21,507, 17,950, and 4,415 tons to Costa Rica, Guatemala, and Honduras, respectively, and prorating the remainder to Western Hemisphere quota countries on the basis of quotas determined under section 202 of the Act, except such prorations to the West Indies, Panama, Haiti, Honduras, Bahamas, and Bolivia are limited so that total quotas for each country will not exceed 177,288, 41,933, 22,522, 17,495, 61, and 54 tons, respectively. The deficit in the quota for Uganda of 15,252 tons is reallocated by allocating 30.08 percent to the Republic of the Philippines and prorating the remainder on the basis of quotas determined under section 202 of the Act to Eastern Hemisphere quota countries, except Ireland.

* * * * *

3. Section 811.13 is amended by amending paragraph (c) to read as follows:

§ 811.13 Quotas for foreign countries.

* * * * *

(c) For the calendar year 1972, the prorations to individual foreign countries other than the Republic of the Philippines, pursuant to section 202 of the Act,

are shown in columns (1) and (2) of the following table. Deficits and deficit prorations previously established in this Sugar Regulation 811 are shown in column (3). The deficit prorations established herein are shown in column (4). Total quotas and prorations are shown in column (5).

Countries	Basic quotas	Temporary quotas and prorations pursuant to sec. 202 (d)[1]	Previous deficits and deficit prorations	New deficit prorations	Total quotas and prorations
	(1)	(2)	(3)	(4)	(5)
	Short tons, raw value				
Dominican Republic	420,738	141,713	161,805	11,181	735,437
Mexico	372,090	125,328	143,097	9,888	650,403
Brazil	362,887	122,228	139,558	9,643	634,316
Peru	259,674	87,463	99,864	6,901	453,902
West Indies	135,425	45,614	−5,251	1,500	177,288
Ecuador	53,578	18,046	20,605	1,424	93,653
Argentina	50,291	16,940	19,341	1,336	87,908
Costa Rica	45,361	15,278	39,398	1,267	101,304
Colombia	44,703	15,057	17,193	1,188	78,141
Panama	27,940	9,411	6,149	−1,567	41,933
Nicaragua	42,403	14,281	16,444	1,184	74,312
Venezuela	40,430	13,617	15,550	1,074	70,671
Guatemala	38,787	13,664	32,991	1,084	85,926
El Salvador	28,268	9,522	10,962	789	49,541
British Honduras	22,352	7,529	8,596	594	39,071
Haiti	20,379	6,864	−4,721	0	22,522
Bahamas	17,750	5,978	−23,667	0	61
Honduras	7,889	2,657	6,949	0	17,495
Bolivia	4,273	1,440	−5,659	0	54
Paraguay	4,273	1,440	1,643	114	7,470
Australia	165,008	41,932	3,857	0	210,797
Republic of China	68,699	17,458	1,606	0	87,763
India	66,069	16,790	1,544	0	84,403
South Africa	46,676	11,861	1,091	0	59,628
Fiji Islands	36,157	9,188	845	0	46,190
Mauritius	24,324	6,181	569	0	31,074
Swaziland	24,324	6,181	569	0	31,074
Thailand	15,120	3,843	353	0	19,316
Uganda	12,162	3,090	−15,252	0	0
Malagasy Republic	9,861	2,506	230	0	12,597
Ireland	5,351	0	0	0	5,351
Total	2,473,242	792,500	696,259	47,600	4,009,601

[1] Proration of the quotas withheld from Cuba and Southern Rhodesia.

* * * * * * *

(Secs. 204 and 403; 61 Stat. 925, as amended, and 932; and 7 U.S.C. 1114 and 1153)

Effective date. In order to promote orderly marketing, it is essential that this amendment be effective immediately so that all persons selling and purchasing sugar for consumption in the continental United States can promptly plan and market under the changed marketing opportunities. Therefore, it is hereby determined and found that compliance with the notice, procedure, and effective date requirements of 5 U.S.C. 553 is unnecessary, impracticable, and contrary to the public interest and this amendment shall be effective when filed for public inspection in the Office of the Federal Register.

Signed at Washington, D.C., on December 22, 1972.

GLENN A. WEIR,
Acting Administrator, Agricultural Stabilization and Conservation Service.

[FR Doc.72-22283 Filed 12-27-72;8:45 am]

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

[Orange Reg. 71, Amdt. 4]

PART 905—ORANGES, GRAPEFRUIT, TANGERINES, AND TANGELOS GROWN IN FLORIDA

Limitation of Shipments

Notice was published in the FEDERAL REGISTER on December 5, 1972 (37 F.R. 25849), that consideration was being given to a proposal relative to limitation of shipments of oranges, including Navel, Temple and Murcott Honey oranges (but not including Valencia, Lue Gim Gong, and similar late maturing oranges of the Valencia type) handled between the production area and any point outside thereof in the continental United States, Canada, or Mexico, recommended by the committees, established under the marketing agreement, as amended, and Order No. 905, as amended (7 CFR Part 905), regulating the handling of oranges, grapefruit, tangerines, and tangelos grown in Florida. This program is effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674).

The notice afforded 10 days for interested persons to submit written data, views, or arguments, in connection with said proposal. None were received.

The recommendation by the committees to extend current grade and size limitations for certain varieties of oranges during the period January 1, 1973, through September 30, 1973, is consistent with current market information submitted by the committees in accordance with § 905.51 of said marketing agreement and order. The minimum grade and size requirements specified for Temple and Murcott Honey oranges are prescribed during the present stage of maturity to prevent the shipment of oranges of a lower quality or smaller size which could adversely affect the overall price structure for better quality fruit. Grade and size limitations on fresh shipments of oranges, other than Temple and Murcott Honey oranges, are consistent with the external appearance and available supply of such oranges and the current and prospective demand for such fruit by fresh market outlets. The recommended grade regulation is necessary to insure a supply of good quality fruit to consumers and to improve overall returns to producers.

After consideration of all relevant matter presented, including the proposal set forth in the aforesaid notice and other available information, it is hereby found that the limitation of shipments of oranges, including Navel, Temple, and Murcott Honey oranges, as hereinafter set forth, is in accordance with said amended marketing agreement and order and will tend to effectuate the declared policy of the act.

It is hereby further found that good cause exists for making the aforesaid amendment effective at the time hereinafter set forth and for not postponing the effective date hereof until 30 days after publication in the FEDERAL REGISTER (5 U.S.C. 553) in that: (1) Notice of proposed rule making concerning this amendment, with an effective date of January 1, 1973, was published in the FEDERAL REGISTER on December 5,1972 (37 F.R. 25849), and no objection to this amendment or such effective date was received; (2) the recommendations and supporting information for regulation of oranges, including Navel, Temple, and Murcott Honey oranges, during the period specified herein were submitted to the Department after open meetings of

the committees on November 15, 1972, which were held to consider recommendations for regulation, after giving due notice of such meetings, and interested persons were afforded an opportunity to submit their views at these meetings; (3) the provisions of this amendment, including the effective time hereof, are identical with the aforesaid recommendations of the committees; (4) information concerning such provisions and effective time has been disseminated among handlers of such oranges, and (5) compliance with the regulation will not require any special preparation on the part of the persons subject thereto which cannot be completed by the effective time hereof.

Order. In § 905.545 (Orange Regulation 71, 37 F.R. 21799, 24432, 25036, 27619) the provisions of paragraph (a) preceding subparagraph (1) thereof are amended to read as follows:

§ 905.545 Orange Regulation 71.

(a) During the period January 1, 1973, through September 30, 1973, no handler shall ship between the production area and any point outside thereof in the continental United States, Canada, or Mexico.

* * * * *

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

Dated: December 21, 1972, to become effective January 1, 1973.

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

[FR Doc. 72–22269 Filed 12–27–72; 8:46 am]

Chapter XVIII—Farmers Home Administration, Department of Agriculture

SUBCHAPTER B—LOANS AND GRANTS PRIMARILY FOR REAL ESTATE PURPOSES

[FHA Ins. 442.1; AL–870(442)]

PART 1823—ASSOCIATION LOANS AND GRANTS—COMMUNITY FACILITIES, DEVELOPMENT, CONSERVATION, UTILIZATION

Subpart A—Loans and Grants for Community Domestic Water and Waste Disposal Systems

REDESIGNATION

Subpart A of Part 1823, Title 7, Code of Federal Regulations (37 F.R. 12036, 37 F.R. 20108) is amended by redesignating certain sections as follows:

1. Section 1823.35 *Handling preliminary inquiries for loan and grant assistance for water and sewer projects (Standard Form 101)*, as published in 37 F.R. 12036, dated June 17, 1972, is redesignated as § 1823.36.

2. Sections 1823.36 through 1823.44, Appendix 1; §§ 1823.45 through 1823.52, Appendix 2; and §§ 1823.53 through 1823.61, Appendix 3, are redesignated as indicated below:

a. *Appendix 1*—§§ 1823.1 through 1823.9 (referred to in FHA offices as Exhibit J), Planning and Developing Community Water and Waste Disposal Facilities;

b. *Appendix 2*—§§ 1823.1 through 1823.8 (referred to in FHA offices as Exhibit D), Requirements for Accounting and Financial Reporting by Community Program Borrowers;

c. *Appendix 3*—§§ 1823.1 through 1823.9 (referred to in FHA offices as Exhibit C), Information Pertaining to Preparation of Notes or Bonds and Bond Transcript Documents for Public Body Applicants.

NOTE: The parenthetical references to specific sections in the first paragraph following the heading under each appendix will also be changed according to the above redesignations. The redesignations in Appendices 1, 2, and 3 preempt the necessity for renumbering sections in Subparts B through M of this part.

(Sec. 339, 75 Stat. 318, 7 U.S.C. 1989; Orders of Act. Sec. of Agr., 36 F.R. 21529; 37 F.R. 22008; Order of Asst. Sec. of Agr. for Rural Development and Conservation, 36 F.R. 21529)

Dated: December 22, 1972.

DOLORES M. KAUFMAN,
Acting Chief, Directives Management Branch, Farmers Home Administration.

[FR Doc.72–22288 Filed 12–27–72; 8:52 am]

Title 12—BANKS AND BANKING

Chapter III—Federal Deposit Insurance Corporation

SUBCHAPTER A—PROCEDURE AND RULES OF PRACTICE

PART 309—PUBLISHED AND UNPUBLISHED RECORDS AND INFORMATION

Public Disclosure of Reports of Condition

The Federal Deposit Insurance Corporation has adopted an amendment to Part 309 of its rules and regulations (12 CFR Part 309), effective upon publication in the FEDERAL REGISTER (12–28–72).

The purpose of the new amendment is to provide for the public disclosure of reports of condition for insured mutual savings banks (FDIC Form 64 (Savings)) and insured State nonmember commercial banks (FDIC Form 64), and consolidated reports of income for insured mutual savings banks (FDIC Form 73 (Savings)) and insured State nonmember commercial banks (FDIC Form 73). As amended, Part 309 of the Corporation's rules and regulations provides that the above-referred-to reports will be available upon request to the Secretary of the Federal Deposit Insurance Corporation in its Washington, D.C. office.

The Corporation's Board of Directors has determined that the public availability of the above-enumerated reports will assist in maintaining public confidence in the Nation's banks. Such availability will also serve the salutary purpose of permitting equal access to basic financial information by all shareholders of insured State nonmember banks and all depositors in such banks, whereas presently access to such information may be limited to a select group of insiders. Public access to the information contained in the reports will also provide greater competition in geographic areas of better-than-average profitability or greater-than-average demand for banking services, greater incentives for banks with a consistently poor performance to correct their problems, an improved ability for insured nonmember banks to raise capital, the development of more uniform rules of bank accounting and reporting, the availability of more reliable and complete data for bank research efforts and legislative policy determinations, and greater consistency with the spirit of the Administrative Procedure Act.

In adopting this amendment to the Corporation's rules and regulations, the Board of Directors of the Corporation finds that (1) prior publication of notice of proposed rule making in the FEDERAL REGISTER and public participation in the making of rules under the provisions of the Administrative Procedure Act (5 U.S.C. 553) and Part 302 of the Corporation's rules and regulations (12 CFR 302.1–302.7) are not required as the amendment relates to general statements of policy and the Corporation's rules of procedure and practice and such publication and participation is unnecessary in that the amendment imposes no additional duties or burdens upon those affected thereby, and (2) a delay of 30 days or more in the effective date of said amendment after its publication is not required by the provisions of the Administrative Procedure Act (5 U.S.C. 553) and Part 302 of the Corporation's rules and regulations (12 CFR 302.1–302.7), since the amendment relates to a policy position of the Corporation.

Part 309 of Chapter III of Title 12 of the Code of Federal Regulations is amended as follows:

1. Section 309.1(a)(3), (b), and (c) are revised to read as follows:

§ 309.1 Published and unpublished information.

(a) *Information published or made available to the public.* * * *

(3) *Information made available to the public.* Except to the extent that the matters set forth in subdivisions (1) through (iii) below relate to or contain information which is exempted from the public disclosure provisions of section 3 of the Administrative Procedure Act, as amended (5 U.S.C. 552), or other law, the Corporation makes available for public inspection and copying, upon request to the Secretary of the Corporation in its office in Washington, D.C., during normal business hours, (i) all final opinions (including concurring and dissenting opinions) and all orders made in the adjudication of cases, (ii) those statements of policy and interpretations which have been adopted by the Corpo-

ration and are not published in the FEDERAL REGISTER, and (iii) Manual of Examination Policies and Instructions to Liquidators. In addition to the above, the Corporation also makes available, during normal business hours, the following reports filed by insured State nonmember banks on or after January 1, 1973, which reports would otherwise be exempt from disclosure under the provisions of subsection (e)(8) of section 3 of the Administrative Procedures Act (5 U.S.C. 552(b)(8)): Consolidated Reports of Income for mutual savings banks; [1] Consolidated Reports of Income for commercial banks; [2] Reports of Condition for mutual savings banks; [3] and Reports of Condition of commercial banks.[4] To the extent required to prevent a clearly unwarranted invasion of personal privacy, the Corporation may delete identifying details when it makes available or publishes an opinion, statement of policy, interpretation, or staff manual or instruction. In each case the justification for the deletion will be fully explained in writing. The Corporation also maintains and makes available for public inspection and copying a current index providing information for the public as to any matter which is issued, adopted, or promulgated after July 4, 1967, and which is required by the Administrative Procedure Act to be made available or published. The Corporation makes available at its Washington office and at each of the 12 Federal Reserve banks for public inspection and copying reports from insured State nonmember banks required under the provisions of section 12 of the Securities Exchange Act of 1934, as amended (15 U.S.C. 78). All requests for copies of records enumerated in subdivisions (i), (ii), and (iii) of this subparagraph must be accompanied by a deposit with the Corporation of the estimated costs of copying such records at the rate of 10 cents per page. Such requests must provide a reasonably specific description of the record sought which will enable the Corporation to locate the record or records without undue difficulty.

Except to the extent that the records relate to or contain information which is exempted from the public disclosure provisions of section 3 of the Administrative Procedure Act, as amended (5 U.S.C. 552) or other law, the Corporation upon request for identifiable records of the Corporation to the Secretary of the Corporation in its office in Washington, D.C., during normal business hours, will make such records available to any person who agrees to pay the costs of searching, preparing, and copying such records at the rate of $5 per hour for searching and preparing and 10 cents per page for copying and has paid in advance to the Corporation the estimated costs thereof. Such requests must provide a reasonably specific description of the record sought which will enable the Corporation to locate the record without undue difficulty. Any denial by an officer or employee of the Corpoartion of a request for any information or record made under this part by any member of the public may be appealed by a written request to the Board of Directors of the Corporation from the person whose request is denied.

(b) *Unpublished information; confidential and privileged information.* All files, documents, reports, books, accounts, and records (collectively referred to as "records" in this section) pertaining to any bank, or the internal operations and affairs of the Corporation, in the possession or control of the Corporation or any officer, employee, or agent thereof, which are: (1) Exempt from disclosure by statute or executive order; (2) contained in or related to examination, operating, or condition reports (other than those operating or condition reports enumerated in paragraph (a)(3)) of this section prepared by or on behalf of, or for the use of the Corporation or any agency responsible for the supervision of financial institutions; (3) related solely to the internal personnel rules and practices of the Corporation; (4) privileged or relate to the business, personal, or financial affairs of any person and are furnished in confidence; (5) proceedings for cease and desist and suspension or removal orders or for the termination of the insured status of any bank; (6) interagency or intraagency memorandums or letters which would not be available by law to a private party in litigation with the Corporation; (7) investigatory records compiled for enforcement of the Federal Deposit Insurance Act and other statutes, except to the extent available by law to a private party; (8) personnel files and similar files (including financial files) the disclosure of which would constitute a clearly unwarranted invasion of personal privacy; and (9) records of deliberations and discussions at meetings of the Board of Directors and any committee established by the Board of Directors and exhibits filed therewith, and all facts or information relating to such exempt matters acquired by the officers, employees or agents of the Corporation in the performance of their official duties (collectively referred to as "information" in this section) are confidential and privileged and the disclosure thereof is prohibited except in the manner and to the extent provided for in this section.

(c) *Disclosure prohibited.* (1) * * *

(v) [Revoked]

* * * * *

(12 U.S.C. 1819, interpret or apply 12 U.S.C. 1820)

Dated at Washington, D.C., this 22d day of December 1972.

By order of the Board of Directors.

FEDERAL DEPOSIT INSURANCE CORPORATION,

[SEAL] E. F. DOWNEY,
Secretary.

[FR Doc.72-22287 Filed 12-27-72;8:45 am]

[1] Consolidated Report of Income—Calendar Year (Including Domestic Subsidiaries), Form 73 (Savings).

[2] Consolidated Report of Income—Calendar Year (Including Domestic Subsidiaries), Form 73.

[3] Report of Condition, Form 64 (Savings).

[4] Consolidated Report of Condition of Bank and Domestic Subsidiaries, Form 64.

Chapter V—Federal Home Loan Bank Board

SUBCHAPTER D—FEDERAL SAVINGS AND LOAN INSURANCE CORPORATION

[No. 72-1513]

PART 563—OPERATIONS

Capitalized Premiums and Deferred Acquisition Credits or Discounts on Loans

DECEMBER 21, 1972.

The present language of § 563.23-1(e) of the rules and regulations for Insurance of Accounts (12 CFR 563.23-1(e)) contains a mandatory requirement that insured institutions write off applicable unamortized capitalized premium or deferred acquisition credit or discount upon the sale or payoff of a loan sold or paid off on or after January 1, 1972. It has been pointed out to the Board that, as to loans paid in full, this mandatory writeoff requirement may not be proper in cases where institutions have already taken such payoffs into consideration when adopting such institution's amortization period. In such cases, the mandatory writeoff requirement may result in "double counting." The Board considers it desirable to retain the mandatory writeoff requirement as to loans sold, but to make the writeoff provision permissive as to loans paid in full. Accordingly, on the basis of such consideration, the Board, on December 21, 1972, amended said § 563.23-1(e) by revising it to read as set forth below.

Since the amendment relieves restriction, the Board found that notice and public procedure with respect to said amendment are unnecessary under the provisions of 12 CFR 508.11 and 5 U.S.C. 553(b); and since publication of said amendment for the 30-day period specified in 12 CFR 508.14 and 5 U.S.C. 553(d) prior to the effective date of said amendment would, in the opinion of the Board, not be required for the same reason, the Board provided that said amendment will become effective on December 28, 1972.

§ 563.23-1 Premiums, charges, and credits with respect to mortgage loans; sale of real estate owned; and related items.

* * * * *

(e) *Sale or payoff of loans.* * * *

(2) If a loan is sold on or after January 1, 1972, any capitalized premium and/or any deferred acquisition credits or discount applicable to such loan as of the date of such sale shall be added to or deducted from (as appropriate) the book value of such loan and the profit or loss thereon shall be recognized as of such date. If a loan is paid in full on or after January 1, 1972, any capitalized premium and/or any deferred acquisition credits or discount applicable to such loan as of the date of such payment may be added to or deducted from (as appropriate) the book value of such loan and the profit or loss thereon may be recognized as of such date.

* * * * *

(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.72-22286 Filed 12-27-72;8:45 am]

Title 14—AERONAUTICS AND SPACE

Chapter I—Federal Aviation Administration, Department of Transportation

[Docket No. 72-SO-133; Amdt. 39-1578]

PART 39—AIRWORTHINESS DIRECTIVES

Aero Commander Models 100 and 100-180 Airplanes

There have been internal failures of the exhaust mufflers on Aero Commander Models 100 and 100-180 aircraft that could result in power loss and blockage of the exhaust outlet. Since this condition is likely to exist or develop in other airplanes of the same type design an airworthiness directive is being issued to require an inspection of the exhaust muffler and installation of exhaust outlet guard on Aero Commander Models 100 and 100-180 aircraft.

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

In consideration of the foregoing and pursuant to the authority delegated to me by the Administrator (39 F.R. 13697), § 39.13 of the Federal Aviation Regulations is amended by adding the following new airworthiness directive:

AERO COMMANDER: Applies to Model 100-180 Serial Nos. 068, 5001 through 5213 certificated in all categories. Model 100 Serial Nos. 251 through 360 and those Model 100's retrofitted with Elano Corp. exhaust system (NEE Turbo System, Inc.) P/N 099001, certificated in all categories.

Compliance required as follows:

For exhaust systems which have accumulated 500 or more hours time in service accomplish the following prior to the next 25 hours time in service unless already accomplished.

To prevent loss or reduction of engine power due to exhaust outlet blockage accomplish the following:

(1) Inspect and repair or replace the exhaust system components in accordance with FAA Advisory Circular AC No. 43.13-1 Chapter 14, Section 3.

(2) Install Aero Commander exhaust outlet guard part No. SK1093, or equivalent approved by Chief, Engineering and Manufacturing Branch, Southern Region, as follows:

(a) Remove muffler heater shroud.

(b) Drill 5/16-inch diameter hole through one wall of the exhaust tailpipe. Hole to be drilled on side of tailpipe closest to centerline of the airplane. Hole to be located 3⅜ inches down from muffler outer wall.

(c) Install outlet guard part No. SK1093 in hole and position so that guard does not touch any part of the inner muffler parts.

(d) Tighten guard around tailpipe and reassemble exhaust system.

Aero Commander Service Bulletin SB 1019 covers this same subject.

This amendment becomes effective December 29, 1972.

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

Issued in East Point, Ga., on December 15, 1972.

PHILLIP M. SWATEK,
Director, Southern Region.

[FR Doc.72-22373 Filed 12-27-72;8:52 am]

[Airspace Docket No. 72-SW-71]

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

Designation of Transition Area

The purpose of this amendment to Part 71 of the Federal Aviation Regulations is to designate the Ada, Okla., transition area.

On November 1, 1972, a notice of proposed rule making was published in the FEDERAL REGISTER (37 F.R. 23278) stating the Federal Aviation Administration proposed to designate a transition area at Ada, Okla.

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

In consideration of the foregoing, Part 71 of the Federal Aviation Regulations is amended, effective 0901 G.m.t., March 1, 1973, as hereinafter set forth.

In § 71.181 (38 F.R. 435), the following transition area is added:

ADA, OKLA.

That airspace extending upward from 700 feet AGL within a 5-mile radius of the Ada Municipal Airport (latitude 34°48'20" N., longitude 96°40'15" W.) and within 3.5 miles each side of the 139° bearing from the Ada RBN (latitude 34°48'30" N., longitude 96°40'23" W.) extending from the 5-mile-radius area to 8.5 miles southeast of the RBN.

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

Issued in Fort Worth, Tex., on December 15, 1972.

HENRY L. NEWMAN,
Director, Southwest Region.

[FR Doc.72-22374 Filed 12-27-72;8:52 am]

[Airspace Docket No. 72-NW-09]

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

Alteration of Transition Area

On November 3, 1972, a notice of proposed rule making was published in the FEDERAL REGISTER (37 F.R. 23458) stating that the Federal Aviation Administration was considering an amendment to Part 71 of the Federal Aviation Regulations that would alter the Redmond, Oreg., transition area.

Interested persons were given 30 days in which to submit written comments. No objections to the proposed amendment were received.

In consideration of the foregoing, the proposed amendment is hereby adopted without change.

Effective date. This amendment shall be effective 0901 G.m.t. February 1, 1973.

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

Issued in Seattle, Wash., on December 18, 1972.

C. B. WALK, Jr.,
Director, Northwest Region.

In § 71.181 (38 F.R. 435) the description of the Redmond, Oreg., transition area is amended as follows:

In line 3, after, "* * * 5 miles south of the VORTAC," insert, "within 4 miles each side of the Redmond VORTAC 014° radial, extending from 15 miles north of the VORTAC to 35 miles north." In addition, amend by adding to the end of the description, "* * * and that airspace north of Redmond VORTAC bounded on the west by the east side of V25, and on the north by an arc of a 32-mile radius arc centered on the Redmond VORTAC, and on the northeast by the northwest edge of V536."

[FR Doc.72-22375 Filed 12-27-72;8:52 am]

[Docket No. 12456; Amdt. 844]

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 (SIAP's) that were recently adopted by the Administrator to promote safety at the airports concerned.

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

SIAP's are available for examination at the rules docket and at the National Flight Data Center, Federal Aviation Administration, 800 Independence Avenue SW., Washington, DC 20591. Copies of SIAP's adopted in a particular region are also available for examination at the headquarters of that region. Individual copies of SIAP's may be purchased from the FAA Public Document Inspection Facility, HQ-405, 800 Independence Avenue SW., Washington, DC 20591, or from

the applicable FAA regional office in accordance with the fee schedule prescribed in 49 CFR 7.85. This fee is payable in advance and may be paid by check, draft, or postal money order payable to the Treasurer of the United States. A weekly transmittal of all SIAP changes and additions may be obtained by subscription at an annual rate of $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 97.23 is amended by originating, amending, or canceling the following VOR–VOR/DME SIAP's, effective February 8, 1973.

Doylestown, Pa.—Doylestown Airport; VOR Runway 23, Amendment 4.
La Verne, Calif.—Brackett Field; VOR/DME–A; Original.
Port Clinton, Ohio—Carl R. Keller Field; VOR–A, Amendment 4.

Effective December 19, 1972.

Westfield, Mass.—Barnes Municipal Airport; VOR Runway 20, Amendment 13.

Effective December 14, 1972.

Kenosha, Wis.—Kenosha Municipal Airport; VOR Runway 14, Amendment 1.

2. Section 97.25 is amended by originating, amending, or canceling the following SDF–LOC–LDA SIAP's, effective January 4, 1973.

Champaign-Urbana, Ill.—University of Illinois-Willard Airport; LOC (BC) Runway 13; Original.
Marquette, Mich.—Marquette County Airport; LOC (BC) Runway 26; Original.

Effective December 15, 1972.

Pittsfield, Mass.—Pittsfield Municipal Airport; SDF Runway 26, Amendment 1.

3. Section 97.27 is amended by originating, amending, or canceling the following NDB/ADF SIAP's, effective February 1, 1973.

Maxton, N.C.—Laurinburg-Maxton Airport; NDB Runway 5; Original.

Effective December 28, 1972.

Scottsbluff, Nebr.—Scotts Bluff County Airport; NDB Runway 30, Amendment 3; Cancelled.

Effective December 15, 1972.

Pittsfield, Mass.—Pittsfield Municipal Airport; NDB Runway 26, Amendment 2.

Effective December 14, 1972.

Kenosha, Wis.—Kenosha Municipal Airport; NDB Runway 14, Amendment 4.

4. Section 97.29 is amended by originating, amending, or canceling the following ILS SIAP's, effective February 8, 1973.

Medford, Oreg.—Medford-Jackson County Airport; ILS Runway 14, Amdt. 5.
Redding, Calif.—Redding Municipal Airport; ILS Runway 34, Amdt. 1.

Effective January 4, 1973.

Marquette, Mich.—Marquette County Airport; ILS Runway 8, Orig.

Effective December 20, 1972.

Gulfport, Miss.—Gulfport Municipal Airport; ILS Runway 13, Amdt. 2.

Effective December 14, 1972.

Owensboro, Ky.—Owensboro-Daviess County Airport; ILS Runway 35, Amdt. 1.

(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) and 5 U.S.C. 552(a)(1))

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.72-22372 Filed 12-27-72;8:52 am]

Chapter II—Civil Aeronautics Board

SUBCHAPTER A—ECONOMIC REGULATIONS

[Reg. ER-783; Amdt. 208-9]

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

Free and Reduced-Rate Transportation for Employees of Affiliates

Adopted by the Civil Aeronautics Board at its office in Washington, D.C. on the 22d day of December 1972.

By notice of proposed rule making EDR-224,[1] the Board proposed, inter alia, an amendment to Part 208. For the reasons set forth in ER-785 (Part 223), published contemporaneously herewith, the Board hereby amends Part 208 of the economic regulations (14 CFR Part 208), effective December 22, 1972, as follows:

Amend § 208.7 by designating the entire text of the existing section as paragraph (a), and adding a new paragraph (b), the section, as amended, to read as follows:

§ 208.7 Unused space.

(a) A supplemental air carrier may, with the written consent of the charterer(s), utilize any unused space for the transportation of (1) the carrier's own personnel and property and/or (2) the directors, officers, and employees of a foreign air carrier or another air carrier traveling pursuant to a pass interchange arrangement.

(b) A supplemental air carrier engaged in overseas or foreign air transportation may, with the written consent of the charterer(s), utilize any unused space for the overseas or foreign air transportation of directors, officers, and employees of any affiliate of such carrier as defined in § 223.1 of this subchapter: *Provided,* That the name of such affiliate is currently included in the list of affiliates filed by such carrier pursuant to § 223.7 of this subchapter.

(Secs. 204(a) and 403 of the Federal Aviation Act of 1958, as amended, 72 Stat. 743, 758, as amended by 74 Stat. 445; 49 U.S.C. 1324, 1373)

By the Civil Aeronautics Board.

[SEAL] HARRY J. ZINK,
Secretary.

[FR Doc.72-22295 Filed 12-27-72;8:48 am]

[1] Dated Mar. 22, 1972, Docket 24337, 37 F.R. 6322.

[Reg. ER-784; Amdt. 214-13]

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

Free and Reduced-Rate Transportation for Employees of Affiliates

Adopted by the Civil Aeronautics Board at its office in Washington, D.C., on the 22d day of December 1972.

For the reasons set forth in ER-785 (14 CFR Part 223), published contemporaneously herewith, the Board hereby amends Part 214 of the economic regulations (14 CFR Part 214), effective December 22, 1972, as follows:

Amend § 214.8 to read as follows:

§ 214.8 Unused space.

A direct foreign air carrier may, with the written consent of the charterer(s), utilize any unused space for the transportation of any one or more of the following classes of persons:

(a) The carrier's own personnel and property;

(b) The directors, officers, and employees of an air carrier or another foreign air carrier traveling pursuant to a pass interchange arrangement; and

(c) The directors, officers, and employees of any affiliate of said carrier as defined in § 223.1 of this subchapter: *Provided,* That the name of such affiliate is currently included in the list of affiliates filed by such carrier pursuant to § 223.7 of this subchapter.

(Secs. 204(a) and 403 of the Federal Aviation Act of 1958, as amended, 72 Stat. 743, 758, as amended by 74 Stat. 445; 49 U.S.C. 1324, 1373)

By the Civil Aeronautics Board.

[SEAL] HARRY J. ZINK,
Secretary.

[FR Doc.72-22297 Filed 12-27-72;8:48 am]

[Reg. ER-785; Amdt. 223-13]

PART 223—TARIFFS OF AIR CARRIERS; FREE AND REDUCED-RATE TRANSPORTATION

Transportation for Employees of Affiliates

Adopted by the Civil Aeronautics Board at its office in Washington, D.C., on the 22d day of December 1972.

By notice of proposed rule making EDR-224,[1] the Board proposed to amend Parts 208 and 223 of its economic regulations (14 CFR Parts 208 and 223), so as to permit supplemental air carriers engaged in overseas or foreign air transportation to (1) provide free or reduced-rate overseas or foreign air transportation to employees of their own affiliates, and (2) utilize unused charter space for such purpose, with the consent of the charterers.

Comments in response to the notice were filed by British Caledonian Airways (Charter) Ltd. (BCAL Charter), Overseas National Airways, Inc., and World Airways, Inc. (World). All three comments generally support the proposal, although BCAL Charter and World recommend certain modifications. Upon consideration, we have determined to adopt the amendments as proposed, but with two modifications. First, coverage is being expanded to apply also to foreign charter carriers. Secondly, the rule is not extending eligibility to "immediate families" of the personnel of affiliates of supplemental (and foreign charter) carriers.

BCAL Charter says that the proposal to permit supplemental air carriers to utilize unused charter space for the overseas and foreign air transportation of employees of affiliates with the charterer's consent should be extended to all classes of carriers. Upon consideration of BCAL Charter's suggestion, we have determined to amend § 214.8 so as to allow foreign charter carriers to utilize unused charter space for the carriage of directors, officers, and employees of their affiliates. We are not, however, permitting such utilization of unused charter space by United States and foreign scheduled carriers, since there is no reason to believe that employees of affiliates of such carriers cannot be accommodated on scheduled flights. Indeed, it is not without significance that no United States or foreign scheduled carrier has requested an amendment permitting such utilization of unused charter space, thereby indicating that there may be no real need for such additional authority for scheduled carriers.

BCAL Charter also recommends that the Board amend the charter regulations so as to provide that unused charter space may be used, with the consent of the charterer, for the free- or reduced-rate transportation of all persons who are eligible for such transportation under Part 223, subject to the conditions of that part. In support of this request, BCAL Charter says that it perceives no sound policy reason for excluding from free- or reduced-rate transportation on chartered aircraft any persons who are eligible for free- or reduced-rate transportation under Part 223. BCAL Charter suggests that the limitations of the general Part 223 authorizations by the specific authorizations in the charter regulations are inadvertent.

The limitations are not inadvertent; they are based upon sound policy. There is an important distinction between allowing a carrier to provide free or reduced-rate transportation on a scheduled flight and allowing it to do so on a charter flight. When a carrier provides such transportation on a scheduled flight, it is given away (or selling at a reduced rate) space which belongs to the carrier, inasmuch as no persons have purchased the otherwise empty seats. But on a charter flight, all of the seats have been sold to, and paid for by, one or more charterers. Thus, for that reason alone we do not believe that we should ignore such distinction and permit carriers to treat unused space on a charter flight the same as unused space on a scheduled flight. Were we to allow carriers the same latitude in carrying free or reduced-rate passengers on charters as on scheduled service, subject only to obtaining consent of the charterer which has paid for the unused space, we might open the door to abuses of the privilege by carriers who would exert untoward pressure on charterers to grant such consent. We have therefore determined to continue to limit the authority of carriers to use empty seats on charter flights so as to allow the carriage of only specified classes of persons otherwise entitled to receive free or reduced-rate transportation.

World suggests a modification of the definition of "affiliate," insofar as that definition presently turns in part upon whether a person's "principal business" is one of several specified activities. World says that "principal business" presumably means one which constitutes more than half of a person's activities, and that the "principal business" test requires continuous monitoring of the relationship between the affiliate and the carrier to insure that the 50-percent test is being met.[2] World contends that the definition thus entails not only an administrative burden but also uncertainty on the part of the carrier as to the continuing availability of transportation benefits for the employees of its affiliates. World suggests that these difficulties could be eliminated by substituting a test of "substantial part of business" for the test of "principal business" in the definition of affiliate.

We find World's suggestion to be without merit. It should be noted first that use of the "principal business" standard in the definition of affiliate was not proposed for the first time in EDR-224. The standard has been contained in Part 223 since the part was enacted in 1949, and we are not aware that its application has presented undue difficulties. We recognize that the phrase is a term of art and is, of necessity, somewhat imprecise; but this would be no less true of the phrase, "substantial part of business." Therefore, to modify the definition of affiliate in the manner suggested by World would not actually clarify the rule, but would only liberalize it, in a manner which is beyond the scope of, and which we are not disposed to consider in, the instant proceeding.

Finally, we have determined not to extend eligibility hereunder for free or reduced-rate transportation on unused charter space to the "immediate families" of the personnel of affiliates of U.S. supplemental or foreign charter carriers. Although we had so proposed, it is our view, upon further consideration, that such extension of eligibility would create an anomaly, since our existing charter rules do not permit carriers to provide free or reduced-rate transportation, on unused charter space, to the "immediate families" of their own personnel.

Since the amendment contained herein relieves a restriction and imposes no burden upon any person, it may become effective immediately.

Accordingly, the Civil Aeronautics Board hereby amends Part 223 of the Economic Regulations (14 CFR Part 223), effective, December 22, 1972, as follows:

Amend the definitions of "carrier" and "affiliate" in § 223.1, the section as amended to read as follows:

§ 223.1 Definitions.

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

(a) "Carrier" means: (1) An air carrier holding a certificate of public convenience and necessity issued pursuant to section 401 of the Act, or (2) a foreign air carrier which holds a permit issued under section 402 of the Act.

(b) An "affiliate" of a carrier means a person:

* * * * *

(2) Whose principal business in purpose or in fact is:

* * * * *

(ii) Transportation by air or the sale of tickets therefor, or

* * * * *

(iv) Activities devoted to the transportation by air conducted by such carrier or by another carrier which controls or is controlled by such carrier or which is under common control with such carrier by another person.

* * * * *

(Secs. 204(a) and 403 of the Federal Aviation Act of 1958, as amended, 72 Stat. 743, 758, as amended by 74 Stat. 445; 49 U.S.C. 1324, 1373)

By the Civil Aeronautics Board.

[SEAL] HARRY J. ZINK, *Secretary*

[FR Doc.72-22296 Filed 12-27-72;8:48 am]

[Reg. ER-782; Amdt. 225-10]

PART 225—TARIFFS OF CERTAIN CERTIFICATED AIR CARRIERS; TRADE AGREEMENTS

Extension and Modification of Exemption

Adopted by the Civil Aeronautics Board at its office in Washington, D.C., on the 22d day of December 1972.

[1] Dated Mar. 22, 1972, Docket 24337, 37 F.R. 6322.

[2] By ER-784, issued contemporaneously herewith, we are amending Part 214 of the economic regulations (14 CFR Part 214) to effectuate this modification.

[3] The difficulty is compounded, adds World, by the failure of the regulation to specify criteria for measuring business activity; yet its suggested substitution would also not be precisely determinable.

By notice of proposed rulemaking EDR–232, dated September 14, 1972,[1] the Board proposed to amend Part 225 of its Economic Regulations (14 CFR Part 225), so as to: (1) Gradually reduce, by annual stages after 1973, and eliminate completely, by December 31, 1976, the exemption which enables local service air carriers to exchange transportation for advertising goods or services, and (2) extend the exemption, insofar as it is granted to certain other classes of carriers, until December 31, 1976.

Comments in response to the notice were filed by Allegheny Airlines, Inc. (Allegheny), Braniff Airways (Braniff), Frontier Airlines, Inc. (Frontier), Hawaiian Airlines, Inc. (Hawaiian), the association of Local Service Airlines (Local Service Association) on behalf of its member carriers,[2] Congressman Manuel Lujan, Jr., the National Newspaper Association (Newspaper), Ozark Air Lines, Inc. (Ozark), Pan American World Airways, Inc. (Pan American), Southern Airways, Inc. (Southern), and Western Air Lines, Inc. (Western). In addition, the Board received a large number of letters concerning the proposed rule from Members of Congress, persons engaged in publishing and broadcasting enterprises, and other persons.

Allegheny, Frontier, the Local Service Association, Congressman Lujan, Newspaper, Ozark, and Southern oppose the proposed rule insofar as it would phase out the authority of the local service carriers to enter into trade agreements.[3] The arguments in opposition to the proposed phaseout may be briefly summarized as follows: (1) Elimination of the trade agreement program for local service carriers would increase their cash needs at a time when they are not yet in strong financial condition, thus leading to increased subsidy needs; (2) the amount of competition between local service carriers and trunkline carriers (who are not authorized to exchange transportation for advertising) is relatively small, the trunk carriers have much larger cash resources than do the local service carriers, and the trunkline carriers actually benefit from trade agreement advertising by local service carriers, since such advertising can generate interline traffic; and (3) elimination of the trade agreement program could cause local service carriers to curtail advertising at low-yield points, where the potential traffic might not justify cash expenditures for advertising.

Hawaiian and Pan American support the proposed rule.[4] Braniff and Western favor termination of the trade agreement program, but suggest that such termination take place at the end of 1973 pursuant to the terms of the existing rule, rather than by means of the proposed phaseout.

Upon consideration, we have determined to adopt the amendments as proposed, except as modified herein.

As we pointed out in EDR–232, the Act prohibits bartering for air transportation generally, and it is only pursuant to its exemption powers that the Board has granted temporary authority to local service and certain other categories of carriers to enter into trade agreements. The reasons underlying the determination of Congress to prohibit bartering in the sale of air transportation are manifest. Bartering by its nature can result in varying prices for air transportation, since it is difficult to ascertain the precise value of particular goods or services which may be offered in exchange for the transportation. This, in turn, raises the possibility of the unjust discrimination and undue preference which Congress has long sought to prevent in air transportation and other forms of common carriage.

Clearly then, the continuation of the trade agreement program, which as indicated above is in derogation of the Act, can be justified only by compelling circumstances. Such circumstances no longer exist with respect to the local service carriers. Although it is true that the local service industry has not yet reached independence from subsidy, it cannot be gainsaid that the local service industry's financial condition has improved, and is continuing to do so. For example, the Form 41 reports reveal that the industry's working capital as of September 30, 1972, was nearly $10.8 million; this represents an increase of some $29.6 million over the industry's negative working capital position as of a year earlier.

Moreover, it should be noted that the phasing out and eventual elimination of the local service carriers' trade agreement program will tend to increase their cash revenues. The unusually large number of letters concerning this proceeding which the Board received from suppliers of advertising suggests the importance of local air transportation to such persons. Undoubtedly, much of the air transportation which advertising suppliers currently obtain by means of trade agreements will, in the future, be purchased at the normal tariff rates.

In addition, as we pointed out in EDR–232, the nature of the local service carriers' route systems has changed substantially since Part 225 was promulgated, and the local service carriers are increasingly in head-to-head competition with trunk carriers. Considering this factor in relation to those discussed above, the Board believes that continuation of the exemption in its present form becomes most difficult to justify.

In view of the reliance of many of the carriers on trade agreements, we have determined to adhere to our tentative view that the program should be phased out gradually. Furthermore, we recognize that some local service carriers have made plans to enter into new trade agreements during 1973 at the existing limits. In order to avoid the disruption of any such plans, we are postponing each stage of the proposed phase-out by 1 year. That is, under the rule being adopted herein, each local service carrier may enter into trade agreements becoming effective during 1973 which have a maximum value, in the aggregate, equal to the present limit of $50,000 plus $4,000 per station operated at the beginning of the year. The gradual elimination of the $4,000 per station allowances will begin with agreements becoming effective during 1974, and no agreements will be allowed to become effective after December 31, 1976. In all other respects, the proposed rule will be made final.[5]

In light of the considerations discussed herein, the Board finds that enforcement of section 403 of the Act and Part 221 of the Board's regulations, to the extent that they would prevent the air carriers described herein from exchanging air transportation for advertising goods and services to the extent and in the manner provided for herein, would be an undue burden on them by reason of the unusual circumstances affecting their operations, and that such enforcement is not in the public interest.

Since this amendment continues an exemption and imposes no burden upon any person, it may become effective immediately.

In consideration of the foregoing, the Board hereby amends Part 225 of its Economic Regulations (14 CFR Part 225), effective December 22, 1972, as follows:

1. Amend paragraph (a) of § 225.2 to read as follows:

§ 225.2 Filing of notice of trade agreement and cancellation of such agreement.

(a) *Notice of trade agreement.* Until December 18, 1976, any airline may file with the Board a notice of its intention to furnish air transportation in exchange for services or goods for advertising purposes. Every such notice shall be accompanied by an executed counterpart of a written agreement, containing all the terms of the agreement between the parties thereto, duly entered into by such air carrier with the supplier, and by an affidavit by the chief financial officer or other responsible officer of the airline having knowledge of the transaction in the form required by § 225.4. Every such notice shall be filed at least 14 days prior to the effective date specified in the trade agreement. Within the meaning of this part, air transportation shall be deemed to be furnished when the passenger is actually enplaned.

* * * * *

[1] Docket 24757, 37 F.R. 19382.

[2] Allegheny, Frontier, Hughes Air Corp. doing business as Hughes Airwest, North Central Airlines, Inc., Ozark Air Lines, Inc., Piedmont Airlines, Inc., Southern Airways, Inc., and Texas International Airlines, Inc.

[3] The informal letters, most of which present similar arguments, also oppose the proposed phaseout.

[4] Hawaiian addresses only that portion of the proposal which would extend, through 1976, the trade agreement exemption for the intra-Hawaii carriers.

[5] It was proposed to require any trade agreement to be filed prior to Dec. 18, 1975, for effectiveness on or before Jan. 1, 1976; however, consistent with our action herein, we are providing that such agreements may be filed until Dec. 18, 1976, for effectiveness on or before Dec. 31, 1976. In addition, we are modifying the language of the proposed rule so as to make clear that the maximum aggregate values of trade agreements for each carrier refer to the agreements becoming effective in each calendar year.

2. Amend paragraph (a) of § 225.5 to read as follows:

§ 225.5 **Provisions of agreement.**

Each trade agreement entered into by an airline hereunder shall provide:

(a) That it shall become effective on a specified day, on or before December 31, 1976;

* * * * *

3. Amend § 225.6 to read as follows:

§ 225.6 **Limitation on total value of trade agreements.**

The total value of trade agreements becoming effective in each calendar year, which are entered into by any single airline in accordance with the provisions of this part, shall be limited, in the aggregate, to the following:

(a) For the airlines identified in § 225.1 (a)(3), $200,000;

(b) For the airlines identified in § 225.1 (a)(4) which have gross transport operating revenues of less than $2 million in the calendar year prior to the effective date of the agreement in question, $20,000;

(c) For the airlines identified in § 225.1 (a)(4) which have gross transport operating revenues of $2 million or more in the calendar year prior to the effective date of the agreement in question, $50,000;

(d) For the airlines identified in § 225.1 (a)(6), $100,000;

(e) For the airlines identified in § 225.1 (a)(1);

(1) $50,000 plus $4,000 per station operated on January 1, 1972, for agreements becoming effective in 1972.

(2) $50,000 plus $4,000 per station operated on January 1, 1973, for agreements becoming effective in 1973.

(3) $4,000 per subsidy-eligible station operated on January 1, 1974, in Class Rate VI station classifications C, D, and E, for agreements becoming effective in 1974.

(4) $4,000 per subsidy-eligible station operated on January 1, 1975, in Class Rate VI station classifications D and E, for agreements becoming effective during 1975.

(5) $4,000 per subsidy-eligible station operated on January 1, 1976, in Class VI station classification E, for agreements becoming effective on and after January 1, 1976.

(Secs. 204(a), 403, 404, and 416 of the Federal Aviation Act of 1958, as amended, 72 Stat. 743, 758, as amended by 74 Stat. 445, 760, and 771; 49 U.S.C. 1324, 1373, 1374, and 1386)

By the Civil Aeronautics Board.

[SEAL] HARRY J. ZINK,
Secretary.

[FR Doc.72-22298 Filed 12-27-72;8:48 am]

Title 16—COMMERCIAL PRACTICES

Chapter I—Federal Trade Commission

[Docket No. C-2325]

PART 13—PROHIBITED TRADE PRACTICES

Colman & Riddell, Inc., et al.

Subpart—Advertising falsely or misleadingly: § 13.73 *Formal regulatory and statutory requirements:* 13.73-92 Truth in Lending Act; § 13.155 *Prices:* 13.155-95 Terms and conditions; 13.155-95(a) Truth in Lending Act. Subpart—Misrepresenting oneself and goods—Goods: § 13.1623 *Formal regulatory and statutory requirements:* 13.1623-95 Truth in Lending Act; Prices: § 13.1823 *Terms and conditions:* 13.1823-20 Truth in Lending Act, Subpart—Neglecting, unfairly or deceptively, to make material disclosure: § 13.1852 *Formal regulatory and statutory requirements:* 13.1852-75 Truth in Lending Act: § 13.1905 *Terms and conditions:* 13.1905-60 Truth in Lending Act.

(Sec. 6, 38 Stat. 721; 15 U.S.C. 46. Interpret or apply sec. 5, 38 Stat. 719, as amended, 82 Stat. 146, 147; 15 U.S.C. 45, 1601-1605) [Cease and desist order, Colman & Riddell, Inc., et al., Seattle, Wash., Docket No. C-2325, Nov. 30, 1972]

In the Matter of Colman & Riddell, Inc., a Corporation; and Cape George Village, Inc., a Corporation; and Birch Bay Investors, a Limited Partnership; and Howard G. Riddell, and V. Keith Colman, Individually, as Officers of Colman & Riddell, Inc. and Cape George Village and as General Partners in Birch Bay Investors.

Consent order requiring three Seattle, Wash., real estate agents, among other things, to cease violating the Truth in Lending Act by failing to disclose to consumers, in connection with the extension of consumer credit, such information as required by Regulation Z of the said Act.

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

It is ordered, That respondents, Colman & Riddell, Inc., a corporation, Cape George Village, Inc., a corporation, and their officers, and Birch Bay Investors, a limited partnership, and their successors and assigns, and Howard G. Riddell and V. Keith Colman, individually, as officers of the above corporations, and as general partners in Birch Bay Investors, and respondents' agents, representatives and employees, directly or through any corporation, subsidiary, division or other device, in connection with any extension of consumer credit, or advertisement to aid, promote, or assist directly or indirectly any extension of consumer credit, as "consumer credit," and "advertisement" are defined in Regulation Z (12 CFR Part 226) of the Truth in Lending Act (Public Law 90-321, 15 U.S.C. 1601 et seq.), do forthwith cease and desist from:

1. Failing to disclose accurately the price at which the subject of any credit sale is offered for sale for cash in the regular course of business and to use the term "cash price" to describe that price as required by § 226.8(c)(1) of Regulation Z.

2. Failing to use the term "cash downpayment" to describe the downpayment in money made in connection with the credit sale, as required by § 226.8(c)(2) of Regulation Z.

3. Failing to disclose the difference between the "cash price" and the downpayment and to use the term "unpaid balance of cash price" to describe that amount as required by § 226.8(c)(3) of Regulation Z.

4. Failing to disclose the amount of credit extended, and to describe that amount as the "amount financed" as required by § 226.8(c)(7) of Regulation Z.

5. Failing to disclose the sum of all charges which are required by § 226.4 of Regulation Z to be included in the finance charge and to use the term "finance charge" to describe that sum, as required by § 226.8(c)(8)(i) of Regulation Z.

6. Failing to disclose the sum of the cash price, all charges which are included in the amount financed but which are not part of the finance charge, and the finance charge and to describe that sum as the "deferred payment price," as required by § 226.8(c)(8)(ii) of Regulation Z.

7. Failing to disclose the "annual percentage rate," computed in accordance with § 226.5 of Regulation Z, as required by § 226.8(b)(2) of Regulation Z.

8. Failing to disclose the number of payments required to repay an indebtedness, as required by § 226.8(b)(3) of Regulation Z.

9. Failing to disclose the sum of payments scheduled to repay the indebtedness, and to describe that sum as the "total of payments," as required by § 226.8(b)(3) of Regulation Z.

10. Failing to prominently display no less than two signs on the premises of each sales office which will clearly and conspicuously state that a customer must receive a complete copy of the consumer credit cost disclosures, as required by the Truth in Lending Act, in any transaction which is financed, before the transaction is consummated.

11. Failing in any consumer credit transaction or advertising to make all disclosures determined in accordance with §§ 226.4 and 226.5 of Regulation Z, at the time and in the manner, form, and amount required by §§ 226.6, 226.8, and 226.10 of Regulation Z; and to give all notices of the right to rescind at the time and in the manner and form required by § 226.9 of Regulation Z.

It is further ordered, That respondents deliver a copy of this order to cease and desist to each operating division and to all present and future personnel of respondents engaged in the consummation of any extension of consumer credit, and that respondents secure a signed statement acknowledging receipt of said order from each such person.

It is further ordered, That respondents notify the Commission at least thirty (30) days prior to any proposed change in the corporate respondents, 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 corporations which may affect compliance obligations arising out of the order.

It is further ordered, That the individual respondents named herein promptly notify the Commission of the discontinuance of their present business or employment and of their affiliation with a new business or employment. Such notice shall include respondents' current business address and a statement as to the nature of the business or employment in which they are engaged as well as a description of their duties and responsibilities.

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

Issued: November 30, 1972.

By the Commission.

[SEAL] CHARLES A. TOBIN, *Secretary.*

[FR Doc.72-22274 Filed 12-27-72;8:48 am]

[Docket No. C-2316]

PART 13—PROHIBITED TRADE PRACTICES

Derby Construction, Inc., and Howard A. Brynes

Subpart—Advertising falsely or misleadingly: § 13.73 *Formal regulatory and statutory requirements:* 13.73–92 Truth in Lending Act; § 13.155 *Prices:* 13.155–95 Terms and conditions: 13.155–95(a) Truth in Lending Act. Subpart—Misrepresenting oneself and goods—Goods: § 13.1623 *Formal regulatory and statutory requirements:* 13.1623–95 Truth in Lending Act—Prices: § 13.1823 *Terms and conditions:* 13.1823–20 Truth in Lending Act. Subpart—Neglecting, unfairly or deceptively, to make material disclosure: § 13.1852 *Formal regulatory and statutory requirements:* 13.1852–75 Truth in Lending Act; § 13.1905 *Terms and conditions:* 13.1905–60 Truth in Lending Act.

(Sec. 6, 38 Stat. 721; 15 U.S.C. 46. Interpret or apply sec. 5, 38 Stat. 719, as amended, 82 Stat. 146, 147; 15 U.S.C. 45, 1601–1605) [Cease and desist order, Derby Construction, Inc., et al., Providence, R.I., Docket No. C-2316, Nov. 13, 1972]

In the Matter of Derby Construction, Inc., a Corporation, and Howard A. Brynes, Individually and as an Officer of Said Corporation

Consent order requiring a Providence, R.I., real estate company, among other things to cease violating the Truth in Lending Act by failing to disclose to consumers, in connection with the extension of consumer credit, such information as required by Regulation Z of the said Act.

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

It is ordered, That respondents Derby Construction, Inc., a corporation, its successors and assigns, and its officers, and Howard A. Brynes, individually and as an officer of said corporation, and respondents' agents, representatives, and employees, directly or through any corporation, subsidiary, division or other device, in connection with any extension of consumer credit or any advertisement to aid, promote, or assist directly or indirectly any extension of consumer credit, as "consumer credit" and "advertisement" are defined in Regulation Z (12 CFR Part 226) of the Truth in Lending Act (P.L. 90–321, 15 U.S.C. 1601 et seq.), do forthwith cease and desist from:

1. Failing to furnish the customer with a duplicate of the instrument containing the disclosures required by § 226.8 or a statement by which the required disclosures are made at the time those disclosures are made as required by § 226.8(a) of Regulation Z.

2. Failing to make all disclosures required by Regulation Z clearly, conspicuously, and in meaningful sequence, as required by § 226.6 (a) of Regulation Z.

3. Failing to use the term "Annual Percentage Rate" to describe the annual percentage rate of finance charge determined in acordance with § 226.5 and required by § 226.8(b)(2) of Regulation Z.

4. Failing to disclose the number of payments scheduled to repay the indebtedness, and failing to describe payments which are more than twice the amount of an otherwise scheduled equal payment by the term "Ballon Payment" required by § 226.6(a) of Regulation Z.

5. Failing to describe the type of any security interest held or to be retained or acquired by the creditor in connection with the extension of credit, and failing to clearly identify the property to which the security interest relates as required by § 226.8(b)(5) of Regulation Z.

6. Failing to use the term "Amount Financed" to describe the amount of credit extended as required by § 226.8 (d)(1) of Regulation Z.

7. Failing to disclose the "Finance Charge" as required by § 226.8(d)(3) of Regulation Z.

8. Failing in any transaction in which respondents retain or acquire a security interest in real property which is used or is expected to be used as the principal residence of the customer to comply with all requirements regarding the right of rescission set forth in § 226.9 of Regulation Z.

9. Representing, directly or by implication, in any advertisement, the amount of the down payment required or that no down payment is required, the amount of any installment payment, the dollar amount of any finance charge, the number of installments or periods of repayment, or that there is no charge for credit, unless all of the following items are stated, in terminology prescribed under § 226.8 of Regulation Z, as required by § 226.10 of Regulation Z.

(i) The cash price or the amount of the loan as applicable.

(ii) The amount of the down payment required or that no down payment is required, as applicable.

(iii) The number, amount, and due dates or period of payments scheduled to repay the indebtedness if credit is extended.

(iv) The amount of the finance charge expressed as an annual percentage rate.

(v) The sum of the payments.

10. Failing in any consumer credit transaction or advertisements to make all disclosures, determined in accordance with §§ 226.4 and 226.5 of Regulation Z, in the manner, form, and amount required by §§ 226.6, 226.7, 226.8, 226.9, 226.10 of Regulation Z.

11. Failing within sixty (60) days after service of this order, to deliver notice of the right to rescind, in the number, manner, and form set forth in § 226.9 (b) of Regulation Z, to each customer who purchased property from respondents on or after July 1, 1969, and has not received such notice, in any credit transaction in which the respondents through a consumer credit agreement have retained or acquired or will retain or acquire a security interest in real property which is used or expected to be used as a customer's principal place of residence.

It is further ordered, That a copy of this order to cease and desist be delivered to all present and future personnel of respondents' engaged in the consummation of any extensions of consumer credit or in any aspect of preparation, ceration, or placing of advertising, and that respondents secure a signed statement acknowledging receipt of said order from each such person.

It is further ordered, That respondents notify the Commission at least thirty (30) days prior to any proposed change in the corporate respondent, such as dissolution, assignment, or sale, resultant 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 this order.

It is further ordered, That the individual respondent named herein promptly notify the Commission of the discontinuance of his present business or employment and of his affiliation with a new business or employment which may affect compliance obligations arising out of this order. Such notice shall include respondent's address or business and a statement as to the nature of the employment in which he is engaged as well as a description of his duties and responsibilities.

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

Issued: November 13, 1972.

By the Commission.

[SEAL] CHARLES A. TOBIN, *Secretary.*

[FR Doc.72-22275 Filed 12-27-72;8:48 am]

[Docket No. C-2326]

PART 13—PROHIBITED TRADE PRACTICES

Estelle Cohen, et al.

Subpart—Advertising falsely or misleadingly: § 13.15 *Business status, advantages, or connections:* 13.15–35 Contracts and obligations; 13.15–225 Personnel or staff; § 13.70 *Fictitious or misleading guarantees;* § 13.155 *Prices:* 13.155–95 Terms and conditions; § 13.185 *Refunds, repairs and replacements.* Subpart—Misrepresenting oneself and goods—Business Status, Advantages or Connections: § 13.1520 *Personnel or staff;*—Goods: § 13.1647 *Guarantees;* § 13.1725 *Refunds;* §13.1760 *Terms and conditions;*—Prices § 13.1823 *Terms and conditions;*—Services: § 13.1843 *Terms and conditions.* Subpart—Neglecting, unfairly or deceptively, to make material disclosure: § 13.-1888 *Respondent's interest;* § 13.1905 *Terms and conditions.* Subpart—Offering unfair, improper and deceptive inducements to purchase or deal: § 13.2035 *Results Guarantee;* § 13.2040 *Returns and reimbursements.*

(Sec. 6, 38 Stat. 721; 15 U.S.C. 46. Interprets or applies sec. 5, 38 Stat. 719, as amended; 15 U.S.C. 45) [Cease and desist order, Estelle Cohen, New York, N.Y., Docket No. C-2326, Dec. 1, 1972]

In the Matter of Estelle Cohen, an Individual Trading and Doing Business as Income Tax Preparation Co., and Leonard Cohen, Individually, and as Manager of Said Company

Consent order requiring a New York City personal income tax preparation service, among other things to cease misrepresenting the terms and conditions of any guarantees; representing that respondent will reimburse customers for any additional payments because of mistakes made on tax returns; failing to disclose respondent's responsibility for, or obligation resulting from, errors attributable to respondent's preparation of tax returns; and misrepresenting the training, competence or ability of respondent's tax-preparing personnel.

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

It is ordered, That respondents, Estelle Cohen, an individual trading and doing business as Income Tax Preparation Co., and Leonard Cohen, individually, and as manager of said company, their successors and assigns, and their agents, representatives and employees, directly or through any corporation, subsidiary, division or other device, in or in connection with the advertising, offering for sale, and sale of income tax preparation services, in commerce, as "commerce" is defined in the Federal Trade Commission Act, do forthwith cease and desist from:

1. Using any guarantee without clearly and conspicuously disclosing the terms, conditions and limitations of any such guarantee; or misrepresenting, in any manner, the terms and conditions of any guarantee.

2. Representing, directly or by implication, that respondents will reimburse their customers for all payments the customers may be required to make in addition to their initial tax payments, in instances where the additional payments result from an error by respondents in the preparation of the tax return; provided, however, nothing herein shall prevent truthful representations that respondents will reimburse their customers for penalty, or interest payments resulting from respondents' error.

3. Failing to disclose, clearly and conspicuously, whenever respondents make any representation, directly or by implication, as to their responsibility for, or obligation resulting from, errors attributable to respondents in the preparation of tax returns, that respondents will not assume the liability for additional taxes assessed against the taxpayer.

4. Representing, directly or by implication, that respondents' tax preparing personnel are specially trained or unusually competent in the preparation of tax returns and the giving of tax advice: or that they have the ability and capacity to prepare and give advice concerning complex and detailed income tax returns; or misrepresenting, in any manner, the competence or ability of respondents' tax-preparing personnel.

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

It is further ordered, That respondents notify the Commission at least 30 days prior to any proposed change in the respondents such as dissolution, assignment, or sale, resulting in the emergence of a successor, the creation or dissolution of subsidiaries or any other change which may affect compliance obligations arising out of the order.

Issued: December 1, 1972.

By the Commission.

[SEAL] CHARLES A. TOBIN, *Secretary.*

[FR Doc.72-22276 Filed 12-27-72;8:48 am]

[Docket No. C-2324]

PART 13—PROHIBITED TRADE PRACTICES

FHA Mobile Home Brokers, Inc. et al.

Subpart—Advertising falsely or misleadingly: § 13.73 *Formal regulatory and statutory requirements:* 13.73–92 Truth in Lending Act; § 13.155 *Prices:* 13.155–95 Terms and conditions: 13.155–95(a) Truth in Lending Act. Subpart—Misrepresenting oneself and goods—Goods: § 13.1623 *Formal regulatory and statutory requirements:* 13.1623–95 Truth in Lending Act; Prices: § 13.1823 *Terms and conditions:* 13.1823–20 Truth in Lending Act. Subpart—Neglecting, unfairly or deceptively, to make material disclosure: § 13.1852 *Formal regulatory and statutory requirements:* 13.1852–75 Truth in Lending Act; § 13.1905 *Terms and conditions:* 13.1905–60 Truth in Lending Act.

(Sec. 6, 38 Stat. 721; 15 U.S.C. 46. Interpret or apply sec. 5, 38 Stat. 719, as amended, 82 Stat. 146, 147; 15 U.S.C. 45, 1601–1605) [Cease and desist order, FHA Mobile Home Brokers, Inc., et al., Hixson, Tenn., Docket No. C-2324, Nov. 30, 1972]

In the Matter of FHA Mobile Home Brokers, Inc., a Corporation, and K. L. Ficken, James R. Whisnant, and James L. Stanley, Individually and as Officers of Said Corporation.

Consent order requiring a Hixson, Tenn., retailer and distributor of mobile homes, among other things to cease violating the Truth in Lending Act by failing to disclose to consumers, in connection with the extension of consumer credit, such information as required by Regulation Z of the said Act.

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

It is ordered, That respondents FHA Mobile Home Brokers, Inc., a corporation, its successors and assigns, and its officers, and K. L. Ficken, James R. Whisnant and James L. Stanley, individually and as officers of said corporation and respondents' agents, representatives, and employees, directly or through any corporate, subsidiary, division, or other device in connection with any extension of consumer credit or advertisement to aid, promote or assist directly or indirectly any extension of consumer credit, as "consumer credit" and "advertisement" are defined in Regulation Z (12 CFR Part 226) of the Truth in Lending Act (Public Law 90–321, 15 U.S.C. 1601 et seq.), do forthwith cease and desist from:

1. Failing to exclude from the "amount financed" and to include in the "finance charge" the cost of the credit investigation required by the respondents in con-

nection with the credit sale, as required by § 226.4(a)(4) of Regulation Z.

2. Failing to disclose the "annual percentage rate" accurately to the nearest quarter of 1 percent, in accordance with § 226.5 of Regulation Z, as required by § 226.8(b)(2) of Regulation Z.

3. Failing, in any credit transaction in which the charge for credit life insurance is included in the "amount financed," to secure a signed and dated credit life insurance authorization, as required by § 226.4(a)(5) of Regulation Z.

4. Stating, in any advertisement, the rate of any finance charge unless respondents state the rate of that charge expressed as an "annual percentage rate," as required by § 226.10(d)(1) of Regulation Z.

5. Stating, in any advertisement, the amount of the downpayment required and the amount of monthly installment payments which can be arranged in connection with a consumer credit transaction, without also stating all of the following items, in terminology prescribed under § 226.8 of Regulation Z, as required by § 226.10(d)(2) thereof:

(i) The cash price;

(ii) The amount of the downpayment required or that no downpayment is required, as applicable;

(iii) The number, amount, and due dates or period of payments scheduled to repay the indebtedness if the credit is extended;

(iv) The amount of the finance charge expressed as an annual percentage rate; and

(v) The deferred payment price.

6. Failing, in any consumer credit transaction or advertisement, to make all disclosures, determined in accordance with §§ 226.4 and 226.5 of Regulation Z, in the manner, form, and amount required by §§ 226.6, 226.8 and 226.10 of Regulation Z.

It is further ordered, That respondents deliver a copy of this order to cease and desist to all present and future personnel of respondents engaged in the consummation of any extension of consumer credit or in any aspect of preparation, creation, or placing of advertising, and that respondents secure a signed statement acknowledging receipt of said order from each such person.

It is further ordered, That respondents notify the Commission at least thirty (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 respondents shall within sixty (60) days after service upon them of this order, file with the Commission a report in writing, setting forth in detail the manner and form in which they have complied with this order.

Issued: November 30, 1972.

By the Commission.

[SEAL] CHARLES A. TOBIN, *Secretary.*

[FR Doc.72-22277 Filed 12-27-72;8:48 am]

Title 17—COMMODITY AND SECURITIES EXCHANGES

Chapter I—Commodity Exchange Authority (Including Commodity Exchange Commission), Department of Agriculture

PART 1—GENERAL REGULATIONS UNDER THE COMMODITY EXCHANGE ACT

Contract Market Rules and Filing of Copies

On September 28, 1972, there was published in the FEDERAL REGISTER (37 F.R. 20257) a notice of proposed revision of § 1.41 of the General Regulations Under the Commodity Exchange Act, as amended (17 CFR 1.41). The purpose of the proposed revision is to allow the Commodity Exchange Authority a 3-week period for evaluation of certain proposed contract market rule changes.

Interested persons were given 30 days in which to submit written data, views or arguments, on the proposed revision. On November 2, 1972, the deadline for comments was extended for an additional 30 days to accommodate a request by a contract market for such an extension. Comments on the proposed revision have been evaluated. Based on this evaluation it has been determined to change the proposal set forth in the notice of rule making published on September 28, 1972. A change was made in paragraph (b) further limiting the categories of contract market rule changes for which the 3-week notice period must be given to the Commodity Exchange Authority and setting the notice period as the 3 weeks immediately prior to the proposed effective date of any such rule change. The change liberalizes the requirements set forth in the proposal and does not impose any new requirements in addition to what was set forth therein. It does not appear that further notice and other public procedure with respect to this matter would make additional information available to the Department of Agriculture. Accordingly, it is found upon good cause that further notice and other public procedure is unnecessary.

