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# Rules and Regulations



## Title 32—National Defense

## CHAPTER V—DEPARTMENT OF THE ARMY

### SUBCHAPTER J—REAL PROPERTY

[Engineer Reg. No. 405-1-663]

## PART 641—UNIFORM RELOCATION ASSISTANCE AND REAL PROPERTY ACQUISITION POLICIES

On February 1, 1973, notice of proposed rulemaking regarding issuance of final regulations by the Department of the Army implementing the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 was published in the FEDERAL REGISTER (38 FR 3051). After consideration of all such relevant matter as was presented by interested persons, and upon discovery of certain minor inconsistencies or omissions, the regulations as proposed are hereby adopted, subject to the following changes:

1. Section 641.4(a) has been changed to revise the second sentence to read: "Such notice shall be served personally or by certified (or registered) first-class mail at the earliest possible time. (See app. C.)"

2. Section 641.102 has been revised to adopt the criteria for comparable replacement housing set forth in current OMB guidelines.

3. Section 641.105 has been revised to show the amount and term of the new mortgage and to correct an erroneous figure.

4. Section 641.109 has been changed to revise the third sentence to read: "Since the amount of the replacement housing payment cannot be determined due to the pending condemnation proceeding, except in situations contemplated in §§ 641.104(c)(5) and 641.104(c)(6), a provisional replacement housing payment may be calculated by deeming the appraised fair market value of the property as the acquisition price."

5. Section 641.131(a)(1). The last sentence has been revised to read: "Tenants and other persons occupying property shall be promptly advised, in writing, when negotiations for the property are initiated with the owner thereof."

6. Section 641.132(a)(3) has been revised to adopt a policy used by FHWA and other agencies in calculating benefits in the case of low-income tenants.

7. Section 641.291. The last sentence has been revised to delete the period and to add the following: "in accordance with procedures established by said State agency which will insure fair, adequate, and prompt review of all appeals filed."

8. Section 641.292(b). The next to the last sentence has been deleted and the following inserted in lieu thereof: "In addition, he should be advised that he may appear or be represented by counsel at a mutually agreeable time and may submit additional information at any time prior to final action on his appeal."

9. Section 641.294(c) has been revised to read: "The applicant shall have the right to request a conference concerning his appeal with the reviewing official concerned at any level of review and to present any evidence relevant to the appeal at any time prior to action by such official. The applicant will be promptly notified by the reviewing official as to the decision in his case at each stage of the appeal proceeding."

10. Section 641.294(d). This material was formerly contained in subsection (c) and is presented as a separate subsection for purposes of clarity.

*Effective date.*—This amendment is effective upon issuance.

For the Chief of Engineers.

Dated May 23, 1973.

WOODROW BERGE,
*Director of Real Estate.*

### Subpart A—General

POLICIES AND GENERAL INSTRUCTIONS



DEFINITIONS



### Subpart B—Assurance of Adequate Replacement Housing Prior to Displacement



### Subpart C—Moving and Related Expenses



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### Subpart I—Uniform Real Property Acquisition

AUTHORITY: 5 U.S.C. 301; sec. 213, Public Law 91–646, 84 Stat. 1894, 1900 (42 U.S.C. 4601, 4633).

## Subpart A—General

POLICIES AND GENERAL INSTRUCTIONS

### § 641.1 Purpose.

To establish policy and guidance for implementation of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (Public Law 91–646; 84 Stat. 1894), hereinafter referred to as the Act, to assure fair, equitable, and uniform treatment of persons displaced by Federal and federally assisted programs for which the Corps of Engineers has responsibility. All references in this regulation to sections or subsections are references to sections or subsections of the Act.

### § 641.2 Applicability.

This part is applicable to the Office of the Chief of Engineers (OCE) and to all Division and District Engineers having real estate responsibilities.

### § 641.3 References.

(a) AR 405–10.

(b) ER 405 series of regulations.

(c) Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (Public Law 91–646, approved January 2, 1971; 84 Stat. 1894), (appendix A).

(d) Title VI of the Civil Rights Act of 1964; title VIII of the Civil Rights Act of 1968 (Public Law 90–284).