Accordingly, § 1.41 is hereby revised to read as follows:

§ 1.41 Contract market rules, regulations; filing of copies.

(a) Each contract market shall file promptly with the Commodity Exchange Authority copies of any bylaw, rule, regulation, or resolution, made or issued by it or by the governing board thereof, or by any committee or clearing organization thereof, and of all changes and proposed changes therein, and shall notify the Commodity Exchange Authority promptly of any changes in its membership.

(b) If any such bylaw, rule, regulation, or resolution, relates to the requirements of sections 5 or 5a of the Commodity Exchange Act (7 U.S.C. 7, 7a), or is required to be or has been submitted to the Secretary of Agriculture pursuant to section 4c or 4f of the Commodity Exchange Act (7 U.S.C. 6c, 6f), or §1.17(b), § 1.38 or § 1.39 of the regulations under the Commodity Exchange Act (17 CFR 1.17(b), 1.38, 1.39), then copies of any proposed amendment, repeal, or addition thereto shall be so filed not less than 3 weeks prior to the proposed effective date thereof: *Provided, however,* That under unusual circumstances in which such notice is impracticable, such copies need not be filed as herein above provided, but in any such case the contract market shall give the Commodity Exchange Authority as much notice as the circumstances permit and shall file a written statement of the reasons why the filing of copies as above provided was impracticable. If any change is made in such a proposed amendment, repeal or addition after copies have been filed with the Commodity Exchange Authority, then the effective date of such proposed amendment, repeal or addition shall be postponed until a date which shall be not less than 3 weeks after the date when the Commodity Exchange Authority is notified of such change, unless the change does not alter the substance of the proposed amendment, repeal or addition or the change is made in conformity to a suggestion by the Commodity Exchange Authority.

(c) Two copies of all material required to be filed by this section shall be furnished to the Act Administrator, Commodity Exchange Authority, U.S. Department of Agriculture, Washington, D.C. 20250, and two copies shall be furnished to the Director of the Regional Office of the Commodity Exchange Authority having local jurisdiction with respect to such contract market.

(7 U.S.C. 7a, 12a)

This revision shall become effective February 1, 1973.

Issued: December 21, 1972.

RICHARD LYNG, *Assistant Secretary.*

[FR Doc.72-22289 Filed 12-27-72;8:47 am]

REPORTS BY CLEARING MEMBERS, FUTURES COMMISSION MERCHANTS, AND TRADERS

Reporting Required Information by Data-Processing Media

On October 19, 1972, notice was published in the FEDERAL REGISTER (37 F.R.

22388) of the proposed amendment of Parts 16, 17, and 18 of the regulations under the Commodity Exchange Act, as amended (17 CFR Parts 16, 17, 18), by adding a new § 16.04 to Part 16, a new § 17.03 to Part 17, and a new § 18.06 to Part 18. These sections permit the use of data-processing media for reporting required information under those respective parts of the regulations.

Interested persons were given 30 days in which to submit written data, views, or arguments, on the proposed amendments. No such written submittals were received. Accordingly, pursuant to the authority vested in the Secretary of Agriculture under the Commodity Exchange Act, as amended, the amendments as so proposed are hereby adopted without change and are set forth below.

Effective date. These amendments shall become effective 30 days after their publication in the FEDERAL REGISTER.

(Secs. 4g, 4i, 8a as added and amended, 49 Stat. 1496, 1500; 69 Stat. 535; 82 Stat. 28, 32, 33; 7 U.S.C. 6g, 6i, 12a)

NOTE: The reporting requirements contained herein have been approved by the Office of Management and Budget in accord with the Federal Reports Act of 1942 (44 U.S.C. Ch. 12).

Issued: December 21, 1972.

RICHARD E. LYNG,
Assistant Secretary.

PART 16—REPORTS BY CLEARING MEMBERS

1. The following new § 16.04 is added to Part 16:

§ 16.04 Use of data-processing media.

Any clearing member of a contract market may provide the required series 00 information on compatible data-processing punched cards, magnetic tapes, or magnetic discs, provided that the format and coding structure used thereon have been approved in writing by the Act Administrator.

PART 17—REPORTS BY FUTURES COMMISSION MERCHANTS AND FOREIGN BROKERS

2. The following new § 17.03 is added to Part 17:

§ 17.03 Use of data-processing media.

Any futures commission merchant may provide the required series 01 information on compatible data-processing punched cards, magnetic tapes, or magnetic discs, provided that the format and coding structure used thereon have been approved in writing by the Act Administrator.

PART 18—REPORTS BY TRADERS

3. The following new § 18.06 is added to Part 18:

§ 18.06 Use of data-processing media.

Any trader may provide the required series 03 information on compatible data-processing punched cards, magnetic tapes, or magnetic discs, provided that the format and coding structure used thereon have been approved in writing by the Act Administrator.

[FR Doc.72-22272 Filed 12-27-72;8:45 am]

PART 16—REPORTS BY CLEARING MEMBERS

Information to be Furnished; Time and Place of Filing Reports

On October 19, 1972, notice was published in the FEDERAL REGISTER (37 F.R. 22387) of the proposed amendment of §§ 16.00 and 16.01 of Part 16 of the regulations under the Commodity Exchange Act, as amended (17 CFR 16.00 and 16.01). The changes in § 16.00 (1) remove the requirement for reporting the net open position, long or short, and (2) include the requirement for the separate reporting of transfers and exchanges of futures for the cash commodity, and the name of the clearing member with whom such transfers or exchanges are made. The change in § 16.01 clarifies the language as to time and place of filing reports.

Interested persons were given 30 days in which to submit written data, views, or arguments on the proposed amendments. No such written submittals were received. Accordingly, pursuant to the authority vested in the Secretary of Agriculture under the Commodity Exchange Act, as amended, the amendments as so proposed are hereby adopted without change and are set forth below.

Effective date. These amendments shall become effective 30 days after their publication in the FEDERAL REGISTER.

(Sec. 8a as added and amended, 49 Stat. 1500; 82 Stat. 32, 33; 7 U.S.C. 12a)

NOTE: The reporting requirements contained herein have been approved by the Office of Management and Budget in accord with the Federal Reports Act of 1942 (44 U.S.C. Ch. 12).

Issued December 21, 1972.

RICHARD E. LYNG,
Assistant Secretary.

§ 16.00 Information to be furnished by clearing members.

Each clearing member of each contract market shall, on each business day, report the following information, separately for each contract market and for each future of each commodity, on the applicable Series 00 form as specified in § 15.02 of this chapter:

(a) The total of all long-open contracts and the total of all short-open contracts carried by such clearing member at the beginning and at the end of the day covered by the report;

(b) The quantity of such contracts bought and the quantity sold during the day covered by the report;

(c) The quantity of purchase transfer trades and the quantity of sale transfer trades, which are included in the total quantity of contracts bought and sold during the day covered by the report, and the name of the clearing member with whom the transfer was made;

(d) The quantity of purchases of futures for the cash commodity and the quantity of sales of futures for the cash commodity, which are included in the total quantity of contracts bought and sold during the day covered by the report, and the name of the clearing member with whom the exchange was made; and

(e) The quantity of the commodity delivered and the quantity received in fulfillment of such contracts during the day covered by the report.

§ 16.01 Time and place of filing reports.

(a) If the clearing member is located in a city where the market involved in the reported transactions is located and where the Commodity Exchange Authority maintains an office, he shall file his reports with such office. Reports shall be filed not later than 30 minutes before the official opening of the market on the following business day, except that reports with respect to cotton shall be filed not later than 30 minutes before the official opening of the market on the following business day or 9:30 a.m., local time, on such following business day, whichever is earlier.

(b) If the clearing member is located elsewhere, he shall mail his reports to the office of the Commodity Exchange Authority in the city in which the market involved in the reported transactions is located. All such reports must be postmarked not later than midnight of the day covered by the report.

(c) If there is no Community Exchange Authority office in a city in which the market involved in the reported transactions is located, the clearing member shall file his reports in accordance with instructions of the Commodity Exchange Authority. All reports transmitted by mail must be postmarked not later than midnight of the day covered by the report.

[FR Doc.72-22270 Filed 12-27-72;8:45 am]

PART 17—REPORTS BY FUTURES COMMISSION MERCHANTS AND FOREIGN BROKERS

Information to be Furnished; Special Account Designation and Identification; Place and Time of Filing Reports

On October 19, 1972, notice was published in the FEDERAL REGISTER (37 F.R. 22388) of the proposed amendment of §§ 17.00(*a*)(1), 17.01, and 17.02(*b*) of Part 17 of the regulations under the Commodity Exchange Act, as amended (17 CFR 17.00(*a*)(1), 17.01, and 17.02(*b*)). The purpose of these amendments is to make clarification or other changes of a minor nature as follows:

Section 17.00(*a*)(1) deletes the words "a futures commission merchant" from the phrase "except a futures commission merchant or foreign broker who carries all accounts on a fully disclosed basis with a registered futures commission merchant" because, in that exception,

the term "a futures commission merchant" is no longer applicable.

Section 17.01 revises the language to show the specific information required on Form 102 regarding the identification of each special account.

Section 17.02(b) changes the place for foreign brokers to file their reports.

Interested persons were given 30 days in which to submit written data, views, or arguments on the proposed amendments. No such written submittals were received. Accordingly, pursuant to the authority vested in the Secretary of Agriculture under the Commodity Exchange Act, as amended, the amendments as so proposed are hereby adopted without change and are set forth below.

Effective date. These amendments shall become effective 30 days after their publication in the FEDERAL REGISTER.

(Secs. 4g, 4i, 8a as added and amended, 49 Stat. 1496, 1500; 69 Stat. 535; 82 Stat. 28, 32, 33; 7 U.S.C. 6g, 6i, 12a)

NOTE: The reporting requirements contained herein have been approved by the Office of Management and Budget in accord with the Federal Reports Act of 1942 (44 U.S.C. Ch. 12).

Issued December 21, 1972.

RICHARD E. LYNG,
Assistant Secretary.

§ 17.00 Information to be furnished by futures commission merchants and foreign brokers.

(a) *Special Accounts—reportable positions.* (1) Each futures commission merchant and each foreign broker, except a foreign broker who carries all accounts on a fully disclosed basis with a registered futures commission merchant, shall submit a report to the Commodity Exchange Authority for each business day with respect to all special accounts, including house accounts, carried by such futures commission merchant or foreign broker. Such report shall be made on the appropriate series 01 form and shall show each reportable position, separately for each contract market and for each future, in such account as of the close of the market on the day covered by the report.

* * * * *

§ 17.01 Special account designation and identification.

(a) *Designation of special account.* For the purpose of reporting, each futures commission merchant and each foreign broker shall assign a number to each special account and shall report such account only by such number. An account number shall not be changed nor assigned to another account without the prior approval of the Act Administrator.

(b) *Identification of special account.* When a special account is reported for the first time, the futures commission merchant or foreign broker shall identify the account to the Commodity Exchange Authority on Form 102, showing the information requested thereon, including:

(1) The name and address of the account and the name of the person responsible for the direction of futures trading of that account;

(2) The number assigned to that account for purposes of reporting the account on series 01 forms;

(3) The commodity in which the account is being reported for the first time count is being reported for the first time;

(4) The business or occupation of the account;

(5) The kind of futures trading account;

(6) The name and address of any other person(s), if any, whose futures trading is controlled by the account; and

(7) The name and address of any other person(s), if any, who has a financial interest in or guarantees this account or controls the trading of this account.

(c) *Transmittal of Form 102.* The report on Form 102 shall be submitted in a separate sealed envelope marked "Confidential" and must accompany the series 01 report on which the account is reported for the first time.

§ 17.02 Place and time of filing reports.

* * * * *

(b) *Foreign brokers.* The reports required to be filed by foreign brokers under §§ 17.00 and 17.01 on series 01 forms shall be prepared for each business day on which there are reportable transactions, and on Form 102 for each new special account, and shall be transmitted at least once each week to the Commodity Exchange Authority office in the city in which the contract market involved in the reported transactions is located. If there is no Commodity Exchange Authority office in such city, the reports shall be transmitted in accordance with instructions from the Commodity Exchange Authority.

[FR Doc.72-22271 Filed 12-27-72;8:45 am]

PART 18—REPORTS BY TRADERS

Information To Be Furnished; Spreads Between Different Types of Contracts; Statement To Be Filed by Reporting Trader

On October 19, 1972, notice was published in the FEDERAL REGISTER (37 F.R. 22389) of the proposed amendment of §§ 18.00(d), 18.01(c), and 18.04 of the regulations under the Commodity Exchange Act, as amended (17 CFR 18.00 (d), 18.01(c), and 18.04). The purpose of these amendments is to make clarifications or other changes of a minor nature as follows:

Section 18.00(d) deletes the reference to corn. Section 18.01(c) deletes the phrase "spreads between round lots and job lots." Section 18.04 shows a change in the heading to specify the title of the Form CEA-40 on which to report the information required, and revises, rearranges, and renumbers the reporting items for clarity.

Interested persons were given 30 days in which to submit written data, views, or arguments on the proposed amendments. No such written submittals were received. Accordingly, pursuant to the authority vested in the Secretary of Agriculture under the Commodity Exchange Act, as amended, the amendments as so proposed are hereby adopted without change and are set forth below.

Effective date. These amendments shall become effective 30 days after their publication in the FEDERAL REGISTER.

(Sec. 8a as added and amended, 49 Stat. 1500; 82 Stat. 32, 33; 7 U.S.C. 12a)

NOTE: The reporting requirements contained herein have been approved by the Office of Management and Budget in accord with the Federal Reports Act of 1942 (44 U.S.C. Ch. 12).

Issued: December 21, 1972.

RICHARD E. LYNG,
Assistant Secretary.

1. Sections 18.00(d) and 18.01(c) are revised to read as follows:

§ 18.00 Information to be furnished by traders.

* * * * *

(d) *Intermarket spreads.* To the extent that any futures position or transaction on any foreign market, in wheat, oats, barley, flaxseed, or cotton, is claimed to represent one leg of an intermarket spread or straddle, or the closing of an intermarket spread or straddle, against any position on a contract market, or against any purchase or sale of futures on a contract market during any one business day, in excess of 2 million bushels of wheat, oats, barley, or flaxseed futures or 30,000 bales of cotton futures (§§ 150.1 and 150.2 of this chapter), such trader shall also show on the report the quantity and future involved in such foreign position or transaction and the name of the foreign market;

* * * * *

§ 18.01 Interest in or control of several accounts.

* * * * *

(c) *Gross positions.* In the following cases, the reporting trader shall report the gross open contracts, i.e., total long open contracts and total short open contracts in each future of such commodity in all such accounts: * * *

(4) Positions which represent spreads between different types of contracts in the same commodity;

* * * * *

2. The heading of § 18.04 is changed and the text of that section is revised to read as follows:

§ 18.04 Statement of reporting trader.

Every trader who holds or controls a reportable position shall furnish to the Commodity Exchange Authority a "Statement of Reporting Trader" on Form CEA-40, including the following information:

(a) The name, address, and telephone number of the reporting trader;

(b) The principal business or occupation of the reporting trader;

(c) The name and address of each person whose commodity futures account is controlled by the reporting trader;

(d) The name and address of each person who controls, or has a financial interest in, or guarantees the account of the reporting trader;

(e) The kind of commodity futures account, i.e., individual, joint, partnership, corporation, or other;

(f) If the reporting trader is an individual or participant in a joint account, the name, address, and type of any organization in which he participates in the management or in which he has a financial interest, if that organization holds another futures trading account;

(g) If the reporting trader is a partnership, the name and address of each partner, and the name of the partner who ordinarily places orders and files the required reports;

(h) If the reporting trader is a corporation, the names and addresses of the person or persons who direct trading activities, and the names of all affiliate corporations (parent and subsidiaries) that trade in commodity futures; and

(i) Signature by the trader personally. If the account is in the name of an organization, signature should be that of a partner, officer, or trustee of that organization.

[FR Doc.72-22273 Filed 12-27-72;8:45 am]

Title 20—EMPLOYEES' BENEFITS

Chapter V—Manpower Administration, Department of Labor

PART 615—EXTENDED UNEMPLOYMENT COMPENSATION

Miscellaneous Amendments

On pages 25172, 25173, and 25174 of the FEDERAL REGISTER of November 28, 1972, there was published a notice of proposed rule making regarding miscellaneous amendments to this part. Interested persons were given 15 days in which to submit written data, views, or arguments regarding the proposed amendments.

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

Effective Date. The amendments shall be effective on the date of their publication in the FEDERAL REGISTER (12-28-72).

Signed at Washington, D.C. this 21st day of December, 1972.

M. R. LOVELL, Jr.,
Assistant Secretary for Manpower.

1. Section 615.2 is amended by amending paragraph (g)(2) and by adding paragraph (h) to read as follows:

§ 615.2 Definitions.

* * * * *

(g) The term "sharable compensation" is described in the Act to include—

* * * * *

(2) Regular compensation paid to an individual for weeks of unemployment in his eligibility period to the extent that the sum of such compensation, plus the regular compensation paid (or deemed paid) to him with respect to prior weeks of unemployment in the applicable benefit year exceeds 26 times (and does not exceed 39 times) the average weekly benefit amount (including allowances for dependents) for weeks of total unemployment payable to such individual during such benefit year.

(h) The term "applicable benefit year" means, with respect to an individual, his current benefit year if at the time he files a claim for extended compensation he has an unexpired benefit year only in the State in which he files such claim or, in any other case, his most recent benefit year. For this purpose his most recent benefit year, if he has unexpired benefit years in more than one State when he files a claim for extended compensation, is the benefit year with the latest ending date or, if such benefit years have the same ending date, the benefit year in which his latest continued claim for regular compensation was filed.

2. Section 615.4 is amended by amending paragraph (b) (1), (2) and (4) and the introductory sentence of paragraph (c) to read as follows:

§ 615.4 Entitlement; exhaustee.

* * * * *

(b) Exhaustee: An individual is an exhaustee with respect to a week of unemployment in his eligibility period if—

(1) He has received, prior to such week, all the regular compensation payable to him according to the monetary determination for his benefit year that includes such week under the unemployment compensation law of the State in which he files a claim for extended compensation or the unemployment compensation law of any other State; or

(2) He has received, prior to such week, all the regular compensation available to him in his benefit year that includes such week under the unemployment compensation law of the State in which he files a claim for extended compensation or the unemployment compensation law of any other State after a cancellation of some or all of his wage credits or the partial or total reduction of his right to regular compensation; or

* * * * *

(4) He has no right to unemployment compensation or allowances, as the case may be, under the following Federal laws: The Railroad Unemployment Insurance Act, and the Trade Expansion Act; and

* * * * *

(c) For the purposes of paragraphs (b) (1) and (2) of this section, an individual shall be deemed to have received in his applicable benefit year all of the regular compensation payable to him according to the monetary determination or available to him, as the case may be, even though—

* * * * *

3. Sections 615.5 (a) (1) and (b) (3) are amended to read:

§ 615.5 Amount of extended compensation.

(a) *Weekly amount*—(1) *Total unemployment.* The State law shall specify that the weekly amount of extended compensation payable to an individual for a week of total unemployment in his eligibility period shall be the amount of regular compensation payable to him for a week of total unemployment during his applicable benefit year. If the individual had more than one weekly amount of regular compensation for total unemployment during such benefit year, the weekly amount of extended compensation for total unemployment shall be any one of the following specified in the State law:

* * * * *

(b) *Individual's extended compensation account.* * * *

(3) If an individual is entitled to more (or less) extended compensation as a result of an appeal which afforded him more (or less) regular compensation, an appropriate change shall be made in the individual's extended compensation account.

4. The title of § 615.6 is as amended, the present § 615.6 is lettered (a) and a new paragraph (b) is added to read:

§ 615.6 Changes in amount of extended compensation resulting from changes in amount of regular compensation awarded on appeal.

* * * * *

(b) If an individual who has received extended compensation for week(s) of unemployment is determined to be entitled to less regular compensation as the result of an appeal, and as a consequence is entitled to less extended compensation, any extended compensation he has been paid in excess of the amount he is determined to be entitled to after the decision on appeal shall be considered an overpayment which the individual shall have to repay on the same basis and in the same manner that he has to repay the regular compensation he has been paid which is in excess of the amount payable to him pursuant to the decision on appeal. If such decision reduces the duration of his regular compensation, his claim for extended compensation shall be backdated to the earliest date, subsequent to the date when the redetermined regular compensation was exhausted and within the extended benefit period, that the individual was eligible to file a claim for extended compensation. An amended determination shall be made of his entitlement to extended compensation and a notice of such determination shall be given to the individual and, if appropriate under the State law, to his employer(s), as provided in § 615.9(a)(3).

5. Section 615.14(b)(3) is amended to read:

§ 615.14 Computation of total rate of insured unemployment.

* * * * *

(b) *State "on" and "off" indicators.* * * *

(3) For the purpose of determining the corresponding 13-week period ending in each of the preceding two calendar years:

(i) Each calendar week shall be identified by the date (calendar month and day of the month) on which it ends;

(ii) For any specific calendar week, the date of the comparable week in the immediately preceding calendar year shall be determined by adding (1) to the date of the end of such specific week or by adding two (2) if:

(*a*) The date of the end of the specific week is February 29; or

(*b*) A February 29 intervenes between.

(*1*) The beginning date of the week in which occurs the date established by the addition of one (1) to the ending date of the specific week, and

(*2*) The ending date of the specific week.

(iii) For any specific calendar week, the ending date of the comparable week in the second preceding calendar year shall be determined by adding two (2) to the end date of the specific week or by adding three (3) if:

(*a*) The ending date of the specific week is February 29; or

(*b*) A February 29 intervenes between,

(*1*) The beginning date of the week in which occurs the date established by the addition of two (2) to the ending date of the specific week, and

(*2*) The ending date of the specific week.

* * * * *

[FR Doc.72-22278 Filed 12-27-72;8:48 am]

Title 21—FOOD AND DRUGS

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

SUBCHAPTER B—FOOD AND FOOD PRODUCTS

PART 19—CHEESES, PROCESSED CHEESES, CHEESE FOODS, CHEESE SPREADS, AND RELATED FOODS

Colby Cheese; Identity Standard; Confirmation of Effective Date of Order

In the matter of amending the standard of identity for colby cheese (21 CFR 19.510) to permit the optional addition, to impart a smoked flavor, of a clear aqueous solution prepared by condensing or precipitating wood smoke in water. Considerable time has passed since publication of this order, the reason being that the Food and Drug Administration decided it would be in the best interest of consumers to perform analyses on samples of smoke flavoring to determine the presence or absence of nitrosamines. Based on the negative findings from these analyses the Commissioner concludes there is no justification to withhold publication of the confirmation of effective date.

It should be recognized, however, that the safety of any prior sanctioned substance, such as smoke flavoring, is being reviewed in accordance with the notice which appeared in the FEDERAL REGISTER of October 23, 1971 (36 F.R. 20546), and that a proposed procedure for the regulation of ingredients subject to prior sanctions was published in the FEDERAL REGISTER of August 12, 1972 (37 F.R. 16407).

Pursuant to provisions of the Federal Food, Drug, and Cosmetic Act (sec. 401, 701, 52 Stat. 1046, 1055–1056 as amended by 70 Stat. 919 and 72 Stat. 948; 21 U.S.C. 341, 371) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 2.120), notice is given that no objections or requests for a hearing were filed in response to the order in the above-identified matter published in the FEDERAL REGISTER of October 7, 1969 (34 F.R. 15555). Accordingly, the amendment promulgated by that order became effective December 6, 1969.

Dated: December 19, 1972.

SAM D. FINE,
Associate Commissioner for Compliance.

[FR Doc.72-22256 Filed 12-27-72;8:46 am]

SUBCHAPTER C—DRUGS

METHICILLIN

Recodification

In the FEDERAL REGISTER of July 19, 1972 (37 F.R. 14316) the Commissioner of Food and Drugs proposed that Parts 141, 141a, and 146a (21 CFR 141, 141a, and 146a) be amended as they apply to sodium methicillin and that a new Part 149f be added to Title 21. Part 149f would include all monographs in Parts 141a and 146a which currently provide for the certification of sodium methicillin products. These proposed amendments included technical revisions as well as recodification. Interested persons were invited to submit their comments in response to the notice of proposed rule making within 60 days. No comments were received. Accordingly, the Commissioner concludes that the antibiotic drug regulations should be amended as set forth below.

Therefore, pursuant to provisions of the Federal Food, Drug, and Cosmetic Act (sec. 507, 59 Stat. 463, as amended; 21 U.S.C. 357) and under authority delegated to the Commissioner (21 CFR 2.120), Parts 141, 141a, and 146a are amended and a new Part 149f is added as set forth below.

PART 141—TESTS AND METHODS OF ASSAY OF ANTIBIOTIC AND ANTIBIOTIC-CONTAINING DRUGS

§ 141.506 [Amended]

1. In Part 141 in the table in § 141.506 (b) (2) the item which reads "Buffered sodium methicillin" is deleted.

PART 141a—PENICILLIN AND PENICILLIN-CONTAINING DRUGS; TESTS AND METHODS OF ASSAY

§§ 141a.103 and 141a.107 [Revoked]

2. Part 141a is amended by revoking § 141a.103 *Sodium methicillin* and § 141a.107 *Buffered methicillin sodium (buffered sodium - 2,6-dimethoxyphenyl penicillin)* and by reserving them for future use.

PART 146a—CERTIFICATION OF PENICILLIN AND PENICILLIN-CONTAINING DRUGS

§§ 146a.11 and 146a.15 [Revoked]

3. Part 146a is amended by revoking § 146a.11 *Buffered methicillin sodium* and § 146a.15 *Sodium methicillin* and by reserving them for future use.

4. A new Part 149f is added which consists at this time of two sections, as follows:

PART 149f—METHICILLIN

Sec.
149f.1 Sterile sodium methicillin.
149f.2–149f.10 [Reserved]
149f.11 Sodium methicillin for injection.

AUTHORITY: The provisions of this Part 149f issued under sec. 507, 59 Stat. 463, as amended; 21 U.S.C. 357.

149f.1 Sterile sodium methicillin.

(a) *Requirements for certification—(1) Standards of identity, strength, quality, and purity.* Sodium methicillin is the monohydrated sodium salt of (2,6-dimethoxyphenyl) penicillin. It is so purified and dried that:

(i) It contains not less than 815 micrograms of methicillin per milligram.

(ii) It is sterile.

(iii) It is nonpyrogenic.

(iv) It passes the safety test.

(v) Its moisture content is not less than 3 percent and not more than 6 percent.

(vi) Its pH in an aqueous solution containing 10 milligrams per milliliter is not less than 5.0 and not more than 7.5.

(vii) Its sodium methicillin content is not less than 90 percent.

(viii) It is crystalline.

(ix) It passes the identity test.

(2) *Labeling.* It shall be labeled in accordance with the requirements of § 148.3 of this subchapter.

(3) *Requests for certification; samples.* In addition to complying with the requirements of § 146.2 of this subchapter, each such request shall contain:

(i) Results of tests and assays on the batch for potency, sterility, pyrogens, safety, moisture, pH, sodium methicillin content, crystallinity, and identity.

(ii) Samples required:

(*a*) For all tests except sterility: 10 packages, each containing approximately 300 milligrams, plus one package containing approximately 2 grams.

(*b*) For sterility testing: 20 packages, each containing approximately 600 milligrams.

(b) *Tests and methods of assay—(1) Potency.* Use any of the following methods; however, the results obtained from the microbiological agar diffusion assay shall be conclusive.

(i) *Microbiological agar diffusion assay.* Proceed as directed in § 141.110 of this chapter, preparing the sample for assay as follows: Dissolve an accurately weighed portion of the sample in sufficient 1 percent potassium phosphate buffer, pH 6.0 (solution 1), to give a stock solution of convenient concentration. Further dilute an aliquot of the stock solution with solution 1 to the reference

concentration of 10 micrograms of methicillin per milliliter (estimated).

(ii) *Iodometric assay.* Proceed as directed in § 141.506 of this subchapter.

(iii) *Hydroxylamine colorimetric assay.* Proceed as directed in § 141.507 of this subchapter.

(2) *Sterility.* Proceed as directed in in § 141.2 of this subchapter, using the method described in paragraph (e) (1) of that section.

(3) *Pyrogens.* Proceed as directed in § 141.4(a) of this subchapter, using a solution containing 20 milligrams of methicillin per milliliter.

(4) *Safety.* Proceed as directed in § 141.5 of this subchapter.

(5) *Moisture.* Proceed as directed in § 141.502 of this subchapter.

(6) *pH.* Proceed as directed in § 141.503 of this subchapter, using an aqueous solution containing 10 milligrams per milliliter.

(7) *Sodium methicillin content.* Dissolve an accurately weighed portion of the sample in a sufficient accurately measured volume of distilled water to obtain a concentration of 0.2 milligram of sodium methicillin per milliliter (estimated). Treat a portion of the methicillin working standard in the same manner. Using a suitable spectrophotometer equipped with a 1-centimeter quartz cell and distilled water as the blank, determine the absorbance at 280 nanometers. If a recording spectrophotometer is used, record the ultraviolet absorption spectrum from 250 nanometers to 300 nanometers. If a nonrecording spectrophotometer is used, determine the absorbance (on a solution containing 10 milligrams per 100 milliliters) at the 280-nanometer absorption peak. (The exact position of the peak should be determined for the particular instrument used.) Calculate as follows:

$$\text{Percent sodium methicillin} = \frac{\text{Absorbance of sample} \times \text{Weight of working standard} \times \text{Volume of sample solution} \times \text{Percent sodium methicillin in working standard}}{\text{Absorbance of standard} \times \text{Weight of sample} \times \text{Volume of standard solution}}$$

(8) *Crystallinity.* Proceed as directed in § 141.504(a) of this subchapter.

(9) *Identity.* Using the sample solution prepared as described in subparagraph (7) of this paragraph, determine the absorbancies at the absorption maximum at 280 nanometers and at the absorption minimum at 264 nanometers. The ratio of the two

$$\frac{A\ 280}{A\ 264}$$

should be not less than 1.30 and not more than 1.45.

§§ 149f.2–149f.10 [Reserved]

§ 149f.11 Sodium methicillin for injection.

(a) *Requirements for certification—*(1) *Standards of identity, strength, quality, and purity.* Sodium methicillin for injection is sodium methicillin either containing ethylenediaminetetraacetic acid trisodium salt in a quantity not less than 4.25 percent and not more than 5.25 percent by weight of its total solids or containing a suitable preservative and the buffer sodium citrate in a quantity not less than 4 percent and not more than 5 percent by weight of its total solids (such sodium citrate conforms to the standards prescribed therefor by the U.S.P.). Its potency is satisfactory if it is not less than 90 percent and not more than 115 percent of the number of milligrams of methicillin that it is represented to contain. It is sterile. It is nonpyrogenic. It passes the safety test. If it contains ethylenediaminetetraacetic acid trisodium salt, its pH, immediately after reconstitution as directed in the labeling, is not less than 7.0 and not more than 8.5; if it contains sodium citrate buffer, its pH in an aqueous solution containing 10 milligrams per milliliter is not less than 6.0 and not more than 8.5. Its moisture content is not more than 6.0 percent. The sodium methicillin used conforms to the standards prescribed by § 149f.1(a)(1).

(2) *Labeling.* It shall be labeled in accordance with the requirements of § 148.3 of this subchapter.

(3) *Requests for certification; samples.* In addition to complying with the requirements of § 146.2 of this subchapter, each such request shall contain:

(i) Results of tests and assays on:

(*a*) The sodium methicillin used in making the batch for potency, moisture, pH, sodium methicillin content, crystallinity, and identity.

(*b*) The batch for potency, sterility, pyrogens, safety, pH, and moisture.

(ii) Samples required:

(*a*) The sodium methicillin used in making the batch: 10 packages, each containing approximately 300 milligrams, plus one package containing approximately 2 grams.

(*b*) The batch:

(*1*) For all tests except sterility: A minimum of 10 immediate containers.

(2) For sterility testing: 20 immediate containers, collected at regular intervals throughout each filling operation.

(b) *Tests and methods of assay—*(1) *Potency—*(i) *Sample preparation.* Reconstitute as directed in the labeling. Using a suitable hypodermic needle and syringe, remove all of the withdrawable contents if it is represented as a single-dose container; or, if the labeling specifies the amount of potency in a given volume of the resultant preparation, remove an accurately measured representative portion from each container. Dilute the portion thus obtained with 1 percent potassium phosphate buffer, pH 6.0 (solution 1), to give a stock solution of convenient concentration.

(ii) *Assay procedure.* Use either of the following methods; however, the results obtained from the microbiological agar diffusion assay shall be conclusive.

(*a*) *Microbiological agar diffusion assay.* Proceed as directed in § 141.110 of this subchapter, diluting an aliquot of the stock solution with solution 1 to the reference concentration of 10 micrograms of methicillin per milliliter (estimated).

(*b*) *Iodometric assay.* Proceed as directed in § 141.506 of this subchapter, diluting an aliquot of the stock solution with solution 1 to the prescribed concentration.

(2) *Sterility.* Proceed as directed in § 141.2 of this subchapter, using the method described in paragraph (e) (1) of that section.

(3) *Pyrogens.* Proceed as directed in § 141.4(a) of this subchapter, using a solution containing 20 milligrams of methicillin per milliliter.

(4) *Safety.* Proceed as directed in § 141.5 of this subchapter, except use a test dose solution containing 40 milligrams of methicillin per milliliter.

(5) *pH.* Proceed as directed in § 141.503 of this subchapter, using the drug reconstituted as directed in the labeling if it contains ethylenediaminetetraacetic acid trisodium salt or using an aqueous solution containing 10 milligrams per milliliter if it contains sodium citrate buffer.

(6) *Moisture.* Proceed as directed in § 141.502 of this subchapter.

Effective date. This order shall become effective 30 days after its date of publication in the FEDERAL REGISTER.

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

Dated: December 20, 1972.

MARY A. MCENIRY,
Assistant to the Director for Regulatory Affairs, Bureau of Drugs.

[FR Doc.72-22253 Filed 12-27-72;8:46 am]

SODIUM CLOXACILLIN MONOGRAPHS

Recodification and Technical Revisions

In a notice of proposed rule making published in the FEDERAL REGISTER of August 10, 1972 (37 F.R. 16104), the Commissioner of Food and Drugs proposed that the antibiotic drug regulations be amended by revising Parts 141a and 146a and by establishing a new Part 149j to provide for the recodification and technical revisions of the sodium cloxacillin monohydrate monographs. It was also proposed that the name of the drug be changed from sodium cloxacillin monohydrate to sodium cloxacillin to conform with U.S.P. XVIII. Interested persons were invited to submit their comments in response to the notice of proposed rule making within 60 days. No comments were received. Accordingly, the Commissioner of Food and Drugs concludes that the antibiotic drug regulations should be amended, as set forth below.

Therefore, pursuant to provisions of the Federal Food, Drug, and Cosmetic Act (sec. 507, 59 Stat. 463, as amended; 21 U.S.C. 357) and under authority delegated to the Commissioner (21 CFR

2.120), Parts 141a and 146a are amended and a new Part 149j is added as set forth below.

PART 141a—PENICILLIN AND PENICILLIN-CONTAINING DRUGS; TESTS AND METHODS OF ASSAY

§§ 141a.118, 141a.119, and 141a.120 [Revoked]

1. Part 141a is amended by revoking §§ 141a.118, 141a.119, and 141a.120.

PART 146a—CERTIFICATION OF PENICILLIN AND PENICILLIN-CONTAINING DRUGS

§§ 146a.114, 146a.115, and 146a.116 [Revoked]

2. Part 146a is amended by revoking §§ 146a.114, 146a.115, and 146a.116.

PART 149j—CLOXACILLIN

3. A new Part 149j is added consisting at this time of three sections, as follows:

Sec.
149j.1 Sodium cloxacillin.
149j.2–149j.10 [Reserved]
149j.11 Sodium cloxacillin capsules.
149j.12 Sodium cloxacillin for oral solution.

AUTHORITY: The provisions of this Part 149j issued under sec. 507, 59 Stat. 463, as amended; 21 U.S.C. 357.

§ 149j.1 Sodium cloxacillin.

(a) *Requirements for certification*—(1) *Standards of identity, strength, quality, and purity.* Sodium cloxacillin is the monohydrate sodium salt of 5-methyl-3-(*o*-chlorophenyl)-4-isoxazolyl penicillin. It is so purified and dried that:

(i) Its potency is not less than 825 micrograms of cloxacillin per milligram.

(ii) It passes the safety test.

(iii) Its moisture content is not less than 3 percent and not more than 5 percent.

(iv) Its pH in an aqueous solution containing 10 milligrams per milliliter is not less than 4.5 nor more than 7.5.

(v) Its sodium cloxacillin content is not less than 90 percent.

(vi) It passes the identity test.

(vii) It is crystalline.

(2) *Labeling.* It shall be labeled in accordance with the requirements of § 148.3 of this subchapter.

(3) *Requests for certification; samples.* In addition to complying with the requirements of § 146.2 of this subchapter, each such request shall contain:

(i) Results of tests and assays on the batch for potency, safety, moisture, pH, sodium cloxacillin content, identity, and crystallinity.

(ii) Samples required: 10 packages, each containing approximately 300 milligrams.

(b) *Tests and methods of assay*—(1) *Potency.* Use any of the following methods; however, the results obtained from the microbiological agar diffusion assay shall be conclusive.

(i) *Microbiological agar diffusion assay.* Proceed as directed in § 141.110 of this chapter, preparing the sample for assay as follows: Dissolve an accurately weighed portion of the sample in sufficient 1 percent potassium phosphate buffer, pH 6.0 (solution 1), to give a stock solution of convenient concentration. Further dilute an aliquot of the stock solution with solution 1 to the reference concentration of 5 micrograms of cloxacillin per milliliter (estimated).

(ii) *Iodometric assay.* Proceed as directed in § 141.506 of this subchapter.

(iii) *Hydroxylamine colorimetric assay.* Proceed as directed in § 141.507 of this subchapter.

(2) *Safety.* Proceed as directed in § 141.5 of this subchapter.

(3) *Moisture.* Proceed as directed in § 141.502 of this subchapter.

(4) *pH.* Proceed as directed in § 141.503 of this subchapter, using an aqueous solution containing 10 milligrams per milliliter.

(5) *Sodium cloxacillin content.* Accurately weigh approximately 100 milligrams of the sample and dissolve in sufficient 5*N* sodium hydroxide to give a total volume of 25 milliliters. Place in a boiling water bath for 30 minutes. Cool, acidify 1 milliliter with 1 milliliter of dilute sulfuric acid (1 in 2), add 8 milliliters of water, and extract with two 25-milliliter portions of ethyl ether. Combine the ether extractives and extract with 25-milliliter portions of 0.1*N* sodium hydroxide. Combine the alkaline extractives and dilute to 100 milliliters with carbon dioxide-free water. Treat a portion of the cloxacillin working standard in the same maner. Using a suitable spectrophotometer, determine the absorbance of the solution in a 1-centimeter cell at the absorption peaks at 257±3 nanometers and at 282±3 nanometers compared with a reagent blank. Determine the percent sodium cloxacillin in the sample by means of the following calculation:

$$\text{Percent sodium cloxacillin} = \frac{A_1 \times \text{weight of standard in milligrams, on an "as is" basis} \times \text{percent sodium cloxacillin in the standard}}{A_2 \times \text{weight of sample in milligrams on an "as is" basis}} \times 100$$

where:

A_1 = Difference in absorbance for the sample between 257 nanometers and 282 nanometers;
A_2 = Difference in absorbance for the cloxacillin working standard, similarly treated.

(6) *Identity.* Proceed as directed in § 141.521 of this subchapter, using the 0.5 percent potassium bromide disc described in paragraph (b)(1) of that section.

(7) *Crystallinity.* Proceed as directed in § 141.504(a) of this subchapter.

§§ 149j.2–149j.10 [Reserved]

§ 149j.11 Sodium cloxacillin capsules.

(a) *Requirements for certification*—(1) *Standards of identity, strength, quality, and purity.* Sodium cloxacillin capsules are composed of sodium cloxacillin and one or more suitable and harmless diluents and lubricants. Each capsule contains sodium cloxacillin equivalent to 125 milligrams, 250 milligrams, or 500 milligrams of cloxacillin. Its potency is satisfactory if it is not less than 90 percent and not more than 120 percent of the number of milligrams of cloxacillin that it is represented to contain. Its moisture content is not more than 5 percent. The sodium cloxacillin used conforms to the standards prescribed by § 149j.1(a)(1).

(2) *Labeling.* It shall be labeled in accordance with the requirements of § 148.3 of this subchapter.

(3) *Requests for certification; samples.* In addition to complying with the requirements of § 146.2 of this subchapter, each such request shall contain:

(i) Results of tests and assays on:

(*a*) The sodium cloxacillin used in making the batch for potency, safety, moisture, pH, sodium cloxacillin content, identity, and crystallinity.

(*b*) The batch for potency and moisture.

(ii) Samples required:

(*a*) The sodium cloxacillin used in making the batch: 10 packages, each containing approximately 300 milligrams.

(*b*) The batch: A minimum of 30 capsules.

(b) *Tests and methods of assay*—(1) *Potency*—(i) *Sample preparation.* Place a representative number of capsules into a high-speed glass blender jar containing sufficient 1 percent potassium phosphate buffer, pH 6.0 (solution 1), to give a stock solution of convenient concentration. Blend for 3 to 5 minutes.

(ii) *Assay procedure.* Use either of the following methods; however, the results obtained from the microbiological agar diffusion assay shall be conclusive.

(*a*) *Microbiological agar diffusion assay.* Proceed as directed in § 141.110 of this chapter, diluting an aliquot of the stock solution with solution 1 to the reference concentration of 5 micrograms of cloxacillin per milliliter (estimated).

(*b*) *Iodometric assay.* Proceed as directed in § 141.506 of this such subchapter, diluting an aliquot of the stock solution with solution 1 to the prescribed concentration.

(2) *Moisture.* Proceed as directed in § 141.502 of this subchapter.

§ 149j.12 Sodium cloxacillin for oral solution.

(a) *Requirements for certification*—(1) *Standards of identity, strength, quality, and purity.* Sodium cloxacillin for oral solution is a mixture of sodium cloxacillin with one or more suitable and harmless colorings, flavorings, buffer substances, and preservatives. When reconstituted as directed in the labeling, each milliliter contains sodium cloxacillin equivalent to 25 milligrams or 50 milligrams of cloxacillin. Its potency is satisfactory if it is not less than 90 percent and not more than 120 percent of the number of milligrams of cloxacillin that it is represented to contain. Its moisture content is not more than 1 percent. When reconstituted as directed in its labeling, its pH is not less than 5.0 nor more than 7.5. The sodium cloxacillin

used conforms to the standards prescribed by § 149j.1(a)(1).

(2) *Labeling.* It shall be labeled in accordance with the requirements of § 148.3 of this subchapter.

(3) *Requests for certification; samples.* In addition to complying with the requirements of § 146.2 of this subchapter, each such request shall contain:

(i) Results of tests and assays on:

(*a*) The sodium cloxacillin used in making the batch for potency, safety, moisture, pH, sodium cloxacillin content, identity, and crystallinity.

(*b*) The batch for potency, moisture, and pH.

(ii) Samples required:

(*a*) The sodium cloxacillin used in making the batch: 10 packages, each containing approximately 300 milligrams.

(*b*) The batch: A minimum of five immediate containers.

(b) *Tests and methods of assay*—(1) *Potency*—(i) *Sample preparation.* Reconstitute the sample as directed in the labeling. Dilute an accurately measured representative aliquot of the sample with sufficient 1 percent potassium phosphate buffer, pH 6.0 (solution 1), to give a stock solution of convenient concentration.

(ii) *Assay procedures.* Use either of the following methods; however, the results obtained from the microbiological agar diffusion assay shall be conclusive.

(*a*) *Microbiological agar diffusion assay.* Proceed as directed in § 141.110 of this chapter, diluting an aliquot of the stock solution with solution 1 to the reference concentration of 5 micrograms of cloxacillin per milliliter (estimated).

(*b*) *Iodometric assay.* Proceed as directed in § 141.506 of this chapter, diluting an aliquot of the stock solution with solution 1 to the prescribed concentration.

(2) *Moisture.* Proceed as directed in § 141.502 of this subchapter.

(3) *pH.* Proceed as directed in § 141.503 of this subchapter, using the drug reconstituted as directed in its labeling.

Effective date. This order shall become effective 30 days after date of publication in the FEDERAL REGISTER.

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

Dated: December 20, 1972.

MARY A. MCENIRY,
Assistant to the Director for Regulatory Affairs, Bureau of Drugs.

[FR Doc.72-22252 Filed 12-27-72;8:46 am]

PART 149u—CLINDAMYCIN

Clindamycin Palmitate Hydrochloride for Oral Solution

The Commissioner of Food and Drugs has evaluated data submitted in accordance with regulations promulgated under section 507 of the Federal Food, Drug, and Cosmetic Act, with respect to approval of the antibiotic drug clindamycin palmitate hydrochloride for oral solution.

The Commissioner has concluded that data supplied by the manufacturer concerning the subject antibiotic drug is adequate to establish its safety and efficacy when used as directed in the labeling and that the regulations should be amended to provide for the certification of this drug.

Therefore, pursuant to provisions of the Federal Food, Drug, and Cosmetic Act (sec. 507, 59 Stat. 463, as amended; 21 U.S.C. 357) and under authority delegated to the Commissioner (21 CFR 2.120), Part 149u is amended by adding a new section as follows:

§ 149u.14 Clindamycin palmitate hydrochloride for oral solution.

(a) *Requirements for certification*—(1) *Standards of identity, strength, quality, and purity.* Clindamycin palmitate hydrochloride for oral solution is composed of clindamycin palmitate hydrochloride with one or more suitable and harmless diluents, buffer substances, colorings, flavorings, and preservatives. When reconstituted as directed in the labeling, each milliliter contains clindamycin palmitate hydrochloride equivalent to 15 milligrams of clindamycin. Its clindamycin content is satisfactory if it is not less than 90 percent and not more than 120 percent of the number of milligrams of clindamycin that it is represented to contain. The moisture content is not more than 3.0 percent. When reconstituted as directed in the labeling, its pH is not less than 2.5 and not more than 5.0. The clindamycin palmitate hydrochloride used conforms to the standards prescribed by § 149u.3(a)(1).

(2) *Labeling.* It shall be labeled in accordance with the requirements of § 148.3 of this subchapter.

(3) *Requests for certification; samples.* In addition to complying with the requirements of § 146.2 of this chapter, each such request shall contain:

(i) Results of tests and assays on:

(*a*) The clindamycin palmitate hydrochloride used in making the batch for clindamycin content, safety, moisture, pH, and identity.

(*b*) The batch for clindamycin content, moisture, and pH.

(ii) Samples required:

(*a*) The clindamycin palmitate hydrochloride used in making the batch: 10 packages, nine containing not less than 300 milligrams, and one containing not less than 2 grams.

(*b*) The batch: A minimum of six immediate containers.

(b) *Tests and methods of assay*—(1) *Clindamycin content.* Proceed as directed in § 141.573 of this chapter, except:

(i) *Preparation of clindamycin palmitate hydrochloride sample and working standard solutions.* Accurately weigh about 130 milligrams of the clindamycin palmitate hydrochloride working standard and transfer to a 25-milliliter volumetric flask. Add 5 milliliters of distilled water. Reconstitute the clindamycin palmitate hydrochloride for oral solution as directed in the labeling and transfer exactly 5.0 milliliters to a 25-milliliter volumetric flask. Add exactly 5.0 milliliters of internal standard and 1 milliliter of 30-percent sodium carbonate to each flask. Shake both flasks mechanically for 5 minutes. Transfer the contents of each flask to separate 15-milliliter glass-stoppered centrifuge tubes and centrifuge. Remove the top aqueous layer by suction and transfer exactly 1.0 milliliter of the chloroform layer to separate glass-stoppered, conical, 15-milliliter centrifuge tubes. Add 1 milliliter of pyridine and 0.5 milliliter of acetic anhydride. Agitate the tubes to insure complete mixing of the liquids. Proceed as directed in § 141.573(e) of this subchapter.

(ii) *Calculations.* Calculate the clindamycin content as follows:

$$\text{Milligrams of clindamycin per milliliter} = \frac{R_u \times W_s \times f}{R_s \times V}$$

where:

R_u = (Area of the sample peak (at a retention time equal to that observed for the clindamycin palmitate hydrochloride standard)) / (Area of internal standard peak)

R_s = (Area of the clindamycin palmitate hydrochloride standard peak) / (Area of internal standard peak)

W_s = Weight of the clindamycin palmitate hydrochloride working standard in milligrams;

V = Volume of reconstituted sample in milliliters;

f = Milligrams of clindamycin activity per milligram of clindamycin palmitate hydrochloride working standard

(2) *Moisture.* Proceed as directed in § 141.502 of this subchapter.

(3) *pH.* Proceed as directed in § 141.503 of this subchapter, using the drug reconstituted as directed in the labeling.

Since the conditions prerequisite to providing for certification of subject antibiotic have been complied with and since the matter is noncontroversial, notice and public procedures and delayed effective date are not prerequisites to this promulgation.

Effective date. This order shall be effective upon publication in the FEDERAL REGISTER (12-28-72).

Dated: December 20, 1972.

MARY A. MCENIRY,
Assistant to Director for Regulatory Matters, Bureau of Drugs.

[FR Doc.72-22254 Filed 12-27-72;8:46 am]

SUBCHAPTER F—REGULATIONS UNDER SPECIFIC ACTS OF CONGRESS

PART 295—REGULATIONS UNDER THE POISON PREVENTION PACKAGING ACT OF 1970

Exemption of Certain Aspirin-Containing Preparations in Powder Form From Child Protection Packaging Standards

In the FEDERAL REGISTER of September 13, 1972 (37 F.R. 18563), the Commissioner of Food and Drugs proposed to exempt certain aspirin-containing preparations in powder form from the regulation (§ 295.2(a)(1)) prescribing child protection packaging standards. The proposal was based on requests for exemption submitted by Block Drug Co., Inc., in conjunction with Stanback Co., Ltd., and by Glenbrook Laboratories, Division of Sterling Drug, Inc. The Commissioner acknowledged that reasonable grounds in support of the exemption were given.

A third request for exemption has been received from Goody's Manufacturing Corp., Winston-Salem, N.C., for Goody's Headache Powder. A copy of the exemption request is available for inspection at The Office of the Hearing Clerk, Department of Health, Education, and Welfare, Room 6–88, 5600 Fishers Lane, Rockville, MD 20852. The request included results of a study with children, conducted by Foster D. Snell, Inc., Florham Park, N.J., showing that the children had difficulty transporting the powder to their mouths and that tasting the product generally discouraged further attempts at ingestion. Based upon data provided, Goody's Headache Powder falls within the specifications of the proposed exemption.

In response to the proposal, seven consumers submitted comments opposing the exemption. They contend that taste is not a deterrent factor in childhood accidental poisonings and that children probably can ingest powders by licking them from a floor or table or by actually pouring them from the powder papers into their mouths.

The comments did not provide any data repudiating the support for the exemption set forth in the exemption requests, and thus fail to establish that the exemption should not be granted.

Therefore, having evaluated the comments received and other relevant material, the Commissioner concludes that the proposal should be adopted. Accordingly, pursuant to provisions of the Poison Prevention Packaging Act of 1970 (secs. 2(4), 3, 5, 84 Stat. 1670–1672; 15 U.S.C. 1471(4), 1472, 1474) and under authority delegated to the Commissioner (21 CFR 2.120), § 295.2(a) is amended by changing the period at the end of subparagraph (1) to a comma and by adding thereto the words "except the following:" and by adding to paragraph (1) a new subdivision (ii), as follows:

§ 295.2 Substances requiring "special packaging."

(a) * * *

(1) * * *

(i) [Reserved]

(ii) Unflavored aspirin - containing preparations in powder form (other than those intended for pediatric use) that are packaged in unit doses providing not more than 10 grains of aspirin per unit dose and that contain no other substance subject to the provisions of this section.

* * * * *

Effective date. This order shall be effective upon publication in the FEDERAL REGISTER (12–28–72).

(Secs. 2(4), 3, 5, 84 Stat. 1670–1672; 15 U.S.C. 1471(4), 1472, 1474)

Dated: December 19, 1972.

SAM D. FINE,
Associate Commissioner for Compliance.

[FR Doc.72–22255 Filed 12–27–72;8:46 am]

Title 26—INTERNAL REVENUE

Chapter I—Internal Revenue Service, Department of the Treasury

SUBCHAPTER A—INCOME TAX

[T.D. 7235]

PART 1—INCOME TAX; TAXABLE YEARS BEGINNING AFTER DECEMBER 31, 1953

Change of Annual Accounting Period by Certain Corporations

On August 23, 1972, notice of proposed rule making with respect to the amendment of the income tax regulations (26 CFR Part 1) under section 442 of the Internal Revenue Code of 1954 was published in the FEDERAL REGISTER (37 F.R. 16952). After consideration of all such relevant matter as was presented by interested persons regarding the rules proposed, the regulations as proposed are hereby adopted.

(Sec. 7805, Internal Revenue Code of 1954, 68A Stat. 917; 26 U.S.C. 7805)

[SEAL] JOHNNIE M. WALTERS,
Commissioner of Internal Revenue.

Approved: December 19, 1972.

FREDERIC W. HICKMAN,
Assistant Secretary of the Treasury.

§ 1.4421 Change of annual accounting period.

* * * * *

(c) *Special rule for certain corporations.* * * *

(2) * * *

(iii) The taxable income of the corporation for the short period required to effect the change of annual accounting period is, if placed on an annual basis (see paragraph (b)(1) (i) and (ii) of § 1.443–1), 80 percent or more of the taxable income of the corporation for the taxable year immediately preceding such short period;

(iv) If a corporation had a special status either for the short period or for the taxable year immediately preceding such short period, it must have the same special status for both the short period and such taxable year (for the purpose of this subdivision, special status includes only: a personal holding company, a foreign personal holding company, a corporation which is an exempt organization, a foreign corporation not engaged in trade or business within the United States, a Western Hemisphere trade corporation, and a China Trade Act corporation); and

(v) The corporation does not attempt to make an election under section 1372 (a) that purports to initially become effective with respect to a taxable year which (*a*) would immediately follow the short period required to effect the change of annual accounting period, and (*b*) would begin after August 23, 1972.

* * * * *

[FR Doc.72–22238 Filed 12–27–72;8:45 am]

[T.D. 7236]

PART 1—INCOME TAX; TAXABLE YEARS BEGINNING AFTER DECEMBER 31, 1953

Group-Term Life Insurance Purchased for Employees

On December 21, 1971, notice of proposed rule making with respect to amendment of the regulations which relate to group-term life insurance purchased for employees was published in the FEDERAL REGISTER (36 F.R. 24119). After consideration of all such relevant matter as was presented by interested persons regarding the rules proposed and after a public hearing, the income tax regulations (26 CFR Part 1) are amended as follows:

Paragraph (b)(1) of § 1.79–1 is amended, by revising subdivisions (i), (ii), and (iii) (*d*) and adding a new (iii) (*e*), to read as set forth below.

(Sec. 7805, Internal Revenue Code of 1954, 68A Stat. 917; 26 U.S.C. 7805)

[SEAL] JOHNNIE M. WALTERS,
Commissioner of Internal Revenue.

Approved: December 19, 1972.

FREDERIC W. HICKMAN,
Assistant Secretary of the Treasury.

§ 1.79–1 General rules relating to group-term life insurance purchased for employees.

* * * * *

(b) *Meaning of terms.* * * *

(1) *Group-term life insurance*—(i) *In general.* Group-term life insurance is term life insurance protection provided under a master policy, or group of individual policies, which policy, or policies, constitute life insurance contracts for purposes of section 101(a) and form a part of a plan of group insurance as defined in subdivision (iii) of this subparagraph. For this purpose, the life insurance protection in a policy of permanent insurance (such as a whole life policy) does not constitute term life insurance protection. The preceding sentence shall not apply to policies in existence on December 21, 1971, until taxable years

beginning after June 30, 1973. Section 79 only applies to insurance which provides general death benefits. Thus, such section does not apply to travel insurance or accident and health insurance (including amounts payable under a double indemnity clause or rider). Moreover, section 79 does not apply to any amount of life insurance protection provided for an employee by an employer which is in excess of the maximum amount of such protection which could, under the law of the applicable jurisdiction, be provided by such employer for such employee under a master policy providing only group-term life insurance protection.

(ii) *Paid up or similar value.* (*a*) In the case of a policy which includes permanent insurance, a paid up value, a cash surrender value, or an equivalent benefit, section 79 shall apply to that portion of the insurance provided thereunder during the taxable year which constitutes group-term life insurance (within the meaning of this subparagraph) only if the policy specifies the portion of the premium which is allocated to the group-term life insurance and the policy provides that no part of the premium which is not so allocated is to be paid by the employer. Therefore, if the employer pays any part of the premium which is not so allocated by the policy to the group-term life insurance and the payment, in fact, exceeds the amount properly allocable to the group-term life insurance, section 79 shall not apply to any part of the premium paid by the employer, and the entire payment of the employer shall be includible in the employee's gross income. See § 1.61-2(d)(2)(ii). However, if the employer pays an amount not in excess of the amount so allocated by the policy, but which is, in fact, in excess of the portion properly allocable to the group-term life insurance, then, except as provided in (*b*) of this subdivision, only such excess amount shall be includible in the employee's gross income. For purposes of this subparagraph, a provision permitting an employee to convert (or continue) the term insurance protection after it ceases to be provided by the employer shall not be treated as permanent insurance, a paid up value, a cash surrender value, or an equivalent benefit. If a policy containing permanent insurance, a paid up value, a cash surrender value, or an equivalent benefit is used to provide group-term life insurance protection for any employee, each employee in the same class must be eligible for such insurance protection under a policy containing such a benefit.

(*b*) Notwithstanding (*a*) of this subdivision, in the case of a policy in existence on December 21, 1971, which specifies the portion of the premium which is allocated to the group-term life insurance, and no part of the premium which is not so allocated is paid by the employer, then for taxable years beginning before January 1, 1973, even if the employer pays an amount in excess of the portion properly allocable to the group-term life insurance, such excess shall not be includible in the employee's gross income.

(*c*) The provisions of this subdivision may be illustrated by the following example:

Example. In July 1971, an employer obtains a group life insurance policy that provides group-term life insurance, to be paid for by the employer. The amount of an employee's insurance is determined on the basis of a schedule appearing in the policy. The policy also provides for permanent life insurance to be paid for by the employees who elect to be covered by the permanent insurance. All employees covered by the group policy are eligible to elect the permanent insurance coverage. When an employee elects to be covered by permanent insurance, the amount of his scheduled group-term life insurance coverage is reduced by the amount of the permanent insurance. The permanent insurance coverage is level premium life insurance, such as a whole life or life paid up at the age of 65. The policy specifically states the premium rates applicable to the group-term life insurance and, separately, the premium rates applicable to the permanent insurance. However, the portion of the premium specified by the policy as allocated to the group-term life insurance and which was paid by the employer was in excess of the portion properly allocable to the group-term life insurance. Accordingly, with respect to the excess portion of that part of the premium paid by the employer which was not properly allocable to group-term life insurance, section 79 of the Code does not apply and that part is includible in the employee's gross income for taxable years beginning after December 31, 1972. However, pursuant to (*b*) of this subdivision, for taxable years beginning before January 1, 1973, such portion shall not be so includible in the employee's gross income.

(iii) *Plan of group-term insurance defined.* * * *

(*d*) As a general rule, to constitute a plan of group-term life insurance for a calendar year, an employer's plan must provide such protection for at least 10 full-time employees at some time during a calendar year. However, a plan which, for an entire calendar year, provides protection for fewer than 10 full-time employees may also qualify as group insurance if the following requirements to preclude individual selection are met:

(*1*) The plan provides protection for all full-time employees (except as otherwise permitted in (*d*) (*3*), (*4*), and (*5*) of this subdivision);

(*2*) Except as otherwise permitted in (*d*) (*3*), (*4*), and (*5*) of this subdivision, the amount of protection for employees is computed either as a uniform percentage of salary or on the basis of coverage brackets (which are established by the insurer) under which no bracket exceeds 2½ times the next lower bracket and the lowest bracket is at least 10 percent of the highest bracket;

(*3*) Evidence of insurability may be a factor affecting either the employee's eligibility for insurance or the amount of insurance on his life only to the extent that such eligibility or amount of insurance is determined solely on the basis of a medical questionnaire completed by the employee and not requiring a medical examination;

(*4*) If evidence of insurability is not a factor affecting either the employee's eligibility for insurance or the amount of insurance, then a plan which provides protection for fewer than 10 full-time employees but does not meet the requirements in (*d*) (*1*) or (*2*) of this subdivision may nevertheless qualify as a plan of group insurance if (*i*) such plan is a part of an overall plan which provides protection for the employees of two or more unrelated employers, (*ii*) participation in the plan is restricted to, but mandatory for, all employees of an employer who belong to or are represented by a particular organization (such as a union), and (*iii*) such organization carries on substantial activities in addition to obtaining insurance.

(*5*) An employer may elect to provide no coverage for employees who continue to work full time after the year they reach the age of 65. If he elects to provide coverage, he may provide such coverage on the same basis as for employees under age 65, or he may provide coverage under a plan in which the insurer establishes a separate schedule of coverage brackets, so long as (*i*) no bracket in the over-65 schedule exceeds 2½ times the next lower bracket, and (ii) the lowest bracket in the over-65 schedule is at least 10 percent of the highest bracket in the basic schedule. See the example in (*e*) of this subdivision.

For purposes of (*d*) of this subdivision, a plan shall be considered to be providing group-term life insurance protection for any employee who was eligible for such protection but who elected not to participate in the plan. Moreover, a plan of group-term life insurance providing insurance for fewer than 10 full-time employees will not be disqualified merely because employees are not provided group-term life insurance under the plan because they are required, by the terms of the policy, to be employed for a waiting period of not more than 6 months before their group-term life insurance becomes effective or are part-time employees. Employees whose customary employment is for not more than 20 hours in any 1 week, or 5 months in any calendar year, are presumed to be part-time employees.

(*e*) The provisions of (*d*)(*2*) of this subdivision may be illustrated by the following example:

Example. E, an employer, has fewer than 10 full-time employees and provides all eligible employees with group-term life insurance coverage under his plan. E pays the entire cost of the life insurance. Evidence of insurability is limited to a medical questionnaire to be completed by the employee and does not require a medical examination. Subject to the requirement of evidence of insurability, any full-time active employee of E is, after completing 3 months of continuous service with E, eligible for insurance. The plan provides a basic schedule of group-term life insurance coverage based upon annual earnings. It also provides that the amount of insurance a covered employee has at age 65 will be reduced by 10 percent each year that he continues working full time after the year in which he reaches the age of 65, except (*i*) in no even will the amount of his coverage be reduced below 50 percent of the coverage provided in the basic schedule for his salary, (*ii*) no coverage bracket under either schedule exceeds 2½ times the next lower bracket, and (*iii*) the lowest bracket in both schedules is at least 10

percent of the highest bracket in both schedules. This may be illustrated as follows:

Salary	Basic schedule	Reduced coverage at age 70
$6,000	$2,000	$2,000
7,500	5,000	2,500
10,000	10,000	5,000
20,000	20,000	10,000

Under the combined schedule no bracket exceeds 2½ times the next lower bracket and the lowest bracket is 10 percent of the highest bracket. The provisions for reduction after age 65 are in accordance with (*d*)(5) of this subdivision.

* * * * *

[FR Doc.72-22239 Filed 12-27-72;8:45 am]

[T.D. 7237]

PART 12—TEMPORARY INCOME TAX REGULATIONS UNDER THE REVENUE ACT OF 1971

Temporary Regulations Relating to the Requirements of a Domestic International Sales Corporation (DISC)

In order to prescribe temporary regulations, relating to an election by a corporation to be treated as a domestic international sales corporation (DISC) pursuant to section 992(b) of the Internal Revenue Code of 1954, as added by section 501 of the Revenue Act of 1971 (Public Law 92-178, 85 Stat. 535), the following temporary regulations are hereby adopted:

§ 12.7 Election to be treated as a DISC.

(a) *Manner and time of election*—(1) *Manner*—(i) *In general.* A corporation can elect to be treated as a DISC under section 992 (b) for a taxable year beginning after December 31, 1971. Except as provided in subdivision (ii) of this subparagraph, the election is made by the corporation filing Form 4876 with the service center with which it would file its income tax return if it were subject for such taxable year to all the taxes imposed by subtitle A of the Internal Revenue Code of 1954, and a copy of the completed Form 4876 with the Commissioner of Internal Revenue (attention: ACTS:A:AO), Washington, D.C. 20224. The form shall be signed by any person authorized to sign a corporation return under section 6062, and shall contain the information required by such form. Except as provided in paragraphs (b)(3) and (c) of this section, such election to be treated as a DISC shall be valid only if the consent of every person who is a shareholder of the corporation as of the beginning of the first taxable year for which such election is effective is on or attached to such Form 4876 when filed with the service center.

(ii) *Transitional rule for corporations electing during 1972.* If the first taxable year for which an election by a corporation to be treated as a DISC is a taxable year beginning after December 31, 1971, and on or before December 31, 1972, such election may be made either in the manner prescribed in subdivision (i) of this subparagraph or by filing, at the place prescribed in subdivision (i) of this subparagraph, a statement captioned "Election to be Treated as a DISC". Such statement of election shall be valid only if the consent of each shareholder is filed with the service center in the form, and at the time, prescribed in paragraph (b) of this section. Such statement shall be signed by any person authorized to sign a corporation return under section 6062 and shall include the name, address, and employer identification number (if known) of the corporation, the beginning date of the first taxable year for which the election is effective, the number of shares of stock of the corporation issued and outstanding as of the earlier of the beginning of the first taxable year for which the election is effective or the time the statement is filed, the number of shares held by each shareholder as of the earlier of such dates, and the date and place of incorporation. As a condition of the election being effective, a corporation which elects to become a DISC by filing a statement in accordance with this subdivision must furnish (to the service center with which the statement was filed) such additional information as is required by Form 4876 by March 31, 1973.

(2) *Time of making election*—(i) *In general.* In the case of a corporation making an election to be treated as a DISC for its first taxable year, such election shall be made within 90 days after the beginning of such taxable year. In the case of a corporation which makes an election to be treated as a DISC for any taxable year beginning after March 31, 1972 (other than the first taxable year of such corporation), the election shall be made during the 90-day period immediately preceding the first day of such taxable year.

(ii) *Transitional rules for certain corporations electing during 1972.* In the case of a corporation which makes an election to be treated as a DISC for a taxable year beginning after December 31, 1971, and on or before March 31, 1972 (other than its first taxable year), the election shall be made within 90 days after the beginning of such taxable year.

(b) *Consent by shareholders*—(1) *In general*—(i) *Time and manner of consent.* Under paragraph (a)(1)(i) of this section, subject to certain exceptions, the election to be treated as a DISC is not valid unless each person who is a shareholder as of the beginning of the first taxable year for which the election is effective signs either the statement of consent on Form 4876 or a separate statement of consent attached to such form. A shareholder's consent is binding on such shareholder and all transferees of his shares and may not be withdrawn after a valid election is made by the corporation. In the case of a corporation which files an election to become a DISC for a taxable year beginning after December 31, 1972, if a person who is a shareholder as of the beginning of the first taxable year for which the election is effective does not consent by signing the statement of consent set forth on Form 4876, such election shall be valid (except in the case of an extension of the time for filing granted under the provisions of subparagraph (3) of this paragraph or paragraph (c) of this section) only if the consent of such shareholder is attached to the Form 4876 upon which such election is made.

(ii) *Form of consent.* A consent other than the statement of consent set forth on Form 4876 shall be in the form of a statement which is signed by the shareholder and which sets forth (*a*) the name and address of the corporation and of the shareholder and (*b*) the number of shares held by each such shareholder as of the time the consent is made and (if the consent is made after the beginning of the corporation's taxable year for which the election is effective) as of the beginning of such year. If the consent is made by a recipient of transferred shares pursuant to paragraph (c) of this section, the statement of consent shall also set forth the name and address of the person who held such shares as of the beginning of such taxable year and the number of such shares. Consent shall be made in the following form: "I (insert name of shareholder), a shareholder of (insert name of corporation seeking to make the election) consent to the election of (insert name of corporation seeking to make the election) to be treated as a DISC under section 992(b) of the Internal Revenue Code. The consent so made by me is irrevocable and is binding upon all transferees of my shares in (insert name of corporation seeking to make the election)." The consents of all shareholders may be incorporated in one statement.

(iii) *Who may consent.* Where stock of the corporation is owned by a husband and wife as community property (or the income from such stock is community property), or is owned by tenants in common, joint tenants, or tenants by the entirety, each person having a community interest in such stock or the income therefrom and each tenant in common, joint tenant, and tenant by the entirety must consent to the election. The consent of a minor shall be made by his legal guardian or by his natural guardian if no legal guardian has been appointed. The consent of an estate shall be made by the executor or administrator thereof. The consent of a trust shall be made by the trustee thereof. The consent of an estate or trust having more than one executor, administrator, or trustee may be made by any executor, administrator, or trustee authorized to make a return of such estate or trust pursuant to section 6012(b)(5). The consent of a corporation or partnership shall be made by an officer or partner authorized pursuant to section 6062 or 6063, as the case may be, to sign the return of such corporation or partnership. In the case of a foreign person, the consent may be signed by any individual (whether or not a U.S. person) who would be authorized under sections 6061 through 6063 to sign the return of such foreign person if he were a U.S. person.

(2) *Transitional rule for corporations electing during 1972.* In the case of a corporation which files an election to be

treated as a DISC for a taxable year beginning after December 31, 1971, and on or before December 31, 1972, such election shall be valid only if the consent of each person who is a shareholder as of the beginning of the first taxable year for which such election is effective is filed with the service center with which the election was filed within 90 days after the first day of such taxable year or within the time granted for an extension of time for filing such consent. The form of such consent shall be the same as that prescribed in subparagraph (1) of this paragraph. Such consent shall be attached to the statement of election or shall be filed separately (with such service center) with a copy of the statement of election. An extension of time for filing a consent may be granted in the manner, and subject to the conditions, described in subparagraph (3) of this paragraph.

(3) *Extension of time to consent.* An election which is timely filed and would be valid except for the failure to attach the consent of any shareholder to the Form 4876 upon which the election was made or to comply with the 90-day requirement in subparagraph (2) of this paragraph or paragraph (c)(1) of this section, as the case may be, will not be invalid for such reason if it is shown to the satisfaction of the service center that there was reasonable cause for the failure to file such consent, and if such shareholder files a proper consent to the election within such extended period of time as may be granted by the Internal Revenue Service. In the case of a late filing of a consent, a copy of the Form 4876 or statement of election shall be attached to such consent and shall be filed with the same service center as the election. The form of such consent shall be the same as that set forth in paragraph (b)(1)(ii) of this section. In no event can any consent be made pursuant to this paragraph on or after the last day of the first taxable year for which a corporation elects to be treated as a DISC.

(c) *Consent by holder of transferred shares*—(1) *In general.* If a shareholder of a corporation transfers—

(i) Prior to the first day of the first taxable year for which such corporation elects to be treated as a DISC, some or all of the shares held by him without having consented to such election, or

(ii) On or before the 90th day after the first day of the first taxable year for which such corporation elects to be treated as a DISC, some or all of the shares held by him as of the first day of such year (or if later, held by him as of the time such shares are issued), without having consented to such election, then consent may be made by any recipient of such shares on or before the 90th day after the first day of such first taxable year. If such recipient fails to file his consent on or before such 90th day, an extension of time for filing such consent may be granted in the manner, and subject to the conditions, described in paragraph (b)(3) of this section. In addition, if the transfer occurs more than 90 days after the first day of such taxable year, an extension of time for filing such consent may be granted to such recipient only if it is determined under paragraph (b)(3) of this section that an extension of time would have been granted the transferor for the filing of such consent if the transfer had not occurred. A consent which is not attached to the original Form 4876 or statement of election (as the case may be) shall be filed with the same service center as the original Form 4876 or statement of election and shall have attached a copy of such original form or statement of election. The form of such consent shall be the same as that set forth in paragraph (b)(1)(ii) of this section. For the purposes of this paragraph, a transfer of shares includes any sale, exchange, or other disposition, including a transfer by gift or at death.

(2) *Requirement for the filing of an amended form 4876 or statement of election.* In any case in which a consent to a corporation's election to be treated as a DISC is made pursuant to subparagraph (1) of this paragraph, such corporation must file an amended form 4876 or statement of election (as the case may be) reflecting all changes in ownership of shares. Such form must be filed with the same service center with which the original form 4876 or statement of election was filed by such corporation.

(d) *Effect of election*—(1) *Effect on corporation.* A valid election to be treated as a DISC remains in effect (without regard to whether the electing corporation qualifies as a DISC for a particular year) until terminated by any of the methods provided in paragraph (e) of this section. While such election is in effect, the electing corporation is subject to sections 991 through 997 and other provisions of the code applicable to DISC's for any taxable year for which it qualifies as a DISC (or is treated as qualifying as a DISC pursuant to section 992(a)(2)). Such corporation is also subject to such provisions for any taxable year for which it is treated as a former DISC as a result of qualifying or being treated as a DISC for any taxable year for which such election was in effect.

(2) *Effect on shareholders.* A valid election by a corporation to be treated as a DISC subjects the shareholders of such corporation to the provisions of section 995 (relating to the taxation of the shareholders of a DISC or former DISC) and to all other provisions of the code relating to the shareholders of a DISC or former DISC. Such provisions of the code apply to any person who is a shareholder of a DISC or former DISC whether or not such person was a shareholder at the time the corporation elected to become a DISC.

(e) *Termination of election*—(1) *In general.* An election to be treated as a DISC is terminated only as provided in subparagraph (2) or (3) of this paragraph.

(2) *Revocation of election*—(i) *Manner of revocation.* An election by a corporation to be treated as a DISC may be revoked by the corporation for any taxable year of the corporation after the first taxable year for which the election is effective. Such revocation shall be made by the corporation filing a statement that the corporation revokes its election under section 992(b) to be treated as a DISC. Such statement shall indicate the corporation's name, address, employer identification number, and the first taxable year of the corporation for which the revocation is to be effective. The statement shall be signed by any person authorized to sign a corporation return under section 6062. Such revocation shall be filed with the service center with which the corporation filed its election, except that, if it filed an annual information return under section 6011(e)(2), the revocation shall be filed with the service center with which it filed its last such return.

(ii) *Years for which revocation is effective.* If a corporation files a statement revoking its election to be treated as a DISC during the first 90 days of a taxable year (other than the first taxable year for which such election is effective), such revocation will be effective for such taxable year and all taxable years thereafter. If the corporation files a statement revoking its election to be treated as a DISC after the first 90 days of a taxable year, the revocation will be effective for all taxable years following such taxable year.

(3) *Continued failure to be a DISC.* If a corporation which has elected to be treated as a DISC does not qualify as a DISC (and is not treated as a DISC pursuant to section 992(a)(2)) for each of any 5 consecutive taxable years, such election terminates and will not be effective for any taxable year after such 5th taxable year. Such termination will be effective automatically, without notice to such corporation or to the Internal Revenue Service. If, during any 5-year period for which an election is effective, the corporation should qualify as a DISC (or be treated as a DISC pursuant to section 992(a)(2)) for a taxable year, a new 5-year period shall automatically start at the beginning of the following taxable year.

(4) *Election after termination.* If a corporation has made a valid election to be treated as a DISC and such election terminates in either manner described in subparagraph (2) or (3) of this paragraph, such corporation is eligible to reelect to be treated as a DISC at any time by following the procedures described in paragraphs (a) through (c) of this section. If a corporation terminates its election and subsequently reelects to be treated as a DISC, the corporation and its shareholders continue to be subject to sections 995 and 996 with respect to the period during which its first election was in effect. Thus, for example, distributions upon disqualification includible in the gross incomes of shareholders of a corporation pursuant to section 995(b)(2) continue to be so includible for taxable years for which a second election of such corporation is in effect without regard to the second election.

Because of the need for immediate guidance with respect to the provisions contained in this Treasury decision, it is

found impracticable to issue it with notice and public procedure thereon under subsection (b) of section 553 of title 5 of the United States Code or subject to the effective date limitation of subsection (d) of that section.

(Sec. 7805, Internal Revenue Code of 1954, 68A Stat. 917; 26 U.S.C. 7805)

[SEAL] JOHNNIE M. WALTERS,
Commissioner of Internal Revenue.

Approved: December 19, 1972.

FREDERIC W. HICKMAN,
Assistant Secretary of the Treasury.

[FR Doc.72-22237 Filed 12-27-72;8:50 am]

SUBCHAPTER F—PROCEDURE AND ADMINISTRATION

[T.D. 7239]

PART 301—PROCEDURE AND ADMINISTRATION

Repeal of Personnel Bond Requirements

In order to conform to the regulations on procedure and administration (26 CFR Part 301), relating to personnel bonds, to the Act of June 6, 1972 (Public Law 92-310, 86 Stat. 209), such regulations are amended as follows:

PARAGRAPH 1. Section 301.6803 is amended by striking out subsection (a) of section 6803 and by adding a historical note. The amended and added provisions read as follows:

§ 301.6803 Statutory provisions; accounting and safeguarding.

SEC. 6803. *Accounting and safeguarding*—
(a) [repealed]
* * * * *

[Sec. 6803 as amended by sec. 230(a), Act of June 6, 1972 (Public Law 92-310, 86 Stat. 209)]

PAR. 2. Section 301.7101 is amended by revising that part of section 7101 which precedes section 7101(a) and by adding a historical note. The amended and added provisions read as follows:

§ 301.7101 Statutory provisions; form of bonds.

SEC. 7101. *Form of bonds.* Whenever, pursuant to the provisions of this title (other than section 7485), or rules or regulations prescribed under authority of this title, a person is required to furnish a bond or security— * * *

[Sec. 7101 as amended by sec. 230(b), Act of June 6, 1972 (Public Law 92-310, 86 Stat. 209)]

PAR. 3. The portion of paragraph (a) of § 301.7101-1 that precedes subparagraph (1) is amended to read as follows:

§ 301.7101-1 Form of bond and security required.

(a) *In general.* Any person required to furnish a bond under the provisions of the Code (other than section 6803(a)(1), relating to bonds required of certain postmasters before June 6, 1972, and section 7485, relating to bonds to stay assessment and collection of a deficiency pending review of a Tax Court decision), or under any rules or regulations prescribed under the Code, shall (except as provided in paragraph (d) of this section) execute such bond—

* * * * *

PAR. 4. Section 301.7103 is amended by striking out subsection (e) of section 7103 and by adding a historical note. The amended and added provisions read as follows:

§ 301.7103 Statutory provision; cross-references—other provisions for bonds.

SEC. 7103 *Cross-references—other provisions for bonds*—* * *
(e) [Repealed]

[Sec. 7103 as amended by sec. 230(c), Act of June 6, 1972 (Public Law 92-310, 86 Stat. 209)]

PAR. 5. Section 301.7402 is amended by striking out subsection (d) of section 7402 and by adding a historical note. The amended and added provisions read as follows:

§ 301.7402 Statutory provisions; jurisdiction of district courts.

SEC. 7402 *Jurisdiction of district courts*—* * *
(d) [Repealed]

* * * * *

[Sec. 7402 as amended by sec. 230(d), Act of June 6, 1972 (Public Law 92-310, 86 Stat. 209)]

PAR. 6. Section 301.7803 is amended by striking out subsection (c) of section 7803 and by revising the historical note. The amended provisions read as follows:

§ 301.7803 Statutory provisions; other personnel.

Sec. 7803 *Other personnel*—* * *
(c) [repealed].

* * * * *

[Sec. 7803 as amended by sec. 230(e), Act of June 6, 1972 (Public Law 92-310, 86 Stat. 209)]

PAR. 7. Section 301.7803-1 is amended to read as follows:

§ 301.7803-1 Security bonds covering personnel of the Internal Revenue Service.

For regulations relating to the procurement of security bonds covering designated personnel of the Internal Revenue Service between January 1, 1956, and June 6, 1972, see 31 CFR Part 226.

Because this Treasury decision simply reflects the repeal of statutory provisions it is found that it is unnecessary to issue this Treasury decision with notice and public procedure thereon under 5 U.S.C. 553(b), or subject to the effective date limitation of 5 U.S.C. 553(d).

(Sec. 7805 of the Internal Revenue Code of 1954 (68A Stat. 917; 26 U.S.C. 7805))

[SEAL] JOHNNIE M. WALTERS,
Commissioner of Internal Revenue.

Approved: December 22, 1972.

FREDERIC W. HICKMAN,
Assistant Secretary of the Treasury.

[FR Doc.72-22290 Filed 12-27-72;8:50 am]

Title 29—LABOR

Chapter XVII—Occupational Safety and Health Administration, Department of Labor

PART 1952—APPROVED STATE PLANS FOR ENFORCEMENT OF STATE STANDARDS

Oregon Plan

1. *Background.* The Oregon State plan was submitted to the Assistant Secretary June 16, 1972. Notice of receipt of the plan was published in the FEDERAL REGISTER July 20, 1972 (37 F.R. 14446). An amended notice on requests for informal hearings was published August 18, 1972 (37 F.R. 16686). The American Federation of Labor-Congress of Industrial Organizations (AFL-CIO) requested a public hearing, which was held September 27, 1972, in Portland, Oreg. Comments on the plan were received from the AFL-CIO, the National Electrical Contractors, and the Oregon Construction Industry Council, Inc.

The plan identifies the Oregon Workmen's Compensation Board as the State agency designated to administer the plan. It adopts the definition of occupational safety and health issues expressed in section 1902.2(c)(1) of chapter XVII, Title 29, Code of Federal Regulations. The plan further includes proposed draft legislation to be considered by the Oregon Legislature during its 1973 session amending chapter 654 of the Oregon Revised Code, and related provisions, to bring them into conformity with the requirements of part 1902. The proposed legislation is accompanied by a statement of the Governor's support for it and an opinion from the State attorney general that it will meet the requirements of the Occupational Safety and Health Act of 1970, and is consistent with the constitution and other laws of the State. The plan sets out goals for bringing it into full conformity with part 1902 upon enactment of the proposed legislation by the State legislature.

2. *Issues.* The public comments and our review of the plan raise several significant issues which are addressed by Oregon in supplementary letters of clarification submitted to the Assistant Secretary, September 5, 1972, and December 4, 1972, and incorporated as part of the plan.

The first issue is whether the standards as submitted by Oregon are at least as effective as Federal standards. Based on an analysis of Oregon's standard comparison, subparts F, I (as amended October 6, 1972), K, M, and N have been determined to be at least as effective. Subpart P is considered developmental pending submission of State code revisions comparable to 29 CFR 1910.242, 1910.243, and 1910.244 within 1 year of approval. The remaining subparts were withdrawn by Oregon, and in accordance with 1902.20(b)(1)(ii) Oregon will submit these subparts as developmental codes which will be as effective as those in 29 CFR part 1910 subparts B, D, E, G,

H, J, L, O, Q, R, and S by June 1, 1973. In addition, any standards contained in appendix L of the plan dealing with health regulations will be submitted in appropriate standard comparison format within 1 year of plan approval.

A second issue noted in the Oregon plan is the existence of five "product" standards in the subparts considered at least as effective. While Oregon described "compelling local conditions" regarding two of these standards (Oregon safety code 8–2–5 overhead guards on industrial trucks; Oregon electrical safety code 479.510 grounding pendent pushbutton switches), no information was provided for the others when they were identified during our review. We understand that Oregon will submit information on "compelling local conditions" for these "product" standards (Oregon safety code 12–1–2 through 12–1–4 explosive actuated fastening tools: Oregon safety code 6–2–20 circular saws; Oregon safety code 12–4–5 requirements for loads and fasteners), and any subsequently identified "product" standards within the 1-year post-approval developmental period.

Both the public comments and our review raise questions regarding the effectiveness of the variance procedures and Oregon's requirements for meeting the following indices of effectiveness: § 1902.4(b)(2)(vi), (vii), and § 1902.4(c)(2)(vi). In a letter of clarification submitted December 4, 1972, and incorporated as part of the plan, Oregon proposes to promulgate several regulations on these issues within 1 year of plan approval. These regulations will insure that variance procedures for the Health Division and the State workmen's compensation board will be the same as those provided in 29 CFR 1905; that the board will promulgate regulations that standards, where appropriate, shall prescribe the use of labels and posting of information in situations not limited to extreme hazards, which will include information relating to symptoms, precautions, and emergency treatment; that such regulations will contain assurances that the results of any required medical examinations will be available at least to the personal physician of an employee; that regulations will be issued to insure that monitoring or measuring of hazards will be in addition to any requirements in standards for suitable protective equipment, control, or technological procedures; and finally, the board will issue regulations requiring employers to maintain accurate records of employee exposure to potentially toxic materials or harmful physical agents. These regulations shall provide employees or their representatives with the opportunity to observe such monitoring or measuring and to have access to the records. The board, in promulgating these regulations, will also insure that employees will be promptly notified by the employer of such exposure and also of the corrective action being taken. These latter protections were included in Appendix L as the means for meeting § 1902.4(c)(2)(vi) and it is our understanding that they will be included in the new regulations as outlined in the letter of December 4, 1972.

Several issues concerning the legislation proposed by Oregon were raised during our review. In the letters of clarification, Oregon has indicated the following additions and deletions. The workmen's compensation board will submit to the legislature a bill seeking repeal of the criminal penalty in ORS 654.990(3) relating to standards set out in the employer's liability law ORS 654.305–335 because its standards conflict with the standards established by the new safety and health law. By repealing the criminal penalty while retaining civil damage lawsuits against employers, any possible use of the less effective criminal penalty as a substitute for the civil penalties under the new Oregon safety and health legislation will be eliminated. In addition, bills for repeal will be recommended with respect to ORS 654.405–430; 654.990(4) Proper Lighting in Places of Employment, and ORS 654.605–610; 654.990(5) Safety and Sanitation in Theater Projection Booths, because the State already has lighting, safety, and sanitation regulations which exceed those in the cited statutes.

In order to provide at least as effective protection for employees filing complaints and requesting inspections, the workmen's compensation board will propose that the following provision be incorporated in the Oregon Revised Statutes: "Neither a written complaint from an employee nor a written memorandum nor an oral complaint shall be construed as a public writing or a public record under ORS Ch. 192."

Because of the separations of functions between the Health Division and the workmen's compensation board, including independent standard-setting authority in the Health Division, it is necessary to have assurances that the designated agency will have sole responsibility to see that the State's commitments are met. This is provided in ORS 654.025 which Oregon interprets as reserving to the workmen's compensation board the right to promulgate its own standard when another agency's standard is considered not at least as effective.

Finally, existing Oregon legislation contains two provisions which may possibly result in sanctions against an employee. The first is ORS 654.050(3) providing for a civil penalty of up to $1,000 for operating any machine or device contrary to a "red-tag" notice, or for defacing such "red-tag" notice. Under the terms of program directive No. 72–19, issued July 27, 1972, this type of sanction, applicable to "any person," is not considered an employee sanction, because it is not aimed at obtaining compliance with standards, which remains the primary responsibility of employers. It is permissible for Oregon to include a sanction such as this in order to support its authority to abate imminent danger and in some cases, serious violations.

In addition, ORS 654.050(4) contains a civil penalty of up to $1,000 which may possibly result in a sanction against an employee for violation of a standard. This provision is to the effect that every person who, after notice by the board, knowingly violates any safety provision or any lawful order, rule, or regulation cited in such notice, or where such violation results in serious injury or death regardless of any notice, that person shall be subject to a civil penalty of up to $1,000. This potential employee sanction is not fatal to approval of the Oregon plan. It is applicable only in clearly defined situations and does not relieve the employer of his primary responsibility for job safety and health. Oregon's plan provides that if a person other than an employer is cited under this provision, the employer would also be cited under the other applicable provisions which reflect penalties similar to those in the Occupational Safety and Health Act of 1970. Oregon has provided a limited employee sanction which does not on its face have the effect of undermining the effectiveness of the State program.

The operation of both of these sanction provisions will be subject to review during continuing evaluation of the Oregon plan. In particular, attention will be directed not only to situations where the sanctions may be invoked, but also to the establishment of procedures for contesting any penalties issued under these provisions, which procedures should be available to any person, including employees, under the Oregon Administrative Procedure Act.

3. *Decision.* After careful consideration of the Oregon plan and comments submitted regarding the plan, the plan is hereby approved under section 18 of the Act and 29 CFR Part 1902.

This decision incorporates requirements of the Act and implementing regulations applicable to State plans generally. It also incorporates our intentions as to continued Federal enforcement of Federal standards in areas covered by the plan and the State's developmental schedule as set out below.

Pursuant to § 1902.20(b)(iii) of Title 29 of the Code of Federal Regulations, the present level of Federal enforcement in Oregon will not be diminished. Among other things, the U.S. Department of Labor will continue to inspect catastrophes and fatalities, investigate valid complaints under section 8(f), continue its Target Safety and Target Health programs, and inspect a cross-section of all industries on a random basis.

Within 6 months following this approval, an evaluation of the State plan as implemented will be made to assess the appropriate level of Federal enforcement activity. Federal enforcement activity will continue to be exercised to the degree necessary to assure occupational safety and health protection to employees in the State of Oregon.

The Oregon plan is developmental. The following is the schedule of the developmental steps provided by the plan:

(a) Introduction of the legislative amendments in the legislative session following approval of the plan.

(b) Complete revision of all occupational safety and health codes as proposed within 1 year after the proposed

standards are found to be at least as effective by the Secretary of Labor.

(c) Development of administrative rules and procedures including rights and responsibilities of employers, employees and the workmen's compensation board including regulations on variances, exposure to hazards and access to information on exposure to hazards. This goal will be met within 1 year following legislative approval.

(d) Training of present inspection personnel of the accident prevention division and the occupational health section by July 1, 1973, or the effective date of the legislation, whichever is later. Selection and training of additional inspectors within 1 year of effective date of the 1973–75 budget.

(e) Establishment of specific occupational safety and health goals within 1 year of plan approval. These goals will be reviewed and revised biennially.

(f) Development and implementation of an affirmative action program by July 1, 1973.

(g) Development and implementation of administrative rules relative to an on-site voluntary compliance consultation program within 1 year after legislative approval.

Pursuant to section 18 of the Occupational Safety and Health Act (29 U.S.C. 667), Part 1952 is hereby amended by adding thereto a new Subpart D as follows:

Subpart D—Oregon

Sec.
1952.105 Description of the plan.
1952.106 Where the plan may be inspected.
1952.107 Level of Federal enforcement.
1952.108 Developmental schedule.

AUTHORITY: The provisions of this Subpart D issued under sec. 18, Occupational Safety and Health Act (29 U.S.C. 667).

Subpart D—Oregon

§ 1925.105 Description of the plan.

(a) (1) The plan identifies the Oregon Workmen's Compensation Board as the State agency designated to administer the plan. It adopts the definition of occupational safety and health issues expressed in § 1902.2(c) (1) of this chapter. The plan contains a standards comparison of existing and proposed State standards with Federal standards. All proposed standards except those found in §§ 1910.13, 1910.14, 1910.15, and 1910.16 (ship repairing, shipbuilding, ship breaking and longshoring) will be adopted and enforced after public hearings within 1 year lollowing approval of the plan.

(2) The plan provides a description of personnel employed under a merit system; the coverage of employees of political subdivisions; procedures for the development and promulgation of standards; procedures for prompt and effective standards setting action for the protection of employees against new and unforeseen hazards; and procedures for the prompt restraint of imminent danger situations.

(b) (1) The plan includes proposed draft legislation to be considered by the Oregon Legislature during its 1973 session amending chapter 654 of Oregon Revised Statutes to bring it into conformity with the requirements of Part 1902 of this chapter. Under the proposed legislation, the workmen's compensation board will have full authority to enforce and administer all laws and rules protecting employee health and safety in all places of employment in the State. The legislation further proposes to bring the State into conformity in areas such as variances and protection of employees from hazards.

(2) The legislation is also intended to insure inspections in response to complaints; employer and employee representatives' opportunity to accompany inspectors and to call attention to possible violations before, during and after inspections; notification of employees or their representatives when no compliance action is taken as a result of alleged violations, including informal review; notification of employees of their protections; protection of employees against discharge or discrimination in terms and conditions of employment; adequate safeguards to protect trade secrets; provision for prompt notice to employers and employees of alleged violations of standards and abatement requirements; effective sanctions against employers for violations of standards and orders; employer right of review of alleged violations, abatement periods and proposed penalties to the workmen's compensation board and employee participation in review proceedings. The plan also proposes to develop a program to encourage voluntary compliance by employers and employees.

(c) The plan includes a statement of the Governor's support for the legislative amendments and legal opinion that the draft legislation will meet the requirements of the Occupational Safety and Health Act of 1970 and is consistent with the constitution and laws of Oregon. The plan sets out goals and provides a timetable for bringing it into full conformity with Part 1902 upon enactment of the proposed legislation.

(d) The Oregon plan includes the following documents as of the date of approval:

(1) The plan description document with appendices.

(2) Appendix G, the standards comparison.

(3) Letter from M. Keith Wilson, chairman, workmen's compensation board to the Assistant Secretary, June 30, 1972, on product standards.

(4) Letter from M. Keith Wilson to James Lake, regional administrator, June 30, 1972, clarifying employee sanction provisions.

(5) Letter with attachments from M. Keith Wilson to the Assistant Secretary, September 5, 1972, clarifying several issues raised during the review process.

(6) Letter from the commissioners of the workmen's compensation board to the Assistant Secretary, December 4, 1972, clarifying the remaining issues raised during the review process.

(e) Also available for inspection and copying with the plan documents will be the public comments received and a transcript of the public hearing held September 27, 1972.

§ 1952.106 Where the plan may be inspected.

A copy of the complete plan may be inspected and copied during normal business hours at the following locations: Office of Federal and State Operations, Occupational Safety and Health Administration, Room 305, 400 First Street NW., Washington, DC 20210; Regional Administrator, Occupational Safety and Health Administration, Room 1813, Smith Tower Building, 506 Second Avenue, Seattle, WA 98104; Workmen's Compensation Board, Labor and Industries Building, Room 204, Salem, Oreg. 97310; and the Office of the Occupational Health Section, State Health Division, Room 840, State Office Building, 1400 Southwest Fifth Avenue, Portland, OR.

§ 1952.107 Level of Federal enforcement.

Pursuant to § 1902.20(b) (iii) of Title 29 of the Code of Federal Regulations, the present level of Federal enforcement in Oregon will not be diminished. Among other things, the U.S. Department of Labor will continue to inspect catastrophes and fatalities, investigate valid complaints under section 8(f), continue its Target Safety and Target Health programs, and inspect a cross-section of all industries on a random basis.

§ 1952.108 Developmental schedule.

The Oregon plan is developmental. The following is the schedule of the developmental steps provided by the plan:

(a) Introduction of the legislative amendments in the legislative session following approval of the plan.

(b) Complete revision of all occupational safety and health codes as proposed within 1 year after the proposed standards are found to be at least as effective by the Secretary of Labor.

(c) Development of administrative rules and procedures including rights and responsibilities of employers, employees and the workmen's compensation board including regulations on variances, exposure to hazards and access to information on exposure to hazards. This goal will be met within 1 year following legislative approval.

(d) Training of present inspection personnel of the accident prevention division and the occupational health section by July 1, 1973, or the effective date of the legislation, whichever is later. Selection and training of additional inspectors within 1 year of effective date of the 1973–75 budget.

(e) Establishment of specific occupational safety and health goals within 1 year of plan approval. These goals will be reviewed and revised biannually.

(f) Development and implementation of an affirmative action program by July 1, 1973.

(g) Development and implementation of administrative rules relative to an on-site voluntary compliance consultation program within 1 year after legislative

approval. (Sec. 18, Public Law 91-596, 84 Stat. 1608 (29 U.S.C.).)

Signed at Washington, D.C. this 22d day of December, 1972.

G. C. GUENTHER,
Assistant Secretary of Labor.

[FR Doc.72-22308 Filed 12-27-72;8:47 am]

Title 30—MINERAL RESOURCES

Chapter I—Bureau of Mines, Department of the Interior

SUBCHAPTER O—COAL MINE HEALTH AND SAFETY

PART 70—MANDATORY HEALTH STANDARDS — UNDERGROUND COAL MINES

Revisions in Respirable Dust Sampling Procedures Relating to Reduction of Respirable Dust Standards

Section 202(b)(2) of the Federal Coal Mine Health and Safety Act of 1969, as amended (30 U.S.C. 842(b)(2)), requires that on and after December 30, 1972, each operator of an underground coal mine shall continuously maintain the average concentration of respirable dust in the mine atmosphere during each shift to which each miner in the active workings of such mine is exposed at or below 2 milligrams of respirable dust per cubic meter of air (2 mg./m.^{3}). The interim compliance panel, established by section 5 of the Act, is authorized, under section 202, to issue permits for noncompliance with the 2 mg./m.^{3} standard, which entitle permittees, during a specified period, to continuously maintain the average concentration of respirable dust in the mine atmosphere, during each shift in the working places of such mine to which the permit applies, at a level specified by the panel. The level specified by the panel shall be the lowest level which can be maintained at the mine, as shown in the application for a permit by evidence of the conditions and technology applicable to such mine, and other available and effective control techniques and methods; but in no event shall the dust level exceed 3 milligrams of respirable dust per cubic meter of air. In addition to the change of standard required by section 202(b)(2) of the Act, 30 CFR 70.100(e) provides that effective December 30, 1972, the respirable dust standard for intake air will be reduced from 2 mg./m.^{3} to 1 mg./m.^{3}.

Since the 3 mg./m.^{3} standard and the 2 mg./m.^{3} intake air standard will no longer be in effect on and after December 30, 1972, and compliance thereafter will be required in conformity with the new standards, all outstanding notices of violation and orders of withdrawal issued under the authority of the Federal Coal Mine Health and Safety Act of 1969 for failure to comply with the 3 mg./m.^{3} and the 2 mg./m.^{3} intake air standard will be terminated on December 29, 1972, as authorized by section 104(g) of the Act. Termination of such notices and orders will not relieve the operator of liability for the assessment of a civil penalty in accordance with section 109(a) of the Act, or the criminal provisions of section 109(b) of the Act. Furthermore any outstanding notices or orders based on violations of 30 CFR Part 70 unrelated to compliance with the respirable dust standards will remain in effect, and will not be terminated. For example, notices of violation issued for failure to sample individual miners, as required by 30 CFR 70.250, will remain effective.

When the Secretary of the Interior and the Secretary of Health, Education, and Welfare published their determination in the FEDERAL REGISTER for February 23, 1972 (37 F.R. 3833), that a single shift measurement of respirable dust will not accurately represent atmospheric conditions during such shift, it was also stated that both Departments intend to revise 30 CFR Part 70 to improve dust measurement procedures in order to ascertain more precisely the dust exposure of miners. Work on such improved procedures is nearing completion, and it is anticipated that they will be published as proposed rulemaking in the near future. In the interim period, however, it is necessary to revise several provisions of 30 CFR Part 70 to reconcile the procedures for the sampling of respirable dust with the aforementioned statutory mandate of section 202 of the Act for the reduction of respirable dust standards.

The main thrust of these revisions is to require all operators to initiate an original sampling cycle in order to rapidly establish whether there is compliance with the new 2 mg./m.^{3} standard, or those dust concentrations specified in permits for noncompliance issued by the interim compliance panel, and the new 1 mg./m.^{3} intake air standard. Therefore, commencing on the first normal production shift on or after December 30, 1972, a new basic sample (consisting of 10 samples and one intake air sample) must be established as described in 30 CFR 70.210 and 70.246 for each active working section. At least one valid respirable dust sample must be received by the Bureau of Mines for each active working section not later than January 25, 1973. All samples comprising the basic sample must be received by the Bureau of Mines no later than February 15, 1973. Failure to submit samples within this time frame will result in a notice of violation.

The purpose of other revisions is: (1) To make clear that a notice of violation shall be issued for a violation of the 2 milligrams of respirable dust per cubic meter of air standard; and (2) to provide that a basic sample which establishes a cumulative concentration in excess of 20 milligrams of respirable dust will trigger such notice of violation.

Since these revisions are made to conform with the statutory requirements of section 202 of the Act and as they do not otherwise make any substantive changes in the regulations, it would be impractical and contrary to the public interest to delay the revised sampling requirements which are necessary to comply with the mandate of the statute. Accordingly, notice of proposed rule making, opportunity for public participation therein, and delay in effective date have been dispensed with in the issuance of these regulations.

Pursuant to the authority vested in the Secretary of the Interior and the Secretary of Health, Education, and Welfare under sections 202 and 508 of the Federal Coal Mine Health and Safety Act of 1969, as amended (30 U.S.C. 842, 957), Part 70 of Subchapter O, Chapter I of Title 30, Code of Federal Regulations is hereby amended as set forth below.

JOHN B. RIGG,
Deputy Assistant Secretary of the Interior.

DECEMBER 15, 1972.

ELLIOT L. RICHARDSON,
Secretary of Health, Education, and Welfare.

DECEMBER 21, 1972.

§ 70.210 [Amended]

1. In paragraphs (a) and (b) of § 70.210 the date "June 30, 1970" is changed to "December 30, 1972."

2. Section 70.211 is revised to read as follows:

§ 70.211 Violation of dust standard; original sampling cycle.

(a) If the data recorded pursuant to § 70.261 for an original sampling cycle with respect to a working section of a coal mine establish a cumulative concentration of respirable dust in excess of the cumulative concentration stated in paragraph (b) of this section with respect to the particular applicable limit, without regard to the number of samples analyzed, the Secretary shall issue a notice to the operator that he is in violation of paragraph (b) or paragraph (c) of § 70.100 of this Part 70. Paragraph (b) of § 70.100 prescribes a limit of 2.0 milligrams of respirable dust per cubic meter of air. Paragraph (c) of § 70.100 covers permits for noncompliance issued by the Interim Compliance Panel established by the Act. Such a permit may establish a limit in excess of 2.0 milligrams but not in excess of 3.0 milligrams.

(b) The cumulative concentration of respirable dust recorded from samples which establish noncompliance with a particular applicable limit may be as follows:

(1) When a limit of 3.0 milligrams per cubic meter of air is in effect, the cumulative concentration shall not exceed 30 milligrams of respirable dust;

(2) When a limit of 2.5 milligrams per cubic meter of air is in effect, the cumulative concentration shall not exceed 25 milligrams of respirable dust;

(3) When a limit of 2.0 milligrams per cubic meter of air is in effect, the cumulative concentration shall not exceed 20 milligrams of respirable dust; and,

(4) When any other limit is in effect under a standard based on the presence of quartz or under a permit for noncom-

pliance, the cumulative concentration shall not exceed 10 times the specified limit of respirable dust per cubic meter of air.

§ 70.220 [Amended]

3. In § 70.220(a)(3) the phrase "paragraph (a) or (c) of § 70.100" is changed to read "paragraph (b) or (c) of § 70.-100."

4. In paragraph (b) of § 70.221, the phrase "paragraph (a) or paragraph (c) of § 70.100" is changed to read "paragraph (b) or (c) of § 70.100"; and the second sentence of § 70.221(b) is deleted. As amended paragraph (b) of § 70.221 reads as follows:

§ 70.221 **Daily determination of average respirable dust concentration; notice of violation.**

* * * * *

(b) If the data recorded pursuant to § 70.261 for a current basic sample with respect to a working section of a coal mine establish an average concentration of respirable dust in excess of the average concentration stated in paragraph (b) of § 70.211, as applicable, the Secretary shall issue a notice to the operator that he has exceeded the applicable limit and is in violation of paragraph (b) or (c) of § 70.100 of this Part 70, as the case may be.

§§ 70.222 and 70.223 [Amended]

5. In §§ 70.222 and 70.223 the phrase "30 milligrams" is changed to "20 milligrams" wherever it appears.

§ 70.230 [Amended]

6. In § 70.230(d) the phrase "paragraph (a) or paragraph (c) of § 70.100" is changed to read "paragraph (b) or (c) of § 70.100."

(Sec. 202(b), 508, Federal Coal Mine Health and Safety Act of 1969; 30 U.S.C. 842(b), 957; 83 Stat. 760, 803)

[FR Doc.72-22280 Filed 12-27-72;8:47 am]

Title 32A—NATIONAL DEFENSE, APPENDIX

Chapter X—Office of Oil and Gas, Department of the Interior

[Oil Import Reg. 1 (Rev. 5), Amdt. 49]

OI REG. 1

Oil Import Appeals Board and Imports of Canadian Crude and Unfinished Oils

In order to provide the Oil Import Appeals Board the means more promptly to implement its decisions during the balance of this calendar year and for the first 2 months of 1973, the following changes are made in section 21 of Oil Import Regulation 1 (Revision 5):

1. Paragraph (c)(1) is modified to eliminate the requirement that the Board notify the Director of the granting of an award 30 days prior to the beginning of the succeeding allocation period during which the award will become effective.

2. A new paragraph (c)(4) is added to permit the Board to make allocations for the period January 1, 1973, through February 28, 1973, when no specific quantity of oil has been made available to the Board.

It is deemed desirable also to extend access to Canadian imports in order to meet urgent feedstock requirements. Accordingly, the provision in paragraph (1) of section 29 of the Oil Import Regulation 1 (Revision 5) which requires that in order for a person to obtain a license to import Canadian imports to be charged against an allocation pursuant to section 9, 10, or 25, the person must also hold an allocation under section 29 is suspended effective January 1, 1973, and this provision will not be operative for the period January 1, 1973, through April 30, 1973.

Because of the urgent requirement to alleviate any existing supply dislocations during the first quarter of 1973, and these changes are merely technical in nature, it is not considered necessary to give notice of proposed rule making respecting this amendment, and it shall become effective upon publication in the FEDERAL REGISTER (12-28-72).

HOLLIS M. DOLE,
Assistant Secretary
Mineral Resources.

DECEMBER 22, 1972.

I concur:
G. A. LINCOLN,
Director,
Office of Emergency Preparedness.

1. Paragraph (c)(1) of section 21 of Oil Import Regulation 1 (Revision 5) is amended to read as set forth below.

2. A new subparagraph (c)(4) is added to section 21 of Oil Import Regulaton 1 (Revision 5) which reads as set forth below.

Sec. 21 Appeals.

* * * * *

(c)(1) Except as provided in subparagraphs (2), (3), and (4) of this paragraph, the modification or grant of an allocation by the Appeals Board shall become effective in the allocation period, as provided in section 3 of this regulation, which succeeds the allocation period during which the Board's decision is made.

* * * * *

(4) The Board may make effective in the allocation period commencing January 1, 1973, a grant or modification pursuant to paragraph (b) of this section provided that the Director is notified on or before February 28, 1973.

* * * * *

[FR Doc.72-22350 Filed 12-26-72;10:22 am]

Title 33—NAVIGATION AND NAVIGABLE WATERS

Chapter I—Coast Guard, Department of Transportation

[CGD 72-223R]

PART 26—VESSEL BRIDGE-TO-BRIDGE RADIOTELEPHONE REGULATIONS

Great Lakes Exemptions

The Coast Guard is amending Part 26 of Title 33 of the Code of Federal Regulations to reflect an exemption to the requirements of the Vessel Bridge-to-Bridge Radiotelephone Act for vessels operating on the waters of the Great Lakes.

A notice of proposed rule making was published in the FEDERAL REGISTER on November 11, 1972 (CGD 72-223P; 37 F.R. 24043) announcing a public hearing in Cleveland, Ohio, on December 4, 1972, and soliciting comments on the proposal from interested persons.

As pointed out in the notice of proposed rule making, vessels on the Great Lakes have for many years used radiotelephone for the exchange of navigational information.

There is presently in effect a United States-Canadian agreement for the promotion of safety on the Great Lakes by means of radio, which requires among other things, maintenance of a continuous listening watch on the voice radiotelephone frequency 2182 kHz. This requirement for a continuous voice radio guard and the ability of these vessels to communicate information directly connected with the safe navigation of vessels meets the intent of the Vessel Bridge-to-Bridge Radiotelephone Act. An amendment to this agreement, with provision for the use of VHF radiotelephone by Great Lakes vessels has been prepared and is presently awaiting final approval by the United States and Canada. The amended agreement is expected to become effective sometime in 1975.

At the public hearing conducted in Cleveland, Ohio on December 4, 1972 strong support for exemption of Great Lakes vessels from the requirements of the Act was expressed. Written comments generally supported the proposed exemption. There were, however, two comments which recommended against the exemption because it was felt the call-up-and-shift procedure inherent in such an exemption would not satisfy the intent of the Act. However, in light of the legislative history in Congress which supports the granting of an exemption for Great Lakes vessels and the excellent safety record attributable to the use of voice radio by vessels operating in those waters, these objections are considered unfounded.

The Coast Guard, upon review of all comments received, believes that the voice radiotelephone system now in use

in the Great Lakes satisfies the intent of the concept of the Vessel Bridge-to-Bridge Radiotelephone Act and that to grant temporary exemption to the requirements of the Act would be in the public interest and would not adversely affect the safety of marine navigation in those waters. Because there is a need to evaluate actual operational results of the use of bridge-to-bridge radiotelephone by vessels in all U.S. waters and a possible resulting need to amend this exemption based on such evaluation, this exemption specifies a termination date of January 1, 1975. During this period, consideration will be given to extending the exemption.

Therefore, in consideration of the foregoing, Part 26 of Title 33 of the Code of Federal Regulations is amended to read as follows:

§ 26.09 List of exemptions.

(a) All vessels navigating on those waters governed by the navigation rules for Great Lakes and their connecting and tributary waters (33 U.S.C. 241 et seq.) are exempt from the requirements of the Vessel Bridge-to-Bridge Radiotelephone Act and this part until January 1, 1975.

This amendment shall become effective January 1, 1973.

(Vessel Bridge-to-Bridge Radiotelephone Act, 85 Stat. 164; 33 U.S.C. 1201–1208; 49 CFR 1.46(o)(2))

Dated: December 22, 1972.

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

[FR Doc.72-22279 Filed 12-27-72;8:48 am]

Title 41—PUBLIC CONTRACTS AND PROPERTY MANAGEMENT

Chapter 5A—Federal Supply Service, General Services Administration

MISCELLANEOUS AMENDMENTS TO CHAPTER

Chapter 5A of Title 41 of the Code of Federal Regulations is amended as follows:

PART 5A–2—PROCUREMENT BY FORMAL ADVERTISING

Subpart 5A–2.4—Opening of Bids and Award of Contract

Section 5A–2.407–8 is amended as follows:

§ 5A–2.407–8 Protests against award.

* * * * *

(f) Within 5 working days after receipt of the complete statement of protest from GAO, the responsible FSS office or offices shall prepare and submit an administrative report on the protest to the Office of General Counsel (LP). If the report cannot be prepared within 5 working days, a written statement shall be submitted for approval by the Assistant Commissioner for Procurement setting forth the reasons for the delay and the expected date of submission of the report. The reason for this short time frame is to facilitate the timely preparation and submission of the final agency report to the General Accounting Office.

* * * * *

PART 5A–73—FEDERAL SUPPLY SCHEDULE PROGRAM

Subpart 5A–73.1—Production and Maintenance

Section 5A–73.114–2 is amended as follows:

§ 5A–73.114–2 Small Requirements clause.

* * * * *

SMALL REQUIREMENTS

No ordering office will be obligated to order and no contractor will be obligated to accept any order requiring delivery to any one destination amounting to $50 or less, but such deliveries may be ordered by the Government subject to acceptance by the contractor. Failure on the part of the contractor to return the order by mailing or otherwise furnishing it to the ordering office within 3 days after receipt shall constitute acceptance, whereupon all other provisions of the contract shall apply to such order.

(Without prejudice to the rights of either party under the above clause, offeror is requested to indicate whether it is his general practice to accept orders requiring delivery to any one destination amounting to $50 or less ___ Yes ___ No.[1] This information will be published in resultant schedules for guidance of ordering offices.)

(2) In resultant schedules the following parenthetical statement shall be substituted for the parenthetical statement in (1), above, and shall be inserted in the "Scope of Contract" clause immediately following the "Small Requirements" provision:

(Without prejudice to the rights of either party under the above clause, offerors were requested to indicate whether it is their general practice to accept orders requiring delivery to any one destination amounting to $50 or less. Information obtained is shown in connection with the listing of contractors included in this schedule.)

PART 5A–76—EXHIBITS

Subpart 5A–76.3—Miscellaneous Exhibits

§ 5A–76.304 GSA export packing facilities.

REGION 2

GSA Supply Distribution Facility, Military Ocean Terminal, Bayonne, Building 54, Bayonne, N.J. 07002.

REGION 3

GSA Supply Distribution Facility, 7737 Hampton Boulevard, Norfolk, Va. 23505.

[1] Note to contracting officers: If considered appropriate, insert the following additional sentence: If answered "Yes," state the minimum dollar value acceptable for delivery to any one destination. $_____.

REGION 7

Freight address. GSA Supply Distribution Facility, Warehouse 1, 500 Edwards Avenue, Harahan, LA 70123.

Mail and Parcel Post address. GSA Supply Distribution Facility, Post Office Box 2317, New Orleans, LA 70123.

REGION 9

GSA Supply Distribution Facility, Export Operations, Building 606, Rough and Ready Island, Stockton, Calif. 95203.

REGION 10

GSA Supply Distribution Facility, 901 Alexander Avenue, Tacoma, WA 98421.

NOTE: Contact the appropriate regional packing specialist for information pertaining to the movement of material to a designated contract packer.

(Sec. 205(c), 63 Stat. 390; 40 U.S.C. 486(c); 41 CFR 5–1.101(c))

Effective date. This regulation is effective on the date shown below.

Dated December 11, 1972.

M. S. MEEKER,
Commissioner,
Federal Supply Service.

[FR.Doc. 72—22246 Filed 12–27–72;8:46 am]

Title 49—TRANSPORTATION

Chapter X—Interstate Commerce Commission

SUBCHAPTER A—GENERAL RULES AND REGULATIONS

[S.O. 1092, Amdt. 2]

PART 1033—CAR SERVICE

Missouri Pacific Railroad Co.; Authorization To Operate Over Certain Tracks

At a session of the Interstate Commerce Commission, Railroad Service Board, held in Washington, D.C., on the 19th day of December 1972.

Upon further consideration of Service Order No. 1092 (37 F.R. 4917 and 15369), and good cause appearing therefor:

It is ordered, That:

§ 1033.1092 *Service Order 1092* (Missouri Pacific Railroad Co., authorized to operate over tracks of Illinois Central Railroad Co.) be, and it is hereby, amended by substituting the following paragraph (e) for paragraph (e) thereof:

(e) *Expiration date.* This order shall expire at 11:59 p.m., June 30, 1973, unless otherwise modified, changed, or suspended, by order of this Commission.

Effective date. This amendment shall become effective at 11:59 p.m., December 31, 1972.

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

It is further ordered, That copies of this amendment shall be served upon the Association of American Railroads, Car

Service Division, as agent of all railroads subscribing to the car service and car hire agreement under the terms of that agreement, and upon the American Short Line Railroad Association; and that notice of this order be given to the general public by depositing a copy in the Office of the Secretary of the Commission at Washington, D.C., and by filing it with the Director, Office of the Federal Register.

By the Commission, Railroad Service Board.

[SEAL] ROBERT L. OSWALD, *Secretary.*

[FR Doc.72-22312 Filed 12-27-72;8:45 am]

[S. O. 1099, Amdt. 1]

PART 1033—CAR SERVICE

Delray Connecting Railroad; Authorization To Operate Over Certain Tracks

At a session of the Interstate Commerce Commission, Railroad Service Board, held in Washington, D.C., on the 19th day of December 1972.

Upon further consideration of Service Order No. 1099 (37 F.R. 11336), and good cause appearing therefor:

It is ordered, That:

§ 1033.1099 *Service Order No. 1099* (Delray Connecting Railroad Co. authorized to operate over tracks abandoned by the Detroit, Toledo, and Ironton Railroad Co.) be, and it is hereby, amended by substituting the following paragraph (e) for paragraph (e) thereof:

(e) *Expiration date.* This order shall expire at 11:59 p.m., July 31, 1973, unless otherwise modified, changed, or suspended by order of this Commission.

Effective date. This amendment shall become effective at 11:59 p.m., December 31, 1972.

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

It is further ordered, That a copy of this amendment shall be served upon the Association of American Railroads, Car Service Division, as agent of all railroads subscribing to the car service and car hire agreement under the terms of that agreement, and upon the American Short Line Railroad Association; and that notice of this amendment be given to the general public by depositing a copy in the Office of the Secretary of the Commission at Washington, D.C., and by filing it with the Director, Office of the Federal Register.

By the Commission, Railroad Service Board.

[SEAL] ROBERT L. OSWALD, *Secretary.*

[FR Doc.72-22313 Filed 12-27-72;8:45 am]

[S.O. 1102, Amdt. 1]

PART 1033—CAR SERVICE

Delaware and Hudson Railway Co. and Penn Central Transportation Co.; Authorization To Assume Joint Supervisory Control Over Railroad Operations

At a session of the Interstate Commerce Commission, Railroad Service Board, held in Washington, D.C., on the 19th day of December 1972.

Upon further consideration of Service Order No. 1102 (37 F.R. 13697), and good cause appearing therefor:

It is ordered, That:

§ 1033.1102 *Service Order No. 1102* (Delaware and Hudson Railway Co. and Penn Central Transportation Co., George P. Baker, Richard C. Bond, Jervis Langdon, Jr., and Willard Wirtz, trustees, authorized to assume joint supervisory control over railroad operations of Albany Port District Commission, Albany, N.Y., be, and it is hereby, amended by substituting the following paragraph (d) for paragraph (d) thereof:

(d) *Expiration date.* This order shall expire at 11:59 p.m., June 30, 1973, unless otherwise modified, changed, or suspended by order of this Commission.

Effective date. This amendment shall become effective at 11:59 p.m., December 31, 1972.

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

It is further ordered, That a copy of this amendment shall be served upon the Association of American Railroads, Car Service Division, as agent of all railroads subscribing to the car service and car hire agreement under the terms of that agreement, and upon the American Short Line Railroad Association; and that notice of this amendment be given to the general public by depositing a copy in the Office of the Secretary of the Commission at Washington, D.C., and by filing it with the Director, Office of the Federal Register.

By the Commission, Railroad Service Board.

[SEAL] ROBERT L. OSWALD, *Secretary.*

[FR Doc.72-22311 Filed 12-27-72;8:45 am]

[Rev. S. O. 1108]

PART 1033—CAR SERVICE

Reading Co.; Authorization To Operate Over Tracks of Lehigh Valley Railroad Co.

At a session of the Interstate Commerce Commission, Railroad Service Board, held in Washington, D.C., on the 19th day of December 1972.

It appearing, that because of an order of the Federal District Court for the District of New Jersey, The Central Railroad Co. of New Jersey, Robert D. Timpany, trustee (CNJ), is unable to operate over its lines in Pennsylvania; that the Commission, in Finance Docket No. 26659, authorized operation of these lines by the Lehigh Valley Railroad Co., John F. Nash and Robert C. Haldeman, trustees (LV), subject to the establishment of through service by the Reading Co., Richardson Dilworth and Andrew L. Lewis, Jr., trustees (Rdg), and the CNJ between Allentown, Pa., and Jersey City, N.J., requiring the use of LV tracks by the Rdg between Allentown Yard, Pa., and a connection with the CNJ at Phillipsburg, N.J.;

It further appearing, that the Rdg, in Finance Docket No. 27161, has requested permanent authority to operate over tracks operated by the LV between Allentown, Pa., and Phillipsburg, N.J.; that the LV has agreed to temporary operation by the Rdg over LV tracks between Allentown Yard, Pa., and a connection with the CNJ at Phillipsburg, N.J., pending final disposition of the application of the Rdg in Finance Docket No. 27161;

And it further appearing, that the Commission is of the opinion that an emergency exists requiring operation by the Rdg over tracks of the LV between Allentown Yard, Pa., and a connection with the CNJ at Phillipsburg, N.J., a distance of approximately 17 miles; and that such operation by the Rdg is necessary in the interest of the public and the commerce of the people; that notice and public procedure herein are impractical and contrary to the public interest; and that good cause exists for making this order effective upon less than 30 days' notice.

It is ordered, That:

§ 1033.1108 Service Order No. 1108.

(a) *Reading Co., Richardson Dilworth and Andrew L. Lewis, Jr., trustees, authorized to operate over tracks of Lehigh Valley Railroad Co., John F. Nash and Robert C. Haldeman, trustees.* The Reading Co., Richardson Dilworth and Andrew L. Lewis, Jr., trustees (Rdg), be, and it is hereby authorized to operate over tracks of the Lehigh Valley Railroad Co., John F. Nash and Robert C. Haldeman, trustees (LV), between Allentown Yard, Pa., and a connection with the Central Railroad Co. of New Jersey, Robert D. Timpany, trustee, at Phillipsburg, N.J., a distance of approximately 17 miles.

(b) *Application.* The provisions of this order shall apply to intrastate, interstate, and foreign traffic.

(c) *Rates applicable.* Inasmuch as this operation by the Rdg over tracks of the LV is deemed to be due to carriers' disability, the rates applicable to traffic moved by the Rdg over said tracks shall be the rates which were applicable on

the shipments at the time of shipment as originally routed.

(d) *Effective date.* This order shall become effective at 11:59 p.m., December 31, 1972.

(e) *Expiration date.* The provisions of this order shall expire at 11:59 p.m., February 28, 1973, unless otherwise modified, changed, or suspended by order of this Commission.

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

It is further ordered, That copies of this order shall be served upon the Association of American Railroads, Car Service Division, as agent of the railroads subscribing to the car service and car hire agreement under the terms of that agreement, and upon the American Short Line Railroad Association; and that notice of this order shall be given to the general public by depositing a copy in the Office of the Secretary of the Commission at Washington, D.C., and by filing it with the Director, Office of the Federal Register.

By the Commission, Railroad Service Board.

[SEAL] ROBERT L. OSWALD,
Secretary.

[FR Doc.72-22314 Filed 12-27-72;8:45 am]

Proposed Rule Making

DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

[9 CFR Part 319]

FRANKFURTERS AND CERTAIN OTHER COOKED SAUSAGE PRODUCTS

Proposed Ingredient and Labeling Requirements

Correction

In F.R. Doc. 72-22206 appearing at page 28430 of the issue for Saturday, December 23, 1972, the following changes should be made in the fourth sentence of § 319.180(a): The word "prdoucts" in the first line of that sentence should read "products"; the sixth line of that sentence, reading "glands, which, individually or in combi-", should be deleted; the word "glans" in the 10th line of that sentence should read "glands".

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Food and Drug Administration

[21 CFR Part 295]

CERTAIN HOUSEHOLD SUBSTANCES IN LIQUID FORM CONTAINING ETHYLENE GLYCOL

Child Protection Packaging Standards

Through investigations by the Food and Drug Administration and from other available information, the Commissioner of Food and Drugs has determined that the accidental ingestion of household substances containing 10 percent or more by weight of ethylene glycol has been a significant cause of hospitalizations and fatalities of children under 5 years of age. Such household substances containing ethylene glycol include permanent-type automotive antifreeze and certain automotive brake fluids.

The accidental ingestion of ethylene glycol preparations by children may result in serious illness or death due to the adverse effects of this substance on the central nervous system, the heart, the lungs, and the kidneys. Ethylene glycol is generally considered to be more toxic to humans than to certain laboratory animals. The fact that fatal poisoning may result from preparations containing this substance is well documented in the medical literature published since the 1930's. Postmortem studies indicate widespread and severe lesions produced in the body following ingestion of ethylene glycol. Clinically, the effect of this nephrotoxic substance is characterized by (1) transient nervous system stimulation followed by depression, (2) pulmonary edema and cardiac failure, and (3) kidney damage which may proceed to anemia and uremia. Without treatment, death may occur in 8 to 24 hours. Death may be due to respiratory paralysis, cardiac failure, or, following survival for a few days, acute renal failure.

Data from the National Clearinghouse for Poison Control Centers on accidental ingestions of ethylene glycol-containing preparations by children under 5 years of age for the 3-year period 1969–71 show 208 ingestions and 12 hospitalizations. Data from death certificates for 1966–71 show 3 deaths of children under 5 years of age from ingestion of such products.

After review of the above information and upon consultation, pursuant to section 3, with the Technical Advisory Committee convened in accordance with section 6 of the Poison Prevention Packaging Act of 1970, the Commissioner finds that the nature of the hazard to children posed by liquid household products containing 10 percent or more by weight of ethylene glycol, by reason of their availability and packaging, is such that special packaging is necessary to protect children from serious personal injury or serious illness resulting from handling, using, or ingesting such substances.

The level of concentration of ethylene glycol in household products (10 percent or more by weight) for which special packaging is herein proposed is based upon human experience data as reported to the Poison Control Centers and in the scientific literature together with opinions of informed medical experts. This level is also consistent with regulations under the Federal Hazardous Substances Act (21 CFR 191.7(a)(3)) which require special cautionary labeling for ethylene glycol preparations under section 3(b) of that act.

On the basis of reports and data from industry and other relevant information, and pursuant to section 3(a)(2) of the act, the Commissioner finds that the special packaging proposed herein is:

1. Technically feasible since technology exists to produce special packaging conforming to these standards. At least 27 firms have submitted summaries of test data in accordance with § 295.10 *Testing procedure for special packaging* (21 CFR 295.10; 36 F.R. 22151, 37 F.R. 741) indicating that one or more package designs meet or exceed the effectiveness specifications of § 295.3(b). In addition, as was stated in the preamble of the order requiring child protection packaging for household substances in liquid form containing methyl alcohol (37 F.R. 21632; October 13, 1972), the Commissioner has concluded that a single-use container requiring a tool for entry will be considered special packaging if it meets the effectiveness specifications of the standard when tested by the procedure prescribed by § 295.10. On testing such a container, however, providing the children with such tools is unnecessary unless the tools accompany the container when offered for sale to the consumer. If the entire package contents is intended for use in a single application and the package is so labeled, it shall not be subject to the resecuring provisions of the adult testing portion of the testing procedure. Some packages of ethylene glycol preparations currently being used may meet or exceed the effectiveness specifications of § 295.3(b).

2. Practicable in that it is susceptible to modern mass production and assembly line techniques.

3. Appropriate since such special packaging is not detrimental to the integrity of the substance and will not interfere with its storage or use.

The amendment proposed below would add a new subparagraph (14) on ethylene glycol to § 295.2(a). To give full information on packaging requirements that would be applicable to ethylene glycol, pertinent portions of existing §§ 295.2 and 295.3 are included herein as follows:

Section 295.2 *Substances requiring "special packaging".*

* * * * *

(b) *Sample packages.* (1) The manufacturer or packer of any of the substances listed under paragraph (a) of this section as substances requiring special packaging shall provide the Commissioner with a sample of each type of special packaging, as well as the labeling for each size product that will be packaged in special packaging and the labeling for any noncomplying package. Sample packages and labeling should be sent to the Food and Drug Administration, Attention: Bureau of Product Safety, 5600 Fishers Lane, Rockville, MD 20852.

(2) Sample packages should be submitted without contents when such contents are unnecessary for demonstrating the effectiveness of the packaging.

* * * * *

Section 295.3 *Poison prevention packaging standards.*

To protect children from serious personal injury or serious illness resulting from handling, using or ingesting household substances, the Commissioner has determined that packaging designed and constructed to meet the following standards shall be regarded as "special packaging" within the meaning of section 2(4) of the act. Specific application of these standards to substances requiring special packaging is in accordance with § 295.2.

(a) *General requirements.* The special packaging must continue to function with the effectiveness specifications set forth in paragraph (b) of this section when in actual contact with the substance contained therein. This requirement may be satisfied by appropriate scientific evaluation of the compatibility of the substance with the special packaging to determine that the chemical

and physical characteristics of the substance will not compromise or interfere with the proper functioning of the special packaging. The special packaging must also continue to function with the effectiveness specifications set forth in paragraph (b) of this section for the number of openings and closings customary for its size and contents. This requirement may be satisfied by appropriate technical evaluation based on physical wear and stress factors, force required for activation, and other such relevant factors which establish that, for the duration of normal use, the effectiveness specifications of the packaging would not be expected to lessen.

(b) *Effectiveness specifications.* Special packaging which when tested by the method described in § 295.10, meets the following specifications:

(1) Child-resistant effectiveness of not less than 85 percent without a demonstration and not less than 80 percent after a demonstration of the proper means of opening such special packaging. In the case of unit packaging, child-resistant effectiveness of not less than 80 percent.

(2) Adult-use effectiveness not less than 90 percent.

* * * * *

Accordingly, pursuant to provisions of the Poison Prevention Packaging Act of 1970 (secs. 2(4), 3, 5, 84 Stat. 1670–1672; 15 U.S.C. 1471(4), 1472, 1474) and under authority delegated to him (21 CFR 2.120), the Commissioner proposes that a new subparagraph (14) be added to § 295.2(a) as follows:

§ 295.2 Substances requiring "special packaging."

(a) *Substances.* The Commissioner of Food and Drugs has determined that the degree or nature of the hazard to children in the availability of the following substances, by reason of their packaging, is such that special packaging is required to protect children from serious personal injury or serious illness resulting from handling, using, or ingesting such substances, and that the special packaging herein required is technically feasible, practicable, and appropriate for these substances:

* * * * *

(12) [Reserved]

(13) [Reserved]

(14) *Ethylene glycol.* Household substances in liquid form containing 10 percent or more by weight of ethylene glycol shall be packaged in accordance with the provisions of § 295.3 (a) and (b).

* * * * *

Interested persons may, within 60 days after publication hereof in the FEDERAL REGISTER, file with the Hearing Clerk, Department of Health, Education, and Welfare, Room 6–88, 5600 Fishers Lane, Rockville, MD 20852, written comments (preferably in quintuplicate) regarding this proposal. Comments may be accompanied by a memorandum or brief in support thereof. Received comments may be seen in the above office during working hours, Monday through Friday.

Dated: December 19, 1972.

SAM D. FINE,
Associate Commissioner for Compliance.

[FR Doc.72-22247 Filed 12-27-72;8:45 am]

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

[49 CFR Part 571]

[Docket No. 69–18; Notice 16]

LAMPS, REFLECTIVE DEVICES, AND ASSOCIATED EQUIPMENT

Turn Signal and Hazard Warning Signal Flashers; Discussion

The purpose of this notice is to set forth in greater detail the reasons for the proposed changes in requirements for motor vehicle turn signal and hazard warning flashers, published November 3, 1972 (37 F.R. 23460). The notice is in response to a petition by the Center for Auto Safety received by the agency on November 29, 1972.

The requirements for motor vehicle turn signal and hazard warning (hereafter referred to as "flashers") are contained in SAE standards J590b and J945, incorporated by reference in Standard No. 108, Lighting, Reflective Devices, and Associated Equipment, 49 CFR 571.108. In a previous issuance (36 F.R. 17343, August 28, 1971), the NHTSA amended these flasher requirements in the manner presently proposed; viz., eliminating the permissible failure-rate provisions that appear in the SAE standard used as a basis for the older version, and changing, primarily relaxing, the performance requirements for the flashers. That amendment was revoked by action of the U.S. Court of Appeals for the Third Circuit in response to a petition by the Wagner Electric Corp. (Wagner Elec. Corp. v. Volpe, No. 71–1976, 3d Cir. 1972, reflected in the notice of October 3, 1972, 37 F.R. 20695), on the ground that the quantitative changes in flasher test times had not been mentioned in the antecedent notice of proposed rule making (36 F.R. 1913, February 3, 1971). The notice of November 3, 1972 (37 F.R. 23460), responded to this mandate by reproposing the amendment in its entirety. Also, in response to a clarification requested by the court, on the issue whether the action of eliminating sampling provisions was done "because that action is compelled by the act, or as an informed policy judgment," the agency made the following statement:

> The action hereby proposed is based on an informed policy judgment pursuant to 15 U.S.C. section 1392. In the judgment of this agency, permissible failure rates raise difficult problems of interpretation and enforcement, and in any event are not in accordance with the need for motor vehicle safety with respect to those items of motor vehicle equipment.

The Center for Auto Safety has submitted a petition requesting that the agency "clarify and revise" the November 3 notice. The petition argues that the notice did not satisfy the requirments of the Administrative Procedure Act, the NHTSA's procedural regulations, the FEDERAL REGISTER regulations, and the "mandate of the court" in the Wagner Electric case. The Center requests, in effect, a substantial elaboration in the FEDERAL REGISTER of the issues involved in the proposed rule making on flashers.

This agency does not agree that the November 3 notice in any way falls short of the legal requirements for notice of proposed rule making as contained in statutes, regulations, or judicial decisions. The Administrative Procedure Act, 5 U.S.C. 553, requires that the agency provide "either the terms of substance of the proposed rule or a description of the subjects and issues involved." The rule is set forth in the November 3 notice in precisely its intended form, clearly satisfying the "terms of substance" requirement. The applicable NHTSA regulations contain a substantially identical requirement. The Wagner decision was based on the fact that "no notice" of the change in quantitative requirements was provided, not that the discussion was not sufficiently elaborate. The court did not purport to do more than apply the Administrative Procedure Act, and that act clearly does not require more on this point than that the "terms of substance" of the intended regulation be stated. The FEDERAL REGISTER regulations cited are not yet effective.

The NHTSA is of the opinion that it would be impracticable to the point of impossibility to publish in the FEDERAL REGISTER a detailed discussion of all the pros and cons of every issue in every notice promulgated by the agency. The agency attempts to select those issues of greatest importance in its preamble discussions. NHTSA preambles generally far exceed the requirements of law and the practice of many other agencies.

In this matter, however, the NHTSA accedes to the Center for Auto Safety petition, and sets forth its position on some underlying issues concerning the flasher requirements. The reasons for doing so in this case are the unanswered questions contained in the Wagner decision, and the public concern on these points evidenced by the Center for Auto Safety petition.

1. *The failure-rate deletion.* SAE standards J590b, "Automotive Turn Signal Flasher," and J945, "Vehicular Hazard Warning Signal Flasher," which are incorporated into standard 108, both provide, in describing the test procedures, that "at least 17 out of 20 samples" shall meet their requirements. Thus, this industry standard expressly states that 3 out of 20 flashers may completely fail the test requirements. For several reasons, the NHTSA has found this provision to be inappropriate, and not to meet the need for motor vehicle safety where these safety equipment items are concerned.

(a) The agency has found turn signaling and hazard warning flashing to be important basic safety functions, and a standard that allows more than one out of every seven vehicles to be completely nonfunctional in these respects does not, on a purely quantitative basis, satisfy the public need. Granted that

these are small items, they nevertheless perform signaling functions in an unexpected or emergency situation that can mean the difference between life and death. The public presumably depends on the safety standards to guarantee a minimum level of dependability in the functions covered, and a standard that purports to regulate but that actually allows large numbers of vehicles to have systems that from the outset malfunction or do not work at all does not provide sufficient protection.