### § 641.4 Basic policy and procedural requirements.

Procedures, policies, and forms prescribed in the ER 405 series of regulations relating to the acquisition of real property and interests therein will be followed except as they may be modified by the requirements of the Act and this regulation.

(a) A written notice of displacement must be given to each individual, family, business, or farm operation to be displaced. Such notice shall be served personally or by certified (or registered) first-class mail at the earliest possible time. (See appendix C.)

(b) In order to qualify for benefits under title II of the Act, as a displaced person, either of two conditions must be fulfilled:

(1) The person must have moved (or moved his personal property) as a result of the receipt of a written notice to vacate which notice may have been given before or after initiation of negotiations for acquisition of the property as prescribed by regulations. (When negotiations are initiated prior to issuance of a written notice, all persons contacted should be advised that the benefits of the Act are available only when the person moves subsequent to receipt of a written notice); or

(2) The subject real property must, in fact, have been acquired, and the person must have moved as a result of its acquisition (except in those instances covered by sections 217 and 219 of the Act). A move made after acceptance of an offer to sell (contract of purchase) but before closing is a move made as the result of acquisition of subject property.

(c) In addition, certain of the benefits provided by title II of the Act are available as follows:

(1) Whenever the acquisition of, or notice to move from, real property used for a business or farm operation causes any person to move from the other real property used for his dwelling, or to move his personal property from such other real property, such person may receive the benefits provided by sections 202 (a) and (b) and 205 of the Act.

(2) If it is determined that any person occupying property immediately adjacent to the real property acquired is caused substantial economic injury because of the acquisition, the District Engineer may offer such person relocation advisory services under section 205(c) of the Act.

(d) For real property acquisitions under Federal law, contracts or options to purchase real property shall not incorporate provisions for making payments for relocation costs and related items in title II of the Act. Appraisers shall not give consideration to, nor include in their real property appraisals, any allowances for the benefits provided by title II. In the event of condemnation with a declaration of taking, the estimated compensation shall be determined solely on the basis of the appraised value of the real property with no consideration being given to or reference contained therein to the payments to be made under title II of the Act. Insofar as practicable, a person negotiating for the acquisition of real property will not negotiate the relocation benefits to which a displaced person may be entitled.

(e) Applications for benefits under the Act are to be made within 18 months from the date on which the displaced person moves from the real property acquired or to be acquired; or the date on which the displacing agency makes final payment of all costs of that real property, whichever is the later date. Final payment of all costs includes satisfaction of awards in condemnation proceedings. The Chief of Engineers may extend this period upon a proper showing of good cause.

(f) A displaced person who makes proper application will be paid promptly after a move and, in hardship cases, may be paid in advance.

(g) The provisions of the Act apply to the acquisition of all real property for, and the relocation of, all persons displaced by Federal programs and projects undertaken by State agencies which receive Federal financial assistance for all or part of the cost. It is immaterial whether the real property is acquired by a Federal or State agency or whether Federal funds contribute to the cost of the real property.

(h) Relocation benefits under title II of the Act available in leasehold cases depend upon the circumstances under which the leasing action takes place. In cases where the Government initiates action to lease a specific property, all pertinent provisions of title II of the Act apply to both owners and tenants. In cases where the owner voluntarily offers his property for lease to the Government without any solicitation by the Government, any tenants who are displaced are entitled to benefits under title II of the Act. However, the owner in such a case is not entitled to title II benefits.

### § 641.5 Review of activities for compliance with titles II and III.

The District Engineer shall provide for the periodic review of all Federal and federally assisted programs for which he is responsible to insure compliance with the provisions of titles II and III of the Act.

### § 641.6 Public information.

The District Engineer shall insure that the public receives adequate knowledge of programs involving relocations and that persons to be displaced be fully informed, at the earliest possible time, of such matters as the relocation payments and assistance available; the specific plans and procedures for assuring that suitable replacement housing will be available for homeowners and tenants, in advance of displacement; the eligibility requirements and procedures for obtaining such payments and assistance; and the right of administrative review by the Chief of Engineers.