(b) A stated permissible failure rate in a standard tends to conflict with the regulatory scheme of the act. In contrast to many public and private bodies of standards, the National Traffic and Motor Vehicle Safety Act establishes a regulatory system wherein the manufacturer and the Government conduct their tests entirely independently of each other. The manufacturer tests to prove that his product meets the standard and thereby to form a basis for his certification, while the Government tests to determine whether a product fails to meet the standard, thereby creating a basis for a compliance action.

In this enforcement setting, a permissible failure rate is anomalous, and its very meaning is unclear. The difficulty may be illustrated by a hypothetical case involving this standard, in which the Government tests a batch of 20 flashers and finds four failures. It is not at all clear that such a result establishes a failure of the standard, because where a substantial number of failures are expressly permitted, the overage in this (or any other) case could well be the result of pure chance and bear little relation to the general failure rate of the product. If it were to be viewed as a failure per se, it would reduce the standard to a gambling game between the manufacturer and the Government. At most it would prove failure of one batch and no more. In that case it would not serve the basic purpose of compliance testing, which is to check the validity of a design and a manufacturing process by means of sample testing.

If, on the other hand, the standard is interpreted to mean that a manufacturer's overall failure rate must not exceed 15 percent, its application is equally difficult. In all situations except the unlikely one where the failure rate approaches totality, the conclusive determination of an overall failure rate from sample testing would require a large number of tests from the same production run. Also, there would be no appropriate basis on which to decide what was the relevant "production run"; that is, the set of flashers sought to be condemned. For example, the question whether to average a test failure rate of 18 percent from 1 day's production with a rate of 10 percent obtained from the next day's production would be virtually unanswerable. These uncertainties tend to make compliance testing for standards with permissible failure rates a futile exercise.

Petitioner in the Wagner case attempted to counter these objections with the argument that "NHTSA would still (even without a permissible failure rate) have to conduct sufficient tests to eliminate the indeterminate percentage allowance for random failures before it could determine whether the standard had been violated, the extent of production affected, and whether there had been a lack of manufacturer due care," and that therefore "the asserted advantage for enforcement is inconsequential." (Brief for the petitioner, pp. 34–35.)

This argument does not bear analysis. The defense of due care provided in section 108(b)(1) of the Act (15 U.S.C. 1397(b)(1)) is potentially present in every compliance case. It is an affirmative defense, whose burden of proof rests with the manufacturer. The "allowance for random failures" mentioned by petitioner is not part of the question whether a standard has been violated; it is part of the manufacturer's due care defense, and therefore does not have to be "eliminated" by the Government. This was stated in the notice of December 28, 1971, 36 F.R. 25013. Once the Government has established that a product fails to meet the standard, the burden is on the respondent to show, normally through his own test results, that he "did not have reason to know in the exercise of due care" that his product did not conform. The defense does not necessarily involve extra government testing, and does not generally involve battles over statistical probabilities.

The extraordinary difficulties presented by permissible failure rates, by contrast, go to the question, entirely prior to and separate from the due care issue, of whether the product meets or fails the standard. It is a question on which the Government has the burden of proof, at least initially. In the normal case (without permissible failure rates), a failure of a valid test establishes a nonconformity, and without more the Government can legitimately approach a manufacturer to establish a due care argument, if he desires, or to mitigate or limit the scope of the nonconformity. With a permissible failure rate, a single test failure, if not extreme, proves nothing, and the Government must do extensive testing from the same batch even to decide whether it has uncovered a possible failure of the standard. In sum, a permissible failure rate sets up a layer of enforcement difficulties that is entirely separate from the manufacturer's due care defense, and in many cases insurmountable.

The problem of expressed permissible failure rates should not be confused with the question of "acceptable quality levels," "sampling," or other aspects of quality control in manufacturing. The NHTSA recognizes, as stated in previous notices in this proceeding, that sound quality control procedures, such as sample testing, are a vital part of any well-run, large-scale manufacturing process (36 F.R. 25013, December 28, 1971). The internal goals and procedures of a quality control program are quite different, however, from the "minimum standards for motor vehicle performance" that Congress has directed this Agency to establish. The standards represent the Agency's best judgment as to the minimum performance levels that are necessary for safety, within reasonable concepts of cost; the intent is to have all vehicles meet these standards. The entire manufacturing process, including design, production, and quality control, should be directed toward achieving this intent. It can be done in different ways. One manufacturer may decide on a highly reliable design, an "overdesign," that minimizes the amount of testing and inspection that is needed. Another may choose a lower cost, more marginal design, and rely on sophisticated inspection methods to achieve a reliable end product. It is not for the Agency to make these choices when setting a standard. Although total and universal compliance may not be feasible, each manufacturer is expected to choose a total process that provides substantial assurance, within reasonable limits of cost, that his product meets the standard as delivered to the public.

These considerations have led to an agency policy against permissible failure rates in the standards. The NHTSA rejects the implication in the Center petition that because the position is based on "policy," the Agency concedes that the opposite position is legally permissible. The dichotomy is false. Whether these provisions that the Agency considers grossly inappropriate would nevertheless be "legal" is a hypothetical question that need not be considered in this proceeding.

2. *Changes in performance requirements.* The changes in the flasher performance requirements have been proposed as a corollary of the elimination of the permissible failure rate. The Center for Auto Safety petition, repeating a phrase from the Wagner decision, has characterized the two types of changes as a "trade off," and has asked this Agency to make clear why it believes the trade off to be in the public interest.

The phrase "trade off" is misleading in this context, and obscures the basis for the proposals. The elimination of the permissible failure rates is the initial and primary decision. As discussed above, it has been proposed as an essential step in transforming a practically unenforceable requirement into an enforceable one. As long as the permissible failure rates exist, the quantitative requirements for flasher performance are largely illusory and meaningless, since no one can be held to them except in extreme cases.

In the context of this decision, a second one has been made: That a substantial increase in the cost of flashers would not be justified by the safety benefits achievable. Furthermore, it was determined that the thermal flasher design that is almost universally used has an inherent variation in its operating characteristics that tends to place a substantial fraction of flashers produced outside the performance envelope of the SAE Standards. Although other designs are available that would fit within the SAE performance envelope with near 100 percent reliability, they cost substantially more than thermal flashers. Thus, if thermal flashers with their major cost

advantages are not to be effectively prohibited, a wider, somewhat more permissive performance envelope would have to be established.

This wider performance envelope is proposed in the November 3 notice. A summary of the proposed changes is as follows:

	Present requirement	Proposed requirement
Starting time:		
Turn signal flasher (TSF)	1 to 1.25 seconds	2 seconds.
Hazard warning flasher (HWF)	1.5 seconds	3 seconds.
Voltage drop:		
TSF	0.40 to 0.45 volts	0.8 volts.
HWF	0.45 volts	Do.
Flash rate and percent on time:		
TSF	60 to 120 per second, 30 to 75 percent on time.	40 to 140 per second, 25 to 80 percent on time.
HWF	do	Do.
Durability:		
TSF	200 hours, cycled 15 seconds on, 15 seconds off.	25 hours, continuous operation.
HWF	36 hours, continuous operation	12 hours, continuous operation.

The proposed requirements are designed to reflect realistically the performance capabilities of thermal flashers where sound production and quality control procedures are used. It is expected that these requirements, imposed for the first time on a clearly enforceable basis, will result in an overall upgrading of flasher performance. It should be remembered that the performance distribution of these items is broad, so that if substantially all flashers of a given batch meet the requirements, the bulk of them will exceed the requirements by a wide margin.

This notice is a supplement to the notice of proposed rule making published November 3, 1972, 37 F.R. 23460, and the statements in that notice concerning comment by interested parties are applicable. The comment closing date, in accordance with the extension of time published at 37 F.R. 25958, is January 18, 1973.

(Secs. 103, 119, Public Law 89-563, 80 Stat. 718, 15 U.S.C. 1392, 1407; delegations of authority at 49 CFR 1.51 and 49 CFR 501.8)

Issued on: December 22, 1972.

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

[FR Doc.72-22294 Filed 12-27-72;8:47 am]

ENVIRONMENTAL PROTECTION AGENCY

[40 CFR Part 87]

CONTROL OF AIR POLLUTION FROM AIRCRAFT AND AIRCRAFT ENGINES AND GROUND OPERATION OF AIRCRAFT TO CONTROL EMISSIONS

Notice of Public Hearings

Section 231 of the Clean Air Act, as amended by Public Law 91-604, directs the Administrator of the Environmental Protection Agency to "issue proposed emission standards applicable to emissions of any air pollutant from any class or classes of aircraft or aircraft engines which in his judgment cause or contribute to or are likely to cause or contribute to air pollution which endangers the public health or welfare." Such standards were proposed at page 26488 in the December 12, 1972, issue of the FEDERAL REGISTER. In addition, an advance notice of proposed rule making on Ground Operation of Aircraft to Control Emissions was published at page 26502 in the same issue.

Section 231, of the Act, also provides that the Administrator shall hold public hearings with respect to the proposed aircraft emission standards.

Notice is hereby given of hearings concerning the proposed aircraft emission standards to be held at the following dates, times, and places.

January 29, 1973, beginning at 10 a.m., e.s.t., Faneuil Hall, Faneuil Hall Square, Boston, Mass.

February 6, 1973, beginning at 10 a.m., P.s.t., California State Building, 217 West First Street, Room 115, Los Angeles, CA 90012.

These hearings are intended to provide an opportunity for interested persons to state their views or arguments, or provide information relative to both the proposed emission standards and the advance notice of proposed rule making on ground control. Both the preamble to the proposed regulations and the advance notice of proposed rule making on ground control identify several subject areas in which the Agency is particularly interested in receiving comments.

Dr. Norman D. Shutler is hereby designated Presiding Officer for the hearings. He will have the responsibility for maintaining order; excluding irrelevant or repetitious material; scheduling presentations; and, to the extent possible, notifying participants of the time at which they may appear. The hearings will be conducted informally. Technical rules of evidence will not apply.

Any person desiring to make a statement at any of the hearings or to submit material for the record of the hearings should provide written notice of such intention not later than 15 days prior to the appropriate hearing, and submit five copies of his proposed statement (and other relevant material) not later than 5 days before the appropriate hearing, to the Environmental Protection Agency, Mobile Sources Pollution Control Programs, Washington, D.C. 20460.

Dated: December 22, 1972.

WILLIAM D. RUCKELSHAUS,
Administrator,
Environmental Protection Agency.

[FR Doc.72-22241 Filed 12-27-72;8:45 am]

Notices

DEPARTMENT OF THE TREASURY

Bureau of Alcohol, Tobacco and Firearms

NOTICE OF GRANTING OF RELIEF

Notice is hereby given that pursuant to 18 U.S.C. 925(c) the following named persons have been granted relief from disabilities imposed by Federal laws with respect to the acquisition, transfer, receipt, shipment, or possession of firearms incurred by reason of their convictions of crimes punishable by imprisonment for a term exceeding 1 year.

It has been established to my satisfaction that the circumstances regarding the convictions and each applicant's record and reputation are such that the applicant will not be likely to act in a manner dangerous to public safety, and that the granting of the relief will not be contrary to the public interest.

Arkadie, Ivan Marie Rita, 5309 Riverdale Road, Apt. 227, Riverdale, MD, convicted on November 15, 1969, in the U.S. District Court, Washington, D.C.

Blew, Allen W., 142 Laurel Road, Sharon Hill, PA, convicted on October 8, 1970, in the Court of Common Pleas of the County of Delaware, Pa., at Media, Pa.

Callard, Lawrence W., 47 Atom Drive, Flamingo Village, Pasco, WA, convicted on February 6, 1948, in the Superior Court, Mendocio County, Calif.

Carlton, William J., 1268 Sixth Street, Wyandotte, MI, convicted on September 30, 1955, in the Circuit Court for the County of Wayne, Detroit, Mich.

Clark, Richard D., 20 Grove Street, Orono, ME, convicted on September 18, 1969, in the Penobscot County District Court, Bangor, Maine.

Clayton, Aaron B., 4990 Franklin No. 30, Eugene, OR, convicted on December 23, 1966, in the Circuit Court of the State of Oregon for Lane County, Eugene, Oreg.

Cohron, Ward L., 316 Main Street, Stuarts Draft, VA, convicted on April 3, 1972, in the U.S. District Court, Western Judicial District of Virginia, Roanoke, Va.

Doyal, Clarence O., 827 Simoneau Street, Saginaw, MI, convicted on February 7, 1958, by the Jefferson Circuit Court, Criminal Division, Louisville, Ky.; convicted on October 21, 1958, by the Jefferson Circuit Court, Criminal Division, Louisville, Ky.

Duncan, Robert A., Post Office Box 297, Wingdale, NY, convicted on November 4, 1960, in the Dutchess County Court, Poughkeepsie, N.Y.

Finch, Eugene O., 516 Como Avenue, St. Paul, MN, convicted on January 28, 1959, in the District Court, Second Judicial District, State of Minnesota, County of Ramsey.

Fritz, Galen T., 1117 New Jersey Avenue, West Chester, PA, convicted on May 19, 1972, by the Court of Common Pleas, Chester County, West Chester, Pa.

Galvin, Michael W., 2415 Bantry Lane, South San Francisco, CA, convicted on June 25, 1970, in the Superior Court, Redwood City, San Mateo County, Calif.

Gentry, Miles E., 10812 Bennington Avenue, Kansas City, MO, convicted on June 12, 1944, at the General Court at Camp Campbell, Ky., by Headquarters 20th A.D.; convicted on November 8, 1944, at the General Court at Fort Knox, Ky., by Headquarters, Fort Knox.

Green, Robert Erwin Lee, Route 3, Box 262 AB, Buffalo, MO, convicted on October 7, 1941, in the Alachua County, Eighth Judicial Circuit Court of Florida.

Hampton, Early, 873 Wolcott Avenue, Norfolk, VA, convicted on April 2, 1958, in Southampton County Circuit Court, Southampton County, Va.; convicted on June 30, 1958, Nansemond County Circuit Court, Nansemond County, Va.; convicted on November 9, 1959, in the Corporation Court, Part II, Norfolk, Va.; convicted on November 13, 1963, Norfolk Corporation Court, Norfolk, Va.

Hardman, Walter Thomas, 6824 189th Place SW., Lynnwood, WA, convicted on January 7, 1963 and May 10, 1965, in Yakima County Superior Court, Yakima, Wash.

Haws, Monty C., 9106 North Wall Street, Portland, OR, convicted on December 12, 1967, in the Circuit Court, Multnomah County, Oreg.

Hellman, Richard L., 3920 Frederick Street, Omaha, NE, convicted on or about January 18, 1957, in the District Court of Douglas County, Nebr.

Holden, Doughlas C., 470 East Breckenridge, Ferndale, MI, convicted on February 13, 1962, in the District Court, City and County of Denver, Colo.; convicted on August 20, 1962, in the District Court of Adams County, Colo.

Hughes, Emory L., 2907 Dellrose Avenue, Richmond, Va., convicted on February 15, 1955, in the Hustings Court, Part I, Richmond, Va.

Hundley, Jerry D., 408 Walnut Street, Valley Falls, KS, convicted on January 21, 1957, in the District Court of Jackson County, Kans.; convicted on November 27, 1957, in the U.S. District Court for the District of Kansas.

Jenkins, Jethro, 621 Decatur Street, Brooklyn, NY, convicted on March 3, 1944, by a U.S. Army General Court-Martial at Boston, Mass.

Knapp, George W., 2855 Eaton Street, Denver, CO, convicted on September 4, 1959, in the Superior Court, Orange County, Calif.; convicted on November 2, 1962, in the Superior Court, Butte County, Calif.

Koch, Raymond R., Sr., Route 4, Box 1004, Bend, OR, convicted on June 2, 1960 in the Circuit Court of the State of Oregon for Jackson County.

Larsen, Harold J., 20028 33d NE., Seattle, WA, convicted on March 29, 1963, in the Superior Court, State of Washington, King County.

Lee, Franklin E., 1319 West 10th Street, North Little Rock, AR, convicted on March 17, 1971, Jefferson County Circuit Court, Pine Bluff, Ark.

Luttrell, Delbert H., 3696 Frederick Avenue, Detroit, MI, convicted on September 23, 1937, in the U.S. District Court for the Eastern Division, Eastern Judicial District, Missouri; convicted on October 24, 1938, U.S. District Court for Western District of Louisiana, Shreveport Division; convicted on December 5, 1939, U.S. District Court, Nebraska District, Lincoln Division; convicted on March 6, 1940, U.S. District Court for Western District of Louisiana, Shreveport Division; convicted on April 15, 1940, U.S. District Court for Central Division, Utah.

McKay, Robert U., Post Office Box 697, Odessa, WA, convicted on January 30 and February 20, 1968, in the Superior Court of the State of Washington, Lincoln County; convicted on August 30, 1968, in the Superior Court of the State of Washington, Grant County.

Merritt, Steven, 10833 Third Avenue SW., Seattle, WA, convicted on March 20, 1970, in the Superior Court of the State of Washington for the County of King.

Morse, Gene O., Box 906, mile 3, South Tongass, Ketchikan, AK, convicted on May 16, 1972 in the Superior Court, First Judicial District, State of Alaska, Ketchikan, Alaska.

Owens, Vernon W., 26 Dolphin Street, Greenville, SC, convicted on September 8, 1961, in the Court of General Sessions, Greenville County S.C.

Petrie, Dennis, 113 Second Street, Sheboygan Falls, WI, convicted on December 28, 1970, in the Sheboygan County Court, Branch No. 2, Sheboygan, Wis.

Pierce, Wilson C., 8801 McCann Drive, Apartment 230 Austin, TX, convicted on September 18, 1937, in the U.S. District Court for the Western District of Oklahoma, Oklahoma City, Okla.; convicted on May 19, 1939, in the Criminal District Court, Wichita County, Tex.; convicted on February 29, 1944, in the District Court, Hardeman County, Tex.; convicted on July 7, 1948, in the Criminal District Court of Dallas County, Tex.

Pierpont, William, 406 Fourth Street, Empire, NV, convicted on October 8, 1963 in the District Court of the Fourth Judicial District of the State of Nevada, in and for the County of Elko, at Elko, Nev.

Pittman, Leo, 16676 Tuller Street, Detroit, MI, convicted on February 19, 1935, in the U.S. District Court for the Western District of Tennessee; convicted on January 19, 1953, Recorder's Court of the City of Detroit, Mich.

Quade, David J., 1044 Jerome Avenue, Janesville, WI, convicted on January 29, 1968, in the Rock County Court, Janesville, Wis.

Reinholz, Ronald R., 1649 North 27th Place, Sheboygan, WI, convicted on January 5, 1971, in the Sheboygan County Court, Branch No. 2, Sheboygan, Wis.

Slagle, Clifford Wayne, 716 South Beech, Toppenish, WA, convicted on December 31, 1940, in Superior Court of the State of Washington, in and for Yakima County.

Smith, James G., Box 217, Arlington Street Extended, Rocky Mount, NC, convicted on October 3, 1960, in the Superior Court, Nash County, N.C.

Spaulding, Lyle E., 16 Dunlop Street, Deadwood, SD, convicted on September 1, 1956, and November 9, 1962, in the Circuit Court, Eighth Judicial District, Deadwood, S.D.

Strausner, Paul I., Jr., 226 South Washington Street, Greencastle, PA, convicted on September 21, 1964, in the Court of Quarter Sessions, Franklin County, Chambersburg, Pa.

Valentine, Jack L., 2019 Bunker, Kansas City, KS, convicted on February 16, 1955, in the Superior Court of the State of California, County of Los Angeles; convicted July 20, 1965, in the District Court of Jefferson County, Oskaloosa, Kans.

Vandeventer, Charles R., Jr., 3008 Pickford Court, Indianapolis, Ind., convicted on

March 5, 1970, in the U.S. District Court for the Southern District of Indiana.

Walker, Herbert M. C., 2701 Webb Avenue, Bronx, NY, convicted on March 4, 1959, in the U.S. District Court for the Southern District of Florida.

Weiss, Nathan, 66-03 Commonwealth Boulevard, Doughlaston, Queens, NY, convicted on or about January 28, 1936, by the town court, in the town of Clarkstown, NY; convicted on January 18, 1951, by the Queens County Supreme Court, N.Y.

Wiecks, James H., Rural Route 4, Box 307, Alexandria, MN, convicted on November 27, 1957, by the Minnesota Fifth Judicial District Court, Minnesota; convicted on March 31, 1970, by the Fifth Division Court of the Judicial District of Minnesota.

Williams, Elwyn O., 7046 Laupher Lane, Hazelwood, MO, convicted on June 14, 1950, Division II Criminal Court, Memphis, Tenn.; convicted on October 6, 1952, in the District Court, Eastern Division, Northern Judicial District, Mississippi.

Wittenbraker, Charles W., 241 East Noble, Stockton, CA, convicted on October 1, 1958, in the Circuit Court, Powhatan County, Powhatan, Va.

Wood, DeWayne F., 102 East Lorena Avenue, Fresno, CA, convicted on January 7, 1963, on or about November 2, 1964 and June 14, 1965, in the Superior Court of the State of California, County of Fresno, Fresno, Calif.

Worley, Allan J., 2615 Emerson South, Minneapolis, MN, convicted on June 15, 1955 and April 21, 1959, in the Hennepin County District Court, Minneapolis, Minn.

Signed at Washington, D.C., this 13th day of December 1972.

[SEAL] REX D. DAVIS,
Director, Bureau of Alcohol, Tobacco and Firearms.

[F.R. Doc.72-22284 Filed 12-27-72;8:45 am]

Office of the Secretary

[Treasury General Counsel Order 34, Amended]

CHIEF COUNSEL FOR THE INTERNAL REVENUE SERVICE

Delegation of Functions Relating to Economic Stabiliaztion Matters

By virtue of the authority vested in me as General Counsel for the Department of the Treasury, including that delegated to me by Treasury Department Order No. 150-80, I hereby delegate to the Chief Counsel for the Internal Revenue Service the authority to issue rulings and to furnish legal advice to the Commissioner of Internal Revenue with respect to regulations and other guidance issued by the Pay Board.

The authority delegated herein shall be exercised in consultation with the General Counsel, and with the approval of the General Counsel where actions to be taken can be expected to have a major impact on the stabilization program. In addition, rulings which are to be published shall be referred to the General Counsel for approval before they are issued.

This order shall be effective at 12:01 a.m., November 14, 1971.

Dated: December 13, 1972.

[SEAL] SAMUEL R. PIERCE, Jr.,
General Counsel.

[FR Doc.72-22305 Filed 12-27-72;8:48 am]

[Treasury Department Order 150-80]

COMMISSIONER OF INTERNAL REVENUE

Delegation of Authority Concerning Stabilization of Wages and Salaries

By virtue of the authority vested in me as Secretary of the Treasury, including that delegated to me by Pay Board Order No. 1, Revision No. 1 (37 F.R. 25000), Pay Board Order No. 4, Revision No. 1 (37 F.R. 25002), and Pay Board Order No. 5, Revision No. 1 (37 F.R. 25002), the authority delegated to me by those orders is hereby redelegated to the Commissioner of Internal Revenue except as to the authority set forth in section 1(c) of Pay Board Order No. 1, Revision No. 1 relating to the issuance of rulings respecting the regulations and other guidance issued by the Pay Board, which is redelegated to the General Counsel of the Treasury. The authority vested in the Commissioner and General Counsel by this order may be redelegated by them.

The authority delegated herein shall be exercised in consultation with the Secretary, and where major policy issues are involved, with the approval of the Secretary.

Under the terms of section 3 of Pay Board Order No. 1, Revision No. 1, section 7 of Pay Board Order No. 4, Revision No. 1, and section 3 of Pay Board Order No. 5, Revision No. 1, all Treasury bureaus and organizations are available to assist the Internal Revenue Service in carrying out the responsibilities assigned by this delegation.

This order shall with respect to Pay Board Order No. 1, Revision No. 1 be effective at 12:01 a.m., November 14, 1971, and with respect to Pay Board Order No. 4, Revision No. 1 and Pay Board Order No. 5, Revision No. 1 be effective at 12:01 a.m., November 14, 1972.

Dated: December 12, 1972.

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

[FR Doc.72-22304 Filed 12-27-72;8:48 am]

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

GRAIN STANDARDS

Bozeman, Mont., Inspection Point; Cancellation

Statement of considerations. On November 25, 1972, there was published in the FEDERAL REGISTER (37 F.R. 25061) a notice announcing the proposal of the Montana State University, Bozeman, Mont., that effective January 1, 1973, its designation under section 3(m) of the U.S. Grain Standards Act (7 U.S.C. 75(m)) to operate an official grain inspection agency at Bozeman, Mont., be canceled. Interested organizations and persons were given until December 15, 1972, to make application for designation to operate an official inspection agency at Bozeman, Mont. Members of the grain industry were given until December 15, 1972, to submit views and comments and to include the name of the person or agency which they recommend to operate an official inspection agency at Bozeman, Mont.

No comments were received with respect to the November 25, 1972, notice in the FEDERAL REGISTER. Therefore, effective January 1, 1973, the designation of the Montana State University as the official grain inspection agency at Bozeman, Mont., is canceled and no official inspection agency is designated under section 3(m) of the U.S. Grain Standards Act (7 U.S.C. 75 (m)) to operate at Bozeman, Mont. This notice does not preclude interested organizations and persons from making application later for designation to operate an official inspection agency at Bozeman, Mont., in accordance with the requirements in § 26.97 of the regulations (7 CFR 26.97) under the U.S. Grain Standards Act.

Done in Washington, D.C., on December 21, 1972.

JOHN C. BLUM,
Acting Administrator.

[FR Doc.72-22268 Filed 12-27-72;8:46 am]

DEPARTMENT OF COMMERCE

Maritime Administration

[Docket No. S-319]

CITIES SERVICE TANKERS CORP.

Notice of Application

Notice is hereby given that application has been filed under the Merchant Marine Act of 1936, as amended, for operating-differential subsidy with respect to bulk cargo carrying service in the U.S. foreign trade, principally between the United States and the Union of Soviet Socialist Republics, to expire on June 30, 1973 (unless extended only for subsidized voyages in progress on that date). Inasmuch as the below listed applicant, and/or related persons or firms, employ ships in the domestic intercoastal or coastwise service, written permission of the Maritime Administration under section 805(a) of the Merchant Marine Act, 1936, as amended, will be required for each such applicant if its application for operating-differential subsidy is granted.

The following applicant has requested permission involving the domestic intercoastal or coastwise services described below:

Name of applicant. Cities Service Tankers Corp. (Cities Service Tankers).

Description of domestic service and vessel. The applicant, Cities Service

Tankers, owns and operates tanker vessels engaged in the domestic intercoastal and coastwise service, and has requested written permission to continue such operations. The following U.S.-flag tanker vessels are owned by the applicant:

Cantigny.	Cities Service Miami.
Council Grove.	Cities Service Norfolk.
Fort Hoskins.	Bradford Island.
Cities Service Baltimore.	

Written permission is now required by the applicant, Cities Service Tankers, notwithstanding that a voyage in the proposed service for which subsidy is sought would not be eligible for subsidy if the vessel carried domestic commerce of the United States on that voyage.

Interested parties may inspect this application in the Office of the Secretary, Maritime Administration, Department of Commerce Building, 14th and E Streets NW., Washington, D.C. 20235.

Any person, firm, or corporation having any interest (within the meaning of section 805(a)) in any application and desiring to be heard on issues pertinent to section 805(a) or desiring to submit comments or views concerning the application must, by close of business on January 4, 1973, file same with the Maritime Administration, in writing, in triplicate, together with petition for leave to intervene which shall state clearly and concisely the grounds of interest, and the alleged facts relied on for relief.

If no petitions for leave to intervene are received within the specified time or if it is determined that petitions filed do not demonstrate sufficient interest to warrant a hearing, the Maritime Administration will take such action as may be deemed appropriate.

In the event petitions regarding the relevant section 805(a) issues are received from parties with standing to be heard, a hearing has been tentatively scheduled for 10 a.m. on January 8, 1973, in Room 4896, Department of Commerce Building, 14th and E Streets NW., Washington, D.C. 20235. The purpose of the hearing will be to receive evidence under section 805(a) relative to whether the proposed operation (a) could result in unfair competition to any person, firm, or corporation operating exclusively in the coastwise or intercoastal services, or (b) would be prejudicial to the objects and policy of the act.

By order of the Maritime Administration.

Dated: December 26, 1972.

JAMES S. DAWSON, Jr.,
Secretary.

[FR Doc.72-22391 Filed 12-27-72;8:52 am]

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Food and Drug Administration

[FAP 3B2859]

BASF WYANDOTTE CORP.

Notice of Filing of Petition for Food Additives

Pursuant to provisions of the Federal Food, Drug, and Cosmetic Act (sec. 409(b)(5), 72 Stat. 1786; 21 U.S.C. 348(b)(5)), notice is given that a petition (FAP 3B2859) has been filed by BASF Wyandotte Corp., 1609 Biddle Avenue, Wyandotte, MI 48192, proposing that § 121.2506 *Industrial starch-modified* (21 CFR 121.2506) be amended in paragraph (b) to provide for the safe use of α-hydro-omega-hydroxy-poly (oxypropylene) poly (oxyethylene) (12–15 moles) poly (oxypropylene) block copolymer, average molecular weight 3,100, as a surface-active agent in the processing of industrial starch-modified.

Dated: December 15, 1972.

VIRGIL O. WODICKA,
Director, Bureau of Foods.

[FR Doc.72-22250 Filed 12-27-72;8:45 am]

[FAP 2B2800]

IMPERIAL CHEMICAL INDUSTRIES, LTD. (MOND DIVISION)

Notice of Withdrawal of Petition for Food Additives

Pursuant to provisions of the Federal Food, Drug, and Cosmetic Act (sec. 409(b), 72 Stat. 1786; 21 U.S.C. 348(b)), the following notice is issued:

In accordance with § 121.52 *Withdrawal of petitions without prejudice* of the procedural food additive regulations (21 CFR 121.52), Imperial Chemical Industries, Ltd. (Mond Division), The Heath, Runcorn, Cheshire, England, has withdrawn its petition (FAP 2B2800), notice of which was published in the FEDERAL REGISTER of August 3, 1972 (37 F.R. 15531), proposing that the food additive regulations be amended to provide for the safe use of chlorinated paraffins as plasticizers for polyvinyl chloride compositions intended for use in closure-sealing gaskets that contact food.

Dated: December 15, 1972.

VIRGIL O. WODICKA,
Director, Bureau of Foods.

[FR Doc.72-22249 Filed 12-27-72;8:45 am]

SUNKIST GROWERS

Canned Concentrated Tomato Juice Deviating From Identity Standard; Temporary Permit for Test Marketing

Pursuant to § 10.5 (21 CFR 10.5) concerning temporary permits for interstate shipments of experimental packs of foods varying from standards of identity promulgated pursuant to section 401 (21 U.S.C. 341) of the Federal Food, Drug, and Cosmetic Act, notice is given that a temporary permit has been issued to Sunkist Growers, Ontario, Calif. 91764. This permit covers interstate marketing tests of canned concentrated tomato juice deviating from the standard of identity (21 CFR 53.20) in that the food will contain added concentrated lemon juice.

The amount of equivalent single strength lemon juice added will not exceed 2 percent of the reconstituted tomato juice volume as consumed.

The food will be processed by heat, so as to prevent spoilage, and frozen. Its name will be "Frozen Concentrated Tomato Juice with Concentrated Lemon Juice." In addition, the statement "when the contents are mixed well with three (3) volumes of cold water the product will be reconstituted tomato juice with lemon juice" will be declared on the label. The product will be reconstituted in a dispensing machine in commercial establishments for local sale to consumers. The juice will be declared on the label of the dispenser by the name "Reconstituted Tomato Juice with Lemon Juice," and the words "Reconstituted Tomato Juice" will be in letters of the same size type.

This temporary permit shall expire 12 months after the date of publication in the FEDERAL REGISTER.

Dated: December 19, 1972.

SAM D. FINE,
Associate Commissioner for Compliance.

[FR Doc.72-22248 Filed 12-27-72;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 Co., Catawba Nuclear Station, Units 1 and 2, Environmental Report." The report has been made available for public inspection at the aforementioned 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]

[Docket No. 50-366]

GEORGIA POWER CO.

Assignment of Members of Atomic Safety and Licensing Appeal Board

In the matter of Georgia Power Co. (Edwin I. Hatch Nuclear Power Plant Unit 2).

Notice is hereby given that, in accordance with the authority in 10 CFR 2.787 (a), the Chairman of the Atomic Safety and Licensing Appeal Panel has assigned the following panel members to serve as the Atomic Safety and Licensing Appeal Board for this proceeding.

Alan S. Rosenthal, Chairman
Mr. William C. Parler
Dr. Lawrence R. Quarles

Dated: December 22, 1972.

WILLIAM L. WOODARD,
Executive Secretary, Atomic Safety and Licensing Appeal Panel.

[FR Doc.72-22339 Filed 12-27-72;8:52 am]

[Docket No. 50-322]

LONG ISLAND LIGHTING CO.

Order of the Board Concerning Schedule for Hearing

In the Matter of Long Island Lighting Co. (Shoreham Nuclear Power Station).

The evidentiary hearing in the above matter will resume on Monday, January 15, 1973 at 9:30 a.m., local time, at the Wagon Wheel, Port Jefferson-Patchogue Road, Port Jefferson Station, Long Island, N.Y.

Issued at Washington, D.C., this 22d day of December 1972.

For the Atomic Safety and Licensing Board.

JAMES R. YORE,
Chairman.

[FR Doc.72-22337 Filed 12-27-72;8:52 am]

[Dockets Nos. 50-390, 50-391]

TENNESSEE VALLEY AUTHORITY

Assignment of Members of Atomic Safety and Licensing Appeal Board

Tennessee Valley Authority (Watts Bar Nuclear Plant Units 1 and 2).

Notice is hereby given that, in accordance with the authority in 10 CFR 2.787 (a), the Chairman of the Atomic Safety and Licensing Appeal Panel has assigned the following panel members to serve as the Atomic Safety and Licensing Appeal Board for these proceedings.

Alan S. Rosenthal, Chairman
Mr. William C. Parler
Dr. Lawrence R. Quarles

Dated: December 22, 1972.

WILLIAM L. WOODARD,
Executive Secretary, Atomic Safety and Licensing Appeal Panel.

[FR Doc.72-22338 Filed 12-27-72;8:52 am]

[Dockets Nos. 50-361, 50-362]

SOUTHERN CALIFORNIA EDISON CO. AND SAN DIEGO GAS & ELECTRIC CO.

Notice and Order for Evidentiary Hearing

In the Matter of Southern California Edison Co., and San Diego Gas & Electric Co. (San Onofre Nuclear Generating Station, units 2 and 3).

Please take notice, that pursuant to the prehearing conference order dated December 11, 1972, in this proceeding, evidentiary hearing on the health and safety aspects of the above-captioned application will commence on Tuesday, January 16, 1973, at 10 a.m., in Regency Hall, Le Baron Hotel, 250 Hotel Circle North, San Diego, Calif. 92108, and will continue without a continuance until completed.

In accordance with the Atomic Energy Commission's notice of hearing on application for construction permits (notice), the Atomic Safety and Licensing Board (Board) will consider four principal issues pursuant to the Atomic Energy Act of 1954, as amended, which issues relate to the health and safety of the public.

More specifically, the matters to be considered at the hearing shall be those items listed as Nos. 1 through 4 of the aforementioned notice, which was published in the FEDERAL REGISTER (37 F.R. 16117), on August 10, 1972.

The parties to this proceeding shall be the applicant; the regulatory staff of the Commission; the consolidated intervenors Scenic Shoreline Preservation Conference, Inc., and GUARD; and the cities of Anaheim, Banning, and Riverside, Calif. At the commencement of the hearing, opportunity will be accorded to any person, at the discretion of the Board, who wishes to make a limited appearance pursuant to 10 CFR 2.715 of the Commission's rules of practice.

By order of the Atomic Safety and Licensing Board.

MICHAEL L. GLASER,
Chairman.

[FR Doc.72-22281 Filed 12-27-72;8:48 am]

[Docket No. 50-271]

VERMONT YANKEE POWER CORP.

Order Convening Argument

In the matter of Vermont Yankee Nuclear Power Corp. (Vermont Yankee Nuclear Power Station),

The Atomic Safety and Licensing Board has given consideration to the indications from the parties that possibly a request would be made for oral argument after the submittal of proposed findings and conclusions. The Board concludes that in view of the complexity of this record that an oral argument would be helpful in the consideration and clarification of the various contentions in reference to the issues pre-

scribed for determination in the proceeding.

Wherefore, it is ordered, In accordance with the Atomic Energy Act, as amended, and the rules of practice of the Commission, that an oral argument in reference to the contentions, and proposed findings and conclusions, related to the issues in this proceeding shall convene at 9 a.m. on Tuesday, January 23, 1973 in the second floor courtroom of the U.S. Federal Building, 204 Main Street, Brattleboro, VT.

Issued: December 22, 1972, Germantown, Md.

ATOMIC SAFETY AND LICENSING BOARD,
SAMUEL W. JENSCH,
Chairman.

[FR Doc.72-22282 Filed 12-27-72;8:48 am]

CIVIL AERONAUTICS BOARD

[Docket No. 21070; Order 72-12-103]

EASTERN AIR LINES, INC. AND COMMUTER AIRLINES, INC.

Order To Show Cause

Adopted by the Civil Aeronautics Board at its office in Washington, D.C., on the 21st day of December 1972.

By Order 69-12-39, dated December 8, 1969, the Board granted for a 3-year period the application of Eastern Air Lines, Inc. (Eastern) to suspend service at Binghamton, N.Y., and approved agreement CAB 20174 between Eastern and Commuter Airlines, Inc. (Commuter) providing for replacement service (to be performed by Commuter) between Binghamton, N.Y. and Washington, D.C. Under the agreement, Commuter was required to provide a minimum frequency of three round trips per day, except Saturdays, Sundays, and holidays when one round trip was requisite. The Board provided that the suspension authority would immediately terminate if Commuter ceased to provide regularly the services and frequencies specified in the agreement.

On October 6, 1972, Eastern filed for renewal of its suspension authorization at Binghamton for an additional 5-year period and for approval of an amendment to and extension of agreement CAB 20174 during the period of Eastern's continued suspension. The amendment makes no basic change in the fundamental terms of the contract or the essential relationship between the replacement carrier and the suspended carrier during the period of the suspension.[1] In support of its application Eastern alleges, inter alia, that the suspension has enabled it to eliminate an uneconomic point while the agreement has facilitated providing the community with improved and well-received air service, and that in light of the success of the replacement service, frequent review by the Board is not required.

No answers to Eastern's application have been filed.

Upon consideration of the pleadings and all the relevant facts, we have tentatively decided to authorize Eastern to suspend service at Binghamton, and to approve the agreement between Eastern and Commuter for an additional 5-year period subject to the conditions that Eastern shall not itself resume service at Binghamton without Board approval during the period in which Commuter Airlines, Inc. is providing, pursuant to agreement CAB 20174, at least three round trips daily (one on Saturdays, Sundays, and holidays) between Binghamton and Washington, D.C., and that such suspension shall immediately terminate if Commuter ceases to provide regularly the services specified above. We have also tentatively decided to exempt Eastern from section 408(a)(5) of the Act to the extent necessary for the implementation of agreement CAB 20174, and we have tentatively concluded that the suspension/substitution arrangement at Binghamton is in the public interest from an overall transportation standpoint.[2]

Insofar as Eastern's application requests that the renewal of the suspension, the extension of the agreement and approval of the amendment to the agreement be authorized for a 5-year period we have tentatively decided to approve the application for that term in view of the demonstrated success and the narrow scope of the service. We, of course, retain the authority to withdraw approval and authorization if circumstances dictate.

We further tentatively find that the considerations and circumstances which prompted the Board's finding that it is in the public interest to exempt Eastern from the requirements of section 408 of the Act to the extent that it would otherwise prevent Eastern from implementing the agreement are still applicable.[3] In these circumstances, requiring Eastern to obtain approval under section 408 of the Act, and the applicable regulations, would unnecessarily delay the implementation of the agreement and subject it to unnecessary expense and would not be in the public interest.

We have also examined the facts presented herein in light of findings in a recent court case [4] involving air taxi replacement services where the court indicated that the Board should consider whether the statutory conditions for exemption from certification continue to exist. As discussed below, we tentatively find that, with respect to Commuter, the statutory conditions and guidelines for exemption from certification continue to exist; [5] therefore, it would be inappropriate and not in the public interest to require Commuter to undergo a certification proceeding in order to provide replacement services for Eastern at Binghamton. Commuter was incorporated in New Hampshire in 1946 under the name of Connecticut Valley Airways, Inc., and began operating as an air taxi at that time. The carrier changed its name in 1958 to Broome County Aviation, Inc., and incorporated in New York. In June 1966, Broome County Aviation, Inc., began doing business as Commuter Airlines, Inc. On June 30, 1969, the carrier simultaneously registered with the Board pursuant to Part 298 of the Board's economic regulations as a commuter carrier under the name Commuter Airlines, Inc., and as an air taxi under the name Broome County Aviation, Inc. At the close of calendar year 1971 Commuter was providing commuter air service to four points in three markets; [6] transported 18,096 passengers; and performed an average of eight flights per day. Currently Commuter is performing 10 flights per day. Revenue passenger miles performed by Commuter during calendar year 1971 were 3,897,727 as compared to the local service industry average for the same period of 872,387,888. Thus Commuter's total RPM's for calendar year 1971 were slightly less

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[1] The amendment includes several minor changes which, inter alia, include the deletion of the initial schedule pattern with the proviso that the minimum frequency be maintained; provisions for an increase in the Binghamton-Washington fare and the minimum limits on Commuter's insurance coverage, and the use of larger aircraft in accordance with the recent changes made in Part 298 of the Board's regulations; the extension of the agreement for a period of 5 years from December 8, 1972; and the floor on Commuter's revenues, to which Eastern's obligation to underwrite service is tied, has been increased to reflect a 50-percent capacity increase resulting from the use of larger 19-seat Swearingen Metro aircraft scheduled to enter service in July 1973.

[2] Commuter's replacement service at Binghamton has been successful from an economic standpoint and in terms of traffic improvement. In 1968 Eastern carried 6,429 on-line O. & D. passengers at Binghamton; however, in 1971, Commuter carried 13,922 passengers between Binghamton and Washington for an increase of 107 percent. Eastern had estimated that should its services be continued in 1970, it would have suffered a loss of $160,000. (See Order 69-12-39, dated Dec. 8, 1969, n. 1 and accompanying text.) In contrast, the suspended carrier only paid out $28,000 in support payments to Commuter during 1970 and has not been required to make further payments. Moreover, the amendment of Part 298 of the Board's regulations and the respective amendment to the replacement agreement which it has spawned ought to result in further benefits to the community through the availability of larger aircraft. It will also permit Commuter to have increased flexibility in selection and use of equipment. Finally, the community has benefitted from increased service—from one daily Electra round trip to three round trips with commuter-type aircraft. In this regard, we note that Allegheny presently provides regular service at Binghamton in other markets, including Boston, Chicago, Cleveland, Elmira, and Pittsburgh.

[3] See Order 69-12-39, dated Dec. 8, 1969, at 4.

[4] Air Line Pilots Association International v. C.A.B., 458 F. 2d 846 (C.A.D.C. 1972).

[5] These statutory conditions and guidelines were discussed in Order 72-9-39, dated Sept. 12, 1972. This order was adopted in response to the remand to the Board from the U.S. Circuit Court of Appeals of the three applications which were in issue in the ALPA case.

[6] OAG, Flight Itineraries, Nov. 1, 1972.

than one-half of 1 percent of the average RPM's for each of the certificated local service carriers.[7]

On the basis of the foregoing, and on the basis of our findings, set forth in Order 72-9-39, September 12, 1972, and our conclusion therein that the certification process is generally inappropriate for replacement commuter carriers, we tentatively conclude that it would not be in the public interest to require Commuter to undergo a certification proceeding in order to provide replacement services for Eastern at Binghamton. Commuter's services are neither of sufficient magnitude nor do they hold such prospects of economic success as to warrant their separate certification.

We further tentatively find that certification would be an undue burden on Commuter by reason of the limited extent of, and unusual circumstances affecting, its operations. As described above, the carrier's operations are of limited extent in terms of both the replacement services involved and the overall scope of its operations. Furthermore, the very nature of the small aircraft to which Commuter is restricted makes the operations limited in extent. The accommodations on these aircraft not only limit the competitive capabilities of Commuter but also limit the amount of traffic it can carry and the length of the markets it can service, compared with a certificated carrier operating large aircraft. Thus, the cost of certificate procedures would impose a severe financial burden on Commuter wholly disproportionate to its existing and proposed operations. Moreover, enforcement of section 401 requirements would be an undue burden not only because of the substantial cost of certification procedures, but also because certification would deprive Commuter of the necessary operating flexibility it must have to conduct nonsubsidized services with small aircraft in short-haul, low-density markets.

We are also satisfied that there are no safety considerations which would warrant a determination that the substitution arrangement, is contrary to the public interest. Not only must Commuter conduct its operations in strict conformity with the Federal Aviation Regulations promulgated by the Secretary of Transportation, who is charged by law with insuring the highest degree of safety in air transportation, but Commuter has had a successful operating history.[8]

[7] It should be noted that these statistics submitted by commuter carriers are confidential for a period of 1 year. However, pursuant to § 298.66 of the Board's economic regulations, the Board, on its own motion, finds that it is in the public interest to disclose information that it does in this order.

[8] We have informally checked with the FAA and they report that Commuter has excellent operations with good management, maintenance, and training and has had no safety or maintenance violations of FAA regulations during the last 6 years. Commuter presently has insurance in effect (expiration date is August 1973).

Consequently, for the reasons set forth above, we tentatively find and conclude that:

1. Agreement CAB 20174 should be extended and the amendment thereto is approved subject to compliance by Eastern with the Railway Labor Act and subject further to the following conditions:

(a) The amount and nature of any financial transactions between Eastern and Commuter should be appropriately appended to Eastern's Form 41 reports and so footnoted;

(b) The information requested in (a) above must be shown separately from similar information regarding financial transactions between Eastern and any other replacement carriers; and

(c) Commuter shall, with respect to the operations conducted pursuant to this agreement, keep on deposit with the Board a signed counterpart of Agreement CAB 18900, an agreement relating to liability limitations of the Warsaw Convention and the Hague Protocol, approved by Board Order E-23680, dated May 13, 1966, and a signed counterpart of any amendment or amendments to such agreement approved by the Board and to which the holder becomes a party;

2. Eastern should be temporarily exempted from the provisions of section 408 of the Federal Aviation Act of 1958 to the extent necessary for the implementation of Agreement CAB 20174;

3. To the extent necessary to relieve Eastern of its obligation to provide services in excess of those provided for by Agreement CAB 20174, Eastern should be authorized to temporarily suspend service at Binghamton, subject to the conditions (a) that Eastern shall not itself resume service at Binghamton without Board approval during the period in which Commuter is providing, pursuant to Agreement CAB 20174, at least three round trips daily (one on Saturdays, Sundays, and holidays) between Binghamton and Washington, D.C., and (b) that such suspension shall immediately terminate if Commuter ceases to provide regularly the services specified in (a) above; and

4. The authority granted in ordering paragraphs 1, 2, and 3 above should be effective until December 8, 1977 unless sooner terminated by the Board.

Interested persons will be given 21 days following the service date of this order to show cause why the tentative findings and conclusions set forth herein should not be made final. We expect such persons to direct their objections, if any, to the specific facts in issue, and to support such objections with detailed economic or legal analysis.

Accordingly, it is ordered, That:

1. All interested persons are directed to show cause why the Board should not issue an order making final the tentative findings and conclusions stated herein, and granting the requested suspension;

2. Any interested persons having objection to the issuance of an order making final the proposed findings, conclusions, and suspension authorization set forth herein shall within 21 days after service of a copy of this order, file with the Board and serve upon all persons listed in Appendix A attached hereto, a statement of objections together with such statistical data, and other materials and evidence relied upon to support the stated objections; answers to such objections shall be filed within 14 days, thereafter;

3. Any interested persons requesting an evidentiary hearing shall state in detail why such a hearing is necessary and what relevant and material facts he would expect to establish through such a hearing. General, vague, or unsupported objections will not be entertained;

4. If timely and properly supported objections are filed, full consideration will be accorded the matters or issues raised by the objections before further action is taken by the Board;

5. In the event no objections are filed to any part of this order, all further procedural steps relating to such part or parts will be deemed to have been waived, and the case will be submitted to the Board for final action; and

6. A copy of this order shall be served upon all persons listed in Appendix A attached hereto.[1]

This order will be published in the FEDERAL REGISTER.

By the Civil Aeronautics Board.

[SEAL] HARRY J. ZINK,
Secretary.

[FR Doc.72-22302 Filed 12-27-72;8:48 am]

[Docket No. 23333; Order 72-12-86]

INTERNATIONAL AIR TRANSPORT ASSOCIATION

Order Regarding Specific Commodity Rates

Issued under delegated authority December 19, 1972.

An agreement has been filed with the Board pursuant to section 412(a) of the Federal Aviation Act of 1958 (the Act) and Part 261 of the Board's economic regulations between various air carriers, foreign air carriers, and other carriers, embodied in the resolutions of the International Air Transport Association (IATA) and adopted pursuant to the provisions of Resolution 590 dealing with specific commodity rates.

The agreement names additional, as well as one increased, specific commodity rates, as set forth in the attachment below, which reflect reductions from general cargo rates. These rates were adopted pursuant to unprotested notices to the carriers and promulgated in an IATA letter dated December 13, 1972.

Pursuant to authority duly delegated by the Board in the Board's regulations, 14 CFR 385.14, it is not found that the subject agreement is adverse to the public interest or in violation of the Act: *Provided,* That approval is subject to the condition hereinafter ordered.

[1] Filed as part of the original document.

Accordingly, it is ordered, That:

Agreement CAB 23447, R–1 through R–4, be and hereby is approved, provided that approval shall not constitute approval of the specific commodity descriptions contained therein for purposes of tariff publication, provided further that tariff filings shall be marked to become effective on not less than 30 days' notice from the date of filing.

Persons entitled to petition the Board for review of this order, pursuant to the Board's regulations, 14 CFR 385.50, may file such petitions within 10 days after the date of service of this order.

This order shall be effective and become the action of the Civil Aeronautics Board upon expiration of the above period, unless within such period a petition for review thereof is filed or the Board gives notice that it will review this order on its own motion.

This order will be published in the FEDERAL REGISTER.

[SEAL] HARRY J. ZINK,
Secretary.

CAB agreement 23447	IATA commodity item No.	Description and rates
R–1	0007	Fruits and/or vegetables; 110 cents per kilogram, minimum weight 1,000 kilograms; from Los Angeles to Auckland (increase).
R–2	0300	Fish and seafood, n.e.s.; 92 cents per kilogram, minimum weight 100 kilograms; from Honiara to Honolulu.
R–3	6605	Toilet articles, toilet water, perfumes, cosmetics; 90 cents per kilogram, minimum weight 100 kilograms; from Papeete to Los Angeles.
R–4	9903	Removal of household goods and personal effects; 95 cents per kilogram, minimum weight 500 kilograms; from Auckland to Seattle/ Los Angeles/ San Francisco/Portland.

[FR Doc.72–22301 Filed 12–27–72;8:48 am]

[Docket No. 24694]

MIAMI-LOS ANGELES COMPETITIVE NONSTOP 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 23, 1973, at 10 a.m., e.s.t., in Room 726, Universal Building, 1825 Connecticut Avenue NW., Washington, DC, before the undersigned Administrative Law Judge.

For details of the issues involved in this proceeding, interested persons are referred to the Prehearing Conference Report, served on October 24, 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 21, 1972.

[SEAL] WILLIAM H. DAPPER,
Administrative Law Judge.

[FR Doc.72–22300 Filed 12–27–72;8:48 am]

[Docket No. 14235; Order 72–12–100]

OZARK AIR LINES, INC., ET AL.

Order Approving Agreement

Adopted by the Civil Aeronautics Board at its office in Washington, D.C. on the 21st day of December, 1972.

In regard agreement among certain air carriers concerning promotional area—fare tariffs for foreign visitors.

On November 27, 1972, Ozark Air Lines, Inc. (Ozark), on behalf of itself and certain other air carriers[1] filed with the Board an amendment of an existing agreement concerning the "Visit USA" tariff. The existing agreement was first approved by Order E–19961, on August 29, 1963, and by subsequent amendments the carriers have continued it in effect through December 31, 1972.[2] By the instant amendment the carriers would extend the expiration date on the current tariff for 1 year, to December 31, 1973, and, in addition, Alaska Airlines, Inc. (Alaska), Frontier Airlines, Inc. (Frontier), North Central Airlines, Inc. (North Central), and Texas International Airlines, Inc. (Texas International), would limit their participation to the provision of non-reservation service. Alaska and Texas International would further provide that travel be blacked out from June 15 and May 15, respectively, to September 15, 1973.

In view of the nature of the amendment, and for the same reasons as were stated by the Board in Order E–19961, the Board does not find Agreement CAB 17281–A9 to be adverse to the public interest or in violation of the Act.

Accordingly, pursuant to the Federal Aviation Act of 1958, and particularly sections 204(a), 412, and 414 thereof,

It is ordered, That:

Agreement CAB 17281–A9 is approved.

This order will be published in the FEDERAL REGISTER.

By the Civil Aeronautics Board.

[SEAL] HARRY J. ZINK,
Secretary.

[FR Doc.72–22303 Filed 12–27–72;8:48 am]

[1] Hughes Air Corp., doing business as Air West, Inc., Alaska Airlines, Inc., Allegheny Airlines, Inc., Frontier Airlines, Inc., North Central Airlines, Inc., Piedmont Airlines, Inc., Southern Airways, Inc., Texas International Airlines, Inc.

[2] Orders E–21851 (February 26, 1965); E–22975 (December 7, 1965); E–24503 (December 9, 1966); E–26100 (December 11, 1967); 68–11–19 (November 5, 1968); 69–10–58 (October 13, 1969); 70–12–69 (December 14, 1970); and 71–12–132 (December 29, 1971).

[Docket No. 24941]

PANDAIR FREIGHT LTD. AND HEMISPHERE AIR FREIGHT, INC.

Application; Notice of Proposed Approval

Notice is hereby given, pursuant to the statutory requirements of section 408(b) of the Federal Aviation Act of 1958, as amended, that the undersigned intends to issue the following order under delegated authority. Interested persons are hereby afforded a period of 10 days from the date of this notice within which to file comments or request a hearing with respect to the action proposed in the order.

Dated at Washington, D.C., December 21, 1972.

[SEAL] A. M. ANDREWS,
Director, Bureau of Operating Rights.

[Docket No. 24941]

PANDAIR FREIGHT LTD. AND HEMISPHERE AIR FREIGHT, INC.

Application of Pandair Freight Ltd. (U.K.) and Hemisphere Air Freight, Inc., pursuant to section 408 of the Federal Aviation Act of 1958, as amended.

Application of Pandair Freight Ltd. (United Kingdom) for use of trade name pursuant to Part 215 of the Board's economic regulations. Issued under delegated authority.

Pandair Freight Ltd. (United Kingdom) requests that the Board approve under, or exempt or grant other appropriate relief from section 408 of the Federal Aviation Act of 1958, as amended (the Act), as may be necessary in order to permit Pandair to acquire the assets of Hemisphere Air Freight, Inc. (Hemisphere). Pandair was granted a section 402 indirect air carrier permit by Order 72–9–104, approved by the President on September 26, 1972. Hemisphere is a U.S. international air freight forwarder holding Operating Authorization No. 328 issued by this Board. It is also a cargo agent approved by the International Air Transport Association.

Pandair and Hemisphere have entered into an agreement under which Hemisphere has agreed to sell and Pandair has agreed to buy for the aggregate sum of $200,000 all of the assets and properties of Hemisphere including leases, motor vehicles, office equipment, furniture and fixtures, and accounts receivable. In addition, provision has been made for the assumption of responsibility for all the general accounts payable of Hemisphere at the date of closing, including all payments, if any, due to any and all airlines for underlying air transportation (either by their assumption by Pandair or by the deposit of funds in escrow), with the exception of any preclosing tax liabilities which may reflect themselves in any future audits. The pro-

ceeds of the purchase are to be paid to the shareholders of Hemisphere.

Under the terms of the agreement, Hemisphere, upon final approval by the Board, will, on the closing date, promptly surrender its international airfreight forwarder authority to the Board for cancellation, and will also surrender to IATA its authority as an IATA agent. Hemisphere will continue as a corporate shell engaged in no business activity of any kind or nature whatsoever, with the requirement that it eventually be liquidated. The name "Hemisphere" will not be used by Pandair in any form or manner.

Pandair has also entered into employment contracts with two stockholders of Hemisphere (Morton Brautman and Seymour Spergel) who are currently engaged in various operating capacities with Hemisphere. These contracts will become effective upon Board approval of the acquisition and the surrender of Hemisphere's operating authority. There is no present intention, that either of these employees will be officers or directors of Pandair.

According to the application, Pandair's purpose in the asset acquisition is to obtain immediately the facilities, equipment, and terminal space necessary to institute at once an effective operation as a foreign indirect air carrier and also to obtain the services of persons skilled and experienced in international airfreight forwarding operations. Pandair has concluded that the acquisition of the facilities above referred to and the employment of the experienced international freight personnel will give it a headstart on instituting a profitable operation earlier than it might otherwise have been able to do. Applicants contend this purpose has no element in it that is adverse to the public interest, and does not war with any representations made in obtaining its section 402 permit.

Applicants further request, pursuant to Part 215 of the Board's economic regulations that Pandair Freight Ltd. (United Kingdom) be authorized to do business under the trade-name Pandair Freight Limited (United Kingdom) doing business as Pandair Freight, Inc. (United States of America). In this connection the applicants allege that all the Board has required in previous cases is that the name of the foreign company "shall be displayed at least as prominently as" the name of the U.S. company in which it is doing business [e.g., McGregor Swire Air Services Ltd. (United Kingdom), Order 71-6-125, paragraph (c)]. Pandair agrees to abide by any such condition.

No comments relative to the application have been received.

Notice of intent to dispose of the application without hearing has been published in the FEDERAL REGISTER, and a copy of such notice has been furnished by the Board to the Attorney General not later than the day following the date of such publication, both in accordance with the requirements of section 408(b) of the Act.

Upon consideration of the foregoing, it is concluded that Hemisphere is currently operating as an indirect air carrier and that it may also be considered a person engaged in phase of aeronautics and that Pandair is a foreign (indirect) air carrier and a common carrier, all within the meaning of section 408 of the Act. Thus the acquisition of the assets of Hemisphere by Pandair is subject to that section. It is further concluded, however, that the transaction which is the subject of the application does not affect the control of an air carrier directly engaged in the operation of aircraft in air transportation, does not result in creating a monopoly and does not tend to restrain competition. Furthermore no person disclosing a substantial interest in this proceeding is currently requesting a hearing and it is concluded that the public interest does not require a hearing. It is noted that the transaction does not include Hemisphere's operating authorization as an airfreight forwarder which will be surrendered for cancellation upon consummation of the agreement. Under these circumstances, it is not found that the transaction is inconsistent with the public interest or that the requirements of section 408 are otherwise unfulfilled.

Section 215(b) of the Board's economic regulations provides that the Board will grant a carrier permission to use a trade name upon a finding that its use is not contrary to the public interest. We note neither the corporate name nor the proposed trade name appear to conflict with that of any existing air carrier or foreign air carrier. For this reason, it does not appear that Pandair's use of the trade name would be incompatible with the public interest.

Pursuant to authority duly delegated by the Board in the Board's regulations 14 CFR 385.13 it is found that the transaction described herein should be approved under section 408(b) of the Act without a hearing.[1]

business as Pandair Freight, Inc. (United States of America) shall appear on all

Acting pursuant to the aforesaid delegated authority it is also found with respect to Pandair's request that it be permitted to do business under the trade name Pandair Freight, Inc. (United States of America) that the application essentially meets the requirements of Part 215 of the Board's economic regulations and that it is not contrary to the public interest to permit use of such name provided that the name, Pandair Freight Ltd. (United Kingdom) doing of the carrier's advertising, air waybills, stationery, and the like; the above name shall always be used in its entirety; and the name Pandair Freight Ltd. (United Kingdom) shall be displayed at least as prominently as the name Pandair Freight, Inc. (United States of America).[2]

Accordingly, it is ordered, That:

1. The acquisition of the assets of Hemisphere by Pandair as described herein, be and it hereby is approved.

2. Hemisphere be and it hereby is ordered to surrender its Operating Authorization No. 328 within 10 days after consummation of the agreement described herein; and

3. The request to use the name Pandair Freight Ltd. (United Kingdom) doing business as Pandair Freight, Inc. (United States of America) be and it hereby is approved; provided that the name, Pandair Freight Ltd. (United Kingdom) doing business as Pandair Freight, Inc. (United States of America) shall appear on all of the carrier's advertising, air waybills, stationery, and the like; the above name shall always be used in its entirety; and the name Pandair Freight Ltd. (United Kingdom) shall be displayed at least as prominently as the name Pandair Freight, Inc. (United States of America).

Persons entitled to petition the Board for review of this order pursuant to the Board's regulations, 14 CFR 385.50, may file such petitions within 10 days after the date of this order.

This order shall be effective upon issuance and the filing of such petitions shall not stay its effectiveness.

By A. M. Andrews, Director, Bureau of Operating Rights.

[SEAL] HARRY J. ZINK,
Secretary.

[FR Doc.72-22299 Filed 12-27-72;8:48 am]

[1] It is the intention of the applicant to begin operations immediately in the New York area. Without the facilities to be acquired under the existing contract, it cannot begin such operations. In addition, the carrier is ready to commence operations on Jan. 1, 1973, through its own facilities at Chicago and on the west coast under its "doing business as." Thus, it is further found, pursuant to 14 CFR 385.6 that the actions taken herein are governed by prior Board precedent and policy, and because of the imminent transaction date that immediate action is required to enable effectuation of the transaction; therefore, it is determined that the filing of petitions for review of this order will not preclude this order from becoming effective immediately.

[2] Cf. McGregor, Swire Air Services Ltd. doing business as McGregor Swire Air Services (America) Inc., Order 71-6-125, decided May 21, 1971.

COMMITTEE FOR PURCHASE OF PRODUCTS AND SERVICES OF THE BLIND AND OTHER SEVERELY HANDICAPPED

PROCUREMENT LIST

Additions to Initial List

Notice of proposed additions to the initial procurement list, August 26, 1971 (36 F.R. 16982), were published in the FEDERAL REGISTER on October 19, 1971 (36 F.R. 20260), December 16, 1971 (36 F.R. 23943), March 28, 1972 (37 F.R. 6348), and July 26, 1972 (37 F.R. 14902).

Pursuant to the above notices, the following commodities and services are added on the procurement list.

CHARLES W. FLETCHER,
Executive Director.

COMMODITIES

CLASS 7510

Binder, note pad, springback:		
7510-286-6954	each	$3.00
Pencil, Woodcased, general writing (60 percent of Government's annual requirement will be furnished by the National Industries for the Blind):		
7510-281-5234	dozen	.188
7510-281-5235	do	.186
7510-286-5757	do	.195

CLASS 7520

Marker, tube type, broad tip, 3-color set:		
7520-588-1501	set	.215
Pencil, mechanical, china marking:		
7520-223-6672	dozen	.97
7520-223-6673	do	.97
7520-223-6674	do	.97
7520-223-6675	do	.97
7520-223-6676	do	.97
7520-268-9912	do	.97
7520-268-9913	do	.97
7520-557-4570	do	.94
Pencil, electrographic, mechanical:		
7520-724-5606	dozen	1.23
Pencil, mechanical with eraser:		
7520-164-8950	dozen	1.23
7520-268-9915	do	1.23
7520-268-9916	do	1.23
7520-285-5818	do	1.23
7520-664-3475	do	1.23
Pen set, desk:		
7520-106-9840	each	.29

CLASS 7920

Cloth, polishing:		
7920-205-1656	each	.18
Brush, scrub, household:		
7920-282-2470	do	.43

CLASS 8465

Cover, water canteen, nylon:		
8465-860-0256	do	1.18

SERVICES

TYPE OF SERVICE AND GEOGRAPHICAL COVERAGE

Furniture Reconditioning: Lackland Air Force Base and Randolph Air Force Base, San Antonio, Tex. Price list furnished by GSA, Reg. VII's PMDS office.

MILITARY RESALE PROGRAM

CLASS 7330

Can opener, pour and store (Liqui-Pour):		
7330-B510-988	each	$0.98

CLASS 7920

Bag, laundry:		
7920-B510-967	each	1.79
Brush, scrub, plastic:		
7920-B510-919	do	.66
Duster, plastic handle:		
7920-B510-997	do	.65

[FR Doc.72-22240 Filed 12-27-72;8:45 am]

FEDERAL COMMUNICATIONS COMMISSION

[Docket No. 19206; FCC 72R-385]

BUNKER-RAMO CORP. AND WESTERN UNION TELEGRAPH CO.

Memorandum Opinion and Order of Remand

1. The Review Board has before it an Initial Decision, FCC 71D-95, released December 7, 1971, by Administrative Law Judge Ernest Nash, exceptions, filed by the Chief of the Common Carrier Bureau on January 19, 1972, and by Bunker-Ramo Corp., Oak Brook, Ill., on January 17, 1972, and a reply brief filed by Western Union Telegraph Co., New York, N.Y. (Western Union) on February 17, 1972. In that Initial Decision, the Presiding Judge held the complainant, Bunker-Ramo Corp. (Bunker-Ramo), in default for refusal to proceed with the hearing, dismissed the complaint and terminated the proceeding. Upon consideration of the record in this proceeding, the Initial Decision and the above-described pleadings, the Board concludes that this matter must be remanded for further hearing.

2. Bunker-Ramo, a corporation engaged in providing brokerage information service,[1] filed a formal complaint against Western Union on June 5, 1970. In that document Bunker-Ramo alleges: That communications facilities to service much of its equipment are provided by Western Union pursuant to published tariffs; that the Commission, in a Memorandum Opinion and Order, FCC 67-1377, 11 FCC 2d 1, permitted Western Union's SICOM tariff (FCC No. 25) to go into effect December 20, 1967; that Western Union, since that date, has actively entered into competition with Bunker-Ramo by offering some services comparable to those offered by Bunker-Ramo; that since Western Union commenced its SICOM service it has failed to provide adequate services to Bunker-Ramo and to others who use Bunker-Ramo's equipment and services; that Western Union has failed to maintain and restore circuits provided to Bunker-Ramo and its customers within a reasonable time as required by law; and that Western Union has exploited its position as a common carrier to discriminate against Bunker-Ramo and its customers in favor of its SICOM customers.

3. After considering a lengthy series of pleadings which included a petition to make the complaint more specific and an answer to the complaint which consisted of 89 typewritten pages, 19 attachments and a supplement to the answer to the complaint which totaled several hundred typewritten pages, the Commission designated the proceeding for hearing by Memorandum Opinion and Order, FCC 71-390, 28 FCC 2d 617, released April 19, 1971, 36 F.R. 7617 on the following issues:

I. During the period commencing June 8, 1969 (1 year prior to the filing of the complaint) and continuing up to the release date of our Memorandum Opinion and Order herein;

(i) Whether defendant failed to provide interstate or foreign communications service to complainant or complainant's customers upon request therefor, in violation of section 201(a) of the Act;

(ii) Whether defendant engaged in unjust or unreasonable practices in connection with providing interstate or foreign communication service to complainant or complainant's customers, in violation of section 201(b) of the Act;

(iii) Whether defendant made any unjust or unreasonable discrimination, preference, advantage, prejudice, or disadvantage in the provision of interstate or foreign communications service to complainant, complainant's customers, and to defendant's SICOM customers, in violation of section 202(a) of the Act;

(iv) Whether defendant imposed any rates, classifications, or practices applicable to interstate or foreign communications service provided to complainant, complainant's customers, or to defendant's SICOM customers, in violation of section 203(b) of the Act;

II. Whether complainant is entitled to any monetary damages as a result of any violation of the Act that may be found under issue I hereof and, if so, the nature hereof.

III. Whether the Commission should take further action with respect to any violation of the Act that may be found under issue I hereof and, if so, the nature hereof.

4. The first prehearing conference in this proceeding was scheduled before Administrative Law Judge Ernest Nash, June 8, 1971, almost 3 months after the designation Order, supra, was published. At that conference there was some discussion as to the scope of the issues and the time frame contemplated by those

[1] Bunker-Ramo is a commercial enterprise which, among other things, manufactures and supplies a variety of real-time information, services and display equipment which are used in the brokerage business. The viability of the equipment depends entirely upon adequate and dependable channels of communications which connect the display equipment to the source of information to be displayed.

issues within which the case would proceed. The Presiding Judge ruled that the proceeding would be governed by the issues specified by the Commission and that, if Bunker-Ramo had problems with the designation order, the matter should have been presented to the Review Board. Moreover, the Presiding Judge noted that the time for filing a petition to modify issues had expired and ruled that the proceeding would not be delayed while Bunker-Ramo took the matter to the Review Board. When pressed for a date on which he could proceed to hearing, counsel for Bunker-Ramo responded that he had a motion for discovery pending, and that if the Review Board acted favorably on the motion to modify the issues which he was about to file, the entire scope of discovery would be different. The Presiding Judge reiterated his observation that the designation order would prevail and insisted that Bunker-Ramo agree to a date when it could go forward with its case. It was then agreed that the hearing would commence on August 17, 1971. In response to an inquiry by counsel for the Common Carrier Bureau as to the status of Bunker-Ramo's motion for discovery, the Presiding Judge stated:

I will say this: I have had an opportunity to go through the request for discovery. I think as far as the principles of discovery are concerned, the very generous interpretation placed should pertain. In other words, to the extent that Western Union can respond to these questions, they should respond.

Western Union argued that under the rules discovery should have been completed before the first prehearing conference and that the motion should be denied. The Presiding Judge admonished Western Union to examine the motion which it had just received and to be prepared to state what material it would provide and what it would not. The Judge then noted that Western Union would not be required to respond in writing to Bunker-Ramo's motion for discovery, but could instead make its objections at the next prehearing conference which would convene on June 21, 1971.

5. At the June 21 prehearing conference, Bunker-Ramo's motion for discovery was discussed at great length in light of Western Union's written opposition in which it contended, in essence, that the motion should be denied on grounds of immateriality and irrelevancy, on the ground that compliance would be unduly burdensome, and on the ground of lack of specificity. The Presiding Judge denied Bunker-Ramo's motion for discovery, but admonished Western Union to be cooperative and to supply such material requested by Bunker-Ramo as it could.[2] On June 25, 1971, the Presiding Judge released an Order, 71M–1070, formalizing his ruling denying Bunker-Ramo's motion for discovery; noting the need for cooperation among the parties and referring to "the understandings reached and directions given at the prehearing conference held June 22, 1971". A number of procedural motions were filed following that Order, among them a letter request to reconsider, or in the alternative to permit Bunker-Ramo to appeal the Presiding Judge's ruling on Bunker-Ramo's motion for discovery, and a motion to continue the proceeding until the Review Board had ruled on Bunker-Ramo's motion to modify the issues. Both of these motions were denied by the Presiding Judge in Orders, FCC 71M–1227, released July 28, 1971, and FCC 71M–1253, released July 30, 1971, respectively. Bunker-Ramo then filed a petition for waiver of the Commission's rules and regulations, and for extraordinary and expedited relief with the Review Board. This petition was dismissed by the Review Board on procedural grounds, FCC 71R–269, released September 3, 1971. Bunker-Ramo's petition for modification of the designation order was granted in part by the Review Board by Memorandum Opinion and Order, FCC 71R–262, released August 31, 1971, 31 FCC 2d 449. In that document, the Board noted that Bunker-Ramo's petition was filed 6 weeks late but held that: "In our view resolution of the serious public interest questions raised by complainant's request is fundamental to a fair and complete resolution of this proceeding." The Board modified the designation order, supra, by deleting the time frame limitation from issue I and by adding a new issue IV, to determine:

Whether defendant has discontinued, reduced, or impaired service to a community, or part of a community requiring prior certification by the Commission pursuant to section 214(a) of the Act.

6. The hearing reconvened on September 8, 1971, as ordered by the Presiding Judge. At that session, counsel for Bunker-Ramo advised the Presiding Judge that he could not proceed because the material Western Union had made available to Bunker-Ramo pursuant to the Presiding Judge's "voluntary cooperation procedure" was not adequate and because the issues as modified by the Review Board presented new questions necessitating additional prehearing discovery before his case could properly be prepared. The Presiding Judge declined to examine the material proffered by Western Union and noted that Bunker-Ramo had the burden of proceeding in the case; that he had denied Bunker-Ramo's motion for discovery and that the modified issues did not require further prehearing procedures. He reminded Bunker-Ramo that it had been given a number of continuances and ruled that it must now go forward or at the very least give a day certain on which it would go forward with the proceeding. Bunker-Ramo again responded that it could not move forward without further prehearing procedures on the modified issues. The Common Carrier Bureau supported Bunker-Ramo's position, urging that Western Union must supply much more material to enable Bunker-Ramo to fairly proceed with its case. Western Union urged that it had already provided an enormous amount of material. In response, the Presiding Judge stated at transcript 115, line 12:

You say it is an enormous amount and they say it is pitifully inadequate. I am not getting into disputes or determination of this nature.

He thereupon ruled that he would hold Bunker-Ramo in default. To facilitate his preparation of an initial decision the Presiding Judge directed the parties to file proposed findings and conclusions. When Bunker-Ramo and the Common Carrier Bureau contended that proposed findings and conclusions were inappropriate, the Judge ruled that in this case

[2] At page 50, line 8 of the transcript the Presiding Judge stated:

I am also operating on the basis that any material which is available, either in the Commission's files or in the files of your adversary in this proceeding, be examined in the Commission's files rather than have the same material made available to you by your opponent.

Mr. Meyers: Are you ruling now, sir that because some material may, in some form, appear in the Commission's files, therefore we cannot have it from Western Union?

Presiding Examiner: I said it would be preferable that whatever you have in the Commission's files you examine and copy in the Commission's files. In other words, our files are open and public and available and we have facilities for them to be examined.

Western Union is required by law to file a vast amount of material with the Federal Communications Commission for one purpose, and that is that the public know about certain of their activities that are subject to regulation.

That is what the Commission is here for. One of the purposes of the Commission is to have information about the carriers that they regulate, and if the Commission has the information, I think the place to get it is from the Commission.

At page 67 speaking to Western Union the Presiding Judge said: "I will say this 'Whatever you have kept together and you can make available to him, would you make available to him?' "

At page 77 of the transcript the Presiding Judge said at line 8:

To the extent that he is telling you in advance what kind of documents he is going to ask for, I think [it] would also be to your advantage. At this stage of the game we are not here to argue relevancy.

And at line 21, the Presiding Judge said: Mr. Meyers, what you are going to have by July 1st is whatever Western Union can make available to you by July 1st.

And at page 78, line 1, the Presiding Judge said:

You have made a request of them and I have asked them to accord you the courtesy of responding to your request as much as possible. I am not ordering compliance with the request for the materials contained in your motion for discovery.

The Presiding Judge then noted at line 18 of page 78:

You understand that in the opinion that the Commission issued in connection with the adoption of its discovery rules, the Commission pointed out that the success or failure of the rules depended, to a large extent, to the cooperative attitude taken by counsel.

Mr. Green, I am sure, will cooperate with you as much as courtesy will allow. He is certainly not going to cooperate with you to make your case. I know that. That is going to be up to you.

To the extent that he has files available that come within the context of your request and he can make them available to you here in Washington, he will make them to you here in Washington.

If it is too much of a burden to move documents from Hudson Street to Washington, D.C., he will tell you when and where you can go down to Hudson Street to inspect them.

they could take the form of briefs of the parties. The Presiding Judge released his Initial Decision, FCC 71D–95, on December 7, 1971, in which he held Bunker-Ramo in default, dismissed Bunker-Ramo's complaint and terminated the proceeding.

7. From the foregoing, it is apparent that the Presiding Judge has misconstrued the purpose of the Commission's prehearing discovery rules and the scope of his discretion under those rules. In the first prehearing conference at page 19 of the transcript he noted:

> You will understand also that, with regard to pretrial procedures, under the Commission's rules, they are supposed to be completed before the prehearing conference, but that subsequent to the prehearing conference the Examiner may, at his discretion, permit pretrial discovery and interrogatories. I read that to mean that the Examiner will exercise his discretion with a view toward expediting the hearing. And I will permit pretrial in the form of discovery and interrogatories with a view toward expediting the hearing, but not for the purposes of delay.

From this point forward it was apparent that the Presiding Judge believed that prior to the first prehearing conference the parties were entitled to discovery as a matter of right but that after the first prehearing conference matters of discovery were completely within the discretion of the Presiding Judge.[3] The Review Board, like the Common Carrier Bureau, is unable to find any basis for this point of view either in the Commission's discovery rules or in the Commission's report and order adopting those rules, 11 FCC 2d 185. Section 1.311(c) of the Commission's rules makes it clear that, even though discovery is expected to be completed prior to the initial prehearing conference, the Presiding Judge has discretion to:

> * * * at any time order the parties or their attorneys to appear at a conference to consider the proper use of these procedures or the time to be allowed for such use.

Moreover, the Commission in its report and order adopting those rules, supra, at paragraph 4, page 187 noted:

> Finally, we wish to emphasize that the presiding officer will have full control over the use of these procedures. Under §§ 1.311 (c) and 1.313, it is within his power to preclude any use, or particular uses, of these procedures in a particular case if he finds that their use will not contribute to the proper conduct of the proceeding, and he has adequate authority to prevent use of the procedures for purposes of delay and to prevent the abuse of parties and witnesses.

We do not find in this language any indication that the responsibility of the presiding judge or his discretion with respect to prehearing discovery is any greater after the initial prehearing conference than before that conference and, while the presiding officer has wide discretion in the use of discovery, that discretion is clearly not absolute, and, if that discretion is exceeded, a full and fair hearing cannot take place. Furthermore, as noted by the Common Carrier Bureau, the Commission was fully cognizant that the discovery procedures which it was adopting might well delay both the conference and the hearing, but believed that the value of the information sought might well justify extensive use of the procedures in certain cases. We are of the view that this is such a case.

8. The significance of the instant complaint, which alleges discrimination by a common carrier in favor of its wholly owned competitive subsidiary, involves grave public interest questions which extend far beyond the private rights of Bunker-Ramo and Western Union. As noted by the Commission in its designation order, supra, "* * * the complaint and answer herein raise substantial issues of law and fact [footnote omitted] that should be adjudicated on the basis of a hearing record and initial decision thereon by a Hearing Examiner * * *". Moreover, it is quite apparent that Western Union is the only source of much of the evidence which is essential to a complete record in this proceeding. Furthermore, Western Union has already demonstrated that it cannot be expected to voluntarily disclose pertinent facts and information which it considers to be adverse to its interests.[4] The presiding judge's summary denial of Bunker-Ramo's motion for discovery arbitrarily prevented it from obtaining the full and fair hearing contemplated by the Commission's designation order, supra. At no point in this proceeding did the presiding judge set forth his reasons for denying Bunker-Ramo's motion. In these circumstances, the Review Board has no way of knowing whether the material sought: "appears to be reasonably calculated to lead to the discovery of admissible evidence";[5] whether the documents Bunker-Ramo seeks might be available from sources other than Western Union; or whether Bunker-Ramo would be seriously prejudiced in its attempt to prove its case in the absence of discovery.[6] Furthermore, the presiding judge did not rule that any of the 65 categories of documents requested was not sufficiently specific although he implied during the prehearing conference that this might be the case. Nor did he specifically rule that the documents requested were not relevant or material to the proceeding or that the motion was in any other way deficient.[7] Such a disposition in the context of this proceeding was indeed arbitrary and highly prejudicial to the private rights of Bunker-Ramo and the public interest inherent in the resolution of the issues specified by the Commission when this matter was designated for hearing.

9. As noted above, in lieu of formal discovery, the Presiding Judge chose to pursue a procedure which depended upon the voluntary cooperation of the parties. This alternative procedure failed because of Western Union's obvious self-interest in preventing Bunker-Ramo from examining documents which might prove damaging to Western Union's interests. When Bunker-Ramo called this to the Presiding Judge's attention, he refused to concern himself with the problem and assured Bunker-Ramo that all necessary relevant and material evidence could be produced at the hearing.[8] We believe that, having directed a "voluntary procedure," it was the Presiding Judge's responsibility to insure its success. His failure to do so was clearly prejudicial to the compilation of an adequate record in this proceeding. Moreover, after the Review Board had modified the issues, the scope of the proceeding was substantially enlarged and the Presiding Judge's refusal to permit further prehearing procedures in view of the modified issues and to rule on the merits of Bunker-Ramo's motion for discovery predicated upon the modified issues erroneously prevented Bunker-Ramo from adequately preparing its case. Thus, no record concerning the "substantial issues of law and fact" has been compiled and no "initial decision thereon by a hearing examiner" has been issued.

10. We infer from the record of the prehearing conferences that the Presiding Judge based his denial of Bunker-Ramo's motion for discovery on the need

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[3] At page 72, line 16, the Presiding Judge stated:

> You are entitled to have discovery up to June 8th and after June 8th, your right to discovery is a matter of the Examiner's discretion.

And at page 73, line 15, the Presiding Judge stated:

> Mr. Cangelosi, the Commission, by writing the rule the way it did made it quite clear that it wanted discovery to take place before the prehearing conference. It is because of that rule that the Chief Examiner has lengthened the time frame between the time he designates an Examiner for a proceeding and the date he sets for the first prehearing conference.
>
> It used to be a matter of 2 weeks. Now it is 6 weeks, I think. What happened during all that period of time?

And at page 74, line 6, he said:

> I am not denying him discovery. I am telling Western Union though that they ought to cooperate to the extent that they can cooperate here, otherwise they are going to be forced to do it later on. You see, I can't take statements of counsel as to what may or may not constitute discrimination. I don't have any record of discrimination. You can't tell me all the discriminations practiced by Western Union are peculiarly within Western Union's knowledge. Once the information begins to develop during the course of the hearing we may be able to change our pattern of thinking, but the plain fact is that what we are dealing with here and now is just a question of discovery and a right to discovery as distinguished from the privilege of discovery, which exists up to the date of the prehearing conference. That is the Commission's rule and no attempt was made by Bunker-Ramo to pursue any discovery during that particular period.

[4] See Roebling v. Anderson, 257 F. 2d 615 (1958), cert. denied 366 U.S. 918 (1961), where the Court held discovery appropriate in a similar circumstance.

[5] Section 1.311(b) of the Commission's rules.

[6] See Roebling v. Anderson, supra.

[7] See Southern Broadcasting Company (WGHP–TV), 35 FCC 2d 338, 24 RR 2d 548.

[8] Such a procedure would necessarily require Bunker-Ramo to subpoena witnesses and documents. In our view, this would severely limit Bunker-Ramo's ability to obtain all the relevant evidence and would be so cumbersome that the purpose of the discovery rules would be effectively defeated.

for what he termed "expedition," although he did not so state in his June 25, 1971, order formalizing his denial of Bunker-Ramo's motion. If this is so, his understanding of the term fails to take into account the Commission's observation concerning the rules it was then adopting:

> These new rules provide discovery procedures to facilitate preparation, eliminate surprise and to promote fairness. It is hoped that a more thorough preparation will produce a better record and expedite the decision making process. Report and order by the Commission, supra at 186.

It is clear that when the Commission adopted its discovery rules, it contemplated situations such as that now before us, i.e., where one of two adversary parties possesses information essential to the proof of its adversary case.[9] For there would have been no need to create a means of compulsory disclosure if there were no cases where one party would refuse to disclose information essential to its adversary. The Commission having created such rules, they must be administered by the Presiding Judge in a manner that will "facilitate preparation, eliminate surprise and promote fairness." Cf. Tinker, Inc., 4 FCC 2d 372, 7 RR 2d 677 (1966). The Presiding Judge's obvious failure to achieve this result in the instant case clearly prejudiced the rights of Bunker-Ramo and leaves us no choice but to remand the proceeding to the Presiding Judge.[10] In view of the state of the record before us, it appears that the only appropriate procedure is to begin anew.[11]

11. *Accordingly, it is ordered,* That the initial decision of Administrative Law Judge Ernest Nash, FCC 71D–95, released December 7, 1971, is set aside and the exceptions thereto are dismissed; and

12. *It is further ordered,* That this matter is remanded to the Presiding Judge to be heard de novo, on the issues as modified.

Adopted: December 15, 1972.

Released: December 20, 1972.

FEDERAL COMMUNICATIONS COMMISSION,[12]
[SEAL] BEN F. WAPLE,
Secretary.

[FR Doc.72–22127 Filed 12–27–72;8:45 am]

[9] See Fetzer Cable Vision, 11 FCC 2d 516, modified 12 FCC 2d 28 (1968).

[10] See Roebling v. Anderson, supra at 619, where Judge Fahy, speaking for the Court, stated:

> Though appellate courts will generally not interfere with a trial court's disposition of matters of discovery, they will do so when the ruling is "improvident and affect(s) the substantial rights of the parties." Carter v. Baltimore & O.R., 80 U.S. App. D.C. 257, 259, 152 F. 2d 129, 131.

[11] The Board has noted Bunker-Ramo's suggestion that the ends of justice might best be served by assigning the proceeding to a different Administrative Law Judge. In our view, such drastic action is not required by the record before us.

[12] Board member Pincock absent.

[Docket No. 19657, FCC 72–1137]

COSMOPOLITAN BROADCASTING CORP.

Order and Notice of Apparent Liability Designating Application for Hearing on Stated Issues

In re application of Cosmopolitan Broadcasting Corp., Newark, N.J., Docket No. 19657, File No. BRH–1359, BRSCA–746, for renewal of Main, Auxiliary and SCA License for WHBI(FM).

1. The Commission has before it for consideration (a) the captioned application and (b) its inquiry into the operation of Station WHBI, Newark, N.J.

2. Information before the Commission raises serious questions as to whether the applicant possesses the qualifications to be or to remain a licensee of the captioned station. In view of these questions, the Commission is unable to find that a grant of the renewal application would serve the public interest, convenience, and necessity, and must, therefore, designate the application for hearing.

3. *Accordingly, it is ordered,* That the application is designated for hearing pursuant to section 309(e) of the Communications Act of 1934, as amended, at a time and place specified in a subsequent order, upon the following issues:

(a) To determine whether the applicant has exercised adequate control and supervision over the programing and other operation of Station WHBI consistent with licensee responsibility.

(b) To determine whether the applicant broadcast deceptive or misleading advertising.

(c) To determine whether the licensee permitted a time broker to use the licensed facility in furtherance of a scheme to obtain monies from persons who were misled to believe they were being offered employment when, in fact, the purpose was to obtain purchases of a time broker's service, facilities, air time or course of instruction and training.

(d) To determine whether the applicant failed timely to file with the Commission contracts relating to the resale of broadcast time in violation of § 1.613 (c) of the Commission's rules.

(e) To determine whether the applicant failed to make entries in the program logs of WHBI properly identifying the political affiliation of certain candidates for public office in violation of § 73.282 of the Commission's rules.

(f) To determine whether applicant failed to maintain certain records and make them available for public inspection as required by §§ 73.289(f) and 73.290(d) of the Commission's rules.

(g) To determine whether the rates charged for announcements broadcast by WHBI on behalf of candidates for political office exceeded that charged for announcements broadcast by WHBI for other candidates and other commercial advertisers and, if so, whether this practice violates the fairness doctrine or by engaging in that practice the licensee is otherwise not serving the public interest by discouraging candidates for political office from using the licensed facility.

(h) To determine whether the applicant failed to make proper entries in the program logs of WHBI containing information pertaining to foreign language programs in violation of § 73.281(a) of the Commission's rules.

(i) To determine whether applicant has broadcast detailed prerace information prior to horseracing events and, if so, whether such broadcasts were intended to be of aid to illegal gambling or might reasonably have been expected to be of such aid.

(j) To determine whether applicant broadcast information sponsored by publishers of "scratch-sheets" or other publications disseminating detailed horseracing information by touts or other persons whose activities may result in aiding illegal gambling or furnishing information to illegal gamblers or bookmakers; and if other information was broadcast which may have resulted in aiding illegal gambling on events other than horseraces.

(k) To determine whether applicant broadcast an advertisement or information concerning a lottery in violation of title 18, U.S.C. section 1304 (1964).

(l) To determine whether applicant failed timely to file ownership reports to the Commission in violation of § 1.615 of the Commission's rules.

(m) To determine whether the licensee has substantially carried out its representations in its application for renewal in regard to the presentation of news by station WHBI.

(n) To determine whether in the light of the evidence adduced under the foregoing issues, the licensee possesses the requisite qualifications to remain licensee of the Commission.

(o) To determine, in light of the evidence adduced pursuant to the foregoing issues, whether a grant of the captioned application would serve the public interest, convenience and necessity.

4. *It is further ordered,* That if it is determined that the hearing record does not warrant an order denying the captioned applications for renewal of licenses for station WHBI, it shall also be determined whether the applicant has violated section 1304 of title 18 of the United States Code,[1] and, if so, whether an order of forfeiture pursuant to section 503(b) of the Communications Act of 1934, as amended, in the amount of $10,000 or some lesser amount should be issued for violations which occurred within 1 year of the issuance of the bill of particulars in this matter.

5. *It is further ordered,* That this document constitutes a notice of apparent liability for forfeiture for violations of those sections of the Act or the Commission's rules set out in the preceding paragraph and of the terms of the stations' authorization. The Commission has determined that, in every case designated for hearing involving revocation

[1] See bill of particulars for specific dates and details of each alleged violation.

or denial of renewal of license for alleged violations which also come within the purview of section 503(b) of the Act, it shall, as a matter of course, include this forfeiture notice so as to maintain the fullest possible flexibility of action. Since the procedure is thus a routine or standard one, we stress that inclusion of this notice is not to be taken as in any way indicating what the initial or final disposition of the case should be; that judgment is, of course, to be made on the facts of each case.

6. *It is further ordered,* That the Chief of the Broadcast Bureau is directed to serve upon the captioned applicant within thirty (30) days of the release of this order, a bill of particulars with respect to issues (a) through (m), inclusive.

7. *It is further ordered,* That the Broadcast Bureau proceed with the initial presentation of the evidence with respect to issues (a) through (m) inclusive, and the applicant then proceed with its evidence and have the burden of establishing that it possesses the requisite qualifications to be and to remain a licensee of the Commission and that a grant of its applications would serve the public interest, convenience and necessity.

8. *It is further ordered,* That to avail itself of the opportunity to be heard, the applicant pursuant to § 1.221(c) of the Commission's rules, in person or by attorney, shall, within twenty (20) days of the mailing of this order, file with the Commission, in triplicate, a written appearance stating an intention to appear on the date fixed for the hearing and present evidence on the issues specified in this order.

9. *It is further ordered,* That the applicant herein, pursuant to section 311 (a)(2) of the Communications Act of 1934, as amended, and § 1.594 of the Commission's rules, shall give notice of the hearing within the time and in the manner prescribed in such rule and shall advise the Commission thereof as required by § 1.594(g) of the rules.

10. *It is further ordered,* That the Secretary of the Commission send a copy of this order by certified mail—return receipt requested to Cosmopolitan Broadcasting Corp.

Adopted: December 13, 1972.

Released: December 20, 1972.

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

[FR Doc.72-22126 Filed 12-27-72;8:45 am]

[Dockets Nos. 19566, 19567; FCC 72R-368]

RADIO DINUBA CO. AND KORUS CORP.

Memorandum Opinion and Order Amending Issues

In re applications Radio Dinuba Co., Dinuba, Calif., Docket No. 19566, File No. BPH-7567, Korus Corp., Dinuba, Calif., Docket No. 19567, File No. BPH-7657, for construction permits.

1. Before the Review Board is a motion to delete and enlarge issues, filed September 7, 1972, by Radio Dinuba Co. (Radio Dinuba), requesting deletion of the air hazard issues against it, and the addition of a Rule 73.315 (b) and (d) issue, as well as a Suburban issue against Korus Corp. (Korus). Each requested issue will be discussed seriatim.[1]

DELETION OF AIR HAZARD ISSUE AGAINST RADIO DINUBA

2. Radio Dinuba, supported by the Broadcast Bureau, seeks deletion of the air hazard issue designated against it by the Commission in the designation order on grounds that the Federal Aviation Administration granted clearance, which became final on July 19, 1972, prior to the issuance of the Commission's designation order, released on August 17, 1972. In light of the FAA's grant of clearance and in accordance with the Commission's practices, the Board will delete the issue. See WMID, Inc., 12 FCC 2d 512, 12 RR 2d 781 (1968); D. H. Overmeyer Communications Co., 2 FCC 2d 521, 7 RR 2d 197 (1966).

ADDITION OF RULE 73.315 (b) AND (d) AGAINST KORUS

3. Alleging that shadowing of the proposed Korus signal as it passes over Smith Mountain, located 2 to 3 miles northeast of Dinuba, would result in less than adequate coverage of Dinuba, Radio Dinuba requests addition of an issue to determine whether the Korus operation would comply with the coverage provisions of Rules 73.315 (b) and (d).[2] The Broadcast Bureau, which did not have the detailed engineering data contained in Korus' opposition, supports Radio Dinuba's request. Korus opposes the request with a detailed engineering showing.

4. In support of its request, Radio Dinuba submitted an engineering report which included profile graphs of paths along azimuths of 197.5 and 200.6 degrees from the proposed Korus site across Smith Mountain. Radio Dinuba's showing does not depict the city limits of Dinuba; however, Korus has submitted a map depicting such limits, which Radio Dinuba has not questioned. In addition, Korus has submitted eight profile studies which indicate no shadowing of Dinuba.

5. The Board's review of the engineering data attached to the pleadings establishes that Radio Dinuba's allegations are insufficient to warrant addition of an issue to inquire into the coverage which the Korus proposal will provide to Dinuba. As Korus establishes in its engineering reply, the 197.5 degree radial utilized by Radio Dinuba is irrelevant since it does not pass through any part of Dinuba. When the city limits are reflected on the 200.6 degree radial utilized by Radio Dinuba, it is established that the indicated shadow area does not reach Dinuba. Radio Dinuba's pleading does not challenge Korus' opposition showing, merely implying, without adequate support, that a question remains as to coverage in "other areas". This implication is patently insufficient. Rule 1.229(c).

ADDITION OF A SURBURBAN ISSUE AGAINST KORUS

6. Radio Dinuba also requests a Suburban issue against Korus. Radio Dinuba argues, Korus' community survey was not conducted by an "officer, director, or stockholder of the applicant," contrary to the requirements of the Commission's Primer on Ascertainment of Community Problems by Broadcast Applicants, 27 FCC 2d 650, 21 RR 2d 1507 (1971). Korus' application indicates that Michael Minasian, the president, director and 100-percent owner of Korus, did not participate in taking the survey of community leaders or members of the general public, nor did any other officer or director of the applicant participate. Instead, prospective employees of the proposed station conducted the entire survey, Radio Dinuba maintains.

7. Both the Broadcast Bureau and Korus oppose the request. Considered together the various allegations of the pleadings present the question of whether Korus' delegation of the survey interviews of community leaders and of the general public, to proposed management-level personnel, as well as to proposed nonmanagement personnel, comports with the requirements of Question and Answer 11 of the Primer.

8. The Review Board will deny Radio Dinuba's request for a Suburban issue. The Commission's Primer, supra, in Q. & A. 11(a) specifies that principals, management-level employees, or prospective management-level employees "must be used to consult with community leaders", and Q. & A. 11(b) specifies that proposed staff who are below the management level may conduct the general public surveys under the supervision of management-level personnel. The Primer states that management-level employees are the "decision-making personnel of the applicant." Korus' May 30 amendment to Section IV-A, Part I of its application shows that the community ascertainment surveys of both com-

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[1] Also before the Review Board are the following related pleadings: (a) Broadcast Bureau's comments, filed Sept. 19, 1972; (b) opposition, filed Sept. 20, 1972, by Korus; and (c) reply, filed Oct. 3, 1972, by Dinuba. Also, there are the following petitions, motion to strike reply, filed Oct. 4, 1972, by Korus, and motion to accept late filed pleading, filed Oct. 5, 1972, by Radio Dinuba. Korus, citing Commission's Rules 1.294(a) and 1.4 (f), (g) and (h), filed a motion to strike Radio Dinuba's reply because it was filed on Oct. 3, 1972, when it was due on Oct. 2, 1972. In response to Korus' motion, Radio Dinuba filed a motion to accept late filed pleading in which it explains that it had miscalculated the time. We believe the error was unintentional and the filing was not substantially late; therefore, basic fairness compels us to accept the late filed pleading. See D. H. Overmeyer Communications Co., 4 FCC 2d 496, 8 RR 2d 96 (1966).

[2] Rule 73.315(b) specifies, in part, that a transmitter site will be selected which is as high and as near the center of the proposed service area as possible, and the "location should be so chosen that line-of-sight can be obtained from the antenna over the principal city or cities to be served; in no event should there be a major obstruction in this path." Rule 73.315(d) pertains to the taking of field tests from a proposed site where a questionable antenna location is proposed.

munity leaders and the general public were conducted by two management-level personnel—Torosian, the proposed station general manager, and Carlson, the proposed station operations manager and technical director. To the extent that some interviews were conducted by proposed staff members below management level, this was done under the supervision of Torosian. In most part, the persons interviewed by the proposed staff members appear to be from the general public. In any event, we do not believe that 45 interviews out of 377 taken by prospective nonmanagement-level personnel reflects adversely on Korus' community ascertainment survey to warrant addition of a Suburban issue. Cf. WPIX, Inc., 34 FCC 2d 419, 24 RR 2d 59 (1972); Southern Broadcasting Co., 26 FCC 2d 992, 20 RR 2d 677 (1970). With respect to Korus' reliance on Atlantic Broadcasting Co., 5 FCC 2d 719, 8 RR 2d 991 (1966), and its contention that the Review Board lacks jurisdiction to consider the request for a Suburban issue, we believe that Atlantic requires us to assume jurisdiction under the circumstances here. The applicable test stated in Atlantic, supra, reads, as follows: "where there had been a thorough consideration of the particular question in the designation order, the subordinate officials would be expected, in the absence of new facts or circumstances, to follow our [the Commission's] judgment as the law of the case." Cf. Jefferson Standard Broadcasting Co., 25 FCC 2d 599, 20 RR 62 (1970); Northwest Broadcasters, Inc. (KBVU), 8 FCC 2d 1024, 10 RR 2d 714 (1967). In the instant case, the Commission did not mention Korus' community survey in the designation Order, and, in our view, a predesignation Commission letter of inquiry is no substitute for the type of discussion required in a designation order establishing the Commission's consideration and judgment on a particular matter. Hence, we have considered the substance of the question presented by the request for a Suburban issue, and for reasons already set forth above we deem the request wholly lacking in merit.

9. *Accordingly, it is ordered,* that motion to delete and enlarge issues, filed September 7, 1972, by Radio Dinuba Co., is granted to the extent indicated below, and is denied in all other respects; and

10. *It is further ordered,* That Issue 3 (the air hazard issue) is deleted; and

11. *It is further ordered,* That motion to strike reply, filed October 4, 1972, by Korus Corp., is denied; and motion to accept late filed pleading, filed October 5, 1972, by Radio Dinuba Co., is granted.

Adopted: December 8, 1972.

Released: December 10, 1972.

FEDERAL COMMUNICATIONS COMMISSION,[2]

[SEAL] BEN F. WAPLE,
Secretary.

[FR Doc.72-22125 Filed 12-27-72;8:45 am]

[2] Board Member Berkemeyer absent.

[Docket Nos. 18711, 18712; FCC 72R-370]

WPIX, INC., AND FORUM COMMUNICATIONS, INC.

Memorandum Opinion and Order Enlarging Issues

In re Applications of WPIX, Inc. (WPIX), New York, N.Y., Docket No. 18711, file No. BRCT-98, for renewal of broadcast license; Forum Communications, Inc., New York, N.Y., Docket No. 18712, file No. BPCT-4249, for construction permit for new television broadcast station.

1. The principal question presented is whether a rule 1.65 issue is warranted by the failure of Forum Communications, Inc. (Forum), to amend its application to disclose an option agreement between Inner City Broadcasting Corp., Inc. (Inner City), and New Broadcasting Co., Inc., for the purchase of FM broadcast Station WLIB-FM, New York, N.Y.[1]

2. The pertinent facts are these, as revealed by the pleadings before us: On June 26, 1972, the Commission approved the application of Inner City to acquire AM Station WLIB, New York. Although the option agreement to acquire the FM station was filed in connection with Inner City's AM assignment and transfer application of WLIB, Forum did not inform the Commission or other parties in this proceeding that such an option to purchase the FM station was included in the Inner City AM acquisition transfer. Hence, the existence of this option was not revealed in the instant proceeding until the filing of the subject petition by WPIX. Thereafter, Forum filed an appropriate amendment to its application.

3. The significance of the option agreement is indicated by the fact that H. Carl McCall, proposed Urban Affairs Director (a full-time proposed management-level employee), and 0.6 percent stockholder of Forum and its proposed television station, is also president, director, and general manager of Inner City's AM Station WLIB. According to the facts revealed by the pleadings before us, a Forum principal testified in this proceeding that McCall will disassociate himself from Inner City and WLIB in the event the Commission determines that McCall's interest in both Inner City and Forum is inconsistent with § 73.636 of the Commission's rules or the policies underlying such rules. In addition, at a hearing session on December 3, 1971, this latter statement was amplified by Forum's president into a commitment that upon a grant of Forum's application, "Mr. McCall will resign his position * * * as general manager of station WLIB * * *." (Tr. 12342.)

4. The instant petition was filed on July 19, 1972, some 8 months after the above described testimony, and for the first time revealed in this proceeding the existence of the FM option. Although on the basis of the pleadings before us, there is now confirmation that the substance of McCall's commitments to Forum (par. 3) applies to this FM option agreement, just as it does to AM Station WLIB, we will, nevertheless, add a comparative rule 1.65 issue against Forum. For it is clear that one of the purposes of rule 1.65, requiring an applicant to update all information which may be of decisional significance, is to avoid what has occurred here, causing the filing of a multiplicity of pleadings and resulting arguments concerning the applicability of testimony to events which should have been previously reported. Obviously, what has occurred here cannot be deemed conducive either to the orderly administration and dispatch of this complicated and prolonged proceeding, or to the Commission's business since it places an unnecessary burden on our adjudicatory hearing processes.

5. Furthermore, there can be no question that the option agreement should have been reported by Forum under section 1.65. The option agreement to purchase a broadcast station is an "interest in, or connection with," a broadcast station within the meaning of the Commission's application form 301, section II, page 5, question 19, and the option agreement rendered that portion of the Forum application which sets forth the broadcast interests of Mr. McCall "no longer substantially accurate" within the meaning of Rule 1.65. Forum's claim of insignificance as an excuse for not reporting the option is simply not persuasive. As stated in the Policy Statement on Comparative Broadcast Hearings, 1 FCC 2d 393 at 394, 5 RR 2d 1901 at 1908 (1965), "we will consider both common control and less than controlling interests in other broadcast stations * * *." See also, Lake Erie Broadcasting Company, 34 FCC 2d 354, 24 RR 2d 64 (1972).

6. The Board does, however, accept Forum's allegation that there was no intention to conceal this option in view of the fact that Forum has kept the Commission informed of other relevant matters concerning Inner City's activities and Mr. McCall's connection therein. In addition, Forum has provided affidavits from appropriate principals denying intention or motive and the failure to amend is an isolated violation in a complicated and protracted hearing. Therefore, the issue will be added on a comparative basis only. RKO General Inc. (WNAC-TV), 34 FCC 2d 265, 24 RR 2d 16 (1972); Great Southern Broadcasting Co., 18 FCC 2d 599, 16 RR 2d 864 (1969); and Minshall Broadcasting Co., Inc., 10 FCC 2d 647, 11 RR 2d 754 (1967).

7. *Accordingly, it is ordered,* That the motion to enlarge the issues, filed July 19, 1972, by WPIX, Inc. (WPIX), is granted to the extent indicated below, and is denied in all other respects; and the issues in this proceeding are enlarged to include the following issue:

To determine whether Forum Communications, Inc., has failed to comply with

[1] The Review Board has before it the following pleadings: (a) Motion to enlarge the issues, filed July 19, 1972, by WPIX, Inc. (WPIX); (b) opposition, filed August 2, 1972, by Forum; (c) Broadcast Bureau's comments, filed August 2, 1972; and (d) reply, filed August 14, 1972, by WPIX.

Commission Rule 1.65, and if so, the effect thereof upon the applicant's comparative qualifications to be a Commission licensee; and

8. *It is further ordered*, That the burden of proceeding with the introduction of evidence under the above issue shall be upon WPIX, Inc., and that the burden of proof under the above issue shall be upon Forum Communications, Inc.

Adopted: December 11, 1972.

Released: December 18, 1972.

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

[FR Doc.72-22130 Filed 12-27-72;8:48 am]

[Dockets Nos. 18711, 18712; FCC 72R-371]

WPIX, INC., AND FORUM COMMUNICATIONS, INC.

Memorandum Opinion and Order Enlarging Issues

In regard to applications of WPIX, Inc. (WPIX), New York, N.Y., Docket No. 18711, File No. BRCT-98, for renewal of broadcast license Forum Communications, Inc., New York, N.Y., Docket No. 18712, File No. BPCT-4249; for construction permit for new television broadcast station.

1. The principal question before the Board is whether WPIX, Inc. (WPIX), has violated Commission Rule 1.65 by the failure to amend its application to show that Mr. L. J. Pope will now "be responsible for the day-to-day operations of WPIX-TV * * *," [1] and that his corporate title has been changed from vice president to executive vice president.[2]

2. The Review Board will add a comparative Rule 1.65 issue against WPIX. The potential significance of the above described change is due to the fact that WPIX's president, Mr. Fred M. Thrower, was previously represented as the person in charge of the day-to-day operations and, as such, a central figure in the inquiry under Issue 1 in this proceeding, which seeks to determine whether WPIX is guilty of distortion or falsification of the news as well as the adequacy of the control or supervision of the station's news operation. To the extent that Mr. Pope has replaced Mr. Thrower as the person responsible for the day-to-day operations of WPIX a significant change has occurred, and, although it is not entirely clear from the pleadings, the Board must agree with Forum Communications, Inc. (Forum) and the Broadcast Bureau that the change appears adequate to indicate that WPIX's application "is no longer substantially accurate and complete in all significant respects" as required by Rule 1.65.[3]

3. In sum, the potential significance of this change should be explored at the hearing. In reaching this conclusion, we reject WPIX's contention that the filing of ownership reports, even when served on the other parties and with prior notice of "incorporation," is sufficient under the rules. Also, we agree with the Broadcast Bureau that the "incorporation" procedure utilized by WPIX could unfairly place on the other parties and the Presiding Judge the burden of examining other Commission files, and such a result would clearly be contrary to established Commission policy. See Folkways Broadcasting Inc., 26 FCC 2d 175, 20 RR 2d 528 (1970); and Central Broadcasting Corp., 3 FCC 2d 577, 8 RR 2d 347 (1966). However, it is clear that there was no intention to deceive or mislead either the Commission or the other parties, as indicated by service of the Ownership Reports on the other parties and the letter to the Commission, footnote 1, supra. Therefore, the issue will be added on a comparative basis only. RKO General Inc. (WNAC-TV), 34 FCC 2d 265, 24 RR 2d 16 (1972); Great Southern Broadcasting Co., 18 FCC 2d 599, 16 RR 2d 864 (1969); and Minshall Broadcasting Co., Inc., 10 FCC 2d 647, 11 RR 2d 754 (1967).

4. *Accordingly, it is ordered*, That the motion to supplement opposition to motion to enlarge issues, filed August 28, 1972, by WPIX, Inc., is accepted; and

5. *It is further ordered*, That the motion to enlarge issues, filed July 28, 1972, by Forum Communications, Inc., is granted to the extent indicated below, and is denied in all other respects; and the issues in this proceeding are enlarged to include the following issue: To determine whether WPIX, Inc. has failed to comply with Commission Rule 1.65, and if so, the effect thereof upon the applicant's comparative qualifications to be a Commission licensee; and

6. *It is further ordered*, That the burden of proceeding with the introduction of evidence under the above issue shall be upon Forum Communications, Inc., and that the burden of proof under the above issue shall be upon WPIX, Inc.

Adopted: December 11, 1972.

Released: December 15, 1972.

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

[FR Doc.72-22131 Filed 12-27-72;8:45 am]

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[1] This statement is contained in a letter from WPIX's counsel submitted to the Commission on July 26, 1972.

[2] Now before the Board are the following pleadings: (a) Motion to enlarge the issues, filed July 28, 1972, by Forum; (b) opposition, filed Aug. 7, 1972 by WPIX; (c) Broadcast Bureau's comments, filed Aug. 10, 1972; (d) reply, filed Aug. 17, 1972, by Forum; and (e) motion to supplement (b), filed Aug. 28, 1972, by WPIX. The Board will accept WPIX's motion to supplement because it merely calls attention to a later filed amendment to its application and the other parties have not filed objections.

[3] WPIX indicates that WPIX's corporate management is now rearranged so that instead of all department heads, including Mr. Pope, now reporting directly to Mr. Thrower, the department heads will now report to Mr. Pope and a Mr. T. E. Mitchell, Jr., who will in turn report to Mr. Thrower. The Board also notes that, as indicated in the WPIX supplement, since July 21, 1972, two heads of the WPIX news department have resigned.

FEDERAL POWER COMMISSION

ALASKA POWER SURVEY

Order Amending Orders

DECEMBER 19, 1972.

This order amends prior Alaska Power Survey orders which have authorized and established various Alaska Power Survey advisory committees; the initial order having been issued June 28, 1972, 37 F.R. 13130, and the latest order having been issued August 25, 1972, 37 F.R. 17865. All orders referred to are designated on Appendix A below.

The changes reflected herein are occasioned by the provisions of the Federal Advisory Committee Act, 86 Stat. 770, Executive Order No. 11686, October 7, 1972, 37 F.R. 21421, and Office of Management and Budget Circular A-63, "Committee Management," draft November 27, 1972.[1] As of January 5, 1973, the provisions of the Federal Advisory Committee Act supersede and replace the advisory committee management standards and procedures as promulgated by Executive Order No. 11671, June 5, 1972, 37 F.R. 11307. Circular A-63 implements portions of the Federal Advisory Committee Act.

The Alaska Power Survey advisory committees fall within the definition of "advisory committee" as used in the Federal Advisory Committee Act (section 3, 86 Stat. 770). These Alaska Power Survey advisory committees also fall within the definition of "advisory committee," including as a part thereof, industry or industrial advisory committees, as used in Executive Order No. 11671 (section 1(6)(7)). The provisions of Executive Order No. 11671 are reflected in the Commission orders as listed on Appendix A below.

The Federal Advisory Committee Act, particularly sections 8 and 10, sets forth governmental responsibilities for management controls for advisory committees established by an agency such as this Commission, and sets forth procedures that are to be followed in the conduct of advisory committees' affairs.[2] Under sec-

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[1] The covering memorandum of the Office of Management and Budget dated November 27, 1972, indicates that the draft circular is to be interpreted as an interim regulation of the Director pursuant to the Federal Advisory Committee Act. Accordingly, the provisions of regulations prescribed by this order are subject to possible change upon issuance of any final regulations by the Director, Office of Management and Budget.

[2] Section 8(a), 86 Stat. 773, provides in part: "Each agency head shall establish uniform administrative guidelines and management controls for advisory committees * * * which shall be consistent with directives of the Director [Office of Management and Budget] * * * section 10. * * *". Section 10, 86 Stat. 774-5, provides in part:

(a)(1) Each advisory committee meeting shall be open to the public.

(2) Except * * * for reasons of national security, timely notice of each such meeting shall be published in the FEDERAL REGISTER * * * Director shall prescribe regulations to provide for other types of public notice * * *

(3) Interested persons shall be permitted

tion 9(a)(2), 86 Stat. 774, advisory committees which are established by an agency are to be determined "* * * to be in the public interest in connection with the performance of duties imposed on that agency by law." Section 9(b), 86 Stat. 774, states in part "* * * advisory committees shall be utilized solely for advisory functions. Determinations of action to be taken and policy to be expressed * * * shall be made solely by * * * an officer of the Federal Government." In cases where advisory committees are to be established, charters are to be filed with the appropriate governmental agency and standing committees of the Congress having legislative jurisdiction over the agency, prior to the undertaking of committee meetings or actions, as well as with the Library of Congress.[2] Section 14, 86 Stat. 776, of the act also specifies a termination date for advisory committee existence of not later than 2 years from the effective date of the act (January 5, 1973) for advisory committees then in existence, unless otherwise renewed, and of not later than 2 years from the date of establishment for those established after January 5, 1973, unless otherwise renewed.

The charters of the various Alaska Power Survey advisory committees are the several Commission orders as referred to on Appendix A.[4] Determining that an Alaska Power Survey is necessary and appropriate to the purposes of the Federal Power Act, 16 U.S.C. 791(a) et seq., and that the advice and recommendations of various advisory committees could assist the Commission in its conduct of the Survey, these orders authorized the establishment of Alaska Power Survey advisory committees, prescribed procedures and established individual advisory committees. In each instance, the establishment of a specific advisory committee has been determined by the Commission to be in the public interest. Under these Commission orders, the various Alaska Power Survey advisory committees perform an advisory function relating solely to the planning and carrying out of the Survey, with ultimate decisions, based upon such advice or recommendations, reserved to the Federal Power Commission in all instances. Pursuant to Executive Order No. 11671 (section 12), none of the advisory committees are permitted to receive, compile or discuss data or reports showing the current or projected commercial operations of identified business enterprises. All committees terminate not later than 2 years subsequent to their respective dates of establishment unless the Commission determines, prior to such 2-year period, that continued existence of a committee for an additional period of not more than 2 years is in the public interest.

As further conditions of these Commission orders and prior determinations of the Chairman of the Commission, all advisory committees meet under the chairmanship of, or in the presence of, a Federal governmental official, with all committee meetings at the call of, or with the advance approval of such governmental official and with an agenda approved by such official, who has designated responsibilities for opening, adjourning, and conducting all Alaska Power Survey committee meetings. All meetings of the Survey advisory committees are open to public observation; public notice of meetings, dates, times, places, and agendas, is given by publication in the FEDERAL REGISTER or by publication in local media; participation of interested persons in attendance before committees is provided, subject to reasonable, necessary, and appropriate controls by the attending governmental official or administrative regulations, to insure the conduct of committee affairs; minutes of all advisory committee meetings are required and verbatim transcripts are required for all meetings of the principal policy advisory committee of the Alaska Power Survey, the Executive Advisory Committee; and the minutes and transcripts of all Alaska Power Survey advisory committee meetings or proceedings are retained within the public files of the Commission.

The Chairman of the Commission, subject to the provisions of section 8(a) of the Federal Advisory Committee Act, 86 Stat. 773, has determined as follows:

(1) That Alaska Power Survey advisory committees shall not be permitted to receive, compile, or discuss data or reports showing the current or projected commercial operations of identified business enterprises;

(2) That all meetings of Alaska Power Survey advisory committees shall be open to the public and any interested person may attend, appear before, or file statements with any such committee—which statements, if in written form, may be filed before or after the meeting, or, if oral, at the time and in the manner permitted by the committee, its chairman or established committee procedures which may require advance committee approval of oral presentations and allow or preclude the questioning of committee members or other participants, all subject to reasonable rules or regulations as may be prescribed or permitted by the Director, Office of Management and Budget, the Federal Government official in whose presence such meeting is being held, or further administrative regulation, and all as may be appropriate for the conduct of the Survey and committee affairs, considering the number of persons in attendance, the nature and extent of their proposed individual participation and the

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to attend, appear before, or file statements with any advisory committee, subject to such reasonable rules or regulations as the Director may prescribe.

[(a)(1)(3) do not apply if the head of the agency determines in writing that an advisory committee meeting is concerned with matters set forth in 552(b) of title 5, United States Code]

(b) Subject to section 552 of title 5, United States Code, [Freedom of Information Act] the records, reports, transcripts, minutes, appendixes, working papers, drafts, studies, agenda, or other documents which were made available to or prepared for or by each advisory committee shall be available for public inspection and copying at a single location in offices of the * * * agency to which the advisory committee reports until * * * committee ceases to exist.

(c) Detailed minutes of each meeting * * * shall be kept * * * contain a record of the persons present * * * complete * * * description of matters discussed * * * conclusions reached * * * copies of all reports received, issued, or approved by * * * committee * * * The accuracy of all minutes shall be certified * * * by * * * chairman of * * * committee.

* * * * *

(e) * * * shall be designated * * * officer or employee of * * * Federal Government to chair or attend each meeting * * * officer or employee so designated is authorized, whenever he determines it to be in the public interest, to adjourn any such meeting. No * * * committee shall conduct * * * meeting in the absence of that * * * employee.

(f) * * * committees shall not hold * * * meetings except at the call of, or with the advance approval of, a designated officer or employee * * * Federal Government * * * with an agenda approved by such officer or employee.

[2] Section 9(c) of the Act, 86 Stat. 774, states in part as follows:

* * * Such charter shall contain the following information:

(A) The committee's official designation;

(B) The committee's objectives and the scope of its activity;

(C) The period of time necessary for the committee to carry out its purposes;

(D) The agency or official to whom the committee reports;

(E) The agency responsible for providing the necessary support for the committee;

(F) A description of the duties for which the committee is responsible, and, if such duties are not solely advisory, a specification of the authority for such functions;

(G) The estimated annual operating costs in dollars and man-years for such committee;

(H) The estimated number and frequency of committee meetings;

(I) The committee's termination date, if less than 2 years from the date of the committee's establishment; and

(J) The date the charter is filed.

[4] The Commission orders establishing these Alaska Power Survey committees do not authorize the use of public funds for the payment of salaries or expenses of advisory committee members. Within the general budgetary authority of the Commission, appropriated funds of the Commission are used to defray personnel costs and expenses of Commission members and Commission staff personnel whose activities are directed to the conduct of the Alaska Power Survey, associated contracted services and travel expenditures of certain advisory committee members as may be approved by the Chairman of the Commission. Within the fiscal years 1972–73, since the establishment of the Alaska Power Survey advisory committees and to date, the total estimated cost to the Commission therefor has been $1,900; and 0.1 man-years of Commission or Commission staff personnel have been directed to the support of the Alaska Power Survey advisory committees. In total, for those years, six Alaska Power Survey advisory committee meetings have been held. In fiscal year 1973 the projected cost to the Commission for the support of the committees is $6,000 and 0.3 man-years. Frequency of meetings, as indicated, should continue or increase in the last half of fiscal year 1973.

time, resources and facilities available to the Commission and the committee;

(3) That public notice of all meetings of Alaska Power Survey advisory committees shall be given at least 7 days in advance of the meeting, except where impracticable to do so or in an emergency situation, in which events shorter advance notice may be given, such notice to be given by publication in the FEDERAL REGISTER, by publication in local media as appropriate, by press releases, mail or in such other ways as may be prescribed or permitted by the Director, Office of Management and Budget, giving the name of the committee, dates, times, places, agendas, and purposes of all such meetings and a summarization of the manner in which the public may participate therein;

(4) That the records of all Alaska Power Survey advisory committee meetings or proceedings shall be accurate and include as detailed minutes with respect to each, showing

(a) The time and place of the meeting, an explanation of the extent to which the meeting was open to the public, an identification and listing of committee members and all other persons present and participating in the meeting, together with the interests or affiliations they represent and an explanation of the manner and extent of public participation in the meeting by members of the public who attended but did not present oral or written statements to the committee, including an estimate of the number of such persons;

(b) A complete and accurate description of all matters discussed and all conclusions reached;

(c) The written information made available for consideration by the committee, including copies of all reports received, issued or approved by the committee;

(d) All recommendations made and reasons therefor; and

(e) The respective advisory committee chairman's designation of a person to record the committee meeting minutes, which person shall be the same person as designated by the Chairman of the Commission as the Secretary or Alternate Secretary of the committee, and the advisory committee chairman's certification as to the accuracy of such minutes;

(5) That there shall be kept, in addition to the requirements of paragraph (4) supra, a verbatim transcript of all meetings of the Alaska Power Survey Executive Advisory Committee; and

(6) That subject to the Freedom of Information Act provisions (5 U.S.C. 552), section 1.36, Public Information and Requests, of the Federal Power Commission rules of practice procedure, 18 CFR 1.36, and section 10b of the Office of Management and Budget Circular A–63, "Committee Management", Access to Records, draft November 27, 1972, there shall be available for public inspection and copying in the Commission's Office of Public Information, Washington, D.C. 20426, the records, reports, transcripts, minutes, appendixes, working papers, drafts, studies, agendas, or other documents which were made available to or prepared for or by each Alaska Power Survey advisory committee and as they are contained within the files of the Commission.

The Commission orders:

(A) The Commission's orders issued June 28, 1972, and August 25, 1972, as designated on Appendix A below, are hereby amended in the following respects:

(I) Paragraph "4. Minutes and Records." of the Commission's order issued June 28, 1972, is hereby amended to read:

4. *Minutes and Records.* The Chairman of the Commission having made the determinations as reflected in the Commission's order of December 19, 1972, it is directed:

(1) That Alaska Power Survey advisory committees shall not be permitted to receive, compile, or discuss data or reports showing the current or projected commercial operations of identified business enterprises;

(2) That the records of all Alaska Power Survey advisory committee meetings or proceedings shall be accurate and include as detailed minutes with respect to each, showing

(a) The time and place of the meeting, an explanation of the extent to which the meeting was open to the public, an identification and listing of committee members and all other persons present and participating in the meeting, together with the interests or affiliations they represent and an explanation of the manner and extent of public participation in the meeting by members of the public who attended but did not present oral or written statements to the committee, including an estimate of the number of such persons;

(b) A complete and accurate description of all matters discussed and all conclusions reached;

(c) The written information made available for consideration by the committee, including copies of all reports received, issued, or approved by the committee;

(d) All recommendations made and reasons therefor; and

(e) The respective advisory committee chairman's designation of a person to record the committee meeting minutes, which person shall be the same person as designated by the Chairman of the Commission as the secretary or alternate secretary of the committee, and the advisory committee chairman's certification as to the accuracy of such minutes;

(3) That in addition to the foregoing, a verbatim transcript shall be kept of all meetings of the Alaska Power Survey Executive Advisory Committee; and

(4) That one form of the records, reports, transcripts, minutes, appendices, working papers, drafts, studies, agendas, or other documents which were made available to or prepared for or by each Alaska Power Survey Advisory Committee shall be lodged and retained within the public files of the Commission.

(II) The following respective paragraphs of the Commission's orders issued June 28 and August 25, 1972, are hereby amended to reflect therein the provisions of paragraph (I) above:

(1) Order of June 28, 1972, Establishing Alaska Power Survey Executive Advisory Committee, paragraph 4; and

(2) Order of August 25, 1972, Establishing Alaska Power Survey Technical Advisory Committees, paragraph 4;

(B) The Commission's orders issued June 28 and August 25, 1972, as designated on Appendix A hereto, are hereby amended in the following respects:

(I) Paragraph "5. Secretary of the Committee." of the Commission's order issued June 28, 1972, is amended to read:

5. *Secretary of the Committee.* The Chairman of the Commission shall appoint a secretary of each committee, including alternate secretaries where indicated, from among the members of the Commission staff or from another agency or department of the Federal Government, who shall be responsible for preparing agendas, listing matters to be considered, supplying copies thereof and notifying committee members of the meetings, all in accordance with the requirements of paragraph 3 above, preparing detailed minutes of all committee meetings, and maintaining all records related to organization, membership, and operations of the committee. As a part of such records, the secretary or alternate secretary of each committee shall compile and report at least annually, committee membership, functions, and actions. The secretary or alternate secretary shall be present during all committee meetings and the person so present shall include within his certification as to the accuracy of all minutes of the proceedings so recorded, the certification of the committee chairman.

(II) The following respective paragraphs of the Commission's orders issued June 28 and August 25, 1972, are hereby amended to reflect therein the provisions of paragraph (I) above:

(1) Order of June 28, 1972, establishing Alaska Power Survey Executive Advisory Committee, paragraph 4; and

(2) Order of August 25, 1972, establishing Alaska Power Survey Technical Advisory Committees, paragraph 4.

(C) The Secretary of the Commission shall file with the chairman, Committee on Commerce, U.S. Senate, chairman, Interstate and Foreign Commerce Committee, House of Representatives, and Librarian, Library of Congress, copies of all Commission orders as set forth on Appendix A hereto, together with a copy of this order, as constituting the charters of the Alaska Power Survey advisory committees.

(D) The Secretary of the Commission shall cause prompt publication of this order to be made in the FEDERAL REGISTER.

By the Commission.

[SEAL] MARY B. KIDD,
Acting Secretary.

APPENDIX A

I. Order Authorizing the Establishment of Alaska Power Survey Advisory Committees and Prescribing Procedures issued June 28, 1972, 37 F.R. 13130.

II. Order Establishing Alaska Power Survey Executive Advisory Committee and Designating Its Membership and Chairmanship issued June 28, 1972, 37 F.R. 13130.

III. Order Establishing Alaska Power Survey Technical Advisory Committees and Designating Initial Membership and Chairmenship issued August 25, 1972, 37 F.R. 17865.

[FR Doc.72-22266 Filed 12-27-72;8:47 am]

[Docket Nos. E-7799, E-7803]

CONSUMERS POWER CO.

Notice of Extension of Time

DECEMBER 19, 1972.

On December 14, 1972, counsel for Cooperative and Municipal, wholesale cus-

tomers of Consumers Power Co. filed a request for an extension of time in which to file protests or petitions to intervene in the above-designated matter. A notice of superseding wholesale rate contract and proposed increased rates and charges was issued on December 7, 1972.

Upon consideration, notice is hereby given that the time is extended to and including December 26, 1972, within which petitions to intervene or protests may be filed.

MARY B. KIDD,
Acting Secretary.

[FR Doc.72-22265 Filed 12-27-72;8:47 am]

[Docket No. CI73-413]

JOHN H. HENDRIX, ET AL.

Notice of Application

DECEMBER 21, 1972.

Take notice that on December 7, 1972, John H. Hendrix (operator), et al. (applicants), 403 Wall Towers West, Midland, Tex. 79701, filed in Docket No. CI73-413 an application pursuant to section 7(b) of the Natural Gas Act for permission and approval to abandon certain natural gas sales, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicant seeks permission and approval for the abandonment of the sale of gas to Warren Petroleum Corp. (Warren) from oil wells at the Eunice-Monument Grayburg San Andres Pool, Lea County, N. Mex., being made pursuant to a percentage-of-proceeds type contract which has been terminated. Applicants state that the wells involved were reclassified from "oil wells" to "gas wells" by the New Mexico Oil Conservation Commission; that natural gas produced from these gas wells will be sold by applicants directly to El Paso Natural Gas Co. (El Paso) under an existing contract dated September 27, 1949, as amended, and pursuant to applicant's small producer certificate issued in Docket No. CS69-13; that there will be no cessation of volumes of gas sold in interstate commerce, and no change in the ultimate purchaser.

Warren and El Paso have advised applicants that they will not oppose this application.

Any person desiring to be heard or to make any protest with reference to said application should on or before January 15, 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) 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 permission and approval for the proposed abandonment are 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.

MARY B. KIDD,
Acting Secretary.

[FR Doc.72-22257 Filed 12-27-72;8:57 am]

[Docket No. CI73-421]

J. M. HUBER CORP., ET AL.

Notice of Application

DECEMBER 20, 1972.

Take notice that on December 14, 1972, J. M. Huber Corp., et al. (Applicants), 2300 West Loop, Houston, TX 77027, filed in Docket No. CI73-421 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 El Paso Natural Gas Co., from the Washington Ranch Field, Eddy County, N. Mex., all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicants state that they commenced the sale of natural gas on November 30, 1972, within the contemplation of § 157.29 of the regulations under the Natural Gas Act (18 CFR 157.29) and that they propose to continue said sale from the end of the 60-day emergency period or from the initial day of delivery under the proposed authorization requested herein, whichever is later, until July 31, 1974, within the contemplation of § 2.70 of the Commission's general policy and interpretations (18 CFR 2.70). Applicants propose to sell approximately 180,000 Mcf of gas per month at 35 cents per Mcf at 14.65 p.s.i.a.

It appears reasonable and consistent with the public interest in this case to prescribe a period shorter than 15 days for the filing of protests and petitions to intervene. Therefore, any person desiring to be heard or to make any protest with reference to said application should on or before January 8, 1973, file with the Federal Power Commission, Washington, DC 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 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.

MARY B. KIDD,
Acting Secretary.

[FR Doc.72-22122 Filed 12-27-72;8:45 am]

[Dockets No. RI73-85, etc.]

HUMBLE OIL & REFINING CO. ET AL.

Order Shortening Suspension Period

DECEMBER 14, 1972.

By order issued November 17, 1972, in the above-entitled proceedings the proposed increased rate under Supplement No. 14 to Amerada Hess Corp.'s (Amerada) FPC gas rate schedule No. 50 was suspended for 5 months in Docket No. RI73-89. Amerada's proposed favored nations increase, though not exceeding the limit for a 1-day suspension, was suspended for 5 months until April 18, 1973, because Amerada did not agree to a 1-year moratorium on future rate increases under its favored nations provision for this sale.[1]

[1] See Amoco Production Co., Docket No. RI72-70, order issued Dec. 17, 1971.

Amerada in its letter filed November 21, 1972, states its willingness to waive for a period of 1 year from the effective date of the increase future rate increases under the favored nations provision of its contract, unless the Commission establishes a just and reasonable area rate higher than the rate filed for by Amerada. It is therefore appropriate to suspend Amerada's proposed increase for 1 day from the original 60-day notice period, and, we shall so modify our November 17 order.

The Commission orders:

For the reason set forth above, the November 17, 1972, order, insofar as it

pertains to Supplement No. 14 to Amerada's FPC gas rate schedule No. 50 in Docket No. RI73-89, is amended so as to suspend the proposed rate until December 19, 1972.

By the Commission.

[SEAL] MARY B. KIDD,
Acting Secretary.

[FR Doc.72-22264 Filed 12-27-72;8:46 am]

NATIONAL GAS SURVEY

Order Amending Orders

DECEMBER 19, 1972.

This order amends prior National Gas Survey orders which have authorized and established various National Gas Survey advisory committees; the initial order having been issued February 23, 1971, 36 F.R. 3851, and the latest order having been issued June 27, 1972, 37 F.R. 13306. All orders referred to are designated on Appendix A below.

The changes reflected herein are occasioned by the provisions of the Federal Advisory Committee Act, 86 Stat. 770, Executive Order No. 11686, October 7, 1972, 37 F.R. 21421, and Office of Management and Budget Circular A-63, "Committee Management," draft November 27, 1972.[1] As of January 5, 1973, the provisions of the Federal Advisory Committee Act supersede and replace the advisory committee management standards and procedures as promulgated by Executive Order No. 11671, June 5, 1972, 37 F.R. 11307. Circular A-63 implements portions of the Federal Advisory Committee Act.

The National Gas Survey advisory committees fall within the definition of "advisory committee" as used in the Federal Advisory Committee Act (section 3, 86 Stat. 770). These National Gas Survey advisory committees also fall within the definition of "advisory committee," including as a part thereof, industry or industrial advisory committees, as used in Executive Order No. 11671 (section 1 (6)(7)), and Executive Order No. 11007, February 26, 1962, 27 F.R. 1875 (section 2(a)(b)). Executive Order No. 11671 superseded Executive Order No. 11007. The provisions of both Executive orders are reflected in the Commission orders as listed on Appendix A below.

The Federal Advisory Committee Act, particularly sections 8 and 10, sets forth governmental responsibilities for management controls for advisory committees established by an agency such as this Commission, and sets forth procedures that are to be followed in the conduct of advisory committees' affairs.[2] Under section 9(a)(2), 86 Stat. 774, advisory committees which are established by an agency are to be determined "* * * to be in the public interest in connection with the performance of duties imposed on that agency by law." Section 9(b), 86 Stat. 774, states in part "* * * advisory committees shall be utilized solely for advisory functions. Determinations of action to be taken and policy to be expressed * * * shall be made solely by * * * an officer of the Federal Government." In cases where advisory committees are to be established, charters are to be filed with the appropriate governmental agency and standing committees of the Congress having legislative jurisdiction over the agency, prior to the undertaking of committee meetings or actions, as well as with the Library of Congress.[3] Section 14, 86 Stat. 776, of the Act also specifies a termination date for advisory committee existence of not later than 2 years from the effective date of the Act (January 5, 1973) for advisory committees then in existence, unless otherwise renewed, and of not later than 2 years from the date of establishment for those established after January 5, 1973, unless otherwise renewed.

The charters of the various National Gas Survey advisory committees are the several Commission orders as referred to on Appendix A.[4] Determining that a National Gas Survey is necessary and appropriate to the purposes of the Natural Gas Act, 15 U.S.C. 717(a) et seq., and that the advice and recommendations of various advisory committees could assist the Commission in its conduct of the Survey, these orders authorized the establishment of National Gas Survey advisory committees, prescribed procedures and established individual advisory committees. In each instance, the estab-

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[1] The covering memorandum of the Office of Management and Budget dated Nov. 27, 1972, indicates that the draft circular is to be interpreted as an interim regulation of the Director pursuant to the Federal Advisory Committee Act. Accordingly, the provisions of regulations prescribed by this order are subject to possible change upon the issuance of any final regulations by the Director, Office of Management and Budget.

[2] Section 8(a), 86 Stat. 773, provides in part: "Each agency head shall establish uniform administrative guidelines and management controls for advisory committees * * * which shall be consistent with directives of the Director (Office of Management and Budget) * * * section 10. * * *". Section 10, 86 Stat. 774-5, provides in part:

(a)(1) Each advisory committee meeting shall be open to the public.

(2) Except * * * for reasons of national security, timely notice of each such meeting shall be published in the FEDERAL REGISTER * * * Director shall prescribe regulations to provide for other types of public notice * * *

(3) Interested persons shall be permitted to attend, appear before, or file statements with any advisory committee, subject to such reasonable rules or regulations as the Director may prescribe.

[(a)(1)(3) do not apply if the head of the agency determines in writing that an advisory committee meeting is concerned with matters set forth in 552(b) of title 5, United States Code].

(b) Subject to section 552 of title 5, United States Code (Freedom of Information Act), the records, reports, transcripts, minutes, appendixes, working papers, drafts, studies, agenda, or other documents which were made available to or prepared for or by each advisory committee shall be available for public inspection and copying at a single location in offices of the * * * agency to which the advisory committee reports until * * * committee ceases to exist.

(c) Detailed minutes of each meeting * * * shall be kept * * * contain a record of the persons present * * * complete * * * description of matters discussed * * * conclusions reached * * * copies of all reports received, issued, or approved by * * * committee * * * The accuracy of all minutes shall be certified * * * by * * * chairman of * * * committee.

* * * * *

(e) * * * shall be designated * * * officer or employee of * * * Federal Government to chair or attend each meeting * * * officer or employee so designated is authorized, whenever he determines it to be in the public interest, to adjourn any such meeting. No * * * committee shall conduct * * * meeting in the absence of that * * * employee.