§ 641.7 Effective date.

The Act became effective January 2, 1971, and applies to all persons who moved after that date from real property acquired by the Government for public use.

§ 641.8 Repeal of laws.

The Resettlement Act, 10 U.S.C. 2680, and section 301 of the Land Acquisition Policy Act of 1960, 33 U.S.C. 596, were repealed by the Act.

§ 641.9 Benefits to be determined as of date of vacation.

Where a former owner or tenant does not vacate the acquired property immediately, or such property is leased to a former owner or tenant, relocation rights will be computed as of the time the property is vacated which, under Corps policy, is not later than 2 years from the date of acquisition. Former owners and tenants of property acquired before January 2, 1971, who move therefrom after that date are limited to benefits under sections 202 and 204, Public Law 91-646. No benefits shall be paid under section 203 to any person whose property was acquired prior to January 2, 1971.

DEFINITIONS

§ 641.21 The Act.

"The Act" means the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970.

§ 641.22 District Engineer.

The term "District Engineer" as used in this regulation means any District Engineer or his Chief of Real Estate, or where the Division Engineer handles real estate on a centralized basis, the Division Engineer or his Chief of Real Estate.

§ 641.23 Federal agency.

The term "Federal agency" means any department, agency, or instrumentality in the executive branch of the Government (except the National Capital Housing Authority), any wholly owned Government corporation (except the District of Columbia Redevelopment Land Agency), and the Architect of the Capitol, the Federal Reserve Banks, and branches thereof.

§ 641.24 State/State agency.

The term "State" means any of the several States of the United States, the District of Columbia, the Commonwealth of Puerto Rico, any territory or possession of the United States, the Trust Territories of the Pacific Islands, and any political subdivision thereof. The term "State agency" means the National Capital Housing Authority, the District of Columbia Redevelopment Land Agency, and any department, agency, or instrumentality of a State or of a political subdivision of a State, or any department, agency, or instrumentality of two or more States or of two or more political subdivisions of a State or States.

§ 641.25 Displacing agency.

The term "displacing agency" means a Federal agency in the case of a direct Federal project or a State agency in the case of a project receiving Federal financial assistance.

§ 641.26 Federal financial assistance.

The term "Federal financial assistance" means a grant, loan, or contribution provided by the United States, except any Federal guarantee or insurance and any annual payment or capital loan to the District of Columbia.

§ 641.27 Person.

The term "person" means any individual, partnership, corporation, or association.

§ 641.28 Displaced person.

The term "displaced person" means any person who, on or after January 2, 1971, moves from real property, or moves his personal property from real property as a result of acquisition of such real property, in whole or in part, or as the result of the written order of the acquiring agency to vacate real property, for a program or project undertaken by a Federal agency, or with Federal financial assistance; and solely for the purposes of sections 202 (a) and (b) and 205 of the Act, as a result of the acquisition of or as the result of the written order of the acquiring agency to vacate other real property, on which such person conducts a business or farm operation, for such program or project.

§ 641.29 Family.

A "family" means two or more individuals who are related by blood, adoption, marriage, or legal guardianship who live together as a family unit. However, if the District Engineer considers that circumstances warrant, others who live together as a family unit may be treated as if they were a family for the purpose of determining benefits under title II of the Act.

§ 641.30 Business.

The term "business" means any lawful activity, excepting a farm operation, conducted primarily:

(a) For the purchase, sale, lease, and rental of personal and real property, and for the manufacture, processing, or marketing of products, commodities, or any other personal property;

(b) For the sale of services to the public;

(c) By a nonprofit organization; or

(d) Solely for the purposes of section 202(a) of the Act, for assisting in the purchase, sale, resale, manufacture, processing, or marketing of products, commodities, personal property, or services by the erection and maintenance of an outdoor advertising display or displays, whether or not such display or displays are located on the premises on which any of the above activities are conducted. For the purpose of section 202(c) of the Act, where a warehouse or other storage facility operated in conjunction with a business is acquired by the Government and the business is not so acquired, the warehouse or storage facility is not considered to be a business. An example is a warehouse owned by a furniture store. A lot for the storage of automobiles, which was acquired, and the related car sales business or garage which was not acquired would fall in the same category.