(f) * * * committees shall not hold * * * meetings except at the call of, or with the advance approval of, a designated officer or employee * * * Federal Government * * * with an agenda approved by such officer or employee.

[3] Section 9(c) of the Act, 86 Stat. 774, states in part as follows:

* * * Such charter shall contain the following information:

(A) The committee's official designation;

(B) The committee's objectives and the scope of its activity;

(C) The period of time necessary for the committee to carry out its purposes;

(D) The agency or official to whom the committee reports;

(E) The agency responsible for providing the necessary support for the committee;

(F) A description of the duties for which the committee is responsible, and, if such duties are not solely advisory, a specification of the authority for such functions;

(G) The estimated annual operating costs in dollars and man-years for such committee;

(H) The estimated number and frequency of committee meetings;

(I) The committee's termination date, if less than 2 years from the date of the committee's establishment; and

(J) The date the charter is filed.

[4] The Commission orders establishing these National Gas Survey committees do not authorize the use of public funds for the payment of salaries or expenses of advisory committee members. Within the general budgetary authority of the Commission, appropriated funds of the Commission are used to defray personnel costs and expenses of Commission members and Commission staff personnel whose activities are directed to the conduct of the National Gas Survey, associated contracted services and travel expenditures of certain advisory committee members as may be approved by the Chairman of the Commission. Within the fiscal years 1971-73, since the establishment of the National Gas Survey advisory committees and to date, the total estimated cost to the Commission therefor has been $696,300; and 29.2 man-years of Commission or Commission staff personnel have been directed to the support of the National Gas Survey advisory committees. In total, for those years, 73 National Gas Survey advisory committee meetings have been held. In fiscal year 1973 the projected cost to the Commission for the support of the committees is $250,000 and 10.5 man-years. Frequency of meetings, as indicated, should continue in fiscal year 1973.

lishment of a specific advisory committee has been determined by the Commission to be in the public interest. Under these Commission orders, the various National Gas Survey advisory committees perform an advisory function relating solely to the planning and carrying out of the Survey, with ultimate decisions, based upon such advice or recommendations, reserved to the Federal Power Commission in all instances. Pursuant to Executive Order No. 11671 (section 12), Executive Order No. 11007 (section 6(e)), none of the advisory committees are permitted to receive, compile, or discuss data or reports showing the current or projected commercial operations of identified business enterprises. All committees terminate not later than 2 years subsequent to their respective dates of establishment unless the Commission determines, prior to such 2-year period, that continued existence of a committee for an additional period of not more than 2 years is in the public interest.

As further conditions of these Commission orders and prior determinations of the Chairman of the Commission, all advisory committees meet under the chairmanship of, or in the presence of, a Federal governmental official, with all committee meetings at the call of, or with the advance approval of such governmental official and with an agenda approved by such official, who has designated responsibilities for opening, adjourning, and conducting all National Gas Survey Committee meetings. All meetings of the Survey advisory committees are open to public observation; public notice of meetings, dates, times, places, and agendas, is given by publication in the FEDERAL REGISTER or by publication in local media; participation of interested persons in attendance before committees is provided, subject to reasonable, necessary, and appropriate controls by the attending governmental official or administrative regulations, to insure the conduct of committee affairs; minutes of all advisory committee meetings are required and verbatim transcripts are required for all meetings of the principal policy advisory committee of the National Gas Survey, the Executive Advisory Committee, convened after April 25, 1972; and the minutes and transcripts of all National Gas Survey advisory committee meetings or proceedings are retained within the public files of the Commission.

The Chairman of the Commission, subject to the provisions of section 8(a) of the Federal Advisory Committee Act, 86 Stat. 773, has determined as follows:

(1) That National Gas Survey advisory committees shall not be permitted to receive, compile, or discuss data or reports showing the current or projected commercial operations of identified business enterprises;

(2) That all meetings of National Gas Survey advisory committees shall be open to the public and any interested person may attend, appear before, or file statements with any such committee—which statements, if in written form, may be filed before or after the meeting, or, if oral, at the time and in the manner permitted by the committee, its chairman or established committee procedures which may require advance committee approval of oral presentations and allow or preclude the questioning of committee members or other participants, all subject to reasonable rules or regulations as may be prescribed or permitted by the Director, Office of Management and Budget, the Federal Government official in whose presence such meeting is being held, or further administrative regulation, and all as may be appropriate for the conduct of the Survey and committee affairs, considering the number of persons in attendance, and the nature and extent of their proposed individual participation and the time, resources, and facilities available to the Commission and the committee;

(3) That public notice of all meetings of National Gas Survey advisory committees shall be given at least 7 days in advance of the meeting, except where impracticable to do so or in an emergency situation, in which events shorter advance notice may be given, such notice to be given by publication in the FEDERAL REGISTER, by publication in local media as appropriate, by press releases, mail, or in such other ways as may be prescribed or permitted by the Director, Office of Management and Budget, giving the name of the committee, dates, times, places, agendas, and purposes of all such meetings and a summarization of the manner in which the public may participate therein;

(4) That the records of all National Gas Survey advisory committee meetings or proceedings shall be accurate and include as detailed minutes with respect to each, showing

(a) The time and place of the meeting, an explanation of the extent to which the meeting was open to the public, an identification and listing of committee members and all other persons present and participating in the meeting, together with the interests or affiliations they represent and an explanation of the manner and extent of public participation in the meeting by members of the public who attended but did not present oral or written statements to the committee, including an estimate of the number of such persons;

(b) A complete and accurate description of all matters discussed and all conclusions reached;

(c) The written information made available for consideration by the committee, including copies of all reports received, issued, or approved by the committee;

(d) All recommendations made and reasons therefor; and

(e) The respective advisory committee chairman's designation of a person to record the committee meeting minutes, which person shall be the same person as designated by the Chairman of the Commission as the Secretary or Alternate Secretary of the committee, and the advisory committee chairman's certification as to the accuracy of such minutes;

(5) That there shall be kept, in addition to the requirements of paragraph (4) supra, a verbatim transcript of all meetings of the National Gas Survey Executive Advisory Committee convened after April 25, 1972; and

(6) That subject to the Freedom of Information Act provisions (5 U.S.C. 552), § 1.36, Public Information and Requests, of the Federal Power Commission rules of practice and procedure, 18 CFR 1.36, and section 10b of the Office of Management and Budget Circular A–63, "Committee Management", Access to Records, draft November 27, 1972, there shall be available for public inspection and copying in the Commission's Office of Public Information, Washington, D.C. 20426, the records, reports, transcripts, minutes, appendices, working papers, drafts, studies, agendas, or other documents which were made available to or prepared for or by each National Gas Survey advisory committee and as they are contained within the files of the Commission.

The Commission orders:

(A) The Commission's orders issued February 23, 1971, April 6, 1971, May 10, 1971, December 21, 1971, April 25, 1972, May 25, 1972, and June 27, 1972, as designated on Appendix A hereto, are hereby amended in the following respects:

(I) Paragraph "4. Minutes" of the Commission's order issued February 23, 1971, as amended by the Commission's order issued June 27, 1972, 4. Minutes and Records. is hereby further amended to read:

4. *Minutes and Records.* The Chairman of the Commission having made the determinations as reflected in the Commission's order of December 19, 1972, it is directed:

(1) That National Gas Survey advisory committees shall not be permitted to receive, compile, or discuss data or reports showing the current or projected commercial operations of identified business enterprises;

(2) That the records of all National Gas Survey advisory committee meetings or proceedings shall be accurate and include as detailed minutes with respect to each, showing

(a) The time and place of the meeting, an explanation of the extent to which the meeting was open to the public, an identification and listing of committee members and all other persons present and participating in the meeting, together with the interests or affiliations they represent and an explanation of the manner and extent of public participation in the meeting by members of the public who attended but did not present oral or written statements to the committee, including an estimate of the number of such persons;

(b) A complete and accurate description of all matters discussed and all conclusions reached;

(c) The written information made available for consideration by the committee, including copies of all reports received, issued, or approved by the committee;

(d) All recommendations made and reasons therefor; and

(e) The respective advisory committee chairman's designation of a person to record the committee meeting minutes, which person shall be the same person as designated by the Chairman of the Commission as the Secretary or Alternate Secretary of the committee, and the advisory committee chair-

man's certification as to the accuracy of such minutes;

(3) That in addition to the foregoing, a verbatim transcript shall be kept of all meetings of the National Gas Survey Executive Advisory Committee convened after April 25, 1972; and

(4) That one form of the records, reports, transcripts, minutes, appendixes, working papers, drafts, studies, agendas or other documents which were made available to or prepared for or by each National Gas Survey advisory committee shall be lodged and retained within the public files of the Commission.

(II) The following respective paragraphs of the Commission's orders issued April 6, 1971, May 10, 1971, December 21, 1971, April 25, 1972, and May 25, 1972, as amended by the Commision's order issued June 27, 1972, are hereby further amended to reflect therein the provisions of paragraph (I) above:

(1) Order of April 6, 1971, establishing National Gas Survey Executive Advisory Committee, paragraph 4;

(2) Order of April 6, 1971, establishing National Gas Survey Technical Advisory Committees, paragraph 5;

(3) Order of May 10, 1971, establishing National Gas Survey Coordinating Committee, paragraph 3;

(4) Order of December 21, 1971, establishing Technical Advisory and Coordinating Committee Task Forces, paragraph 3;

(5) Order of April 25, 1972, amending National Gas Survey orders issued February 23, 1971, and April 6, 1971, paragraphs (A) and (B);

(6) Order of May 25, 1972, establishing Technical Advisory Task Forces, paragraph 3; and

(7) Order of June 27, 1972, amending National Gas Survey orders, paragraphs (A) and (B).

(B) The Commission's orders issued February 23, 1971, April 6, 1971, May 10, 1971, December 21, 1971, April 25, 1972, May 25, 1972, and June 27, 1972, as designated on Appendix A hereto, are hereby amended in the following respects:

(I) Paragraph "5. *Secretary of the Committee.*" of the Commission's order issued February 23, 1971, is amended to read:

5. *Secretary of the Committee.* The Chairman of the Commission shall appoint a Secretary of each committee, including alternate secretaries where indicated, from among the members of the Commission staff who shall be responsible for preparing agendas, listing matters to be considered, supplying copies thereof and notifying committee members of the meetings, preparing detailed minutes of all committee meetings, and maintaining all records related to organization, membership and operations of the committee. As a part of such records, the Secretary or Alternate Secretary of each committee shall compile and report at least annually committee membership, functions and actions. The Secretary or Alternate Secretary shall be present during all committee meetings and the person so present shall include within his certification as to the accuracy of all minutes of the proceedings so recorded, the certification of the committee chairman.

(II) The following respective paragraphs of the Commission's orders issued April 6, 1971, May 10, 1971, December 21, 1971, April 25, 1972, May 25, 1972, and June 27, 1972, are hereby amended to reflect therein the provisions of paragraph (I) above:

(1) Order of April 6, 1971, establishing National Gas Survey Executive Advisory Committee, paragraph 4;

(2) Order of April 6, 1971, establishing National Gas Survey Technical Advisory Committees, paragraph 5;

(3) Order of May 10, 1971, establishing National Gas Survey Coordinating Committee, paragraph 3;

(4) Order of December 21, 1971, establishing Technical Advisory and Coordinating Committee Task Forces, paragraph 3;

(5) Order of April 25, 1972, amending National Gas Survey orders issued February 23, 1971, and April 6, 1971, paragraphs (A) and (B);

(6) Order of May 25, 1972, establishing Technical Advisory Task Forces, paragraph 3; and

(7) Order of June 27, 1972, amending National Gas Survey orders, paragraphs (A) and (B).

(C) The Secretary of the Commission shall file with the Chairman, Committee on Commerce, U.S. Senate, Chairman, Interstate and Foreign Commerce Committee, House of Representatives, and Librarian, Library of Congress, copies of all Commission orders as set forth on Appendix A below, together with a copy of this order, as constituting the charters of the National Gas Survey advisory committees.

(D) The Secretary of the Commission shall cause prompt publication of this order to be made in the FEDERAL REGISTER.

By the Commission.

[SEAL] MARY B. KIDD,
Acting Secretary.

APPENDIX A

I. Order authorizing the establishment of National Gas Survey Advisory Committees and prescribing procedures issued February 23, 1971, 36 F.R. 3851.

II. Order establishing National Gas Survey Executive Advisory Committee and designating its membership and chairmanship issued April 6, 1971, 36 F.R. 6922.

III. Order establishing National Gas Survey Technical Advisory Committees and designating initial membership issued April 6, 1971, 36 F.R. 6922.

IV. Order establishing National Gas Survey Coordinating Committee and designating its membership and chairmanship issued May 10, 1971, 36 F.R. 8910.

V. Order establishing Technical Advisory and Coordinating Committee Task Forces and designating membership issued December 21, 1971, 36 F.R. 25183.

VI. Order amending National Gas Survey orders issued February 23, 1971, and April 6, 1971, issued April 25, 1972, 37 F.R. 8578.

VII. Order establishing Technical Advisory Task Forces and designating membership issued May 25, 1972, 37 F.R. 11210.

VIII. Order amending National Gas Survey orders issued June 27, 1972, 37 F.R. 13306.

[FR Doc.72-22258 Filed 12-27-72;8:47 am]

[Docket No. E-7702]

NIAGARA MOHAWK POWER CORP.

Order Accepting for Filing and Suspending Proposed Changes in Rate Schedules, and Directing Submission of Offers of Proof

DECEMBER 19, 1972.

On January 17, 1972, as completed on October 20, 1972, Niagara Mohawk Power Corp. (Niagara), tendered for filing proposed supplements [1] to its Rate Schedules FPC Nos. 24 and 25 covering service to the villages of Holley and Brocton, N.Y., and proposed changes [1] in its FPC Electric Tariff under which the villages of Green Island and Richmondville are currently served. The proposed effective date is December 20, 1972. The proposed changes would increase revenues from jurisdictional sales and service by $44,271 or 15.4 percent and would yield a rate of return on jurisdictional service of approximately 6.65 percent based on the test year ended December 31, 1971.

Notice of the proposed change was issued on February 16, 1972, with all comments or petitions to intervene due on February 25, 1972. Protests were received from the villages of Brocton, Green Island, and Richmondville (Villages) contending that the proposed increased rates are excessive and may impose a financial hardship. Since the Villages have alleged in effect that the proposed increase may be unjust, and unreasonable, and since the Villages, as customers of Niagara, will be affected by this proposed increase, we shall construe their protests as petitions to intervene.

In order to determine the necessity of any evidentiary proceeding, the Commission requests that the Villages and the Commission staff submit offers of proof within 30 days from the issuance of this order to support their position as to the lawfulness of the proposed rates. Within 15 days from the service of such offers of proof, Niagara may file its answer to such pleadings. Upon review of the pleadings, the Commission will determine if a full evidentiary hearing is justified and set such procedural dates as may be necessary.

The Commission finds:

(1) Consideration of the protests of the villages of Brocton, Green Island, and Richmondville as petitions to intervene may be in the public interest.

(2) Participation in this proceeding of the above-named petitioners may be in the public interest.

(3) It is necessary and proper in the public interest and to aid in the enforcement of the provisions of the Federal Power Act that the Commission request offers of proof from the above-named petitioners and the Commission staff concerning the lawfulness of Niagara proposed changes in rates and charges contained in the proposed supplements and tariff sheets listed in Attachment A, and that the tendered changes therein be

[1] See Attachment A.

suspended and the use thereof deferred as hereinafter provided.

(4) In the event this proceeding is not concluded prior to the termination of the suspension period herein ordered, the placing of the tariff changes applied for in this proceeding into effect, subject to refund with interest while pending Commission determination as to their justness and reasonableness, is consistent with the purpose of the Economic Stabilization Act of 1970, as amended.

The Commission orders:

(A) The aforementioned proposed supplements and revised tariff sheets listed in Attachment A, tendered for filing on January 17, 1972, are accepted for filing subject to the terms and conditions of this order.

(B) The protests of the villages of Brocton, Green Island, and Richmondville filed in this constitute a petition to intervene in this proceeding.

(C) The above-named petitions to intervene are hereby granted subject to the Commission's rules of practice and procedure: *Provided, however,* The participation of such intervenors shall be limited to matters affecting asserted rights and interests specifically set forth in their petitions to intervene: and *Provided, further,* That the admission of such intervenors shall not be construed as recognition by the Commission that they might be aggrieved by any orders entered in this proceeding.

(D) No more than thirty (30) days after the issuance of this order, the Commission staff and the above-named intervenors shall submit offers of proof as to the lawfulness of the proposed rate increases from which the Commission can make a filing as to the necessity of an evidentiary hearing.

(E) Not more than fifteen (15) days after the service of such offers of proof, Niagara may file its answer to such pleadings.

(F) Pending a final decision in this proceeding, Niagara's proposed supplements and revised tariff sheets listed in Attachment A are suspended and the use thereof deferred until December 21, 1972, subject to refund as provided by section 205(e) of the Federal Power Act and the regulations thereunder.

By the Commission.

[SEAL] MARY B. KIDD,
Acting Secretary.

ATTACHMENT A

NIAGARA MOHAWK POWER CORPORATION (E-7702)

Filing date: Oct. 20, 1972 (originally filed Jan. 19, 1972).
Effective date: Dec. 20, 1972 (as requested).

Rate schedule designation	Instrument (date)	Other party
Supplement No. 3 to rate schedule FPC No. 24 (supersedes supplement No. 2 to FPC No. 24).	Supplemental rate schedule (undated).	Village of Holley, N.Y.
Supplement No. 3 to rate schedule FPC No. 25 (supersedes supplement No. 2 to FPC No. 25).	do	Village of Brocton, N.Y.
1st revised sheet No. 4 to FPC electric tariff (supersedes original sheet No. 4 to FPC electric tariff).	Revised tariff sheet (Jan. 17, 1972).	Tariff customers (presently, villages of Richmondville and Green Island, N.Y.).
1st revised sheet No. 5 to FPC electric tariff (supersedes original sheet No. 5 to FPC electric tariff).	do	Do.
1st revised sheet No. 6 to FPC electric tariff (supersedes original sheet No. 6 to FPC electric tariff).	do	Do.
Original sheet No. 6-A to FPC electric tariff	do	Do.

[FR Doc.72-22261 Filed 12-27-72;8:47 am]

NATIONAL POWER SURVEY

Order Amending Orders

DECEMBER 19, 1972.

This order amends prior National Power Survey orders which have authorized and established various National Power Survey advisory committees; the initial order having been issued June 29, 1972, 37 F.R. 13380, and the latest order having been issued December 19, 1972, — F.R. ———. All orders referred to are designated in Appendix A below.

The changes reflected herein are occasioned by the provisions of the Federal Advisory Committee Act, 86 Stat. 770, Executive Order No. 11686, October 7, 1972, 37 F.R. 21421, and Office of Management and Budget Circular A-63, "Committee Management", draft November 27, 1972.[1]

As of January 5, 1973, the provisions of the Federal Advisory Committee Act supersede and replace the advisory committee management standards and procedures as promulgated by Executive Order No. 11671, June 5, 1972, 37 F.R. 11307. Circular A-63 implements portions of the Federal Advisory Committee Act.

The National Power Survey advisory committees fall within the definition of "advisory committee" as used in the Federal Advisory Committee Act (section 3, 86 Stat. 770). These National Power Survey advisory committees also fall within the definition of "advisory committee", including as a part thereof, industry or industrial advisory committees, as used in Executive Order No. 11671 (section 1(6)(7)). The provisions of Executive Order No. 11671 are reflected in the Commission orders as listed in Appendix A below.

The Federal Advisory Committee Act, particularly sections 8 and 10, sets forth governmental responsibilities for management controls for advisory committees established by an agency such as this Commission, and sets forth procedures that are to be followed in the conduct of advisory committees' affairs.[2] Under section 9(a)(2), 86 Stat. 774, advisory committees which are established by an agency are to be determined "* * * to be in the public interest in connection with the performance of duties imposed on that agency by law." Section 9(b), 86 Stat. 774, states in part "* * * advisory committees shall be utilized solely for advisory functions. Determinations of action to be taken and policy to be expressed * * * shall be made solely by * * * an officer of the Federal Government." In cases where advisory committees are to be established, charters are to be filed with the appropriate governmental agency and standing committees of the Congress having legislative jurisdiction over the agency, prior to the undertaking of committee meetings or actions, as well as with the Library of Congress.[3] Section 14, 86 Stat. 776, of the

[1] The covering memorandum of the Office of Management and Budget dated Nov. 27, 1972, indicates that the draft circular is to be interpreted as an interim regulation of the Director pursuant to the Federal Advisory Committee Act. Accordingly, the provisions of regulations prescribed by this order are subject to possible change upon the issuance of any final regulations by the Director, Office of Management and Budget.

[2] Section 8(a), 86 Stat. 773, provides in part: "Each agency head shall establish uniform administrative guidelines and management controls for advisory committees * * * which shall be consistent with directives of the Director (Office of Management and Budget) * * * section 10. * * *". Section 10, 86 Stat. 774-5, provides in part:

(a)(1) Each advisory committee meeting shall be open to the public.

(2) Except * * * for reasons of national security, timely notice of each such meeting shall be published in the FEDERAL REGISTER * * * Director shall prescribe regulations to provide for other types of public notice * * *

(3) Interested persons shall be permitted to attend, appear before, or file statements with any advisory committee, subject to such reasonable rules or regulations as the Director may prescribe.((a)(1)(3) do not apply if the head of the agency determines in writing that an advisory committee meeting is concerned with matters set forth in 552(b) of Title 5, United States Code)

(b) Subject to section 552 of Title 5, United States Code (Freedom of Information Act), the records, reports, transcripts, minutes, appendixes, working papers, drafts, studies, agenda, or other documents which were made available to or prepared for or by each advisory committee shall be available for public inspection and copying at a single location in offices of the * * * agency to which the advisory committee reports until * * * committee ceases to exist.

(c) Detailed minutes of each meeting * * * shall be kept * * * contain a record of the persons present * * * complete * * * description of matters discussed * * * conclusions reached * * * copies of all reports received, issued, or approved by * * * committee * * * The accuracy of all minutes shall be certified * * * by * * * chairman of * * * committee.

[3] Section 9(c) of the Act, 86 Stat. 774, states in part as follows:

* * * Such charter shall contain the following information:

(A) The committee's official designation;

(B) The committee's objectives and the scope of its activity;

(C) The period of time necessary for the committee to carry out its purposes;

(D) The agency or official to whom the committee reports;

(Footnotes continued on next page.)

Act also specifies a termination date for advisory committee existence of not later than 2 years from the effective date of the Act (January 5, 1973), for advisory committees then in existence, unless otherwise renewed, and of not later than 2 years from the date of establishment for those established after January 5, 1973, unless otherwise renewed.

* * * * *

(e) * * * shall be designated * * * officer or employee of * * * Federal Government to chair or attend each meeting * * * officer or employee so designated is authorized, whenever he determines it to be in the public interest, to adjourn any such meeting. No * * * committee shall conduct * * * meeting in the absence of that * * * employee.

(f) * * * committees shall not hold * * * meetings except at the call of, or with the advance approval of, a designated officer or employee * * * Federal Government * * * with an agenda approved by such officer or employee.

The charters of the various National Power Survey advisory committees are the several Commission orders as referred to on Appendix A.[4] Determining that a National Power Survey is necessary and appropriate to the purposes of the Federal Power Act, 16 U.S.C. 791(a) et seq., and that the advice and recommendations of various advisory committees could assist the Commission in its conduct of the Survey, these orders authorized the establishment of National Power Survey advisory committees, prescribed procedures and established individual advisory committees. In each instance, the establishment of a specific advisory committee has been determined by the Commission to be in the public interest. Under these Commission orders, the various National Power Survey advisory committees perform an advisory function relating solely to the planning and carrying out of the Survey, with ultimate decisions, based upon such advice or recommendations, reserved to the Federal Power Commission in all instances. Pursuant to Executive Order No. 11671 (section 12), none of the advisory committees are permitted to receive, compile, or discuss data or reports, showing the current or projected commercial operations of identified business enterprises. All committees terminate not later than 2 years subsequent to their respective dates of establishment unless the Commission determines, prior to such 2-year period, that continued existence of a committee for an additional period of not more than 2 years is in the public interest.

As further conditions of these Commission orders and prior determinations of the Chairman of the Commission, all advisory committees meet under the chairmanship of, or in the presence of, a Federal governmental official, with all committee meetings at the call of, or with the advance approval of such governmental official and with an agenda approved by such official, who has designated responsibilities for opening, adjourning, and conducting all National Power Survey committee meetings. All meetings of the Survey advisory committees are open to public observation; public notice of meetings, dates, times, places, and agendas, is given by publication in the FEDERAL REGISTER or by publication in local media; participation of interested persons in attendance before committees is provided, subject to reasonable, necessary and appropriate controls by the attending governmental official or administrative regulations, to insure the conduct of committee affairs; minutes of all advisory committee meetings are required and verbatim transcripts are required for all meetings of the principal policy advisory committee of the National Power Survey, the Executive Advisory Committee; and the minutes and transcripts of all National Power Survey advisory committee meetings or proceedings are retained within the public files of the Commission.

The Chairman of the Commission, subject to the provisions of section 8(a) of the Federal Advisory Committee Act, 86 Stat. 773, has determined as follows:

(1) That National Power Survey advisory committees shall not be permitted to receive, compile, or discuss data or reports showing the current or projected commercial operations of identified business enterprises;

(2) That all meetings of National Power Survey advisory committees shall be open to the public and any interested person may attend, appear before or file statements with any such committee—which statements, if in written form, may be filed before or after the meeting, or, if oral, at the time and in the manner permitted by the committee, its chairman or established committee procedures which may require advance committee approval of oral presentations and allow or preclude the questioning of committee members or other participants, all subject to reasonable rules or regulations as may be prescribed or permitted by the Director, Office of Management and Budget, the Federal Government official in whose presence such meeting is being held, or further administrative regulation, and all as may be appropriate for the conduct of the Survey and committee affairs, considering the number of persons in attendance, the nature and extent of their proposed individual participation and the time, resources and facilities available to the Commission and the committee;

(3) That public notice of all meetings of National Power Survey advisory committees shall be given at least 7 days in advance of the meeting, except where impracticable to do so or in an emergency situation, in which events shorter advance notice may be given, such notice to be given by publication in the FEDERAL REGISTER, by publication in local media as appropriate, by press releases, mail or in such other ways as may be prescribed or permitted by the Director, Office of Management and Budget, giving the name of the committee, dates, times, places, agendas and purposes of all such meetings and a summarization of the manner in which the public may participate therein;

(4) That the records of all National Power Survey advisory committee meetings or proceedings shall be accurate and include as detailed minutes with respect to each, showing:

(a) The time and place of the meeting, an explanation of the extent to which the meeting was open to the public, an identification and listing of committee members and all other persons present and participating in the meeting, together with the interests or affiliations they represent and an explanation of the manner and extent of public participation in the meeting by members of the public who attended but did not present oral or written statements to the committee, including an estimate of the number of such persons;

(b) A complete and accurate description of all matters discussed and all conclusions reached;

(c) The written information made available for consideration by the committee, including copies of all reports received, issued or approved by the committee;

(d) All recommendations made and reasons therefor; and

(e) The respective advisory committee chairman's designation of a person to record the committee meeting minutes, which person shall be the same person as designated by the Chairman of the Commission as Secretary or Alternate Secretary of the committee, and the advisory committee chairman's certification as to the accuracy of such minutes;

(5) That there shall be kept, in addition to the requirements of paragraph

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(E) The agency responsible for providing the necessary support for the committee;

(F) A description of the duties for which the committee is responsible, and, if such duties are not solely advisory, a specification of the authority for such functions;

(G) The estimated annual operating costs in dollars and man-years for such committee;

(H) The estimated number and frequency of committee meetings;

(I) The committee's termination date, if less than 2 years from the date of the committee's establishment; and

(J) The date the charter is filed.

[4] The Commission orders establishing these National Power Survey committees do not authorize the use of public funds for the payment of salaries or expenses of advisory committee members. Within the general budgetary authority of the Commission, appropriated funds of the Commission are used to defray personnel costs and expenses of Commission members and Commission staff personnel whose activities are directed to the conduct of the National Power Survey, associated contracted services and travel expenditures of certain advisory committee members as may be approved by the Chairman of the Commission. Within the fiscal years 1972–73, since the establishment of the National Power Survey advisory committees and to date, the total estimated cost to the Commission therefor has been $14,300; and 0.9 man-year of Commission or Commission staff personnel have been directed to the support of the National Power Survey advisory committees. In total, for those years, 11 National Power Survey advisory committee meetings have been held. In fiscal year 1973 the projected cost to the Commission for the support of the committees is $75,000 and 3.9 man-years. Frequency of meetings, as indicated, should continue or increase in the last half of fiscal year 1973.

(4) supra, a verbatim transcript of all meetings of the National Power Survey Executive Advisory Committee; and

(6) That subject to the Freedom of Information Act provisions (5 U.S.C. 552), § 1.36, Public Information and Requests, of the Federal Power Commission rules of practice and procedure, 18 CFR 1.36, and section 10b of the Office of Management and Budget Circular A–63, "Committee Management", Access to Records, draft November 27, 1972, there shall be available for public inspection and copying in the Commission's Office of Public Information, Washington, D.C. 20426, the records, reports, transcripts, minutes, appendixes, working papers, drafts, studies, agendas, or other documents, which were made available to or prepared for or by each National Power Survey advisory committee and as they are contained within the files of the Commission.

The Commission orders:

(A) The Commission's orders issued June 29, 1972, August 11, 1972, September 28, 1972, November 2, 1972, December 7, 1972, and December 19, 1972 as designated on Appendix A hereto are hereby amended in the following respects:

(I) Paragraph 4. *Minutes and Records.* Of the Commission's order issued June 29, 1972, is hereby amended to read:

4. *Minutes and Records.* The Chairman of the Commission having made the determinations as reflected in the Commission's order of December 19, 1972, it is directed:

(1) That National Power Survey advisory committees shall not be permitted to receive, compile, or discuss data or reports showing the current or projected commercial operations of identified business enterprises;

(2) That the records of all National Power Survey advisory committee meetings or proceedings shall be accurate and include as detailed minutes with respect to each, showing:

(a) The time and place of the meeting, an explanation of the extent to which the meeting was open to the public, an identification and listing of committee members and all other persons present and participating in the meeting, together with the interests or affiliations they represent and an explanation of the manner and extent of public participation in the meeting by members of the public who attended but did not present oral or written statements to the committee, including an estimate of the number of such persons;

(b) A complete and accurate description of all matters discussed and all conclusions reached;

(c) The written information made available for consideration by the committee, including copies of all reports received, issued or approved by the committee;

(d) All recommendations made and reasons therefor; and

(e) The respective advisory committee chairman's designation of a person to record the committee meeting minutes, which person shall be the same person as designated by the Chairman of the Commission as the Secretary or Alternate Secretary of the committee, and the advisory committee chairman's certification as to the accuracy of such minutes;

(3) That in addition to the foregoing, a verbatim transcript shall be kept of all meetings of the National Power Survey Executive Advisory Committee; and

(4) That one form of the records, reports, transcripts, minutes, appendixes, working papers, drafts, studies, agendas, or other documents which were made available to or prepared for or by each National Power Survey advisory committee shall be lodged and retained within the public files of the Commission.

(II) The following respective paragraphs of the Commission's orders issued August 11, 1972, September 28, 1972, November 2, 1972, December 7, 1972, and December 19, 1972, are hereby amended to reflect therein the provisions of paragraph (I) above:

(1) Order of August 11, 1972, establishing National Power Survey Executive Advisory Committee, paragraph 4;

(2) Order of September 28, 1972, establishing National Power Survey Technical Advisory Committees, paragraph 4;

(3) Order of November 2, 1972, establishing National Power Survey Coordinating Committee, paragraph 4;

(4) Order of November 2, 1972, establishing Technical Advisory Committee on Fuels Task Force, paragraph 4;

(5) Order of December 7, 1972, establishing Technical Advisory Committee on Conservation Task Forces, paragraph 4;

(6) Order of December 7, 1972, establishing Technical Advisory Committee on Finance Task Force, paragraph 4;

(7) Order of December 7, 1972, establishing Technical Advisory Committee on Fuels Task Forces, paragraph 4; and

(8) Order of December 7, 1972, establishing Technical Advisory Committee on Research and Development Task Forces, paragraph 4.

(B) The Commission's orders issued June 29, 1972, August 11, 1972, September 28, 1972, November 2, 1972, December 7, 1972, and December 19, 1972, as designated on Appendix A hereto, are hereby amended in the following respects:

(I) Paragraph 5. *Secretary of the Committee.* of the Commission's order issued June 29, 1972, is amended to read:

5. *Secretary of the Committee.* The Chairman of the Commission shall appoint a secretary of each committee, including alternate secretaries where indicated, from among the members of the Commission staff or from another agency or department of the Federal Government, who shall be responsible for preparing agendas, listing matters to be considered supplying copies thereof and notifying committee members of the meetings, all in accordance with the requirements of paragraph 3 above, preparing detailed minutes of all committee meetings, and maintaining all records related to organization, membership and operations of the committee. As a part of such records, the Secretary or Alternate Secretary of each committee shall compile and report at least annually committee membership, functions and actions. The Secretary or Alternate Secretary shall be present during all committee meetings and the person so present shall include within his certification as to the accuracy of all minutes of the proceeding so recorded, the certification of the committee chairman.

(II) The following respective paragraphs of the Commission's orders issued August 11, 1972, September 28, 1972, November 2, 1972, December 7, 1972, and December 19, 1972, are hereby amended to reflect therein the provisions of paragraph (I) above:

(1) Order of August 11, 1972, establishing National Power Survey Executive Advisory Committee, paragraph 4;

(2) Order of September 28, 1972, establishing National Power Survey Technical Advisory Committees, paragraph 4;

(3) Order of November 2, 1972, establishing National Power Survey Coordinating Committee, paragraph 4;

(4) Order of November 2, 1972, establishing Technical Advisory Committee on Fuels Task Force, paragraph 4;

(5) Order of December 7, 1972, establishing Technical Advisory Committee on Conservation Task Forces, paragraph 4;

(6) Order of December 7, 1972, establishing Technical Advisory Committee on Finance Task Force, paragraph 4;

(7) Order of December 7, 1972, establishing Technical Advisory Committee on Fuels Task Forces, paragraph 4; and

(8) Order of December 7, 1972, establishing Technical Advisory Committee on Research and Development Task Forces, paragraph 4.

(C) The Secretary of the Commission shall file with the Chairman, Committee on Commerce, U.S. Senate, Chairman, Interstate and Foreign Commerce Committee, House of Representatives, and Librarian, Library of Congress, copies of all Commission orders as set forth on Appendix A below, together with a copy of this order, as constituting the charters of the National Power Survey advisory committees.

(D) The Secretary of the Commission shall cause prompt publication of this order to be made in the FEDERAL REGISTER.

By the Commission.

[SEAL] MARY B. KIDD,
Acting Secretary.

I. Order authorizing the establishment of National Power Survey Advisory Committees and prescribing procedures issued June 29, 1972, 37 F.R. 13380.

II. Order establishing National Power Survey Executive Advisory Committee and designating initial membership and chairmanship issued August 11, 1972, 37 F.R. 24213.

III. Order establishing National Power Survey Technical Advisory Committees and designating initial membership and chairmanship issued September 28, 1972, 37 F.R. 20999.

IV. Order establishing National Power Survey Coordinating Committee and designating its initial membership and chairmanship issued November 2, 1972, 37 F.R. 23868.

V. Order establishing Nation Power Survey Technical Advisory Committee on Fuels Task Force—Administrative and designating initial membership and chairmanship issued November 2, 1972, 37 F.R. 23868.

VI. Order establishing National Power Survey Technical Advisory Committee on Conservation of Energy Task Force and designating initial membership and chairmanship issued December 7, 1972, 37 F.R.

VII. Order establishing National Power Survey Technical Advisory Committee on Finance Task Force—Future Financial Requirements and designating initial membership and chairmanship issued December 7, 1972, 37 F.R.

VIII. Order establishing National Power Survey Technical Advisory Committee on

Fuels Task Forces and designating initial membership and chairmanship issued December 7, 1972, 37 F.R.

IX. Order establishing National Power Survey Technical Advisory Committee on Research and Development Task Force and designating initial membership and chairmanship issued December 7, 1972, 37 F.R.

X. Order establishing National Power Survey Technical Advisory Committee on Power Supply Task Force—Forecast Review and designating initial membership and chairmanship issued December 19, 1972, 37 F.R.

[FR Doc.72-22262 Filed 12-27-72;8:47 am]

[Docket No. E-7879]

SOUTHERN CALIFORNIA EDISON CO.

Notice of Proposed Changes in Rates and Charges

DECEMBER 20, 1972.

Take notice that Southern California Edison Co. (Company) on June 30, 1972, tendered for filing proposed changes in its FPC Electric Rate Schedule No. 31, Supplements 1 through 3. The Company states that the filing has the effect of increasing the service voltage from 12,000 volts to 66,000 volts to the city of Colton, Calif., and represents a reduction in service charges through a voltage discount of 2 percent.

The Company requests that the prior notice requirement of the Commission's regulations be waived and that the revised schedule be made effective on June 11, 1972, the date the service voltage was changed.

Copies of this filing were served on the city of Colton and interested State commissions.

Any person desiring to be heard or to protest said application should file a petition to intervene or protest with the Federal Power Commission, 441 G Street NW., Washington, DC 20426, in accordance with §§ 1.8 and 1.10 of the Commission's rules of practice and procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before January 4, 1973. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

MARY B. KIDD,
Acting Secretary.

[FR Doc.72-22259 Filed 12-27-72;8:47 am]

[Dockets Nos. CP73-16, etc.]

TENNESSEE GAS PIPELINE CO. ET AL.

Order Granting Temporary and Permanent Certificates of Public Convenience and Necessity, etc.

DECEMBER 15, 1972.

Tennessee Gas Pipeline Co., a Division of Tenneco, Inc., Docket No. CP73-16; Commonwealth Gas Co., Dockets Nos. CP73-23 and CP73-24; Hopkinton LNG Corp., Docket Nos. CP73-25 and CP73-26: Order granting temporary and permanent certificates of public convenience and necessity after statutory hearing with conditions, ruling on exemption requests, granting interventions, consolidating dockets, and setting hearing.

Tennessee Gas Pipeline Co., a Division of Tenneco, Inc. (Tennessee), filed an application on July 18, 1972, for a certificate of public convenience and necessity authorizing the transportation of natural gas beginning on November 1, 1972, and ending on October 31, 1973, for local distribution companies, Springfield Gas Light Co. (Springfield), Fitchburg Gas & Electric Co. (Fitchburg), Commonwealth Gas Co. (Commonwealth) and Berkshire Gas Co. (Berkshire).

Tennessee proposes to transport up to an aggregate maximum daily quantity of 20,856 Mcf at 14.73 p.s.i.a. of natural gas, referred to as the maximum daily transportation quantity, for the above distribution companies from the Hopkinton LNG plant in Hopkinton, Mass., near Tennessee's compressor station No. 267, to existing points of connection between the distributors and Tennessee. Regasified LNG delivered by the Hopkinton LNG Corp. from the plant on behalf of the distributors will be delivered into Tennessee's interstate pipeline system which extends into other States and delivers gas for consumption in the States of New Hampshire, Massachusetts, and Maine. Some of the gas will be delivered to distributors entirely by displacement through the use of Tennessee's interstate system. Tennessee proposes to render this service at a monthly demand transportation charge of 29.41¢/Mcf and a volume charge of 4.9¢/Mcf, subject to payment of a minimum bill. The proposed transportation service will be rendered pursuant to precedent agreements with the distributor companies dated July 7, 1972.

Tennessee proposes to perform the following transportation services for these four distribution companies:

	Daily	Annual
	Mcf	*Mcf*
Berkshire, Pittsfield	1,377	48,000
N. Adams	867	28,000
Greenfield	612	18,000
Commonwealth	10,000	250,000
Fitchburg	1,500	50,000
Springfield	6,500	200,000
Total	20,856	594,000

Commonwealth filed an application in Docket No. CP73-23 for a certificate of public convenience and necessity authorizing the sale of natural gas on an interruptible basis to Fitchburg, Springfield, and Berkshire for the 1972-73 heating season. Commonwealth will sell natural gas in an aggregate volume of 315,857 Mcf at an approximate price of 51 cents Mcf at existing metering stations in Hopkinton, Mass., where Commonwealth purchases gas from Tennessee under its firm, long-term service agreement. These three distributors have separately contracted (1) for Hopkinton LNG Corp. to transport and store their gas purchases in the LNG plant facilities and (2) for Tennessee to redeliver the regasified LNG to each of the points of receipt on the distributors' facilities.

Commonwealth presently purchases natural gas from Tennessee of up to 55,386 Mcf/d, which entitles it to receive 20.271 million Mcf per year, of which only 16.7 million Mcf is required for its own needs. Thus, Commonwealth can provide the gas supply for these sales out of its existing contract demand with Tennessee. Commonwealth will charge the following rates for these sales: 8 cents per 100 cubic feet for the first 1,000 Mcf per month; 5 cents per 100 cubic feet for the second 1,000 Mcf per month, and 4 cents per 100 cubic feet for volumes over 2,000 Mcf per month.[1] This gas will be resold by Berkshire, Fitchburg, and Springfield to their distribution system customers.

Commonwealth is a wholly-owned subsidiary of New England Gas and Electric Association, created on December 31, 1971, by the merger of Worcester Gas Light Co. and Cambridge Gas Co., each of which was declared exempt from Commission jurisdiction under section 1(c) of the Act (Docket Nos. CP71-242, 243). Commonwealth requests that the Commission herein provide that it retains its exempt status except for the transactions herein authorized. As these sales are to be performed by means of readily identifiable and limited portions of interstate facilities, the status of Commonwealth's other sales, services and operations will remain exempt.

Commonwealth filed an application in Docket No. CP73-24 for a certificate of public convenience and necessity authorizing the transportation of natural gas for its own account for a 1-year period ending October 31, 1973. Commonwealth has contracted (1) for Hopkinton LNG Corp. to transport and store its gas in the LNG plant and redeliver its regasified LNG to Tennessee for its account and (2) for Tennessee to transport these volumes through its interstate facilities, which is the subject to Tennessee's related application in Docket No. CP73-16, to delivery points of Commonwealth for use in its distribution systems. Commonwealth proposes to have up to 10,000 Mcf/d per day transported for its own use. Commonwealth requests authorization herein sought and continuing exemption of its other sales, services, and operations. Except to the extent here required, as fully discussed supra in relation to Commonwealth's proposed sales in Docket No. CP73-23, Commonwealth will retain its exempt status except for the facilities which may be used for the transportation of gas, which is the subject of various applications considered herein.

On November 27, 1972, Commonwealth submitted additional information on its proposed rate to be charged to the New England distributors. It was stated that the proposed rate is about 5 cents per

[1] These basic rates are exclusive of a price adjustment of 1.02 cents per 100 cubic feet which must be added.

Mcf lower than the current interruptible industrial rate on file by Commonwealth in its service areas in Massachusetts. Commonwealth also states it purchased gas under Tennessee's rate schedule G–6, which restricted the resale of gas to Commonwealth's ultimate consumers effective January 1, 1972. Commonwealth converted to Tennessee's rate schedule CD–6 in anticipation of making sales to other companies, including its affiliate New Bedford Gas and Electric Co. The CD rate schedule of Tennessee has a minimum commodity charge of 66⅔ percent of the contracted demand. As a result of these minimum charges, Commonwealth has an incentive to utilize its contract demands in the summertime to avoid payment of said charges.

Based on the information available to the Commission, it is not possible to make a final determination on the appropriateness of the rate to be charged by Commonwealth and Hopkinton LNG to the other distributors for the sales and transportation proposed in these dockets. To facilitate initiation of service without further delay, however, the Commission is issuing herein temporary certificates to Commonwealth and Hopkinton and setting these related matters for hearing.

Hopkinton LNG Corp. (Hopkinton) filed an application in Docket No. CP73–25 for a certificate of public convenience and necessity on July 28, 1972, to transport, liquefy, store, and regasify natural gas for Berkshire, Fitchburg, and Springfield at its Hopkinton plant. Hopkinton proposes to charge a total rate of $1.16 per Mcf for the aggregate volumes of gas stored, not to exceed 10,856 Mcf per day and 344,000 Mcf for the year ending on October 31, 1973. The three distributors will purchase the gas from Commonwealth at its point of receipt from Tennessee adjacent to the LNG plant and will return the revaporized LNG to Tennessee for ultimate redelivery to each distributor's system. Hopkinton's proposed rate consists of a basic charge of 47.3 cents per Mcf, liquefication charge of 8 cents, storage charge of 60 cents, and vaporization charge of 1 cent per Mcf.

Hopkinton requests that except to the extent of limited authority granted herein, that its present status as an intrastate processor of natural gas received and ultimately consumed within the within the State of Massachusetts remain unaffected. Hopkinton presently receives, transports, and stores natural gas on behalf of New England Gas and Electric Co. gas distribution subsidiaries in Massachusetts. Hopkinton has not applied to the Commission for an exemption under section 1(c) of the Natural Gas Act. The Hopkinton facility would be used to transport natural gas in interstate commerce upon initiation of proposed services. Furthermore, all of the gas received by Hopkinton could not be consumed in the State of Massachusetts as it is proposed to return up to 10,856 Mcf per day to Tennessee, which gas will be ultimately transported, sold, and consumed in the States of New Hampshire, Maine, and Massachusetts. Section 1(c) of the Act directs that such activities remain subject to Commission jurisdiction and Hopkinton would become a "natural-gas company."

An additional issue raised by the applications in these dockets is the question of whether Hopkinton LNG Corp. should be permitted to terminate its status as a "natural-gas company" at the termination of a 1-year period for which authorizations are sought herein in Docket Nos. CP73–25 and CP73–26.

Hopkinton filed an application in Docket No. CP72–26 for a certificate of public convenience and necessity on July 28, 1972, to transport, liquefy, store, and regasify natural gas for Commonwealth at the Hopkinton plant. Hopkinton proposes to charge a total rate of $1.59 per Mcf for up to 10,000 Mcf per day and 250,000 Mcf in the year ending October 31, 1973. The application is pursuant to a contract between Hopkinton and Commonwealth dated September 1, 1971. Although the contract is for a 25-year term, Hopkinton seeks herein only a limited-term, 1-year certificate ending October 31, 1973, coterminous with the Commonwealth-Tennessee transportation agreement dated July 7, 1972. Tennessee will redeliver volumes to Commonwealth equivalent to those received at Hopkinton for use in Commonwealth's distribution systems. In the alternative, Hopkinton requests the Commission disclaim jurisdiction over these activities. As these acts would involve the transportation of gas in interstate commerce, as set forth supra in regard to the activities proposed in Docket No. CP73–25, a certificate is required herein for the proposed transportation and, Hopkinton would be a "natural-gas company" subject to Commission jurisdiction.

Notices of application were issued as follows:

Docket No.	Date	Federal Register	Date
CP73–16	July 25, 1972	37 F.R. 15448	Aug. 2, 1972
CP73–23	Aug. 7, 1972	37 F.R. 16233	Aug. 11, 1972
CP73–24	Aug. 1, 1972	37 F.R. 15890	Aug. 5, 1972
CP73–25	Aug. 7, 1972	37 F.R. 16234	Aug. 11, 1972
CP73–26	Aug. 3, 1972	37 F.R. 15893	Aug. 5, 1972

Petitions to intervene were filed in the following dockets:

Petitioners	Docket	Date
Springfield Gas Light Co	CP73–16	Aug. 18, 1972
Springfield Gas Light Co	CP73–23	Aug. 21, 1972
Springfield Gas Light Co	CP73–25	Aug. 21, 1972
Fitchburg Gas & Electric Light Co	CP73–23	Aug. 21, 1972
Fitchburg Gas & Electric Light Co	CP73–25	Aug. 21, 1972
Fitchburg Gas & Electric Light Co	CP73–16	Aug. 18, 1972
Tennessee Gas Pipeline Co	CP73–23	Aug. 21, 1972
Tennessee Gas Pipeline Co	CP73–24	Aug. 11, 1972
Tennessee Gas Pipeline Co	CP73–25	Aug. 21, 1972
Tennessee Gas Pipeline Co	CP73–26	Aug. 15, 1972

None of the applications herein involve a request for construction of new facilities. The proposed operations do not constitute a major Federal action having any significant effect on the environment.

At a hearing held on December 15, 1972, the Commission on its own motion received and made a part of the record in this proceeding all evidence, including the applications and exhibits thereto, submitted in support of the authorizations sought herein, and upon consideration of the record,

The Commission finds:

(1) Applicant, Tennessee Gas Pipeline Co., a division of Tenneco, Inc., a Delaware corporation having its principal place of business in Houston, Tex., is a "natural-gas company" within the meaning of the Natural Gas Act, as heretofore found by the Commission in its order of July 15, 1947, in Docket No. G–910 (6 FPC 777).

(2) Applicant, Commonwealth Gas Co., a Massachusetts corporation, having its principal place of business in Worcester, Mass., will be a "natural-gas company" within the meaning of the Natural Gas Act during the term of the proposed sales and transportation of natural gas.

(3) Applicant, Hopkinton LNG Corp., a Massachusetts corporation, with its primary place of business in Cambridge, Mass., will be a "natural-gas company" within the meaning of the Natural Gas Act during the term of the proposed transportation services.

(4) The facilities hereinbefore described, as more fully described in the applications in these proceedings, are to be used in the transportation and sale of natural gas in interstate commerce, subject to the jurisdiction of the Commission, and the operation thereof by Applicants are subject to the requirements of subsections (c) and (e) of section 7 of the Natural Gas Act.

(5) Applicants are able and willing properly to do the acts and to perform the services proposed and to conform to the provisions of the Natural Gas Act and the requirements, rules, and regulations of the Commission thereunder.

(6) The operation of the proposed facilities by Applicants are required by the public convenience and necessity and certificates therefor should be issued as hereinafter ordered and conditioned.

(7) Participation by the above-named interveners may be in the public interest.

(8) The above dockets are consolidated for hearing in this decision.

(9) Based on the allegations set forth in the pleadings in these dockets the Commission finds that an emergency exists and that temporary certificates of public convenience and necessity should be issued to applicants in Dockets Nos. CP73–23, CP73–24, CP73–25, and CP73–26.

The Commission orders:

(A) A certificate of public convenience and necessity is issued upon the terms and conditions of this order authorizing Tennessee to operate facilities and transport and deliver natural gas as hereinbefore described, but not limited to termination on October 31, 1973.

(B) Temporary certificates of public convenience and necessity are issued to

Commonwealth and Hopkinton LNG Corp. in Dockets Nos. CP73–23, CP73–24, CP73–25 and CP73–26 authorizing these applicants to operate facilities and to sell and to transport natural gas, as more fully described in the applications in these proceedings, during the pendency of the proceedings hereinafter ordered subject to the following conditions:

(1) Hopkinton LNG Corp. is to file an application for a certificate of public convenience and necessity pursuant to section 7(c) of the Natural Gas Act, and §§ 157.5–157.14 of the regulations under the Natural Gas Act within 30 days of the issuance of this order. Said application shall be consolidated for hearing and decision together with the five dockets listed at the head of this order.

(2) The rates to be charged by Commonwealth and Hopkinton LNG Corp. pursuant to the temporary authorization issued shall be subject to refunds if the proposed rates are found to exceed those required by the public convenience and necessity upon issuance of a final order of the Commission after hearing and decision, which is hereinafter provided for.

(3) The issue of whether Hopkinton LNG Corp. shall be permitted to terminate its status as a natural gas company upon completion of a 1-year period for which authorizations are sought in Dockets Nos. CP73–25 and CP73–26 as well as the application referred to in paragraph (B)(1) is reserved for decision after formal hearing hereinafter ordered.

(C) The certificates issued by paragraphs A and B and the rights granted thereunder are conditioned upon Applicants' compliance with all applicable Commission regulations under the Natural Gas Act and particularly the general terms and conditions set forth in paragraphs (a), (e), (f), and (g) of § 157.20 of such regulations.

(D) Applicants shall notify the Commission of the date of commencement of sales and services within 10 days thereof.

(E) Petitioners named above are permitted to intervene in these proceedings subject to the rules and regulations of the Commission: *Provided, however,* That the participation of such interveners shall be limited to matters affecting asserted rights and interests as specifically set forth in their petitions to intervene; *And provided, further,* That the admission of said interveners shall not be construed as recognition by the Commission that they may be aggrieved because of any order of the Commission entered in these proceedings.

(F) The exemptions granted Worcester Gas Light Co. and Cambridge Gas Co. (now divisions of Commonwealth) in Docket Nos. CP71–242, 243 remain in effect, except for transportation and sales authorized herein which are subject to Commission jurisdiction and for which certificates have been issued in paragraph (B) above.

(G) Commonwealth and Hopkinton shall file appropriate rate schedules for sales and transportation services authorized herein within 10 days after initiation of sales and services authorized by paragraph (B) above.

(H) A formal hearing shall be convened pursuant to authority conferred upon the Federal Power Commission by the Natural Gas Act and the Commission's regulations, respecting the matters more fully set forth above, and designated as Tennessee Gas Pipeline Co., et al., Docket Nos. CP73–16, et al.

(I) An Administrative Law Judge to be hereinafter designated by the Chief Administrative Law Judge shall preside at the conference and hearings and in his discretion shall control proceedings hereafter.

(J) A prehearing conference will be convened before the Administrative Law Judge on February 15, 1973, at 10 a.m., e.s.t., in a hearing room of the Federal Power Commission, 441 G Street NW., Washington, DC, pursuant to § 1.18 of the rules of practice and procedure.

By the Commission.

[SEAL] MARY B. KIDD,
Acting Secretary.

[FR Doc.72–22169 Filed 12–27–72;8:45 am]

DEPARTMENT OF LABOR

Occupational Safety and Health Administration

STATE OCCUPATIONAL SAFETY AND HEALTH PLANS

Temporary Order Affecting State Jurisdiction Under Plans

1. Pursuant to section 1902.16 of Title 29, Code of Federal Regulations (37 F.R. 25711, 12, December 2, 1972), enforcement of occupational safety and health standards promulgated under State law in issues covered under the following State plans submitted in accordance with section 1902.10(a) shall be effective until final action approving or disapproving the plans is taken under sections 18 (c) and (d) of the Williams-Steiger Occupational Safety and Health Act of 1970 (29 U.S.C. 651; 84 Stat. 1591), or 6 months from the effective date of this order, whichever is earlier:

State	Date of submission	Citation FR. vol. 37
New Jersey	July 3, 1972	17447, 19165
Arkansas	July 18, 1972	20899, 23953
Iowa	do	22780
Minnesota	Aug. 22, 1972	25083
Vermont	Sept. 6, 1972	23954
North Carolina	Sept. 8, 1972	26371
Utah	Sept. 20, 1972	22780
North Dakota	Sept. 22, 1972	22780
Delaware	Aug. 25, 1972	
Hawaii	Sept. 25, 1972	
Arizona	do	
California	Sept. 27, 1972	
New York	Sept. 28, 1972	
Wisconsin	Oct. 11, 1972	
Georgia	Nov. 1, 1972	
Mississippi	Nov. 17, 1972	
Texas	do	
Missouri	Nov. 24, 1972	
Michigan	Nov. 27, 1972	
Kentucky	do	
Florida	Nov. 28, 1972	
Tennessee	Nov. 29, 1972	
Illinois	Nov. 30, 1972	
Alaska	Dec. 11, 1972	
Alabama	Dec. 13, 1972	
Idaho	Dec. 18, 1972	

2. Paragraph No. 1 of this order gives the citations to all notices inviting public comments on the plans of States where notices have been published in the FEDERAL REGISTER under section 1902.11 of Title 29, Code of Federal Regulations. Notices concerning the remaining plans will soon be published in the FEDERAL REGISTER. The notices will indicate, among other things, in what State and Federal offices copies of the plans may be inspected and give the locations of those offices.

3. The plans listed in paragraph No. 1 of this order were submitted with the approval of the Governor of each State, in accordance with OMB Circular No. A–95 and each addresses every criteria for State plans and indices of effectiveness prescribed in Subpart B of Part 1902 of Title 29, Code of Federal Regulations.

4. This order of continued effectiveness of State enforcement of State standards under State law does not constitute approval or disapproval of the State plans as submitted, and does not provide any basis for Federal financing of approved plans under section 23(g) of the act, nor any basis for discretionary Federal jurisdiction provided under section 18(e) of the act. This order applies only to State laws and standards covering issues under plans which are or become effective in the period during which this order is in effect.

5. This order may be modified or revoked for cause upon not less than 30 days notice to the State concerned.

6. The termination, modification, or revocation of this order shall in no way effect any proceeding, already commenced under State law, coming within the coverage of this order.

7. No later than 10 days following the publication of this order in the FEDERAL REGISTER, each State agency designated to administer the plans listed in paragraph No. 1 shall publish, or cause to be published within the State concerned, reasonable notice of the issuance of this order and the occupational safety and health issues within the scope of the State plan.

8. This order shall be effective on December 28, 1972.

Signed at Washington, D.C., this 22d day of December 1972.

G. C. GUENTHER,
Assistant Secretary of Labor.

[FR Doc.72–22309 Filed 12–27–72;8:47 am]

Wage and Hour Division

CERTIFICATES AUTHORIZING THE EMPLOYMENT OF FULL-TIME STUDENTS WORKING OUTSIDE OF SCHOOL HOURS AT SPECIAL MINIMUM WAGES IN RETAIL OR SERVICE ESTABLISHMENTS OR IN AGRICULTURE

Notice is hereby given that pursuant to section 14 of the Fair Labor Standards Act of 1938 (52 Stat. 1060, as amended, 29 U.S.C. 201 et seq.) the regulation on employment of full-time students (29

CFR, Part 519), and Administrative Order No. 621 (36 F.R. 12819), the establishments listed in this notice have been issued special certificates authorizing the employment of full-time students working outside of school hours at hourly rates lower than the minimum wage rates otherwise applicable under section 6 of the act. While effective and expiration dates are shown for those certificates issued for less than a year, only the expiration dates are shown for certificates issued for a year. The minimum certificate rates are not less than 85 percent of the applicable statutory minimum.

The following certificates provide for an allowance not to exceed the proportion of the total hours worked by full-time students at rates below $1 an hour to the total number of hours worked by all employees in the establishment during the base period in occupations of the same general classes in which the establishment employed full-time students at wages below $1 an hour in the base year; or provide the same standards authorized in certificates previously issued to the establishment.

Ball Stores, Inc., variety-department store; 400 South Walnut Street, Muncie, IN; 9-2-73.

Barton's Department Store, variety-department store; 1118 Alabama Avenue, Selma, AL; 9-10-73.

Carter's Food Center, food store; 500 Southeast Washington Boulevard, Bartlesville, OK; 9-14-73.

Doo Drop Inn, Inc., restaurant; 2410 Henry Street, Muskegon, MI; 4-6-73.

Goodrum Co., restaurant; Oakland Road, Waterville, ME; 8-21-73.

W. T. Grant Co., variety-department store; Barre-Montpelier Road, Barre, VT; 9-4-73.

H. E. B. Food Store, food stores; 9-2-73: No. 27, Alice, TX; No. 73, Aransas Pass, TX; Nos. 30, 31, 33, 34, 36, 45, 51, and 79, Austin, TX; No. 82, Bay City, TX; No. 10, Beeville, TX; No. 99, Bellmead, TX; No. 93, Belton, TX; Nos. 1, 14, and 15, Brownsville, TX; Nos. 17, 18, 19, 35, 37, 46, 65, 92, 101, 107, and 108, Corpus Christi TX; No. 80, Cuero, TX; Nos. 88, and 95, Del Rio, TX; No. 9, Donna, TX; No. 75, Eagle Pass, TX; No. 6, Edinburg, TX; No. 78, El Campo, TX; No. 85, Falfurrias, TX; No. 126, Gonzales, TX; Nos. 3, 55, and 77, Harlingen, TX; No. 112, Hondo, TX; No. 89, Kerrville, TX; No. 72, Killeen, TX; No. 26, Kingsville, TX; No. 113, Lampasas, TX; Nos. 8, 16, and 100, Laredo, TX; Nos. 7, and 84, McAllen, TX; No. 4, Mercedes, TX; No. 13, Mission, TX; No. 62, New Braunfels, TX; No. 12, Pharr, TX; No. 20, Port Lavaca, TX; No. 11, Raymondville, TX; No. 24, Refugio, TX; No. 22, Robstown, TX; No. 96, Rockport, TX; Nos. 40, 41, 42, 43, 44, 47, 48, 49, 52, 53, 57, 58, 59, 60, 66, 68, 69, 83, and 90, San Antonio, TX; No. 2, San Benito, TX; No. 63, San Marcos, TX; No. 97, Seguin, TX; No. 29, Taft, TX; No. 56, Taylor, TX; No. 71, Temple, TX; No. 74, Uvalde, TX; Nos. 25, and 28, Victoria, TX; Nos. 50, 54, 64, 70, 76, and 87, Waco, TX; No. 5, Weslaco, TX; No. 91, Wharton, TX; No. 81, Yoakum, TX.

Hoffman's, Inc., apparel store; 200 Union Street, Lynn, MA; 9-2-73.

S. S. Kresge Co., variety-department store: No. 31, Lafayette, IN, 9-9-73; No. 586, Cambridge, OH, 9-2-73; No. 4597, Maple Heights, OH, 9-2-73; No. 4132, Arlington, TX, 9-15-73; No. 4013, Baytown, TX, 9-11-73; No. 704, Dallas, TX, 6-24-73; No. 4139, Dallas, TX, 6-14-73; No. 4302, Galveston, TX, 9-5-73; No. 715, Houston, TX, 6-22-73; No. 782, Houston, TX, 9-17-73; No. 4017, Houston, TX, 6-11-73; No. 4094, Houston, TX, 7-26-73; No. 4299, Houston, TX, 8-3-73; No. 4425, Houston, TX, 6-14-73; No. 780, Midland, TX, 7-12-73; No. 4346, White Settlement, TX, 7-31-73.

McCrory-McLellan-Green Store, variety-department stores, 9-2-73, except as otherwise indicated: No. 1119, Bridgeport, CO (9-6-73); No. 649, Westport, CO (9-19-73); No. 350, Deerfield Beach, FL (9-20-72 to 9-10-73); No. 97, Lakeland, FL (9-19-72 to 9-2-73); No. 171, St. Petersburg, FL (9-20-72 to 9-7-73); No. 244, Winter Haven, FL (9-19-72 to 9-2-73; No. 1130, Albany, GA (9-20-72 to 9-2-73); No. 1211, Atlanta, GA (9-19-72 to 9-2-73); No. 209, Valdosta, GA (9-20-72 to 9-11-73); No. 195, Indianapolis, IN; No. 620, Waterville, ME (9-6-73); No. 631, Boston, MA (9-6-73); No. 664, Lynn, MA (9-17-73); No. 679, Sturgis, MI; No. 542, Albuquerque, NM (9-12-73); No. 565, Albuquerque, NM (9-11-73); No. 706, Albuquerque, NM; No. 485, Hobbs, NM (9-9-73); No. 597, Lawton, OK (9-13-73); No. 1083, Oklahoma City, OK; No. 633, Pryor, OK (9-13-73); No. 249, Arlington, TX (9-13-73); No. 1004, Dallas, TX (9-9-73); No. 241, Galveston, TX; No. 146, Hurst, TX (7-31-73); No. 533, McAllen, TX (9-9-73); No. 1132, San Antonio, TX (9-15-73); No. 216, Wichita Falls, TX.

M. E. Moses Co., Inc., variety-department stores: No. 11, Dallas, TX, 8-31-73; No. 19, Dallas, TX, 8-16-73.

J. J. Newberry Co., variety-department stores: 1-15 North Jefferson Street, Martinsville, IN, 9-2-73; Main Street, Barre, VT, 9-4-73.

Rose's Stores, Inc., variety-department store: No. 22, Smithfield, NC (9-12-72 to 9-2-73).

Skippers Table, Inc., restaurant: 7030 West Seven Mile Road, Detroit, MI, 9-2-73.

Super Duper Food, food stores: 3661 North Sixth Street, Abilene, TX, 8-7-73; 802 Pine Street, Abilene, TX, 8-31-73; 155 Sayles Boulevard, Abilene, TX, 9-14-73; 300 Hailey Street, Sweetwater, TX, 9-2-73.

T. G. & Y. Stores Co., variety-department stores, 9-2-73, except as otherwise indicated: No. 288, Espanola, NM (8-27-73); No. 32, Clinton, OK (8-13-73); No. 65, Enid, OK; No. 57, Muskogee, OK; No. 53, Shawnee, OK; No. 34, Tulsa, OK (8-11-73); No. 75, Tulsa, OK (3-31-73); No. 444, Tulsa, OK (9-10-73); No. 844, Houston, TX (9-11-73); No. 809, Texas City, TX (8-27-73).

Each certificate has been issued upon the representations of the employer which, among other things, were that employment of full-time students at special minimum rates is necessary to prevent curtailment of opportunities for employment, and the hiring of full-time students at special minimum rates will not create a substantial probability of reducing the full-time employment opportunities of persons other than those employed under a certificate. The certificate may be annulled or withdrawn, as indicated therein, in the manner provided in part 528 of title 29 of the Code of Federal Regulations. Any person aggrieved by the issuance of any of these certificates may seek a review or reconsideration thereof within 30 days after publication of this notice in the FEDERAL REGISTER pursuant to the provisions of 29 CFR 519.9.

Signed at Washington, D.C., this 18th day of December 1972.

ROBERT G. GRONEWALD,
Authorized Representative of the Administrator.

[FR Doc.72-22310 Filed 12-27-72;8:48 am]

OFFICE OF EMERGENCY PREPAREDNESS

EHV POWER CIRCUIT BREAKERS AND EHV POWER TRANSFORMERS AND REACTORS

Investigation of Imports; Extension of Time

On August 17, 1972, notice was published in the FEDERAL REGISTER (37 F.R. 16635) that, in accordance with the provisions of section 232 of the Trade Expansion Act of 1962 and OEP Regulation No. 4, the Director of the Office of Emergency Preparedness has ordered an investigation to determine whether or not extra high voltage (EHV) power circuit breakers and EHV power transformers and reactors are being imported into the United States in such quantities or under such circumstances as to threaten to impair the national security.

The time to submit any comment, opinion, or data relative to the investigation was extended to October 23, 1972. The date on which rebuttal to material so submitted was extended to December 7, 1972. The date on which any additional data or comments must be filed has been extended from December 22, 1972, until January 5, 1973.

Dated: December 22, 1972.

G. A. LINCOLN,
Director,
Office of Emergency Preparedness.

[FR Doc.72-22382 Filed 12-27-72;8:52 am]

INTERSTATE COMMERCE COMMISSION

[Notice 144]

ASSIGNMENT OF HEARINGS

DECEMBER 22, 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-F-11023, Dundee Truck Line, Inc.— Control—Modern Motor Express, Inc., MC 109914 Sub 27, Dundee Truck Line, Inc., MC-F-11504, Indianhead Truck Line, Inc.—Control and Merger—Dundee Truck Line, Inc., et al., now assigned January 22, 1973, at Columbus, Ohio, will be held in Room 4, State Office Building, 65 South Front Street.

MC 29910 Sub 117, Arkansas Best Freight System, Inc., now assigned January 31, 1973, at Columbus, Ohio, will be held in Room 228, Federal Building, 85 Marconi Boulevard.

AB 5 Sub 44, George P. Baker, Richard C. Bond, Jervis Langdon, Jr., and Willard Wirtz, trustees of the property of Penn Central Transportation Co., debtor, abandonment between Hebron and Thurston, in Licking and Fairfield Counties, Ohio, now assigned January 29, 1973, at Columbus, Ohio, will be held in Room 2, State Office Building, 65 South Front Street.

AB 5 Sub 41, George P. Baker, Richard C. Bond, Jervis Langdon, Jr., and Willard Wirtz, trustees of the property of Penn Central Transportation Co., debtor, abandonment between Berwick and Spore, in Seneca, Wyandot, and Crawford Counties, Ohio, now assigned February 1, 1973, at Bucyrus, Ohio, will be held in Room 8, U.S. Post Office Building.

MC 107295 Sub 304, Pre-Fab Transit Co., now assigned January 17, 1973, at Washington, D.C., is cancelled and the application is dismissed.

MC 61592 Sub 279, Jenkins Truck Line, Inc., now assigned January 30, 1973, at Chicago, Ill., is cancelled and the application is dismissed.

MC 135524 Subs 6 and 7, G..F. Trucking Co., now assigned January 8, 1973, at Columbus, Ohio, will be held in Room 228, Federal Building, 85 Marconi Boulevard, instead of Court Room 4, State Office Building, 65 South Front Street.

MC 51146 Sub 248, Schneider Transport, Inc., now assigned January 15, 1973, MC 133922 Sub 6, William H. Nagel, doing business as, Nagel Trucking, now assigned January 16, 1973, MC 126039 Sub 18, Morgan Transportation System, Inc., International, now assigned January 17, 1973, MC 123048 Sub 219, Diamond Transportation System, Inc., now assigned January 18, 1973, at Chicago, Ill., is cancelled and reassigned to Milwaukee, Wis., in Room 301 C, City Hall, 200 East Wells Street.

[SEAL] ROBERT L. OSWALD,
Secretary.

[FR Doc.72-22317 Filed 12-27-72;8:46 am]

[Ex Parte 241; Rule 19, Exemption 28]

CENTRAL RAILWAY CO.

Exemption from Mandatory Car Service Rules

It appearing, that there is an emergency movement of military impedimenta from Earle, N.J., to various destinations; that the originating carrier has insufficient system cars of suitable dimensions immediately available for loading with this traffic; that sufficient cars of other ownerships having suitable dimensions are available on the lines of the originating carrier and on its connections; and that compliance with Car Service Rules 1 and 2 would prevent the timely assembly and use of such cars.

It is ordered, That pursuant to the authority vested in me by Car Service Rule 19, the Car Service Division of the Association of American Railroads is authorized to direct the movement to the Central Railway Co., the railroads designated by the Car Service Division are authorized to move to, and the Central Railway Co. is authorized to accept, assemble, and load not to exceed thirty-five (35) empty cars with military impedimenta from Earle, N.J., to various destinations, regardless of the provisions of Car Service Rules 1(b), 2(c), 2(d), or 2(e).

Effective December 15, 1972.

Expires December 22, 1972.

Issued at Washington, D.C., December 14, 1972.

INTERSTATE COMMERCE COMMISSION,

[SEAL] R. D. PFAHLER,
Agent.

[FR Doc.72-22320 Filed 12-27-72;8:46 am]

[Ex Parte 241; Exemption 15, Amdt. 2]

CERTAIN PLAIN BOXCARS

Exemption from Mandatory Car Service Rules

Upon further consideration of Exemption No. 15 issued July 27, 1972 (37 F.R. 15962, August 8, 1972).

It is ordered, That, under authority vested in me by Car Service Rule 19, Exemption No. 15 to the Mandatory Car Service Rules ordered in Ex Parte No. 241, be, and it is hereby, amended to expire June 30, 1973.

This amendment shall become effective December 31, 1972.

Issued at Washington, D.C., December 19, 1972.

INTERSTATE COMMERCE COMMISSION,

[SEAL] R. D. PFAHLER,
Agent.

[FR Doc.72-22322 Filed 12-27-72;8:46 am]

[Ex Parte 241; Rule 19, Exemption 29]

WESTERN MARYLAND RAILWAY CO.

Exemption From Mandatory Car Service Rules

It appearing, that there is an emergency movement of military impedimenta from Culbertson, Pa., to Earle, N.J.; that the originating carrier has insufficient system cars of suitable dimensions immediately available for loading with this traffic; that sufficient cars of other ownerships having suitable dimensions are available on the lines of the originating carrier and on its connections; and that compliance with Car Service Rules 1 and 2 would prevent the timely assembly and use of such cars.

It is ordered, That pursuant to the authority vested in me by Car Service Rule 19, the Car Service Division of the Association of American Railroads is authorized to direct the movement to the Western Maryland Railway Co., the railroads designated by the Car Service Division are authorized to move to, and the Western Maryland Railway Co. is authorized to accept, assemble, and load not to exceed fifty (50) empty cars with military impedimenta from Culbertson, Pa., to Earle, N.J., regardless of the provisions of Car Service Rules 1(b), 2(c), 2(d), or 2(e).

Effective December 19, 1972.

Expires January 5, 1973.

Issued at Washington, D.C., December 19, 1972.

INTERSTATE COMMERCE COMMISSION,

[SEAL] R. D. PFAHLER,
Agent.

[FR Doc.72-22321 Filed 12-27-72;8:46 am]

FOURTH SECTION APPLICATION FOR RELIEF

DECEMBER 22, 1972.

Protests to the granting of an application must be prepared in accordance with Rule 1100.40 of the general rules of practice (49 CFR 1100.40) and filed within 15 days from the date of publication of this notice in the FEDERAL REGISTER.

LONG AND SHORT HAUL

FSA No. 42591—*Woodpulp and woodpulp screenings from Cornwall, Ontario, Canada.* Filed by Traffic Executive Association-Eastern Railroads, Agent (E.R. No. 3029), for and on behalf of Canadian

National Railways (Lines Thunder Bay, Ontario, Armstrong, Ontario, and east thereof), and other rail carriers named in the application. Rate on woodpulp and woodpulp screenings, in carloads, as described in the application, from Cornwall, Ontario, Canada to Rochester, N.Y.

Grounds for relief—Motor competition.

Tariff—Supplement 8 to Canadian National Railways tariff ICC E–552. Rate is published to become effective January 29, 1973.

By the Commission.

[SEAL] ROBERT L. OSWALD, *Secretary.*

[FR Doc.72–22327 Filed 12–27–72;8:46 am]

FOURTH SECTION APPLICATION FOR RELIEF

DECEMBER 22, 1972.

Protests to the granting of an application must be prepared in accordance with Rule 1100.40 of the general rules of practice (49 CFR 1100.40) and filed within 15 days from the date of publication of this notice in the FEDERAL REGISTER.

LONG-AND-SHORT HAUL FOR RELIEF RELIEF

FSA No. 42593—*General commodities between ports in Hong Kong, Korea, and Taiwan and rail stations on the U.S. Atlantic and Gulf Seaboard.* Filed by Yamashita-Shinnihon Line (No. 2), for and on behalf of itself and interested rail carriers named in the application. Rates on general commodities, between ports in Hong Kong, Japan, Korea, and Taiwan, on the one hand, and rail stations and water carrier terminals in Charleston, S.C., Elizabeth, N.J., Jacksonville, Fla., Mobile, Ala., Newark, N.J., Newport News, Va., Pensacola, Fla., Portsmouth, Va., and Savannah, Ga.

Grounds for relief—Water competition.

By the Commission.

[SEAL] ROBERT L. OSWALD, *Secretary.*

[FR Doc.72–22323 Filed 12–27–72;8:46 am]

FOURTH SECTION APPLICATION FOR RELIEF

DECEMBER 22, 1972.

Protests to the granting of an application must be prepared in accordance with Rule 1100.40 of the general rules of practice (49 CFR 1100.40) and filed within 15 days from the date of publication of this notice in the FEDERAL REGISTER.

LONG AND SHORT HAUL FOR RELIEF

FSA No. 42592—*Iron or Steel Pipe and Related Articles from Official and WTL Territory to Southwest.* Filed by Southwestern Freight Bureau, Agent (No. B–369), for interested rail carriers. Rates on iron or steel pipe and related articles, in carloads, as described in the application, from stations in Delaware, Illinois, Indiana, Iowa, Kentucky, Maryland, Massachusetts, Michigan, Missouri, New Jersey, New York, Ohio, Pennsylvania, Rhode Island, West Virginia, and Wisconsin, to stations in Arkansas, Louisiana, Missouri, New Mexico, Oklahoma, and Texas, and from Minnequa, Colo., to stations in Louisiana, Oklahoma, and Texas.

Grounds for relief—Rate relationship and carrier competition.

Tariff—Supplement 244 to Southwestern Freight Bureau, Agent, Tariff ICC 4620. Rates are published to become effective January 20, 1973.

By the Commission.

[SEAL] ROBERT L. OSWALD, *Secretary.*

[FR Doc.72–22324 Filed 12–27–72;8:46 am]

[Notice 38]

MOTOR CARRIER ALTERNATE ROUTE DEVIATION NOTICES

DECEMBER 22, 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–111383 (Deviation No. 16), BRASWELL MOTOR FREIGHT LINES, INC., Post Office Box 4447, Dallas, TX 75208, filed December 8, 1972. Carrier's representative: Lawrence A. Winkle, 4645 North Central Expressway, Dallas, TX 75205. Carrier proposes to operate as a *common carrier*, by motor vehicle, of *general commodities*, with certain exceptions, over a deviation route as follows: Between Gadsden, Ala., and Anniston, Ala., over U.S. Highway 431, for operating convenience only. The notice indicates that the carrier is presently authorized to transport the same commodities, over pertinent service routes as follows: From Jackson, Miss., over U.S. Highway 80 to junction U.S. Highway 11, thence over U.S. Highway 11 to Birmingham, Ala., thence over U.S. Highway 78 to Atlanta, Ga., and (2) from Birmingham, Ala., over U.S. Highway 11 to Attala, Ala., thence over U.S. Highway 411 to junction U.S. Highway 41, thence over U.S. Highway 41 to Atlanta, Ga., and return over the same routes.

By the Commission.

[SEAL] ROBERT L. OSWALD, *Secretary.*

[FR Doc.72–22325 Filed 12–27–72;8:46 am]

[Notice 188]

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–73999. By order of November 21, 1972, the Motor Carrier Board approved the transfer to Houdek Motor Service, Inc., St. Charles, Ill., of Certificate No. MC–14101 and MC–14101 (Sub-No. 1) issued to Gable Express Co., a corporation, Cicero, Ill., authorizing the transportation of: General commodities, usual exceptions, and iron and steel articles, between points in the Chicago, Ill., commercial zone as defined by the Commission, and from Burns Harbor, Ind., to points in the Illinois portion of the above-described zone. James R. Madler, attorney, 1255 North Sandburg Terrace, Chicago, IL 60610, Themis Anastos, attorney, 120 West Madison Street, Chicago, IL 60602.

No. MC–FC–74065. By order entered December 6, 1972, the Motor Carrier Board approved the transfer to Riteway Transport, Inc., Phoenix, Ariz., of the operating rights set forth in Certificate No. MC–121338 (Sub-No. 2), issued January 21, 1971, to Padre Freight Lines, Long Beach, Calif., authorizing the transportation of general commodities, except household goods, commodities in bulk, logs, livestock, articles of unusual value, and commodities requiring special equipment, between specified points and places in California. Robert R. Digby, 217 Luhrs

Tower, Phoenix, Ariz. 85003, attorney for applicants.

No. MC–FC–74085. By order of December 8, 1972, the Motor Carrier Board approved the transfer to Todd Van Lines, Inc., Rockville, Md., of the operating rights in Certificate No. MC–31632 issued April 17, 1969, to General Van & Storage, Inc., Alexandria, Va., authorizing the transportation of household goods between Washington, D.C., on the one hand, and, on the other, points in Virginia, West Virginia, Maryland, Delaware, Pennsylvania, New Jersey, and New York. Thomas R. Kingsley, 1819 H Street NW., Washington, DC 20006, attorney for applicants.

[SEAL] ROBERT L. OSWALD, *Secretary.*

[FR Doc.72–22316 Filed 12–27–72;8:46 am]

[Notice 173]

MOTOR CARRIER TEMPORARY AUTHORITY APPLICATIONS

DECEMBER 21, 1972.

The following are notices of filing of applications[1] 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 (6) copies.

A copy of the application is on file, and can be examined at the Office of the Secretary, Interstate Commerce Commission, Washington, D.C., and also in field office to which protests are to be transmitted.

MOTOR CARRIERS OF PROPERTY

No. MC 50493 (Sub-No. 51 TA), filed December 13, 1972. Applicant: P.C.M. TRUCKING, INC., 1063 Main Street, Orefield, PA 18069. Applicant's representative: J. William Cain, Jr., 2001 Massachusetts Avenue NW., Washington, DC 20036. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Animal fed ingredients*, dry, in bulk, from Avoca, Pa., to Dunkirk and Buffalo, N.Y., for 150 days. Supporting shipper: H. Burke Flickinger, By-Products, Inc., Post Office Box 1411, Wilmington, DE 19899. Send protests to: F. W. Doyle, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 1518 Walnut Street, Room 1600, Philadelphia, PA 19102.

No. MC 60186 (Sub-No. 48 TA), filed December 13, 1972. Applicant: NELSON FREIGHTWAYS, INC., 47 East Street, Post Office Box 356, Rockville, CT 06066. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Foodstuffs*, viz: *french fried potatoes, potato products, vegetables, pies, cakes, puddings, turnovers*, frozen; *potato granules, potato flour*, other than frozen, in straight or mixed shipments, from points on the international border between Maine and Canada, to points in Alabama, Florida, Georgia, Kentucky, Mississippi, New York, North Carolina, South Carolina, Tennessee, Virginia, and West Virginia, restricted to traffic originating at Florenceville and Grand Falls, Providence of New Brunswick, Canada, for 180 days. Supporting shipper: McCain Foods Ltd., Florenceville, New Brunswick, Canada. Send protests to: David J. Kiernan, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 135 High Street, Room 324, Hartford, CT 06101.

No. MC 103051 (Sub-No. 263 TA), filed December 12, 1972. Applicant: FLEET TRANSPORT COMPANY, INC., 934 44th Avenue North, Post Office Box 90408, Nashville, TN 37209. Applicant's representative: William G. North (same address as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Vegetable oils, animal fats and blends thereof*, in bulk, in tank vehicles, from Chattanooga, Tenn., to points in West Virginia, for 180 days. Supporting shipper: Swift Edible Oil Co., a division of Swift & Co., 115 West Jackson Boulevard, Chicago, IL 60604. Send protests to: Joe J. Tate, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 803 1808 West End Building, Nashville, Tenn. 37203.

No. MC 106674 (Sub-No. 101 TA), filed December 12, 1972. Applicant: SCHILLI MOTOR LINES, INC., Post Office Box 122, Delphi, IN 26923. Applicant's representative: Thomas R. Schilli (same address as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Building and roofing materials*, except commodities in bulk, from the plantsite of the GAF Corp., Mt. Vernon, Ind., to points in Tennessee, Arkansas, Missouri, Illinois, Kentucky, and Ohio, for 180 days. Supporting shipper: GAF Corp., 32 Main Street, South Bound Brook, NJ 08880. Send protests to: District Supervisor J. H. Gray, Interstate Commerce Commission, Bureau of Operations, 345 West Wayne Street, Room 345, Fort Wayne, IN 46802.

No. MC 107496 (Sub-No. 869 TA), filed December 11, 1972. Applicant: RUAN TRANSPORT CORPORATION, Third and Keosauqua Way, Post Office Box 855 (50304), Des Moines, IA 50309. Applicant's representative: E. Check (same address as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Liquid cupric chloride*, in bulk, in tank vehicles, from Cedar Rapids, Iowa, to Chicago, Ill., for 150 days. Supporting shipper: Southern California Chemical Co., Inc., 111 West Lake, Northlake, IL 60164. Send protests to: Herbert W. Allen, Transportation Specialist, Bureau of Operations, Interstate Commerce Commission, 875 Federal Building, Des Moines, Iowa 50309.

No. MC 115876 (Sub-No. 24 TA), filed December 12, 1972. Applicant: ERWIN HURNER, 2605 South Rivershore Drive, Moorhead, MN 56560. Applicant's representative: Thomas J. Van Osdel, 502 First National Bank Building, Fargo, N. Dak. 58102. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: (1) *Preformed milk and dairy product cartons;* and (2) *related materials and supplies* used in the manufacturing and processing of commodities named in (1) above, from Clinton, Iowa to Moorhead, Minn., for 180 days. Supporting shipper: Fairmont Foods Co., 124 North Eighth Street, Moorhead, MN 56560. Send protests to: J. H. Ambs, District Supervisor, Bureau of Operations, Interstate Commerce Commission, Post Office Box 2340, Fargo, ND 58102.

No. MC 114486 (Sub-No. 27 TA), filed December 12, 1972. Applicant: AUTREY F. JAMES, doing business as F. JAMES TRUCK LINE, 107 Lelia Street, Texarkana, TX 75501. Applicant's representative: Autrey F. James (same address as above). Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Clay pipe*, under contract with W. S. Dickey Clay Manufacturing Co., from Lincoln, Calif., to Lufkin, Tex., for 180 days. NOTE: Carrier does not intend to tack authority. Supporting shipper: W. S. Dickey Clay Manufacturing, Post Office Box 58, Texarkana, TX-AR. Send protests to: District Supervisor E. K. Willis, Jr., Bureau of Operations, Interstate Commerce Commission, 1100 Commerce Street, Room 13C12, Dallas, TX 75202.

No. MC 114533 (Sub-No. 271 TA), filed December 8, 1972. Applicant: BANKERS DISPATCH CORPORATION, 4970 South Archer Avenue, Chicago, IL 60632. Applicant's representative: Stanley Komosa (same address as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Audit media and other business records*, between Mishawaka, Ind., on the one hand, and, on the other, Staughton, Wis., for 180 days. Supporting shipper: Uniroyal, Inc., Mishawaka, Ind. 46544. Send protests to: Robert G. Anderson, District Supervisor, Bureau of Operations, Interstate Commerce Commission, Everett McKinley Dirksen Building, 219 South Dearborn Street, Room 1086, Chicago, IL 60604.

[1] Except as otherwise specifically noted, each applicant states that there will be no significant effect on the quality of the human environment resulting from approval of its application.

No. MC 117940 (Sub-No. 85 TA), filed December 12, 1972. Applicant: NATIONWIDE CARRIERS, INC., Post Office Box 104, Maple Plain, MN 55359. Applicant's representative: David Rubenstein (same address as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Uncrated clothes dryers*, from New Bedford, Mass., to Phoenix, Ariz., and Los Angeles and San Francisco, Calif., for 180 days. Supporting shipper: International Dryer Corp., New Bedford, Mass. Send protests to: A. N. Spath, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 448 Federal Building and U.S. Courthouse, 110 South Fourth Street, Minneapolis, MN 55401.

No. MC 128375 (Sub-No. 86 TA), filed December 12, 1972. Applicant: CRETE CARRIER CORPORATION, Box 249, 1444 Main, Crete, NE 68333. Applicant's representative: Kenneth Adams (same address as above). Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Such merchandise* as is marketed by home products distributors, from the warehouse, storage facilities, and distribution center of Amway Corp. in the Santa Ana, Calif., commercial zone to points in Arizona, Idaho, Montana, Nevada, Oregon, Utah, Washington, and Wyoming under continuing contract with the Amway Corp., for 180 days. Supporting shipper: Frank W. Quinn, Manager of Transportation, The Amway Corp., 7575 East Fulton Road, Ada, MI 49301. Send protests to: Max H. Johnston, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 320 Federal Building and Courthouse, Lincoln, Nebr. 68508.

No. MC 133796 (Sub-No. 13 TA), filed December 12, 1972. Applicant: GEORGE APPEL, 249 Carverton Road, Trucksville, PA 18708. Applicant's representative: Kenneth R. Davis, 999 Union Street, Taylor, PA 18517. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Plastic granules*, from North Tonawanda, N.Y., to Los Angeles, Calif., for 180 days. Supporting shipper: Flintkote Pipe Products Group, 2101 East Washington Boulevard, Los Angeles, CA 90021. Send protests to: Paul J. Kenworthy, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 309 U.S. Post Office Building, Scranton, Pa. 18503.

No. MC 134477 (Sub-No. 27 TA), filed December 8, 1972. Applicant: SCHANNO TRANSPORTATION, INC., 5 West Mendota Road, West St. Paul, MN 55118. Applicant's representative: Paul Schanno (same address as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Foodstuffs*, from Duluth, Minn., to points in Arkansas, Connecticut, Delaware, Kansas, Louisiana, Maine, Maryland, Massachusetts, Mississippi, Missouri, New Hampshire, New Jersey, New York, Oklahoma, Pennsylvania, Rhode Island, Tennessee, Texas, Vermont, Virginia, West Virginia, and the District of Columbia, for 180 days. Supporting shipper: Jeno's Inc., 525 Lake Avenue South, Duluth, MN 55801. Send protests to: A. N. Spath, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 448 Federal Building, and U.S. Courthouse, 110 South Fourth Street, Minneapolis, MN 55401.

No. MC 135877 (Sub-No. 7 TA), filed December 8, 1972. Applicant: RONALD R. BRADER, doing business as SPECIALIZED TRUCKING SERVICE, 1508 South Fourth Avenue, Yakima, WA 98902. Applicant's representative: Ronald R. Brader (same address as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Shakes, shingles, ridges and other accessorial parts* for installation of roofs, from points in Grays Harbor, Mason, Thurston, Pacific, Wahkiakum, Cowlita, Clark, Lewis, Pierce, King, and Snohomish Counties, Wash., to points in California and to points in Story, Washoe, Ormsby, Lyon, Douglas, and Clark Counties, Nev., for 180 days. Supporting shippers: Wesco Cedar, Inc., Post Office Box 2566, Eugene, OR 97204; International Paper Co., Long-Bell Division, Box 579, Longview, WA 98632. Send protests to: District Supervisor W. J. Huetig, Bureau of Operations, Interstate Commerce Commission, 450 Multnomah Building, 319 Southwest Pine Street, Portland, OR 97204.

No. MC 136228 (Sub-No. 6 TA), filed December 7, 1972. Applicant: LUISI TRUCK LINES, INC., Post Office Box 606, Milton-Freewater, OR 97862. Applicant's representative: Eugene Luisi (same address as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Fresh or frozen meats*, from Wallula, Wash., to Eureka, San Jose, San Leandro, Oakland, Richmond, San Francisco, and Los Angeles, Calif., for 180 days. Supporting shipper: Cudahy Co., Wallula, Wash. 99363. Send protests to: District Supervisor W. J. Huetig, Bureau of Operations, Interstate Commerce Commission, 450 Multnomah Building, 319 Southwest Pine Street, Portland, OR 97204.

No. MC 138183 (Sub-No. 1 TA), filed December 11, 1972. Applicant: CHEROKEE MILLING COMPANY, INC., 447 Cedar Bluff Road, Centre, AL 35960. Applicant's representative: D. Harry Markstein, Room 512, Massey Building, Birmingham, Ala. 35203. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Soybean meal*, in bulk, in hopper-type trailers, from Chattanooga, Tenn., to Tunnel Hill, Ga., for 180 days. Supporting shipper: Conagra, Feed Division, Box 38, Tunnel Hill, GA 30755. Send protest to: Clifford W. White, District Supervisor, Interstate Commerce Commission, Bureau of Operations, Room 814, 2121 Building, Birmingham, Ala. 35203.

MOTOR CARRIERS OF PASSENGERS

No. MC 29890 (Sub-No. 37 TA), filed December 15, 1972. Applicant: ROCKLAND COACHES, INC., 126 North Washington Avenue, Bergenfield, NJ 07621. Applicant's representative: V. A. Rittgers (same address as above). Authority sought to operate as a *common carrier*, by motor vehicle, over regular routes, transporting: *Passengers and their baggage* in the same vehicles with passengers, between Paramus, N.J., and River Edge, N.J., serving no intermediate points; from junction Forest Avenue with Howland Avenue, in Paramus (a service point on applicant's present route), over Forest Avenue to the Bergen Mall Shopping Center adjacent to junction of Forest Avenue with New Jersey Highway 4, thence over New Jersey Highway 4 to junction access road between Kinderkamack Road and New Jersey Highway 4 in River Edge, a service point on applicant's present route; and return over the same route, for 180 days. NOTE: The proposed route would be a diversion between intermediate points on the present route operating between Bergen County, N.J. points, on the one hand, and New York, N.Y., on the other. Its purpose is to enable discharge and pickup of intrastate passengers at Bergen Mall as authorized by the State of New Jersey; as explained in detail in supporting statements attached to this application.

Applicant states it does intend to tack with authority in MC–29890 and Sub 11. Supporting shippers: Board of Transportation, County of Bergen, 29 Linden Street, Hackensack, NJ 07601; State of New Jersey, Department of Transportation, Trenton, N.J. 08625. Send protests to: District Supervisor Thomas W. Hopp, Bureau of Operations, Interstate Commerce Commission, 970 Broad Street, Newark, NJ 07102.

By the Commission.

[SEAL] ROBERT L. OSWALD,
Secretary.

[FR Doc.72-22328 Filed 12-27-72;8:46 am]

MOTOR CARRIER INTRASTATE APPLICATIONS

Notice of Filing

DECEMBER 22, 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.

Texas Docket No. 2627 filed December 4, 1972. Applicant: CENTRAL FREIGHT LINES, INC., 303 South 12th Street, Waco, TX 76703. Applicant's representative: Phillip Robinson, Post Office Box 2207, Austin, TX 78767. Certificate of public convenience and necessity sought to operate a freight service as follows: Transportation of *general commodities*, between Glen Rose, Tex., and the site of the Electric Power Generating Station, Texas Electric Co., as follows: From Glen Rose over U.S. Highway 67 to its intersection with Texas Highway 144, thence over Texas Highway 144 four miles to its intersection with an unnumbered road, thence over unnumbered road 1.5 miles to the named electric station, and return over the same route, serving all intermediate points. Both intrastate and interstate authority sought.

HEARING: Approximately 30 days after publication in the FEDERAL REGISTER unless application is protested, then approximately 90 days after publication in the FEDERAL REGISTER. Requests for procedural information should be addressed to the Texas Railroad Commission, Drawer 12967, Capitol Station, Austin, TX 78711, and should not be directed to the Interstate Commerce Commission.

California Docket No. 53716 filed November 29, 1972. Applicant: J. D. DRAYAGE CO., 1050 Third Street, San Francisco, CA 94107. Applicant's representative: Marquam C. George, 401 South Hartz Avenue, Danville, CA 94526. Certificate of public convenience and necessity sought to operate a freight service as follows: Transportation of *general commodities*, (a) between and including San Jose and Salinas and all points and places on and within 5 miles laterally of U.S. Highway 101. (b) Between and including Salinas and Monterey and all points and places on and within 5 miles laterally of State Highway 68. (c) Between and including Carmel and Santa Cruz and all points and places on and within 5 miles laterally of State Highway 1. (d) Between and including Santa Cruz and Los Gatos and all points and places on and within 5 miles laterally of State Highway 17. (e) Between and including Gilroy and Hollister and all points and places on and within 5 miles laterally of State Highway 152. (l) Between and including San Francisco and Geyserville and all points and places on and within 5 miles laterally of State Highway 101. (g) Between and including Geyersville and Vallejo and all points and places on and within State Highways 128 and 29, within 5 miles laterally. (h) Between and including Vallejo and Sacramento and all points and places on and within 5 miles laterally of Interstate Highway 80, and including a radius of 30 miles from Sacramento. (i) Between and including Sacramento and Merced and all points and places on and within 30 miles laterally of U.S. Highway 99. (j) Between and including Sacramento and Merced and all points and places on and within 5 miles laterally via Interstate Highway 5 and State Highway 140. (k) Between and including Merced and Gilroy and all points and places on and within 5 miles laterally of State Highway 59 and State Highway 152. (l) Between and including Livermore and Manteca and all points and places on and within 5 miles laterally of Interstate Highway 580, Interstate Highway 205, and State Highway 120. (m) Between all points and places listed in paragraphs 1 through 12, inclusive; and between all points and places presently certificated by Decision No. 77942 of your Commission and between all points and places listed in paragraphs 1 through 12 above. For operating convenience only, all roads, streets, and highways connecting the above points and routes. Subject to the restriction that no transportation shall be performed of the following:

(a) Used household gods, personal effects and office, store and institutional furniture, fixtures, and equipment not packed in salesmen's hand sample cases, suitcases, overnight or boston bags, brief cases, hat boxes, valises, traveling bags, trunks, lift vans, barrels, boxes, cartons, crates, cases, baskets, pails, kits, tubs, drums, bags (jute, cotton, burlap or gunny) or bundles (completely wrapped in jute, cotton, burlap, gunny, fibreboard, or straw mating). (b) 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. (c) 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. (d) Commodities requiring the use of special refrigeration or temperature control in specially designed and constructed refrigerator equipment. (e) 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. (f) Commodities when transported in bulk in dump trucks or in hopper-type trucks. (g) Commodities when transported in motor vehicles equipped for mechanical mixing in transit. (h) Logs. (i) Portland or similar cements, in bulk or in packages, when loaded substantially to capacity either alone or in combination with powdered limestone. (j) Trailer coaches and campers, including integral parts and contents when the contents are within the trailer coach or camper. (k) Bank bills, coin or currency, deeds, drafts, jewelry, other than costume or novelty jewelry, notes or valuable papers of any kind; postage stamps or letters and packets of letters with or without postage stamps affixed; precious metals or articles manufactured therefrom; precious stones; revenue stamps, antiques; or other related or unrelated, old, rare, or precious articles of extraordinary value, nor any of such articles as premiums accompanying other articles: (1) Explosives, dangerous articles, and other hazardous commodities as described in Motor Carriers' Explosives and Dangerous Articles Tariff 14, American Trucking Association, Inc., agent, MF-ICC-15. 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 of California, State Building, Civic Center, 455 Golden Gate Avenue, San Francisco, CA 94102, and should not be directed to the Interstate Commerce Commission.

California Docket No. 53742, filed December 11, 1972. Applicant: FREDERICK THOMAS JEWETT, doing business as: MERCURY PARCEL & DRAYAGE SERVICE, 1400 Seventh Street, San Francisco, CA 94107. 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*, subject to exceptions and restrictions notes, as follows: (I) From, to, and between all points and places located in the following areas and along the following routes: (1) U.S. Highway 101 between San Rafael and San Jose, inclusive, and points within 10 miles of said route; (2) State Highway 17 between San Rafael and Los Gatos, inclusive, and points within 5 miles of said route; (3) Interstate Highway 80 between San Francisco and Pinole, inclusive; (4) State Highway 24 between Oakland and junction with State Highway 4, inclusive; (5) Interstate Highway 680 between Walnut Creek and San Jose, inclusive. (II) In performing the service herein authorized, carrier may make use of any and all streets, roads, highways, and bridges necessary or convenient for the performance of said service. (III) Carrier 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 Item No. 5 of Minimum Rate Tariff No. 4-B, (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, live poultry, mules, oxen, pigs, sheep, sheep camp outfits, sows, steers, stags, or swine. (4) Commodities requiring protection from heat by use of ice (either water or solidified carbon dioxide), by mechanical refrigeration, or by release of liquefied gases. (5) Liquids, compressed gases, commodities in semiplasitc form, and

commodities in suspension in liquids in bulk, in tank trucks, tank trailers, tank semi-trailers, or a combination of such highway vehicles. (6) Commodities when transported in bulk in dump trucks or in hopper-type trucks. (7) Commodities when transported in motor vehicles equipped for mechanical mixing in transit. (8) Fresh fruits and vegetables, nuts in the shell and mushrooms, from point of growth or from accumulation points to canneries, packing sheds, pre-cooling plants, wineries, and cold storage plants. (9) Explosives as described in and subject to the regulations of Motor Carriers' Explosives and Dangerous Articles Tariff 11, Cal. P.U.C. 6, American Trucking Associations, Inc., Agent, on the issue date thereof. (10) Articles of extraordinary value as set forth in Rule 3 of Western Classification 78, J. P. Hackler, Tariff Publishing Officer, on the issue date thereof. (11) House trailers, trailers other than house trailers, portable units designed for human occupancy other than trailers, and parts, contents, or supports for such articles when accompanying such equipment. (12) Furniture, as described under that heading in Western Classification 78, J. P. Hackler, Tariff Publishing Officer, on the issue date thereof, and lamp shades or reflectors and lamp standards or electric lamps and shades combined when the furniture or other articles are tendered to the carrier loose (not in packages nor completely wrapped). (13) Garments on hangers. (14) Bales hay, fodder, and straw. (15) Logs, and (16) (numbers referred to are item numbers of National Motor Freight Classification A–9, Cal. P.U.C. No. 5), (a) Napkin paper or toweling, as described in Item 151460. (b) Paper towels, as described in Item 151480. (c) Paper towels, as described in Item 151490. (d) Wrapping paper, as described in Item 151780. (e) Wrapping paper, as described in Item 151800. (f) Coasters, pulpboard, plain, printed or not printed, as described in Item 152520. (g) Paper doilies or place mats, printed or not printed, not laminated nor surface coated, as described in Item 153000. (h) Paper napkins and table cloths, as described in Item 153020. (i) Paper or paperboard bath mats, printed or not printed, as described in Item 153700. (j) Excelsior, paper (shredded paper), as described in Item 153080. Both intrastate and interstate authority sought.

Hearing: Date, time, and place not shown. Requests for procedural information including the time for filing protests concerning the application should be addressed to the California Public Utilities Commission, State of California, 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.72-22315 Filed 12-27-72;8:46 am]

[Rev. S.O. 994; ICC Order 61; Amdt. 6]

NEW YORK, SUSQUEHANNA, AND WESTERN RAILROAD CO.

Rerouting or Diversion of Traffic

Upon further consideration of ICC Order No. 61 (New York, Susquehanna, and Western Railroad Co.) and good cause appearing therefor:

It is ordered, That:

ICC Order No. 61 be, and it is hereby, amended by substituting the following paragraph (g) for paragraph (g) thereof:

(g) *Expiration date.*—This order shall expire at 11:59 p.m., May 31, 1973, unless otherwise modified, changed, or suspended.

It is further ordered, That this amendment shall become effective at 11:59 p.m., December 31, 1972, and that this order shall be served upon the Association of American Railroads, Car Service Division, as agent of all railroads subscribing to the car service and car hire agreement under the terms of that agreement, and upon the American Short Line Railroad Association; and that it be filed with the Director, Office of the Federal Register.

Issued at Washington, D.C., December 15, 1972.

INTERSTATE COMMERCE COMMISSION,
[SEAL] R. D. PFAHLER,
Agent.

[FR Doc.72-22318 Filed 12-27-72;8:46 am]

[Rev. S.O. 994; ICC Order 57, Amdt. 9]

PENN CENTRAL TRANSPORTATION CO.

Rerouting or Diversion of Traffic

Upon further consideration of ICC Order No. 57 (Penn Central Transportation Co., George P. Baker, Richard C. Bond, Jervis Langdon, Jr., and Willard Wirtz, Trustees), and good cause appearing therefor:

It is ordered, That:

ICC Order No. 57 be, and it is hereby, amended by substituting the following paragraph (g) for paragraph (g) thereof:

(g) *Expiration date.*—This order shall expire at 11:59 p.m., June 30, 1973, unless otherwise modified, changed, or suspended.

It is further ordered, That this amendment shall become effective at 11:59 p.m., December 31, 1972, and that this order shall be served upon the Association of American Railroads, Car Service Division, as agent of all railroads subscribing to the car service and car hire agreement under the terms of that agreement, and upon the American Short Line Railroad Association; and that it be filed with the Director, Office of the Federal Register.

Issued at Washington, D.C., December 21, 1972.

INTERSTATE COMMERCE COMMISSION,
[SEAL] R. D. PFAHLER,
Agent.

[FR Doc.72-22319 Filed 12-27-72;8:46 am]

[Notice 105]

MOTOR CARRIER APPLICATIONS AND CERTAIN OTHER PROCEEDINGS

DECEMBER 22, 1972.

The following publications[1] 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 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.

No. MC 106451 (Sub-No. 9) (Republication), filed August 17, 1971, published in the FEDERAL REGISTER issue of September 23, 1971, and republished this issue. Applicant: COOK MOTOR LINES, INC., 408 Wellington Avenue, Akron, OH 44309. Applicant's representative: John P. McMahon, 100 East Broad Street, Columbus, OH 43215. A decision and order of the Commission, Review Board No. 1, dated November 24, 1972, and served December 13, 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, of general commodities (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), between Columbus, Ohio, and Parkersburg, W. Va., (1) from Columbus over U.S. Highway 33 to Athens, Ohio, and thence over U.S. Highway 50 to Parkersburg; and (2) from Columbus over Interstate Highway 70 to its junction with Interstate Highway 77, and thence over Interstate Highway 77 to Parkersburg, and return over the same routes, serving no intermediate points, serving Parkersburg for the purpose of joinder only, and serving points in Braxton County, W. Va., as off-route points in connection with applicant's otherwise authorized regular-route operations, and restricted against the transportation of shipments between Columbus, Ohio, and points in Wood, Jackson, Mason, Cabell, Putnam, Kanawha, Fayette, Ohio, and Marshall Counties, W. Va. 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 publica-

[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.

tion 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 111812 (Sub-No. 474) (Republication), filed April 20, 1972, published in the FEDERAL REGISTER issue of May 18, 1972, and republished this issue. Applicant: MIDWEST COAST TRANSPORT, INC., 405½ East Eighth Street, Post Office Box 1233, Sioux Falls, SD 57101. Applicant's representative: Donald L. Stern, 530 Univac Building, 7100 West Center Road, Omaha, NE 68106. An order of the Commission, Review Board No. 3, dated December 7, 1972, and served December 19, 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 bakery products from Tonawanda, N.Y., to points in Arizona, California, Colorado, Nevada, Oregon, Utah, and Washington, restricted to the transportation of shipments originating at the facilities of Sugar Kake Cone, Inc., at Tonawanda, N.Y.; 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 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 136450 (Republication), filed February 22, 1972, published in the FEDERAL REGISTER issue of March 23, 1972, and republished this issue. Applicant: LARDON LEASING, INC., Post Office Box 59, Addison, IL 60101. Applicant's representative: Russell M. Kofoed, 111 West Washington Street, Suite 1837, Chicago, IL 60602. An order of the Commission, Review Board No. 4, dated December 4, 1972, and served December 12, 1972, finds that operation by applicant in interstate or foreign commerce, as a contract carrier by motor vehicle, over irregular routes, (1) of corrugated boxes from Lombard, Ill., to points in Wisconsin, Iowa, Minnesota, Indiana, Tennessee, Kentucky, Georgia, Ohio, Pennsylvania, Nebraska, Kansas, Missouri, Michigan, South Dakota, and North Dakota, and (2) of raw corrugated paper sheets from points in the States listed in (1) above to Lombard, Ill., under a continuing contract or contracts with Coronet Container Corp., of Lombard, Ill., will be consistent with the public interest and the national transportation policy; 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 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.

No. MC 136900 (Republication), filed July 18, 1972, published in the FEDERAL REGISTER issue of August 10, 1972, and republished this issue. Applicant: INTERMOUNTAIN TRANSIT, INCORPORATED, Spruce Pine, N.C. Applicant's representative: Claude W. Greene, Box 646, Spruce Pine, NC 28777. An order of the Commission, Operating Rights Board, dated November 24, 1972, and served December 12, 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, (1) over regular routes, of passengers and their baggage and express and newspapers in the same vehicle with passengers, (a) between Asheville, N.C., and Bristol, Tenn., from Asheville over U.S. Highway 23 to junction North Carolina Highway 36, thence over North Carolina Highway 36 to junction U.S. Highway 23, thence over U.S. Highway 23 to Johnson City, Tenn., thence over U.S. Highway 321 to Elizabethton, Tenn. (also from Johnson City over Tennessee Highway 67 to Elizabethton); thence over U.S. Highway 19E to junction U.S. Highway 19; thence over U.S. Highway 19 to Bristol, and return over the same route, serving all intermediate points; (b) between Hickory, N.C., and Elizabethton, Tenn., from Hickory over U.S. Highway 321 to Boone, N.C., thence return over U.S. Highway 321 to junction North Carolina Highway 105, thence over North Carolina Highway 105 to junction North Carolina Highway 184, thence over North Carolina Highway 184 to Banner Elk, N.C,. thence over North Carolina Highway 194 to junction U.S. Highway 19E, thence over U.S. Highway 19E to Elizabethton, and return over the same route, serving all intermediate points and, (2) over irregular routes, of passengers and their baggage, in the same vehicle with passengers, in round trip charter operations, beginning and ending at points in Madison, Caldwell, Watagua, and Avery Counties, N.C., and Unicoi and Carter Counties, Tenn., and extending to points in the United States including Alaska but excluding Hawaii; 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.

NOTICE OF FILING OF PETITION

No. MC 102817 (Sub-No. 1) (Notice of Filing of Petition for Modification of, and for Removal of Restriction from Certificate), filed December 13, 1972. Petitioner: PERKINS FURNITURE TRANSPORT, INC., Post Office Box 24335, Indianapolis, IN 46254. Petitioner's representative: Robert W. Loser, 1009 Chamber of Commerce Building, Indianapolis, IN 46204. Petitioner states as herein pertinent, it holds among its other authority, a certificate of public convenience and necessity in No. MC 102817 (Sub-No. 1), issued April 8, 1957, authorizing the transportation of: (a) *New furniture*, as described in Appendix II to the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209, in containers, when moving with uncrated shipments of the same commodities, between points in Indiana, on the one hand, and, on the other, points in Illinois, Kentucky, Michigan, Missouri, Ohio, Pennsylvania, Tennessee, and West Virginia. (a) *New furniture, bed springs, mattresses and store and office fixtures* (uncrated), between points in Indiana, on the one hand, and, on the other, points in Illinois, Kentucky, Michigan, Missouri, Ohio, Pennsylvania, Tennessee, and West Virginia. Petitioner further states that in a desire to give a more complete service to its shippers, a service more responsive to the public needs, it does, therefore, request that its certificate number MC-102817 (Sub-No. 1), be modified and reissued so as to read: "*New furniture, bed springs, mattresses and store and office fixtures*, between points in Indiana, on the one hand, and, on the other, points in Illinois, Kentucky, Michigan, Missouri, Ohio, Pennsylvania, Tennessee, and West Virginia." Petitioner further states to so modify and reissue the aforesaid authority, a complete service may be rendered to the shipping public without measurably increasing the competitive situation as it now exists. The certificate would eliminate restrictive language such as "in containers, when moving with uncrated shipments of the same commodities," and the restrictive language "uncrated." Any interested person or persons desiring to participate and to be heard in the matter may file an original and six copies of his written representations, views or arguments in support of or against the petition within 30 days from the date of publication in the FEDERAL REGISTER.

APPLICATIONS UNDER SECTIONS 5(a) AND 210a(b)
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-11721. (Correction) (A. RICHNER, INC., doing business as RICHNER, INC. — PURCHASE — (1) DON WARD, INC., AND (2) BOYD E. RICHNER, INC. Published in the November 29, 1972, issue of the FEDERAL REGISTER on page 25273. Prior notice should have included, (1) from Garfield, Utah, to Naturita and Durango, Colo., from Garfield, Utah, to Uravan, Colo., from Garfield, Utah, to points in San Juan County, N. Mex., from Thompson, Utah, to Durango, Naturita, and Uravan, Colo., and Shiprock, N. Mex., from Rico, Colo., to Shiprock, N. Mex.; *cement admixes*, in bulk and in bags, from points in Santa Barbara County, Calif., to points in San Juan County, Utah, Apache and Navajo Counties, Ariz., San Juan and Rio Arriba Counties, N. Mex., and Montezuma, La Plata, Archuleta, and Dolores Counties, Colo.; *Gypsum board* and *gypsum plaster* (other than point and joint cement compound), restricted to a prior movement by railroad, from Albuquerque, N. Mex., to points in San Juan County, Utah, Apache and Navajo Counties, Ariz., San Juan and Rio Arriba Counties, N. Mex., and Montezuma, La Plata, Archuleta, and Dolores Counties, Colo.; *pumice block*, from Albuquerque, N. Mex., to points in San Juan County, Utah, Apache and Navajo Counties, Ariz., and Montezuma, La Plata, Archuleta, and Dolores Counties, Colo.; *clay products*, from Denver and Pueblo, Colo., to points in San Juan County, Utah, Apache and Navajo Counties, Ariz., and San Juan and Rio Arriba Counties, N. Mex., from Albuquerque, N. Mex., to points in San Juan County, Utah, Apache and Navajo Counties, Ariz., and Montezuma, La Plata, Archuleta, and Dolores Counties, Colo.; *cement*, in containers, from Portland, Colo., to points in San Juan County, N. Mex., and certain specified points in Arizona; *pumice products, concrete products, and clay products*, from points in Bernalillo County, N. Mex., to certain specified counties in Colorado and Arizona.

No. MC-F-11748. Authority sought for control by COASTAL INDUSTRIES, INC., 215 East Waterloo Road, Akron, OH 44319, of P. B. MUTRIE MOTOR TRANSPORTATION, INC., Calvary Street, Waltham, Mass. 02154. Applicants' attorneys: Homer S. Carpenter, 618 Perpetual Building, 1111 E Street NW., Washington, DC 20004, Harry C. Ames, Jr., 666 11th Street NW., Washington, DC 20001, and Carl L. Steiner, 39 South La Salle Street, Chicago, IL 60603. Operating rights sought to be controlled: *General commodities*, with certain specified exceptions, and numerous other specified commodities, as a common carrier, over regular and irregular routes, from, to, and between specified points in the States of Massachusetts, Rhode Island, New York, New Hampshire, Connecticut, Maine, New Jersey, Vermont, Pennsylvania, Delaware, Illinois, Indiana, Kentucky, Maryland, Michigan, Ohio, West Virginia, California, District of Columbia, South Carolina, North Carolina, Wisconsin, Virginia, Georgia, Alabama, Tennessee, Minnesota, Missouri, Arkansas, Florida, Louisiana, Nebraska, Mississippi, and Texas, with certain restrictions, as more specifically described in Docket No. MC-31600 and Sub-numbers thereunder. This notice does not purport to be a complete description of all of the operating rights of the carrier involved. The foregoing summary is believed to be sufficient for purposes of public notice regarding the nature and extent of this carrier's operating rights, without stating, in full, the entirety, thereof. COASTAL INDUSTRIES, INC., holds no authority from this Commission. However it is affiliated with COASTAL TANK LINES, No. MC-102616, which is authorized to operate as a *common carrier* in all of the States in the United States (except Alaska and Hawaii), and F. J. EGNER & SON, INC., No. MC-119829, which is authorized to operate as a *common carrier* in Ohio, Michigan, Indiana, Illinois, Pennsylvania, West Virginia, Kentucky, Wisconsin, Iowa, Missouri, Minnesota, California, Georgia, Massachusetts, New Jersey, New York, North Carolina, Oklahoma, Rhode Island, Tennessee, and Virginia. Application has been filed for temporary authority under section 210a(b).

No. MC-F-11750. Authority sought for purchase by MISSISSIPPI FREIGHT LINES, INC., a Tennessee corporation, 1720 Central Avenue, Memphis, TN 38104, of the operating rights and property of MISSISSIPPI FREIGHT LINES, INC., a Mississippi corporation, 210 Beatty Street, Jackson, MS 39204, and for acquisition by MR. AND MRS. F. H. BERGTHOLDT, both of 1720 Central Avenue, Memphis, TN 38104, of control of such rights and property through the purchase. Applicants' attorney: A. Alvis Layne, 915 Pennsylvania Building, Washington, D.C. 20004. Operating rights sought to be transferred: Under a certificate of registration, in Docket No. MC-121427 Sub-No. 1, covering the transportation of general commodities, as a common carrier, in interstate commerce, within the State of Mississippi; and *general commodities*, excepting among others, classes A and B explosives, household goods, and commodities in bulk, as a *common carrier* over regular routes, between Forest and Union, Miss., between Carthage and Meridian, Miss., serving all intermediate points, with restriction; *general commodities*, excepting among others, classes A and B explosives, commodities in bulk, but not excepting household goods, between Laurel and Waynesboro, Miss., between Meridian and Waynesboro, Miss., serving all intermediate points, with restriction, between Meridian and Laurel, Miss., serving all intermediate points; *general commodities*, excepting among others, classes A and B explosives, commodities in bulk, but not excepting household goods, over irregular routes, between Louisville and Houston, Miss., between Ackerman and Eupora, Miss., between Eupora and Columbus, Miss., serving all intermediate points, between Columbus and Aberdeen, Miss., serving no intermediate points, but serving only the plantsite of Conoco Plastics at Aberdeen, Miss., between Kosciusko and Starkville, Miss., between Louisville and Starkville, Miss., between Meridian and Columbus, Miss., serving all intermediate points. Vendee holds no authority from this Commission. However it is affiliated with T. R. SHUMPERT, doing business as SHUMPERT TRUCK LINE, Docket No. MC-603, which is authorized to operate as a *common carrier* in Tennessee, Mississippi, and Alabama, and DUNBAR TRANSFER & STORAGE COMPANY, INC., Docket No. MC-6143, which is authorized to operate as a *common carrier* in Arkansas and Tennessee. Application has been filed for temporary authority under section 210a(b).

No. MC-F-11751. Authority sought for purchase by BERMAN'S MOTOR EXPRESS, INC., Post Office Box 1566, Binghamton, NY 13902, of the operating rights of BATH LIGHTNING EXPRESS, INC. (Internal Revenue Service successor-in-interest), 41 State Street, Rochester, NY 14614, and for acquisition by JACOB BERMAN, Post Office Box 1566, Binghamton, NY 13902, SAMUEL BERMAN and BENJAMIN BERMAN, both of 337 Mystic Avenue, Medford, MA 02178, of control of such rights through the purchase. Applicants' attorney: Martin Werner, 2 West 45th Street, New York, NY 10036. Operating rights sought to be transferred: *General commodities*, excepting among others, classes A and B explosives, household goods, and commodities in bulk, as a *common carrier* over regular routes, between Rochester and Hammondsport, N.Y., serving all intermediate points, and the off-route points of Atlanta, Candice Corners, Haskinville, Perkinsville, Prattsburg, Pulteney, and Wheeler, N.Y.; *general commodities*, excepting among others, classes A and B explosives, household goods and commodities in bulk, over irregular routes, from Rochester, N.Y., to certain specified counties in New York. Vendee is authorized to operate as a *common carrier* in New York, Massachusetts, Pennsylvania, Rhode Island, Maine, New Hampshire, Vermont, and Connecticut. Application has been filed for temporary authority under section 210a(b).

No. MC-F-11752. Authority sought for purchase by CHURCHILL TRUCK LINES, INC., Highway 36 West, Chillicothe, Mo. 64601, of the operating rights of MEYERS MOTOR TRANSPORTATION CO., 2040 West 43rd Street, Chi-

cago, IL 60609, and for acquisition by KENNETH CHURCHILL, GEORGE CHURCHILL, PAUL CHURCHILL, also of Chillicothe, Mo. 64601, and HERBERT CHURCHILL, 3110 Nicholson, Kansas City, Mo., of control of such rights through the purchase. Applicants' attorney: Carl L. Steiner, 39 South La Salle Street, Chicago, IL 60603. Operating rights sought to be transferred: Under a certificate of registration, in Docket No. MC-121328 (Sub-No. 1), covering the transportation of general commodities and property as a common carrier, in interstate commerce, within the State of Illinois. Vendee is authorized to operate as a *common carrier* in Kansas, Missouri, Illinois, and Iowa. Application has been filed for temporary authority under section 210a(b).

NOTE: MC-10343 (Sub-No. 23), is a directly related matter.

By the Commission.

[SEAL] ROBERT L. OSWALD, *Secretary.*

[FR Doc.72-22326 Filed 12-27-72;8:46 am]

[Notice 106]

MOTOR CARRIER, BROKER, WATER CARRIER, AND FREIGHT FORWARDER APPLICATIONS

DECEMBER 22, 1972.

The following applications (except as otherwise specifically noted, each applicant (on applications filed after March 27, 1972) states that there will be no significant effect on the quality of the human environment resulting from approval of its application), are governed by Special Rule 1100.247[1] of the Commission's general rules of practice (49 CFR, as amended), published in the FEDERAL REGISTER issue of April 20, 1966, effective May 20, 1966. These rules provide, among other things, that a protest to the granting of an application must be filed with the Commission within 30 days after date of notice of filing of the application is published in the FEDERAL REGISTER. Failure seasonably to file a protest will be construed as a waiver of opposition and participation in the proceeding. A protest under these rules should comply with section 247(d)(3) of the rules of practice which requires that it set forth specifically the grounds upon which it is made, contain a detailed statement of protestant's interest in the proceeding (including a copy of the specific portions of its authority which protestant believes to be in conflict with that sought in the application, and describing in detail the method—whether by joinder, interline, or other means—by which protestant would use such authority to provide all or part of the service proposed), and shall specify with particularity the facts, matters, and things relied upon, but shall not include issues or allegations phrased generally. Protests not in reasonable compliance with the requirements of the rules may be rejected. The original and one (1) copy of the protest shall be filed with the Commission, and a copy shall be served concurrently upon applicant's representative, or applicant if no representative is named. If the protest includes a request for oral hearing, such requests shall meet the requirements of section 247(d)(4) of the Special Rules, and shall include the certification required therein.

Section 247(f) of the Commission's rules of practice further provides that each applicant shall, if protests to its application have been filed, and within 60 days of the date of this publication, notify the Commission in writing (1) that it is ready to proceed and prosecute the application, or (2) that it wishes to withdraw the application, failure in which the application will be dismissed by the Commission.

Further processing steps (whether modified procedure, oral hearing, or other procedures) will be determined generally in accordance with the Commission's general policy statement concerning motor carrier licensing procedures, published in the FEDERAL REGISTER issue of May 3, 1966. This assignment will be by Commission order which will be served on each party of record. Broadening amendments will not be accepted after the date of this publication except for good cause shown, and restrictive amendments will not be entertained following publication in the FEDERAL REGISTER of a notice that the proceeding has been assigned for oral hearing.

No. MC 344 (Sub-No. 2), filed November 20, 1972. Applicant: RED OAK TRANSFER AND STORAGE CO., INC., 506 Market Street, Red Oak, IA 51566. Applicant's representative: Philip C. Armknecht, 510 Fourth Street, Red Oak, IA 51566. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *General commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, 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 operations via Omaha, Nebr. NOTE: If a hearing is deemed necessary, applicant requests it be held at Omaha, Nebr.

No. MC 730 (Sub-No. 342), filed November 13, 1972. Applicant: PACIFIC INTERMOUNTAIN EXPRESS CO., a corporation, 1417 Clay Street, Post Office Box 958, Oakland, CA 94604. Applicant's representative: Earl J. Brooks (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over regular routes, transporting: *General commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment): (1) Between Louisville, Ky., and St. Paul, Minn.: from Louisville over Interstate Highway 65 (also U.S. Highway 31) to Indianapolis, Ind., thence over Interstate Highway 65 (also U.S. Highway 52 to junction U.S. Highway 41, thence over U.S. Highway 41) to Chicago, Ill., thence over Interstate Highway 90 (also U.S. Highway 12) to Madison, Wis., thence over Interstate Highway 94 (also U.S. Highway 12) to St. Paul, and return over the same route. Applicant requests joinder of routes at junction Interstate Highway 65 and Interstate Highway 70; at junction Interstate Highway 65 and Interstate Highway 90; and at junction Interstate Highway 90 and U.S. Highway 18. (2) Between Danville, Ill., and St. Paul, Minn.: from Danville over Illinois Highway 1 to Chicago, Ill. (also from Danville over Illinois Highway 1 to junction Illinois Highway 17, thence over Illinois Highway 17 to Kankakee, Ill., thence over Interstate Highway 57 to Chicago), thence from Chicago to St. Paul as specified in Route (1) above, and return over the same routes. Applicant requests joinder of routes at Danville, Ill., at junction Illinois Highway 1 and U.S. Highway 20; and at junction Interstate Highway 57 and Interstate Highway 80.

(3) Between Danville, Ill. and St. Paul, Minn.: from Danville over Interstate Highway 74 (also U.S. Highway 150) to Bloomington, Ill., thence over U.S. Highway 51 to Interstate 90 at or near South Beloit, Ill., thence over Interstate Highway 90 (also U.S. Highway 51) to Madison, Wis., thence from Chicago to St. Paul as specified in Route (1) above, and return over the same route. Applicant requests joinder of routes at junction Interstate Highway 74 and Interstate Highway 55; the junction of U.S. Highway 51 and U.S. Highway 30; the junction of U.S. Highway 51 and Illinois Highway 38 (formerly U.S. Highway 30 Alternate); the junction of U.S. Highway 51 and Interstate Highway 90; and at the junction of U.S. Highway 51 and U.S. Highway 12. (4) Between Chicago, Ill. and St. Paul, Minn.: from Chicago over Interstate Highway 90 to junction Interstate Highway 94, thence over Interstate Highway 94 to St. Paul, and return over the same route. The operations in (1), (2), (3), and (4) above are as alternate routes for operating convenience only, serving no intermediate points. Restriction: Operations over Route (4) above is restricted against the transportation of traffic originating at points in the Chicago, Ill. commercial zone and destined to points in the Minneapolis-St. Paul, Minn. commercial zone; also against transportation of shipments originating at points in the Minneapolis-St. Paul, Minn. commercial zone and destined to points in the Chicago, Ill. commercial zone. NOTE: Common control may be involved. Applicant presently holds alternate route authority in No. MC 730 (Sub-No. 306) which duplicates, in part, the authority sought above, but is restricted to transportation between

[1] Copies of Special Rule 247 (as amended) can be obtained by writing to the Secretary, Interstate Commerce Commission, Washington, D.C. 20423.

Akron, Ohio and St. Paul, Minn.; also applicant presently holds alternate route authority in No. MC 730 (Sub-No. 276) which duplicates, in part, the authority sought above between Danville, Ill. and St. Paul, Minn. by way of Bloomington, Ill. If a hearing is deemed necessary, applicant requests it be held at San Francisco, Calif., or Chicago, Ill.

No. MC 2392 (Sub-No. 86), filed November 16, 1972. Applicant: WHEELER TRANSPORT SERVICE INC., 7722 F Street, Post Office Box 14248, West Omaha Station, Omaha, NE 68114. Applicant's representative: Leonard A. Jaskiewicz, 1730 M Street NW., Washington, DC 20036. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Fertilizer, fertilizer materials, and ammonium nitrate*, in bags or bulk, from the warehouse site of Farmland Industries, Inc., located at or near Hastings, Nebr., to points in Colorado, Kansas, South Dakota, 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 Omaha, Nebr., or Kansas City, Mo.

No. MC 11220 (Sub-No. 128), filed November 9, 1972. Applicant: GORDONS TRANSPORTS, INC., 185 West McLemore Avenue, Memphis, TN 38101. 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 regular routes, transporting: *General commodities* (except automobiles set up on wheels, dangerous explosives, household goods as defined in Practices of Motor Common Carriers of Household Goods, 17 MCC 467, commodities in bulk, and those requiring special equipment), serving the plantsite and warehouse facilities of the Pulvair Corp., located in Shelby County, Tenn., as an off-route point in connection with carrier's regular route operations from and to Memphis, Tenn. NOTE: Common control may be involved. If a hearing is deemed necessary, applicant requests it be held at Memphis, Tenn.

No. MC 11220 (Sub-No. 129), filed November 24, 1972. Applicant: GORDONS TRANSPORTS, INC., 185 West McLemore Avenue, Post Office Box 59, Memphis, TN 38101. Applicant's representative: W. F. Goodwin (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, commodities in bulk, commodities requiring special equipment and those injurious or contaminating to other lading), between Decatur, Ala., and Chattanooga, Tenn., from Decatur over alternate U.S. Highway 72 to junction with U.S. Highway 72 at Huntsville, Ala., thence over U.S. Highway 72 to junction with Interstate Highway 24 near South Pittsburg, Tenn., thence over Interstate Highway 24 to Chattanooga, Tenn., and return over the same route, serving intermediate and off-route points located within 25 miles of Decatur, Ala. NOTE: Applicant states that under a certificate in No. MC 11220, Sub 67, issued July 11, 1962, it is authorized to transport the same commodities named in this application over an irregular route as follows: Between Decatur, Ala., and points within 25 miles thereof, on the one hand, and, on the other, Chattanooga, Tenn. In this application applicant is seeking to convert the above-described irregular route authority to regular route authority. No duplication of authority is sought and in the event this application is granted, applicant is agreeable to the cancellation of the aforementioned irregular route authority. Applicant further states it seeks no authority to serve any point or place it cannot now serve. If a hearing is deemed necessary, applicant requests it be held at Memphis or Nashville, Tenn., or Washington, D.C.

No. MC 22278 (Sub-No. 42), filed November 24, 1972. Applicant: TAKIN BROS. FREIGHT LINE, 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: *Iron and steel sheets and coils*, from Portage, Ind., to Rock Island, Ill., points in Iowa, and those points in Nebraska on and east of U.S. Highway 77. 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 25798 (Sub-No. 234), filed October 10, 1972. Applicant: CLAY HYDER TRUCKING LINES, INC., 502 East Bridgers Avenue, Post Office Box 1186, Auburndale, FL 33823. Applicant's representative: Tony G. Russell (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Frozen potatoes, frozen vegetables, and dehydrated potatoes*, from Hart, Holland, and Lake Odessa, Mich., to points in Alabama, Florida, Georgia, Illinois, Maryland, New York, North Carolina, Ohio, South Carolina, Tennessee, Virginia, West Virginia, and the District of Columbia (except frozen potatoes and frozen vegetables to points in North Carolina and South Carolina). NOTE: Common control and dual operations may be involved. If a hearing is deemed necessary, applicant requets it be held at Detroit, Mich.

No. MC 29938 (Sub-No. 7), filed November 21, 1972. Applicant: WRIGHT TRUCKING, INC., 16 Main Street, Lowell, MA 01853. Applicant's representative: Francis E. Barrett, Jr., 10 Industrial Park Road, Hingham, MA 02043. Authority sought to operate as a *common carrier*, by motor vehicle, over regular routes, transporting: *General commodities* (except those of unusual value, high explosives, household goods as defined by the Commission, commodities in bulk, commodities requiring special equipment, and those injurious or contaminating to other lading), serving Merrimack, N.H., as an off-route point in connection with carrier's authorized regular-route operations to and from Lowell, Mass., restricted to traffic originating or destined to the plantsite of Nashua Corp. NOTE: Common control may be involved. If a hearing is deemed necessary, applicant requests it be held at Boston, Mass.

No. MC 30837 (Sub-No. 457), filed November 16, 1972. Applicant: KENOSHA AUTO TRANSPORT CORPORATION, 4200 39th Avenue, Kenosha, WI 53140. Applicant's representative: Paul F. Sullivan, 711 Washington Building, Washington, D.C. 20005. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Motor homes*, in driveaway service, between points in Attala County, Miss., on the one hand, and, on the other, 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 Washington, D.C.

No. MC 31389 (Sub-No. 159), filed November 20, 1972. Applicant: McLEAN TRUCKING COMPANY, a corporation, 617 Waughtown Street (Post Office Box 213), Winston-Salem, NC 27102. Applicant's representative: Francis W. McInerny, 1000 16th Street NW., Washington, DC 20036. Authority sought to operate as a *common carrier*, by motor vehicle, over regular routes, transporting: *Carbon black*, except in bulk, serving the plantsite of Cities Service Co., Columbian Division, at or near Carboco, La., as an off-route point in connection with carrier's regular-route operations to and from Alexandria, La. NOTE: If a hearing is deemed necessary, applicant requests it be held at New Orleans, La., or Washington, D.C.

No. MC 36629 (Sub-No. 3), filed November 20, 1972. Applicant: STEINWAY TRUCKING, INC., 41-06 19th Avenue, Astoria, NY. Applicant's representative: Arthur J. Piken, 1 Lefrak City Plaza, Flushing, NY 11368. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Building glass*, from the piers and wharves in the New York, N.Y., commercial zone, as defined by the Commission in the Fifth Supplemental Report in Commercial Zones and Terminal Areas, 53 MCC 451, within which local operations may be conducted under the exempt provisions provided by section 203 (b)(8) of the act (exempt zone), to points in Connecticut, New Jersey, Massachusetts, Rhode Island, that part of Pennsylvania on and east of U.S. Highway 15, and that part of New York within 100 miles of New York, N.Y., under contract with Seaply Glass Corp., Daniel DeGorter, Inc., John DeGorter,

Inc., Amworth Industries Corp., Merchants Glass Dist., Inc., Remington Aluminum Window Corp., Sentinel Enterprises, Inc., and Bienenfeld Industries, Inc. NOTE: Applicant states it presently holds authority for the same transportation from New York, N.Y., as origin to the same destination territory, and does not seek duplicating authority by this application. If a hearing is deemed necessary, applicant requests it be held at New York, N.Y.

No. MC 41432 (Sub-No. 128), filed November 20, 1972. Applicant: EAST TEXAS MOTOR FREIGHT LINES, INC., 2355 Stemmons Freeway, Post Office Box 10125, Dallas, TX 75207. Applicant's representative: W. P. Furrh (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 plantsite and warehouse facilities of Goodyear Tire and Rubber Co., located at or near Silsbee, Tex., as an off-route point in connection with applicant's authorized regular-route operations to and from Beaumont, Tex. NOTE: If a hearing is deemed necessary, applicant requests it be held at Dallas, Tex.

No. MC 47149 (Sub-No. 15), filed November 22, 1972. Applicant: C. D. AMBROSIA TRUCKING CO., a corporation, Rural Delivery 1, Edinburg, PA 16116. Applicant's representative: William J. Lavelle, 2310 Grant Building, Pittsburgh, Pa. 15219. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Coal* (1) from the facilities of the Ambrosia Coal and Construction Co., in Allegheny County, Pa., to points in Cuyahoga, Mahoning, Trumbull, Summit, and Lake Counties, Ohio; and (2) from the facilities of the Ambrosia Coal and Construction Co., in Lawrence County, Pa., to points in Cuyahoga, Summit, and Lake Counties, Ohio. NOTE: Applicant states that tacking could be made in Lawrence County, Pa., to serve points in Beaver, Crawford, Lawrence, and Mercer Counties, Pa. However, tacking is not contemplated. If a hearing is deemed necessary, applicant requests it be held at Pittsburgh, Pa.

No. MC 51004 (Sub-No. 4), filed November 14, 1972. Applicant: PAUL H. LISKEY, R.F.D. No. 1, Kearneysville, W. Va. 25430. Applicant's representative: Charles E. Creager, Suite 523, 816 Easley Street, Silver Spring, MD 20910. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Building materials* (except brick and commodities in bulk), *lumber and plywood* from Baltimore, and Pocomoke City, Md., and the District of Columbia, to points in Berkeley, Morgan, and Jefferson Counties, W. Va. and (2) *lumber and plywood* from points in Berkeley County, W. Va., to points in Maryland, the District of Columbia, and Virginia. NOTE: Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Washington, D.C.

No. MC 52110 (Sub-No. 131), filed November 27, 1972. Applicant: BRADY MOTOR FRATE, INC., 2150 Grand Avenue, Des Moines, IA 50312. Applicant's representative: Cecil L. Goettsch, 11th Floor, Des Moines Building, Des Moines, Iowa 50309. 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, bullion, household goods as defined by the Commission, commodities in bulk and those requiring special equipment, to or from Underwood, Iowa as an off-route point in connection with carrier's present regular routes to or from Omaha, Nebr. NOTE: If a hearing is deemed necessary, applicant requests it be held at Omaha, Nebr., or Washington, D.C.

No. MC 52460 (Sub-No. 116), filed November 27, 1972. Applicant: HUGH BREEDING, INC., Post Office Box 9515, Tulsa, OK 74107. Applicant's representative: Steve B. McCommas (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Fertilizer, fertilizer materials, and fertilizer compounds*, not to exceed 5 percent herbicide admixed, in bags or packages, from Chanute, Kans., to points in Arkansas, Missouri, and Oklahoma, and (2) *liquid caustic soda* in tank vehicles, from Tulsa, Okla., to points in Arkansas. 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., Little Rock, Ark., or Kansas City, Mo.

No. MC 52657 (Sub-No. 694), filed November 21, 1972. Applicant: ARCO AUTO CARRIERS, INC., 2140 West 79th Street, Chicago, IL 60620. Applicant's representative: A. J. Bieberstein, 121 West Doty Street, Madison, WI 53703. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Motor vehicles*, except trailers, in secondary movements in truckaway and driveaway service, from Kansas City, Mo., and points within 20 miles thereof, to points in Missouri and Kansas; (2) *motor vehicles*, except trailers, in secondary movements in truckaway service, (a) from Pitcairn, Pa., and points within 20 miles thereof, to points in Maryland, Ohio, Pennsylvania, and West Virginia; and (b) from Weehawken, N.J., and points within 20 miles thereof, to points in Connecticut, New Jersey, New York, and Rhode Island; and (3) *motor vehicles*, except trailers, in secondary movements in truckaway and driveaway service, from Earnest, Pa., and points within 20 miles thereto, to points in Delaware, Connecticut, Maryland, New Jersey, New York, Pennsylvania, and the District of Columbia, restricted to the transportation of vehicles which have had a prior movement from plantsite facilities of Jeep Corp., a subsidiary of American Motors Corp. at Toledo, 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 Washington, D.C., or Detroit, Mich.

No. MC 53269 (Sub-No. 4), filed November 14, 1972. Applicant: EDITH R. ALLEN, doing business as S. P. RUTHERFORD TRANSFER AND STORAGE, Post Office Box 209, Bristol, TN 37620. Applicant's representative: Walter Harwood, 1822 Parkway Towers, Nashville, Tenn. 37219. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *General commodities* (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 points in Tennessee on and east of U.S. Highway 25–E and Bristol, Va., and (2) between Bristol, Va., on the one hand, and, on the other hand, points in Virginia on and west of the following route: From the Virginia-West Virginia State line, over U.S. Highway 460 to its junction with Virginia Highway 8, thence over Virginia Highway 8 to the Virginia-North Carolina State line; and points in North Carolina on and west of the following route: From the Virginia-North Carolina State line over North Carolina Highway 16 to its junction with U.S. Highway 221, thence over U.S. Highway 221 to its junction with U.S. Highway 421, thence over U.S. Highway 421 to Boone, N.C., thence over U.S. Highway 321 to its junction with U.S. Highway 70, thence over U.S. Highway 70 to Morganton, thence over U.S. Highway 64 to its junction with U.S. Highway 221, thence over U.S. Highway 221 to the North Carolina-South Carolina State line. Restriction: Restricted to traffic having an immediate prior or subsequent movement via rail. NOTE: Applicant proposes to tack the two territorial grants sought in this proceeding with each other and, hence, applicant has no need to tack with other presently held authority. Common control may be involved. If a hearing is deemed necessary, applicant requests it be held at Bristol, Va.-Tenn.; Knoxville or Nashville, Tenn.

No. MC 61825 (Sub-No. 57), filed November 20, 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: *New furniture and furniture parts* between points in Smyth County, Va., on the one hand, and, on the other, points in the United States (except Alaska and Hawaii), and *materials, equipment, and supplies* used in the manufacture, packaging, and dis-

tribution of new furniture and furniture parts, from points in the United States (except Alaska and Hawaii) to points in Smyth County, Va. 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 is sought. If a hearing is deemed necessary, applicant requests it be held at Washington, D.C.

No. MC 70151 (Sub-No. 48), filed November 24, 1972. Applicant: UNITED TRUCKING SERVICE, INC., 3047 Lonyo Road, Detroit, MI 48209. 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 regular routes, transporting: *General commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, commodities requiring special handling or equipment, and those injurious or contaminating to other lading), from junction U.S. Highway 40 and Indiana Highway 9 to Junction Indiana Highway 9 and Interstate Highway 74, thence over Interstate Highway 74 to Miamitown, Ohio, thence over U.S. Highway 52 to Cincinnati, Ohio, and return, as an alternate route in connection with applicant's authorized regular route authority, for operating convenience only, serving no intermediate points. NOTE: Common control may be involved. If a hearing is deemed necessary, applicant requests it be held at Columbus, Ohio.

No. MC 71459 (Sub-No. 34), filed November 17, 1972. Applicant: O.N.C. FREIGHT SYSTEMS, a corporation, 2800 West Bayshore Road, Palo Alto, CA 94303. Applicant's representative: C. J. Boddington (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 class A and B explosives, household goods as defined by the Commission, commodities in bulk, commodities requiring special equipment, and those injurious or contaminating to other lading), between Tucson, Ariz., and Deming, N. Mex., from Tucson, Ariz., over Interstate Highway 10 to Deming, N. Mex., and return over the same route, serving no intermediate points, as an alternate route for operating convenience only, in connection with applicant's regular route operations between Phoenix, Ariz., and Deming, N. Mex. NOTE: Common control may be involved. If a hearing is deemed necessary, applicant requests it be held at San Francisco or Los Angeles, Calif., or Phoenix, Ariz.

No. MC 78687 (Sub-No. 37), filed November 20, 1972. Applicant: LOTT MOTOR LINES, INC., 118 Monell Street, Penn Yan, NY 14527. Applicant's representative: Gerald K. Gimmel, 805 McLachlen Bank Building, 666 11th Street NW., Washington, DC 20001. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Coal*, from points in Clinton County and Sullivan County, Pa., to points in New York. NOTE: Applicant holds contract carrier authority under MC 2505, 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 Washington, D.C.

No. MC 86913 (Sub-No. 37), filed November 22, 1972. Applicant: EASTERN MOTOR LINES, INC., U.S. Highway 401, North, Post Office Box 649, Warrenton, NC 27589. Applicant's representative: C. M. Bullock, Post Office Box 649, Warrenton, NC 27589. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Particleboard*, plain or finished, from Whiteville, N.C., to points in North Dakota, South Dakota, Nebraska, Colorado, and New Mexico and all States east thereof 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 95084 (Sub-No. 90), filed November 21, 1972. Applicant: HOVE TRUCK LINE, a corporation, Stanhope, Iowa 50246. Applicant's representative: Kenneth F. Dudley, 611 Church Street, Post Office Box 279, Ottumwa, IA 52501. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Twine*, from Chicago, Ill., New Orleans, La., Duluth, Minn., Houston, Tex., Kenosha and Milwaukee, Wis., to points in Colorado, Illinois, Iowa, Kansas, Minnesota, Missouri, Nebraska, North Dakota, South Dakota, and Wisconsin; (2) *ground clay*, from Boone, Iowa, to points in the United States (except Alaska and Hawaii); (3) (a) *laundry equipment, parts, attachments and accessories*, from Fort Dodge and Webster City, Iowa, to points in Alabama, Arkansas, Colorado, Delaware, Florida, Georgia, Illinois, Indiana, Iowa, Kansas, Kentucky, Louisiana, Maryland, Massachusetts, Michigan, Minnesota, Mississipi, Missouri, Nebraska, New Hamphire, New Mexico, New Jersey, New York, North Carolina, North Dakota, Ohio, Oklahoma, Pennsylvania, South Carolina, South Dakota, Tennessee, Texas, Vermont, Virginia, West Virginia, Wisconsin, Wyoming, and the District of Columbia, and (b) *materials, equipment and supplies*, used in the manufacture, processing, sale and distribution of laundry equipment parts, attachments, and accessories from points in Alabama, Arkansas, Colorado, Delaware, Florida, Georgia, Illinois, Indiana, Iowa, Kansas, Kentucky, Louisiana, Maryland, Massachusetts, Michigan, Minnesota, Mississippi, Missouri, Nebraska, New Hampshire, New Mexico, New York, New Jersey, North Carolina, North Dakota, Ohio, Oklahoma, Pennsylvania, South Carolina, South Dakota, Tennessee, Texas, Vermont, Virginia, West Virginia, Wisconsin, Wyoming, and the District of Columbia, to Fort Dodge, Jefferson and Webster City, Iowa; and (4) *combination camper-cruisers*, from Forth Dodge, Iowa, 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 Kansas City, Mo., or Chicago, Ill.

No. MC 96986 (Sub-No. 3), filed November 6, 1972. Applicant: FELDMAN'S EXPRESS, INC., 25 Proctor Street, Roxbury, MA. Applicant's representative: Frederick T. O'Sullivan, 622 Lowell Street, Peabody, MA 01960. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *General commodities* (except class A and B explosives, commodities of unusual value, household goods as defined by the Commission, commodities in bulk, in tank vehicles, and commodities requiring special equipment), between points in Massachusetts. NOTE: Applicant states the purpose of this application is to convert its certificate of registration in MC 96986 (Sub-No. 2) into a certificate of public convenience and necessity. If a hearing is deemed necessary, applicant requests it be held at Boston, Mass.

No. MC 99744 (Sub-No. 11), filed November 27, 1972. Applicant: VICTOR GROTHAUS, doing business as GROTHAUS EXPRESS, 201 East Fourth Street, Kingsley, IA 51028. Applicant's representative: Homer E. Bradshaw, 11th floor, Des Moines Building, Des Moines, Iowa 50309. 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 regular-route operations via Omaha, Nebr. NOTE: If a hearing is deemed necessary, applicant requests it be held at Omaha, Nebr.

No. MC 103017 (Sub-No. 22), filed November 20, 1972. Applicant: MERCURY MOTOR FREIGHT LINES, INC., 954 Hersey Street, St. Paul, MN 55114. Applicant's representative: James L. Nelson, 325 Cedar Street, St. Paul, MN 55101. 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 Jonathan Industrial Center, Carver County, Minn., as an off-route point in connection with carrier's presently authorized regular route operations to and from Minneapolis-St. Paul, Minn. NOTE: If a hearing is deemed necessary, applicant requests it be held at Minneapolis or St. Paul, Minn.

No. MC 107012 (Sub-No. 165), filed November 29, 1972. Applicant: NORTH AMERICAN VAN LINES, INC., Post Office Box 988, Lincoln Highway East

and Meyer Road, Fort Wayne, Ind. 46801. Applicant's representative: Donald C. Lewis (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Glass and aluminum sliding doors*, uncrated, from Canfield, Ohio, 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 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 107295 (Sub-No. 634), filed November 15, 1972. Applicant: PREFAB TRANSIT CO., a Corporation, 100 South Main Street, Farmer City, IL 61842. Applicant's representative: Mack Stephenson (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Cleaning compounds* (except in bulk), from Omaha, Nebr.; Kansas City, Kans.; Southbridge, Mass.; Sycamore, Ill.; Elizabeth, N.J.; Atlanta, Ga.; and Oklahoma City, Okla., 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 either Kansas City, Mo.; Omaha, Nebr.; or Washington, D.C.

No. MC 107295 (Sub-No. 635), filed November 20, 1972. Applicant: PREFAB TRANSIT CO., a Corporation, 100 South Main Street, Farmer City, IL 61842. Applicant's representative: Chandler Van Orman, 704 Southern Building, 15th and H Streets NW., Washington, DC 20005. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Particleboard and composition board*, from Chesapeake, Va., to points in Alabama, Arkansas, Connecticut, Delaware, Illinois, Indiana, Iowa, Kansas, Kentucky, Louisiana, Maine, Maryland, Massachusetts, Minnesota, Michigan, Mississippi, Missouri, Nebraska, New Hampshire, New Jersey, New York, North Carolina, North Dakota, Ohio, Oklahoma, Pennsylvania, Rhode Island, South Dakota, Tennessee, Texas, Vermont, Virginia, 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 Washington, D.C.

No. MC 107515 (Sub-No. 825), filed November 13, 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: *Meats, meat products, and meat byproducts* as defined by the Commission (except hides and commodities in bulk) from points in Texas to points in Kentucky. Restriction: Restricted to traffic originating at or destined to the points named above. NOTE: If a hearing is deemed necessary, applicant requests it be held at Dallas, Tex.

No. MC 107515 (Sub-No. 826), filed November 1, 1972. Applicant: REFRIGERATED TRANSPORT CO., INC., Post Office Box 308, Forest Park, GA 30050. Applicant's representative: Alan E. Serby, Post Office Box 872, Atlanta, GA 30031. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Frozen foods*, from New Hampton, Iowa, to points in Massachusetts, Rhode Island, Connecticut, New York, Pennsylvania, New Jersey, Maryland, Delaware, Virginia, West Virginia, and the District of Columbia, restricted to traffic originating at the plantsite and warehouse facilities used by Kitchens of Sara Lee and destined to the named States. NOTE: Common control may be involved. If a hearing is deemed necessary, applicant requests it be held at Chicago, Ill.; Atlanta, Ga.; or Washington, D.C.

No. MC 107515 (Sub-No. 827), filed November 13, 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: *Meats, meat products, and meat byproducts* as described in Section A, Appendix I to the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209 and 766, from Memphis, Tenn., to points in Alabama, Florida, Georgia, North Carolina, South Carolina, Tennessee, Ohio, Virginia, West Virginia, Maryland, Delaware, Pennsylvania, New Jersey, New York, Connecticut, Rhode Island, New Hampshire, Vermont, Massachusetts, Maine, and the District of Columbia. NOTE: Common control may be involved. Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Memphis, Tenn.

No. MC 107515 (Sub-No. 828), filed November 24, 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: *Frozen citrus products*, from Avon Park and Chicago, Ill., to points in the United States (except Alaska, Hawaii, Kentucky, North Carolina, South Carolina, Georgia, Alabama, Florida, Michigan, and Tennessee) but including Memphis, Tenn. NOTE: Common control may be involved. Applicant states that the requested authority can be tacked with its existing authority but indicates that it has no *present* intention to tack and therefore does not identify the points or territories which can be served through tacking. Persons interested in the tacking possibilities are cautioned that failure to oppose the application may result in an unrestricted grant of authority. If a hearing is deemed necessary, applicant requests it be held at Chicago, Ill.

No. MC 107515 (Sub-No. 829), filed November 24, 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: *Nonalcoholic fruit juice beverages* (except in bulk), in vehicles equipped with mechanical refrigeration, from Detroit, Mich., to points in the United States (except Alaska and Hawaii). 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 Detroit, Mich.

No. MC 108461 (Sub-No. 121), filed November 20, 1972. Applicant: WHITFIELD TRANSPORTATION, INC., 300–316 North Clark Road, Post Office Drawer 9897, El Paso Tex. 79989. Applicant's representative: J. P. Rose (same address as above). Authority sought to operate as a *common carrier*, by motor vehicle, over regular routes, transporting: *General commodities* (except those of unusual value, Class A and B explosives, household goods as defined by the Commission, and those requiring special equipment), serving the Phelps Dodge Corp. town and smelter sites, located twenty-one (21) miles southeast of Animas, N. Mex., as an off-route point in connection with carrier's presently authorized regular-route authority in lead docket No. MC 108461. NOTE: Common control may be involved. If a hearing is deemed necessary, applicant requests it be held at El Paso, Tex.

No. MC 108589 (Sub-No. 12), filed November 27, 1972. Applicant: EAGLE EXPRESS COMPANY, a Corporation, Post Office Box 680, Somerset, KY 42501. Applicant's representative: Robert M. Pearce, Post Office Box E, Bowling Green, KY 42101. Authority sought to operate as a *common carrier*, by motor vehicle, over regular routes, transporting: *General commodities*, except those of unusual value, Classes A and B explosives, household goods as defined by the Commission, commodities in bulk and those requiring special equipment, between Louisville and Lexington, Ky., serving no intermediate points; from Louisville over Interstate Highway I–64 to Lexington, Ky., and return over the same route. NOTE: This is a request for an alternate route. Applicant now holds authority between Louisville, Ky., and Lexington, Ky. If a hearing is deemed necessary, applicant requests it be held at Somerset, Lexington, or Louisville, Ky.

No. MC 109538 (Sub-No. 21), filed November 20, 1972. Applicant: CHIPPEWA MOTOR FREIGHT, INC., 2645 Harlem St., Post Office Box 269, Eau Claire, WI 54701. Applicant's representa-

tive: James L. Nelson, 325 Cedar Street, St. Paul, MN 55101. 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 site of Jonathan Industrial Park (Carver County, Minn.) in connection with applicant's authorized regular route operations to and from Minneapolis-St. Paul, Minn., and commercial zone thereof. NOTE: Common control may be involved. If a hearing is deemed necessary, applicant requests it be held at Minneapolis or St. Paul, Minn.

No. MC 110420 (Sub-No. 668), filed November 13, 1972. Applicant: QUALITY CARRIERS, INC., Post Office Box 186, Pleasant Prairie, WI 53158. Applicant's representative: Fred H. Figge (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Corn products, and blends*, in bulk, from Lafayette, Ind., to points in the United States (except Alaska and Hawaii), restricted to traffic originating at the plantsite and/or warehouse facilities of Anheuser Busch, Inc., at Lafayette, Ind. NOTE: Common control may be involved. Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Chicago, Ill.

No. MC 110988 (Sub-No. 290), filed September 5, 1972. Applicant: SCHNEIDER TANK LINES, INC., 200 West Cecil Street, Neenah, WI 54956. Applicant's representative: D. A. Petersen (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Corn sodium phosphate*, in bulk, in hopper-type vehicles, from the plantsite of the Monsanto Co. at or near Trenton, Mich., to points in Illinois on and north of U.S. Highway 136 (except points in the Chicago commercial zone). 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 St. Louis, Mo., or Washington, D.C.

No. MC 112822 (Sub-No. 251), filed November 20, 1972. Applicant: BRAY LINES, INCORPORATED, Post Office Box 1191 (1401 North Little Street), Cushing, OK 74023. Applicant's representative: K. Charles Elliott (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Dairy products* from points in Nebraska to Springfield, Mo. NOTE: Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Kansas City, Mo., or Dallas, Tex.

No. MC 112822 (Sub-No. 252), filed November 20, 1972. Applicant: BRAY LINES, INCORPORATED, Post Office Box 1191, Cushing, Okla. 74023. Applicant's representative: K. Charles Elliott (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Pipe, tubing, fittings, accessories used in the installation of the above, and related and advertising materials*, from the plantsite of Tex-Tube Division of Detroit Steel, a division of Cyclops Corp., at Houston, Tex., to points in the United States (except Alaska and Hawaii). NOTE: Applicant states that the requested authority can be tacked with its existing authority but indicates that it has no present intention to tack and therefore does not identify the points or territories which can be served through tacking. Persons interested in the tacking possibilities are cautioned that failure to oppose the application may result in an unrestricted grant of authority. If a hearing is deemed necessary, applicant requests it be held at Houston or Dallas, Tex.

No. MC 113362 (Sub-No. 250), filed November 24, 1972. Applicant: ELLSWORTH FREIGHT LINES, INC., 310 East Broadway, Eagle Grove, IA 50533. Applicant's representative: Milton D. Adams, 1105½ Eighth Avenue NE., Austin, MN 55912. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Meats, meat products and meat byproducts and articles distributed by meat packinghouses*, as described in sections A and C of Appendix I to the report in Descriptions in Motor Carrier Certificates, 61 MCC 109 and 766 (except commodities in bulk and hides), from the plantsite and storage facilities of Rath Packing Co. at Waterloo and Columbus Junction, Iowa, to West Virginia and points in that part of Pennsylvania west of U.S. Highway 15. Restriction: The authority granted herein is restricted to the transportation of traffic originating at the named plantsite and storage facilities. 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 Chicago, Ill.

No. MC 113509 (Sub-No. 5), filed October 10, 1972. Applicant: DANTE GENTILINI TRUCKING, INC., 12300 South Ashland, Calumet Park, IL 60643. Applicant's representative: Philip A. Lee, 33 North Dearborn, Suite 1801, Chicago, IL 60602. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: (1) *Perlite, vermiculite, and plaster*, in bags, *expanded polystyrene boards, shapes or forms, and glass wool*, from West Chicago, Ill., to points in that part of Indiana on and north of a line beginning at the Illinois-Indiana State line, and extending along U.S. Highway 40 to junction Indiana State Highway 42 at or near Terre Haute, thence over Indiana State Highway 42 to junction Indiana State Highway 59 at or near Prairie, thence over Indiana State Highway 59 to junction Indiana State Highway 46, thence over Indiana State Highway 46 to junction U.S. Highway 52, thence over U.S. Highway 52 (also Interstate 74) to the Indiana-Ohio State line, with no transportation for compensation on return except as otherwise authorized; (2) *vermiculite, aluminum siding, insulating material, and plaster*, from the plantsite of the Zonolite Division of W. R. Grace & Co., at West Chicago, Ill., to points in Michigan on, south and west of a line beginning at the western terminus of Michigan State Highway 120 (formerly Michigan State Highway 20) near Lake Michigan, thence over Michigan State Highway 120 to junction U.S. Highway 31, thence over U.S. Highway 31 to junction Interstate Highway 96 (formerly U.S. Highway 16), thence over Interstate Highway 96 to junction Michigan State Highway 66, thence over Michigan State Highway 66 to junction U.S. Highway 12, thence over U.S. Highway 12 to junction Interstate Highway 69 (also U.S. Highway 27), thence over Interstate Highway 69 to the Indiana-Michigan State line, with no transportation for compensation on return except as otherwise authorized; (3) *insulating materials*, such as, *perlite, vermiculite, and plaster*, in bags, *expanded polystyrene boards, shapes* or *forms*, and *glass wool*, from West Chicago, Ill.: (a) To points in that part of Iowa on and east of U.S. Highway 69, (b) to points in that part of Wisconsin south of a line beginning at Port Washington and extending along Wisconsin State Highway 33 to junction Wisconsin State Highway 67, thence over Wisconsin State Highway 67 to junction Wisconsin State Highway 60, thence over Wisconsin State Highway 60 to the Wisconsin-Iowa State line; and (c) from Milwaukee, Wis., to West Chicago, Ill.; with (1), (2), and (3) above, performed under a continuing contract, or contracts, with Zonolite Division of W. R. Grace & Co., at Chicago, Ill. NOTE: If a hearing is deemed necessary, applicant requests it be held at Chicago, Ill.

No. MC 113624 (Sub-No. 63), filed November 17, 1972. Applicant: WARD TRANSPORT, INC., Post Office Box 735, Pueblo, CO 81002. Applicant's representative: Marion F. Jones, 420 Denver Club Building, Denver, Colo. 80202. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Fertilizers, fertilizer materials, and ammonium nitrate*, in bags, or in bulk, from the warehouse of Farmland Industries, Inc., at or near Hastings, Nebr., to points in Wyoming, Colorado, Kansas, and South Dakota. NOTE: Applicant states that it intends to tack at Sheerin, Tex., via Hastings, Nebr., to points in South Dakota and Wyoming with its Sub 31, and at Hastings, Nebr., via Denver, Colo., to points in Texas with its Sub 42. Common control may be involved. If a hearing is deemed necessary, applicant requests it be held at Denver, Colo.

No. MC 113855 (Sub-No. 263), filed November 30, 1972. Applicant: INTERNATIONAL TRANSPORT, INC., 2450 Marion Road SE., Rochester, MN 55901. Applicant's representative: Alan Foss,

502 First National Bank Building, Fargo, N. Dak. 58102. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Contractor's machinery, equipment, materials and supplies; iron and steel articles, aluminum articles, aluminum sheet, and aluminum extrusions*, between Indian Oaks, Ill., on the one hand, and, on the other, points in Wisconsin, Minnesota, Iowa, Michigan, North Dakota, South Dakota, Nebraska, Montana, Wyoming, Colorado, Utah, Idaho, Nevada, Washington, Oregon, and California. NOTE: Applicant presently holds authority to transport size and weight commodities between some of the points described above, therefore duplicating authority may be involved. Applicant states that the requested authority can be tacked with its existing authority but indicates that it has no present intention to tack and therefore does not identify the points or territories which can be served through tacking. Persons interested in the tacking possibilities are cautioned that failure to oppose the application may result in an unrestricted grant of authority. If a hearing is deemed necessary, applicant requests it be held at Chicago, Ill.

No. MC 114019 (Sub-No. 242), filed November 20, 1972. Applicant: MIDWEST EMERY FREIGHT SYSTEM, INC., 7000 South Pulaski Road, Chicago, IL 60629. Applicant's representative: Arnold L. Burke, 127 North Dearborn Street, Chicago, IL 60629. 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 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. Persons interested in the tacking possibilities are cautioned that failure to oppose the application may result in an unrestricted grant of authority. Common control may be involved. If a hearing is deemed necessary, applicant requests it be held at Cleveland, Ohio, or Chicago, Ill.

No. MC 114211 (Sub-No. 184), filed November 15, 1972. Applicant: WARREN TRANSPORT, INC., 324 Manhard Street, Post Office Box 420, Waterloo, IA 50704. Applicant's representative: Daniel Sullivan, 327 South La Salle, Chicago, IL 60604. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) (a) *Experimental and show display tractors, farm, industrial, construction, and excavating machinery and equipment*; (b) *parts, attachments and accessories* for the commodities described in (a) above, and (c) *incidental paraphernalia*, which at the time of movement is being transported for purposes of display or experiment and not for sale and is moving between the sites of plants, sales branches, warehouses, experimental stations, farms, shows, exhibits, or field demonstrations owned, operated or used by J. I. Case Co., between points in the United States (except Alaska and Hawaii); and (2) the *commodities* described in (1) (a) and (b) moving from places of display or experiment at the sites of plants, sales branches, warehouses, experimental stations, farms, shows, exhibits or field demonstrations, owned, operated or used by J. I. Case Co., to points in the United States (except Alaska and Hawaii). NOTE: Applicant states that the requested authority can be tacked with its existing authority, but indicates that it has no present intention to tack and therefore does not identify the points or territories which can be served through tacking. Persons interested in the tacking possibilities are cautioned that failure to oppose the application may result in an unrestricted grant of authority. If a hearing is deemed necessary, applicant requests it be held at Chicago, Ill.

No. MC 115092 (Sub-No. 21), filed November 24, 1972. Applicant: WARREN TRANSPORT, INC., 324 Manhard Street, Post Office Box 420, Waterloo, IA 50704. Applicant's representative: Daniel Sullivan, 327 South La Salle, Chicago, IL 60604. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Cast iron pipe and fittings and accessories*, from Florence, Burlington County, N.J., to points in the United States (except Alaska, Connecticut, Delaware, Hawaii, Maine, Maryland, Massachusetts, New Hampshire, New York, Pennsylvania, Rhode Island, and Vermont). NOTE: No duplicating authority sought. 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 115092 (Sub-No. 21), filed November 24, 1972. Applicant: WEISS TRUCKING, INC., Post Office Box 0, Vernal, UT 84078. Applicant's representative: E. L. Kier (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Wooden or metal curtain rods and parts thereof*, from Sturgia, Mich., to Seattle, Wash., Haward and City Of Commerce, Calif., and Salt Lake City, Utah. 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 115331 (Sub-No. 337), filed November 17, 1972. Applicant: TRUCK TRANSPORT, INCORPORATED, 1931 North Geyer Road, St. Louis, MO 63131. Applicant's representative: J. R. Ferris, 230 St. Clair Avenue, East St. Louis, IL 62201. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Paint and paint products*, in bulk, from Fort Madison, Iowa to points in Alabama, Louisiana and Texas; and (2) *dry feed and feed ingredients*, from Van Buren, Ark., to points in Arkansas, Colorado, Iowa, Kansas, Louisiana, Missouri, Mississippi, Nebraska, New Mexico, 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 Chicago, Ill., St. Louis, Mo., or Washington, D.C.

No. MC 115841 (Sub-No. 446), filed November 27, 1972. Applicant: COLONIAL REFRIGERATED TRANSPORTATION, INC., 1215 Bankhead Highway West, Birmingham, AL 35204. Applicant's representative: Roger M. Shaner, Post Office Box 168, Concord, TN 37720. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Frozen potatoes, frozen vegetables, and dehydrated potatoes* (except in bulk), from Hart, Holland, and Lake Odessa, Mich., to points in Alabama, Florida, Georgia, Mississippi, North Carolina, South Carolina, Tennessee, Oklahoma, Texas, Connecticut, Delaware, Illinois, Indiana, Kentucky, Maine, Maryland, Massachusetts, Missouri, New Hampshire, New Jersey, New York, Ohio, Pennsylvania, Rhode Island, Vermont, Virginia, West Virginia, and the District of Columbia. NOTE: Applicant states that tacking is possible but not intended at present time. Persons interested in the tacking possibilities are cautioned that failure to oppose the application may result in an unrestricted grant of authority. Common control may be involved. Applicant further states that no duplicating authority is sought. If a hearing is deemed necessary, applicant requests it be held at Boise, Idaho, Seattle, Wash., or Las Vegas, Nev.

No. MC 116014 (Sub-No. 62), filed November 30, 1972. Applicant: OLIVER TRUCKING COMPANY, INC., Post Office Box 53, Winchester, KY 40391. Applicant's representative: Chandler L. van Orman, 704 Southern Building, 15th and H Streets NW., Washington, D.C. 20005. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Composition board and particleboard*, from Chesapeake, Va., to points in Arkansas, Connecticut, Delaware, Illinois, Indiana, Iowa, Kentucky, Louisiana, Maryland, Minnesota, Michigan, Missouri, New Jersey, North Carolina, Ohio, Pennsylvania, Tennessee, Virginia, 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 Washington, D.C.

No. MC 116763 (Sub-No. 233), filed November 24, 1972. Applicant: CARL SUBLER TRUCKING, INC., North West Street, Versailles, Ohio 45380. Appli-

cant's representative: H. M. Richters (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Paper, paper articles, and printed materials and products produced or distributed by manufacturers and converters of paper and paper products*, from points in Butler, Hamilton, and Montgomery Counties, Ohio, to points in Alabama (on and north of U.S. Highway 80), Arkansas, Connecticut, Delaware, Georgia (north of U.S. 80), Iowa, Kansas, Kentucky, Maryland, Massachusetts, Minnesota, Mississippi (on and north of U.S. Highway 82), Missouri, Rhode Island, Pennsylvania, Nebraska, New Jersey, New York, North Carolina, Oklahoma, South Carolina, Tennessee, Texas, Virginia, and the District of Columbia. NOTE: Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Columbus, Ohio.

No. MC 117344 (Sub-No. 222), filed November 16, 1972. Applicant: THE MAXWELL CO., a corporation, 10380 Evendale Drive, Cincinnati, OH 45215. Applicant's representative: James R. Stiverson, 50 West Broad Street, Columbus, OH 43215. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Corn products, 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 can be tacked to a degree with applicant's existing authority, however, applicant has no present intention of 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, or Washington, D.C.

No. MC 117686 (Sub-No. 140), filed November 30, 1972. Applicant: HIRSCHBACH MOTOR LINES, INC., 3324 U.S. Highway 75 North, Post Office Box 417, Sioux City, IA 51102. Applicant's representative: George L. Hirschbach, 309 Badgerow Building, Sioux City, Iowa 51101. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Refined sugar in packages and institutional items* in individual servings when moving with packaged sugar, from the plantsite of Amstar Corp. at St. Bernard Parish, La., to points in Iowa and Nebraska. 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 New Orleans, La.

No. MC 118989 (Sub-No. 79), filed November 16, 1972. Applicant: CONTAINER TRANSIT, INC., 5223 South Ninth Street, Milwaukee, WI 53221. Applicant's representative: Robert H. Levy, 29 South LaSalle Street, Chicago, IL 60603. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Tinplate containers*, from Arden Hills, Minn., to points in Wisconsin, Illinois, Missouri, and New Jersey. 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 Milwaukee, Wis.

No. MC 119774 (Sub-No. 64), filed November 20, 1972. Applicant: EAGLE TRUCKING COMPANY, a corporation, Post Office Box 471, Kilgore, TX 75662. Applicant's representative: Bernard H. English, 6270 Firth Road, Forth Worth, TX 76116. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Cast iron pressure pipe, cast iron and brass valves and components, cast iron fittings, and cast iron fire hydrants*, except pipe and pipe fittings as described in Mercer Oil Field Extension 74 MCC 459, and restricted to traffic originating at the plantsite and storage facilities of American Cast Iron Pipe Co., at North Birmingham, Ala., from North Birmingham, Ala., to points in Colorado, Kansas, Louisiana, Missouri, Minnesota, Nebraska, New Mexico, North Dakota, South Dakota, 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 Birmingham, Ala., or Dallas, Tex.

No. MC 119777 (Sub-No. 245), filed November 9, 1972. Applicant: LIGON SPECIALIZED HAULER, INC., Post Office Box L, Madisonville, Ky. 42431. 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: (1) *Valves, fittings, hangers, gaskets, hydrants, forgings, castings, pipe, sprinkler heads, connections, and heaters* and (2) *parts, accessories, materials, and supplies* used in the installation and manufacture of the items described in (1) above, between the plantsites and warehouse facilities of ITT Grinnell Corp. at Cranston and West Kingston, R.I., and points in the United States (except Alaska and Hawaii), restricted to traffic for the account of ITT Grinnell Corp. and its wholly owned subsidiaries and further restricted against the transportation of commodities, in bulk, in tank vehicles and commodities which because of size or weight require the use of special equipment. NOTE: Applicant holds contract carrier authority under MC 129670 therefore dual operations and 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., or St. Louis, Mo.

No. MC 119789 (Sub-No. 133), filed November 30, 1972. Applicant: CARAVAN REFRIGERATED CARGO, INC., Post Office Box 6188, Dallas, TX 75222. Applicant's representative: Hugh T. Matthews, 630 Fidelity Union Tower, Dallas, TX 75201. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Cleaning compounds, defoaming compounds, boiler preserving compounds, ice antislipping compounds, rust preventing compounds, plasticizers, paints and paint products, wood filler, adhesives, water treating compounds, descaling agents, packing and moulding compound, coating compounds, paving and sealing materials, oil additives, lubricants, aerosol sprays, plastics, sealants, corrosion inhibitors, dust depressant, coolants, ice melting material, toilet preparations and ointments, cosmetics, insecticides, pesticides, fungicides, herbicides, viricides, algaecide, fertilizers, plant growth retardant, deodorants, disinfectants, solvents, fabric softeners, detergents and soaps, waxes and polishes, soil conditioners, mulch, acids and chemicals, fire retardants, hardware and houseware, catalogs and parts thereof, camping equipment, sporting goods, cameras, pen and pencil sets, luggage, jewelry, tools, foodstuffs, umbrellas, leather goods, novelties, washing and cleaning machinery and equipment, sprayers, electrical appliances, equipment and supplies, application and dispensing machinery and equipment and testing and metering equipment and materials, equipment and supplies* used in the manufacture thereof, between plantsites of and storage facilities utilized by National Chemsearch Corp., and its subsidiaries and divisions in Dallas County, Tex., on the one hand, and, on the other, points in Mississippi, Alabama, Georgia, Florida, and Tennessee. Restricted against the transportation of commodities in bulk and further restricted against the transportation of commodities which by reason of size or weight require the use of special equipment. NOTE: Applicant states that the requested authority can be tacked at Dallas, Tex., on movements to destinations here involved with its existing authority under MC 119789 (Sub-No. 62), transporting cleaning compounds and related articles. If a hearing is deemed necessary, applicant requests it be held at Dallas, Tex.

No. MC 123048 (Sub-No. 238), filed November 27, 1972. Applicant: DIAMOND TRANSPORTATION SYSTEM, INC., 1919 Hamilton Avenue, Racine, WI 53401. Applicant's representative: Paul C. Gartzke, 121 West Doty Street, Madison, WI 53703. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Ventilating and heat transfer equipment;* and (2) *materials, equipment and supplies* used or useful in the manufacture, sale, and distribution of commodities described in (1) above, between Memphis, Tenn., on the one hand, and, on the other, 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 Memphis, Tenn., or Washington, D.C.

No. MC 123061 (Sub-No. 65), filed October 10, 1972. Applicant: LEATHAM BROTHERS, INC., 46 Orange Street, Salt Lake City, UT 84104. Applicant's representative: Harry D. Pugsley, 400 El Paso Natural Gas Building, Salt Lake City, UT 84111. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Meat meal, blood meal, bone meal* and *feather meal*, from points in Idaho to points in Nevada; (2) *scrap metal and crushed automobile bodies*, from points in Idaho to points in Utah; and (3) *mineral wool* (rock wool), from Pueblo, Colo. to points in Idaho and Utah. 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 Boise, Idaho or Salt Lake City, Utah.

No. MC 124669 (Sub-No. 30), filed October 4, 1972. Applicant: TRANSPORT, INC., 102 West 41st Street, Sioux Falls, SD 57105. Applicant's representative: Ronald B. Pitsenbarger, Post Office Box 396, Moorhead, MN 56560. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Liquid animal and poultry feed and liquid animal and poultry feed supplements and ingredients*, in bulk, from Madison, S. Dak., to points in Iowa, North Dakota, Minnesota, and Nebraska. 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, Minn.

No. MC 12551 (Sub-No. 20) (Correction), filed August 28, 1972, published in the FEDERAL REGISTER issue of October 27, 1972, and republished this issue. Applicant: FUNK MOTOR TRANSPORTATION, INC., Box 75, Bridge Street, Grand Rapids, OH 43522. Applicant's representative: Arthur R. Cline, 420 Security Building, Toledo, OH 43604. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Malt beverages*, and on return trips *empty containers or other such incidental facilities used in transporting such commodities*, from Milwaukee, Wis., Bensenville, Ill., and South Bend, Ind., to Port Clinton, Ohio, under a continuing contract or contracts with Heineman Beverages, Inc. NOTE: The purpose of this republication is to indicate the destination as Port Clinton, Ohio, in lieu of Clinton, Ohio. If a hearing is deemed necessary, applicant requests it be held at Columbus, Ohio or Lansing or Detroit, Mich.

No. MC 126039 (Sub-No. 19), filed November 20, 1972. Applicant: MORGAN TRANSPORTATION SYSTEM, INC., U.S. 6 and 15, New Paris, Ind. 46553. 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: *Cabinets, cabinet articles, furnishings, component parts, and materials, supplies, and equipment* used in the processing, manufacturing, and distribution thereof, between points in Snyder County, Pa., on the one hand, and, on the other, points in the United States (except Alaska and Hawaii). NOTE: Applicant states that the requested authority cannot abe tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Indianapolis, Ind.

No. MC 126645 (Sub-No. 5), filed November 27, 1972. Applicant: ROSCOE ORWICK and FRANCIS ORWICK, a partnership, doing business as ROSCOE AND FRANCIS, 163 Kings Highway, Altoona, PA 16602. Applicant's representative: Arthur J. Diskin, 806 Frick Building, Pittsburgh, Pa. 15219. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Ice cream, frozen dairy products, fruit juices, sherbert, milk, cottage cheese, and buttermilk*, in vehicles equipped with mechanical refrigeration, from points in Maryland and the District of Columbia to points in Pennsylvania, under a continuing contract, or contracts, with Sealtest Foods, a Division of Kraftco Corp., at Pittsburgh, Pa. NOTE: If a hearing is deemed necessary, applicant requests it be held at Washington, D.C., or Pittsburgh, Pa.

No. MC 126920 (Sub-No. 2), filed November 30, 1972. Applicant: ROBERT L. HERZOG, Rural Delivery No. 3, Valley Road, Smethport, Pa. 16749. Applicant's representative: Arthur J. Diskin, 806 Frick Building, Pittsburgh, Pa. 15219. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Empty glass containers less than 1 gallon capacity*, from the plantsite of Pierce Glass Co., and Indianhead Co., at Port Allegany, Pa. to Elkhart, Ind.; Chicago, Ill.; Springfield and Jefferson City, Mo.; Cedar Rapids, Iowa; and Rochester and Syracuse, N.Y. NOTE: Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Washington, D.C., or Pittsburgh, Pa.

No. MC 127824 (Sub-No. 2), filed November 16, 1972. Applicant: RONE TRUCKING, INC., U.S. Highway 231 South, Morgantown, Ky. 42261. Applicant's representative: John M. Nader, Post Office Box E, Bowling Green, KY 42101. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Gypsum products and building materials*, from the plantsite of the National Gypsum Co., near Shoals, Martin County, Ind., to points in Kentucky and Tennessee, under contract with National Gypsum Co. NOTE: If a hearing is deemed necessary, applicant requests it be held at Louisville, Ky.; Indianapolis or Evansville, Ind.

No. MC 129228 (Sub-No. 3), filed November 30, 1972. Applicant: McCABE'S EXPRESS & TRUCKING CO., LTD., 134 Garfield Avenue, Jersey City, NJ 07305. 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: *Lighting fixtures and lamps and equipment, materials and supplies* used in their manufacture and sale, except commodities in bulk, between Fall River, Mass., on the one hand, and, on the other, points in Louisiana, Minnesota, Texas, and those points in the United States east of the Mississippi River. Restriction: The operations authorized herein are limited to a transportation service to be performed, under a continuing contract, or contracts, with Aluminum Processing Corp. of Fall River, Mass. NOTE: If a hearing is deemed necessary, applicant requests it be held at New York, N.Y., or Washington, D.C.

No. MC 129387 (Sub-No. 14), filed November 13, 1972. Applicant: BILL PAYNE, doing business as, BILL PAYNE TRUCKING COMPANY, Highway 15 East, Huron, S. Dak. 57350. Applicant's representative: George N. Manolis, 201 Farmers and Merchants Bank Building, Huron, S. Dak. 57350. 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*, from Huron, S. Dak., to points in Wyoming and Colorado. 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 Sioux Falls, Pierre, or Aberdeen, S. Dak.

No. MC 129645 (Sub-No. 42), filed November 14, 1972. Applicant: BASIL J. SMEESTER AND JOSEPH SMEESTER, a partnership, doing business as SMEESTER BROTHERS TRUCKING, 1330 South Jackson Street, Iron Mountain, MI 49801. Applicant's representative: John M. Nader, Post Office Box E, Bowlink Green, KY 42101. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Roofing and roofing materials, gypsum and gypsum products, composition boards, insulation materials, urethane and urethane products and related materials, supplies and accessories* (except commodities in bulk), from the plantsite and warehouse facilities of the Celotex Corp. located at points in Wayne County, N.C., to points in Alabama, Arkansas, Delaware, Georgia, Illinois, Indiana, Iowa, Kansas, Kentucky, Louisiana, Maryland, Michigan, Minnesota, Mississippi, Missouri, Nebraska, New Jersey, North Dakota, Ohio, Pennsylvania, South Dakota, Tennessee, Virginia, West Virginia, Wisconsin, and the District of Columbia. NOTE: Applicants state that tacking could be performed, but that applicants have no present intention to tack and therefore do not identify the points or territories which could be served through tacking. Persons interested in the tacking possibilities are cautioned that failure to oppose the application may result in an unrestricted grant of authority. If a hearing is deemed

necessary, applicant requests it be held at Tampa, Fla.

No. MC 133000 (Sub-No. 9), filed November 24, 1972. Applicant: DIAMOND SAND & STONE CO., a corporation, 744 Riverside Avenue, Jacksonville, FL 32204. Applicant's representative: Martin Sack, Jr., 1754 Gulf Life Tower, Jacksonville, FL 32207. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Ground dolomitic limestone and ground hi-calcium limestone*, in bulk, in dump trailers, from Marianna, Fla., to points in Alabama and Georgia. 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 Jacksonville, Fla.

No. MC 133725 (Sub-No. 8), filed November 20, 1972. Applicant: SAME DAY TRUCKING CO., INC., 600 Jersey Avenue, Post Office Box 1808, North Brunswick, NJ 08902. Applicant's representative: Paul J. Keeler, Post Office Box 253, South Plainfield, NJ 07080. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Crude soya (lecithin), pesticides, paint preservatives, bread-making compounds, vegetable oil shortening and paint-thickening compounds* (except bulk, in tank vehicles), from Somerset, N.J., to points in New Hampshire, Massachusetts, Connecticut, Rhode Island, New York, Pennsylvania, Delaware, Maryland, and Virginia, under a continuing contract, or contracts, with W. A. Cleary Corp. at Somerset, 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 134599 (Sub-No. 65), filed November 20, 1972. Applicant: INTERSTATE CONTRACT CARRIER CORPORATION, Post Office Box 748, Salt Lake City, UT 84110. Applicant's representative: Richard A. Peterson, Post Office Box 80806, Lincoln, NE 68501. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Rubber, rubber products and equipment, chemicals, and materials and supplies used in the manufacture and production of rubber products* (except commodities in bulk, and those which because of size or weight require special handling or special equipment), between Philadelphia and Mountain Top, Pa., and Farmville and Scottsville, Va., on the one hand, and, on the other, points in Tennessee, North Carolina, South Carolina, Mississippi, Alabama, Georgia, and Florida, under a continuing contract, or contracts, with Uniroyal, Inc., at Middlebury, Conn. NOTE: If a hearing is deemed necessary, applicant requests it be held at Salt Lake City, Utah, or Lincoln, Nebr.

No. MC 135903 (Sub-No. 5), filed November 6, 1972. Applicant: MID NEBRASKA TRUCKING, INC., Cornlea, Nebr. 68630. Applicant's representative: Robert G. Planansky, 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: (1) *Irrigation systems and parts, equipment, materials and supplies* used in irrigation systems, their shipment or their installation, from facilities used by Lindsay Manufacturing Co., Inc., at Lindsay, Nebr., to points in Maine, Massachusetts, Nevada, New Hampshire, Rhode Island, Vermont, West Virginia, and the District of Columbia; and (2) *equipment, materials and supplies* utilized in the manufacture of irrigation systems, from points in Maine, Massachusetts, Nevada, New Hampshire, Rhode Island, Vermont, and the District of Columbia to the facilities of Lindsay Manufacturing Co., Inc., at Lindsay, Nebr. Restriction: The operation sought herein are limited to transportation service to be performed, under continuing contract, or contracts with Lindsay Manufacturing Co., Inc. NOTE: If a hearing is deemed necessary, applicant requests it be held at Lincoln, Nebr., or Omaha, Nebr.

No. MC 136445 (Sub-No. 3), filed November 16, 1972. Applicant: ZENITH TRANSPORT LTD., 2040 Alpha Avenue, Burnaby 2, BC, Canada. Applicant's representative: George R. LaBissoniere, 1424 Washington Building, Seattle, WA 98101. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Frozen foods and canned goods and fresh fruits and vegetables* when moving with frozen foods or canned goods, from points in Oregon, Washington, and California to the port of entry on the United States-Canada boundary line at or near Blaine, Wash., restricted to traffic having a subsequent movement in foreign commerce, under contract with York Farms, S. H. Blackwell Co., and Woodward Stores Ltd. NOTE: If a hearing is deemed necessary, applicant requests it be held at Seattle, Wash.

No. MC 136647 (Sub-No. 8), filed November 6, 1972. Applicant: GREEN MOUNTAIN CARRIERS, INC., Post Office Box 1319, Albany, NY 12201. Applicant's representative: Wilmot E. James, Jr. (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Factory warehouse scales, vehicle scales, manhole covers, manhole rings, and scale supplies*, from Rutland, Vt., Clifton, N.J., and Cleveland, Ohio, to Cleveland, Ohio, Clifton, N.J., Chicago, Ill., Minneapolis, Minn., Kansas City, Mo., Atlanta, Ga., Houston, Tex., San Leandro and South Gate, Calif. 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 Montpelier, Vt., or Albany, N.Y.

No. MC 136777 (Sub-No. 4), filed November 27, 1972. Applicant: POPELKA TRUCKING CO., a corporation, doing business as THE WAGGONERS, Post Office Box 990, Livingston, MT 59047. Applicant's representative: Jacob P. Billig, 1108 16th Street NW., Washington, DC 20036. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Horse tacking commodities* and *commodities used in the manufacture of horse tacking commodities and thermal clothing*, between Pablo, Mont., on the one hand, and, on the other, points in the United States (including Alaska but excepting Hawaii), under contract with I-deal Ideas, Inc. NOTE: Applicant now holds common carrier authority under its No. MC 26396 and subs, therefore dual operations may be involved. If a hearing is deemed necessary, applicant requests it be held at Billings, Mont.

No. MC 136821 (Sub-No. 1), filed November 16, 1972. Applicant: SMERBER TRANSPORTATION, INC., Space Center Building 504, Mira Loma, Calif. 91752. Applicant's representative: Ernest D. Salm, 8179 Havasu Circle, Buena Park, CA 90621. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Insulating materials* weighing not over 4 pounds per cubic foot, from Corona, Calif., to points in Arizona, California, and Nevada, under contract with Johns-Manville Sales Corp. NOTE: If a hearing is deemed necessary, applicant requests it be held at Los Angeles, Calif.

No. MC 136848 (Sub-No. 1), filed November 2, 1972. Applicant: JAMES BRUCE LEE AND STANLEY LEE, a partnership doing business as LEE CONTRACT CARRIERS, Old Route 66, Post Office Box 48, Pontiac, IL 61764. Applicant's representative: Edward F. Stanula, 77 West Washington Street, Chicago, IL 60602. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Shoe heels and materials, supplies and equipment* used in the manufacture, sale, and distribution thereof, between Pontiac, Ill., and Nashville, Tenn., on the one hand, and, on the other, Indianapolis and Madison, Ind.; Peoria, Chicago, Dixon, Litchfield, and Pontiac, Ill.; South Paris and Bar Mills, Maine; Bridgewater, Brockton, and Boston, Mass.; Hazleton and Pittsburgh, Pa.; St. Louis, Wright City, Piedmont, and Boone Terre, Mo.; Milwaukee and Beloit, Wis.; Nashville, Clarksville, Chattanooga, and Wartrace, Tenn.; Pearisburg, Luray, and Norfolk, Va.; Marlinton, W. Va.; Buffalo, N.Y.; Forth Worth, Dallas, El Paso, Houston, Nocona, Hereford, and Plainview, Tex. 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 136856 (Sub-No. 2), filed November 23, 1972. Applicant: LEON ARNDT TRUCK LEASING, INC., Eden, Wis. 53019. Applicant's representative: John J. Keller, 145 West Wisconsin Avenue, Neenah, WI 54956. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transport-

ing: (1) *Snowmobiles*, including *necessary parts, accessories, and advertising material* used in the manufacture and distribution of same, with vehicles equipped with mechanical hoist devices to augment loading and unloading (a) from Denver, Colo., and points in Denver and Adams Counties, Colo., to Chilton, Wis., and points in Wisconsin, Illinois, and Michigan; and (b) from Chilton, Wis., to points in Wisconsin, Illinois, and Michigan for the account of Horst Distributing, Inc. and/or Horst Engineering and Equipment Sales, Inc., Chilton, Wis., and (2) *Cycles, multiwheeled, both manual and powered*, including *necessary parts, accessories, and advertising material*, with vehicles equipped with mechanical hoist devices to augment loading and unloading (a) from Denver, Colo., and points in Denver and Adams Counties, Colo., to Chilton, Wis., and points in Wisconsin, Illinois, and Michigan, and (b) from Chilton, Wis., to points in Wisconsin, Illinois, and Michigan for the account of Horst Distributing, Inc. and/or Horst Engineering and Equipment Sales, Inc., Chilton, Wis. NOTE: If a hearing is deemed necessary, applicant requests it be held at Green Bay or Milwaukee, Wis.

No. MC 136903 (Amendment), filed July 17, 1972, published in the FEDERAL REGISTER issue of August 17, 1972, and republished as amended, this issue. Applicant: INTERMODAL TRANSPORT, INC., 900 Circle Tower, Indianapolis, Ind. 46204. Applicant's representative: Donald W. Smith (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Commodities in bulk*, from the sites of Bulk Distribution Centers, Inc., located on or adjacent to the line of the Louisville & Nashville Railroad in Alabama, Georgia, Illinois, Indiana, Kentucky, and Tennessee, to points in Alabama, Arkansas, Florida, Georgia, Illinois, Indiana, Iowa, Kentucky, Ohio, Louisiana, Michigan, Minnesota, Missouri, Mississippi, North Carolina, New York, Pennsylvania, South Carolina, Tennessee, Virginia, West Virginia, and Wisconsin. NOTE: The purpose of this republication is to redescribe the territorial scope of the application. If a hearing is deemed necessary, applicant requests it be held at Atlanta, Ga., or Indianapolis, Ind.

No. MC 136952 (Sub-No. 1), filed November 24, 1972. Applicant: ADAMIC TRUCKING, INC., 15522 Rider Road, Burton, OH 44021. Applicant's representative: Bernard S. Goldfarb, 1825 The Illuminating Building, 55 Public Square, Cleveland, OH 44113. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Plastic articles*, from Middlefield, Ohio, to Galesburg, Ill., under contract with Sajar Plastics, Inc. NOTE: If a hearing is deemed necessary, applicant requests it be held at Cleveland, Ohio.

No. MC 138168, filed October 25, 1972. Applicant: LOAD & GO TRUCK LINE, 2200 North 330 East, Provo, UT 84601. Applicant's representative: Irene Warr, Judge Building, Salt Lake City, Utah 84111. Authority sought to operate as a *common carrier*, by motor vehicle, over regular routes, transporting: *General commodities*, except commodities in bulk, household goods as defined by the Commission, and commodities requiring special equipment, between Phoenix, Ariz., and Grand Junction, Colo., as follows: From Phoenix, Ariz. over Arizona Highway 79 (Interstate 17) to Flagstaff, Ariz., thence over U.S. Highway 89 to the junction of U.S. Highways 89 and 160; thence over U.S. Highway 160 to the junction of U.S. Highway 160 and U.S. Highway 666; thence over U.S. Highway 666 to Cortez; thence over U.S. Highway 160 to Durango, Colo.; thence over U.S. Highway 550 to Montrose, Colo.; thence over U.S. Highway 50 to Grand Junction, Colo., and return over the same route, serving Phoenix, Ariz., and Grand Junction, Colo., and serving all intermediate points in Colorado. NOTE: If a hearing is deemed necessary, applicant requests it be held at Phoenix, Ariz.

No. MC 138179 (Sub-No. 1), filed November 16, 1972. Applicant: PEFFLEY & HINSHAW WRECKER SERVICE, INC., 2898 South Third Street, Terre Haute, IN 47802. Applicant's representative: Michael V. Gooch, 777 Chamber of Commerce Building, Indianapolis, Ind. 46204. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Wrecked, disabled motor vehicles, and replacement vehicles*, between points in Indiana, on the one hand, and, on the other, points in Illinois, Kentucky, Ohio, Michigan, Missouri, Wisconsin, Pennsylvania, and New York. NOTE: If a hearing is deemed necessary, applicant requests it be held at Chicago, Ill., or Washington, D.C.

No. MC 138195, filed November 6, 1972. Applicant: MID-ISLAND MESSENGER SERVICE, INC., 1044 Northern Boulevard, Roslyn, Long Island, NY. Applicant's representative: Arthur J. Piken, 1 Lafrak City Plaza, Flushing, NY 11368. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *General commodities*, limited to shipments not exceeding 100 pounds, in messenger service (restricted against the transportation of baggage, personal effects for campers, and household appliances and furniture), between New York, N.Y., and points in Nassau, Suffolk, and Westchester Counties, N.Y., on the one hand, and, on the other, points in New Jersey and Connecticut. NOTE: If a hearing is deemed necessary, applicant requests it be held at New York, N.Y.

No. MC 138223 (Sub-No. 1), filed November 28, 1972. Applicant: LINE HALL TRANSFER, INC., 75 West Emerson Avenue, Rahway, NJ 07065. 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: *Such commodities* as are dealt in by department stores, and *supplies and equipment* used in the conduct of such business, between Jersey City, N.J., on the one hand, and, on the other, Columbus, Ohio, under contract with Buckeye Mart. NOTE: If a hearing is deemed necessary, applicant requests it be held at New York, N.Y., or Washington, D.C.

No. MC 138223 (Sub-No. 2), filed November 28, 1972. Applicant: LINE HALL TRANSFER, INC., 75 West Emerson Avenue, Rahway, NJ 07065. 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: *Such commodities*, as are dealt in by department stores, and *supplies and equipment* used in the conduct of such business, between Jersey City, N.J. and New York, N.Y., on the one hand, and, on the other, Columbus, Ohio, under a continuing contract, or contracts, with Schottenstein Stores Corp., at Columbus, Ohio. NOTE: If a hearing is deemed necessary, applicant requests it be held at New York, N.Y., or Washington, D.C.

No. MC 138234, filed November 22, 1972. Applicant: DONALD G. GILLETTI, JR., doing business as GILLETTI'S GARAGE AND AUTO BODY WORKS, Main Street Extension, Middletown, Conn. 06457. Applicant's representative: James A. Natalie, Jr., 164 Court Street, Middletown, CT 06457. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Wrecked or disabled motor vehicles* (not exempted from ICC regulation by section 203(b)(10) of the Interstate Commerce Act, 49 U.S.C. 303(b)(10)), between points in Connecticut, Maine, Maryland, Massachusetts, New Hampshire, New Jersey, New York, North Carolina, Ohio, Pennsylvania, Rhode Island, Vermont, Virginia, West Virginia, the District of Columbia, and Delaware. NOTE: If a hearing is deemed necessary, applicant requests it be held at Hartford, Conn., Boston, Mass, or New York, N.Y.

No. MC 138235, filed November 20, 1972. Applicant: DECKER TRANSPORT COMPANY, INCORPORATED, 5 Ida Street, Haledon, NJ 07508. 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: *Steel storage buildings, shelving, screen houses, aluminum products, materials, equipment, and supplies* used or useful in the manufacture or sale of the foregoing commodities, except commodities in bulk, between the facilities of Arrow Group Industries, Inc., at locations in Breese, Ill.; Pompton Plains, N.J.; and Cucamonga, Calif., on the one hand, and, on the other, points in the United States (except Alaska and Hawaii), for the account of Arrow Group Industries, Inc. NOTE: If a hearing is deemed necessary, applicant requests it be held at Washington, D.C., or New York, N.Y.

No. MC 138236, filed November 20, 1972. Applicant: E. W. L. TRUCKING, INC., 2055 Railroad Avenue, Glenview,

IL 60025. Applicant's representative: Robert H. Levy, 29 South La Salle Street, Chicago, IL 60603. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Steel and iron bars, wire rope, wire, tool steel and chain; aluminum and steel pipe and tubing; structural steel and iron, and steel weldments; fabricated structural steel; machinery, machinery parts and tools; corrugated cartons and paperboard products; plastic articles;* and *athletic goods, supplies, and materials*, between Chicago, Ill., and the Chicago, Ill., commercial zone, on the one hand, and, on the other, points in Illinois. NOTE: If a hearing is deemed necessary, applicant requests it be held at Chicago, Ill.

No. MC 138237, filed November 20, 1972. Applicant: METRO HEAVY HAULING, INC., Post Office Box 88824, Tukwila Branch, Seattle, WA 98188. Applicant's representative: George R. LaBissoniere, 1424 Washington Building, Seattle, Wash. 98101. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Lumber, and lumber products, building materials, iron and steel articles, contractors' equipment, materials and supplies, and articles which, because of their size or weight, require the use of special equipment*, between points in Washington and Oregon, on the one hand, and, on the other, points in Washington, Oregon, and California. NOTE: Applicant presently holds contract carrier authority under MC 135537 and subs, therefore dual operations may be involved. If a hearing is deemed necessary, applicant requests it be held at Seattle, Wash.

No. MC 138240, filed November 15, 1972. Applicant: J. J. YODER, doing business as J. J. YODER TRUCKING, 301 North Nicodemus Street, Martinsburg, PA 16662. Applicant's representative: Christian B. Graf, 407 North Front Street, Harrisburg, PA 17101. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Feed, feed ingredients, and feed supplements*, in bags, (1) from Chillicothe, Dundee, and Carpentersville, Ill., and Syracuse, Ind., to the plantsite of Young's, Inc., in Taylor Township, Blair County, Pa., and (2) from the plantsite of Young's, Inc., in Taylor Township, Blair County, Pa., to points in New York, New Jersey, Maryland, Virginia, and Pennsylvania, under contract with Young's, Inc. NOTE: If a hearing is deemed necessary, applicant requests it be held at Harrisburg, Pa., or Washington, D.C.

No. MC 138242, filed November 27, 1972. Applicant: WESTERN CARTAGE, INC., Post Office Box 964, Pryor, OK 74361. Applicant's representative: Wilburn L. Williamson, 3535 Northwest 58th, 280 National Foundation Life Building, Oklahoma City, OK 73112. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Scrap paper*, from Farmer's Branch, Tex., to points in Oklahoma. NOTE: If a hearing is deemed necessary, applicant requests it be held at Dallas, Tex.

MOTOR CARRIERS OF PASSENGERS

No. MC 94742 (Sub-No. 35), filed November 30, 1972. Applicant: MICHAUD BUS LINES, INC., 61–63 Jefferson Avenue, Salem, MA 01970. Applicant's representative: Frank Daniels, 15 Court Square, Boston, MA 02108. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Passengers and their baggage* in round trip charter operations, beginning and ending in all points in Essex County, Mass., and extending to all points in the United States including Alaska (excluding Hawaii). NOTE: If a hearing is deemed necessary, applicant requests it be held at Boston, Mass.

No. MC 138232, filed November 6, 1972. Applicant: INQUISITOR'S CLUB, 410 South River Street, Seattle, WA 98108. Applicant's representative: George R. La Bissoniere, 1424 Washington Building, Seattle, Wash. 98101. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Passengers and their baggage and effects*, in charter operations, between points in Washington, California, and Oregon, on the one hand, and, points in the United States (except Hawaii), on the other hand, in charter and special operations. NOTE: Applicant alternatively requests contract carrier authority and moves to dismiss the application on the grounds that the service involved constitutes private carriage. If a hearing is deemed necessary, applicant requests it be held at Seattle, Wash.

No. MC 138239, filed November 20, 1972. Applicant: JAY L. SHAW AND MARYLN L. SHAW, a partnership, doing business as WEST TEXAS COACH LINES, 4310 West Hills Trail, Amarillo, TX. Applicant's representative: Grady L. Fox 222 Amarillo Building Amarillo, Tex. 79101. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Passengers and their baggage* in same vehicle, in charter service, from West Texas State University at Canyon, Tex., to points in New Mexico, Colorado, Kansas, and Oklahoma, and return. NOTE: If a hearing is deemed necessary, applicant requests it be held at Amarillo or Lubbock, Tex.

APPLICATION FOR FREIGHT FORWARDER

No. FF–431 (MISSOURI PACIFIC AIRFREIGHT, INC., freight forwarder application), filed December 11, 1972. Applicant: MISSOURI PACIFIC AIRFREIGHT, INC., 210 North 13th Street, St. Louis, MO 63103. Applicant's representative: Robert S. Davis, 2008 Missouri Pacific Building, St. Louis, Mo. 63103. Authority sought under section 410, Part IV of the Interstate Commerce Act, for a permit authorizing applicant to institute operation as a freight forwarder, in interstate or foreign commerce, through use of the facilities of common carriers by railroad, express, water, air, or motor vehicle in the transportation of: *General commodities* (except classes A and B explosives, household goods as defined by the Commission, commodities which because of size or weight require special equipment, unaccompanied baggage and used automobiles), between points in the United States (including Alaska, Hawaii, and the District of Columbia). Restriction: No shipment may be transported which does not have a prior or subsequent move in the air freight forwarding service of the applicant.

APPLICATIONS IN WHICH HANDLING WITHOUT ORAL HEARING HAS BEEN REQUESTED

No. MC 109533 (Sub-No. 49), filed November 29, 1972. Applicant: OVERNITE TRANSPORTATION COMPANY, a corporation, 1100 Commerce Road, Richmond, VA 23224. Applicant's representative: C. H. Swanson, Post Office Box 1216, Richmond, Va. 23209. Authority sought to operate as a *common carrier*, by motor vehicle, over regular routes, transporting: *General commodities*, except those of unusual value, Class A and B explosives, new furniture, household goods as defined by the Commission, commodities contaminating to other lading, uncrated new household, office, and store appliances and equipment, between Bluefield, W. Va., and Huntington, W. Va., over U.S. Highway 52 serving all intermediate points between Bluefield and the Mingo-Wayne County lines and the off-route points of Ashland, Catlettsburg and Louisa, Ky.; Chesapeake, Ohio, and Ceredo and Kenova, W. Va. Resrictions: (1) Intermediate points are restricted to shipments moving from, to, or through Bluefield, W. Va., and (2) the regular route authority sought herein above shall not be severable, by sale or otherwise, from the irregular-route authority contained in Sub 45, or Sub (see note). NOTE: By order of the Interstate Commerce Commission in Docket MC–F–11385, bearing service date of October 10, 1972, approval was granted to the application of Overnite Transportation Co.—Purchase (Portion)—Meyers Transfer & Storage Co.; this transaction was consummated October 18, 1972. The sub number assigned to the certificate when issued to be referred to in the restriction.

No. MC 134203 (Sub-No. 3), filed September 27, 1972. Applicant: CHEMICAL STORAGE & TRANSPORT CORPORATION, Post Office Box 419, 5100 Virginia Beach Boulevard, Norfolk, VA 23501. Applicant's representative: R. V. Peabody, 50 West Broad Street, Columbus, OH 43215. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Sulphur, molten*, in bulk, in tank vehicles, from Norfolk, Va., to points in North Carolina. NOTE: Applicant states that the requested authority cannot be tacked with its existing authority.

By the Commission.

[SEAL] ROBERT L. OSWALD, *Secretary.*

[FR Doc.72-22329 Filed 12-27-72;8:45 am]

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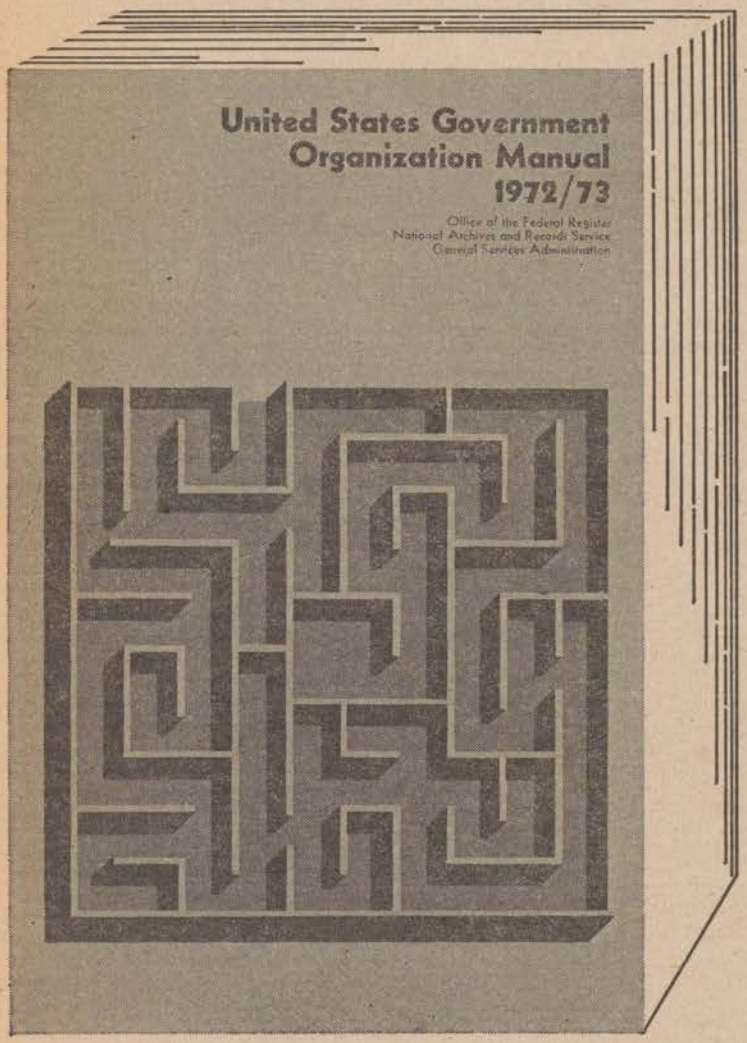

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