§ 641.31 Farm operation.

The term "farm operation" means any activity conducted solely or primarily for the production of one or more agricultural products or commodities, including timber, for sale or home use, and customarily producing such products or commodities in sufficient quantity to be capable of contributing materially to the operator's support.

§ 641.32 Mortgage.

The term "mortgage" means such classes of liens as are commonly given to secure advances on, or the unpaid purchase price of, real property, under the laws of the State in which the real property is located, together with the credit instruments, if any, secured thereby.

§ 641.33 Dwelling.

"Dwelling" means the place of permanent or customary and usual abode of a person. It includes a single-family building, a one-family unit in a multi-family building; a unit of a condominium, or cooperative housing project; a mobile home, or any other residential unit. Part-time and seasonal homes are not included.

§ 641.34 Owner.

"Owner" means a person who holds fee title, a life estate, a 99-year lease, or an interest in a cooperative housing project which includes the right of occupancy of a dwelling unit, or is the contract purchaser of any such estates or interest, or who is possessed of such other proprietary interest in the property acquired as, in the judgment of the District Engineer, warrants consideration as ownership. In the case of one who has succeeded to any of the foregoing interests by devise, bequest, inheritance, or operation of law, the tenure of ownership, not occupancy, of the succeeding owner shall include the tenure of the preceding owner.

§ 641.35 Financial means.

Section 205(c)(3) requires that the replacement dwelling is within the financial means of the displaced individual or family. In making this determination, the average monthly rental or housing cost (e.g., monthly mortgage payments, insurance for the dwelling unit, property taxes, and other reasonable recurring related expenses) which the displaced person will be required to pay, in general, should not exceed 25 percent of the monthly gross income or the present ratio of housing payment to the income of the displaced family or individual, including supplemental payments made by public agencies.

## Subpart B—Assurance of Adequate Replacement Housing Prior to Displacement

### § 641.51 Assurance of availability.

(a) *Availability.* District Engineers may not proceed with any phase of a project or authorize a State agency to proceed with any phase of a project which will cause the displacement of any person until it has been determined, or until satisfactory assurances have been received from the displacing State agency, that within a reasonable period of time prior to displacement, there will be available on a basis consistent with the requirements of title VIII of the Civil Rights Act of 1968 (Public Law 90–284), in areas generally not less desirable in regard to public utilities and public and commercial facilities and at rents or prices within the financial means of the families and individuals displaced, decent, safe, and sanitary (hereinafter DSS) dwellings, equal in number to the number of, and available to, such displaced persons who require such dwellings and reasonably accessible to their places of employment.

(b) *Support.* The determination or assurances shall be based on a current survey and analysis of available replacement housing by the District Engineer. Such survey and analysis must take into account the competing demands on available housing.

(c) *Waiver.* In accordance with section 205(c)(3), the Chief of Engineers may authorize the waiver of the assurances. This will be done on a case by case basis. Waivers shall be limited only to emergency or other extraordinary situations where immediate possession of real property is of crucial importance. Each waiver of assurance of replacement housing shall be supported by appropriate findings and a determination of the necessity for the waiver. Determinations so made shall be included in the annual report required by section 214.

(d) *Decent, safe, and sanitary housing.* A DSS dwelling is one which is found to be in sound, clean, and weather-tight condition, and which meets local housing codes. District Engineers shall be governed by the following criteria in determining if a dwelling unit is DSS. Adjustments may only be made in the cases of unusual circumstances or in unique geographical areas.

(1) *Housekeeping unit.* A housekeeping unit must include a kitchen with fully usable sink; a cooking stove, or connection for same; a separate complete bathroom; hot and cold running water in both the bathroom and the kitchen; an adequate and safe wiring system for lighting and other electrical services; and heating as required by climatic conditions and local codes.

(2) *Nonhousekeeping unit.* A nonhousekeeping unit is one which meets local code standards for boarding houses, hotels, or other congregate living. If local codes do not include requirements relating to space and sanitary facilities, standards will be subject to the approval of the District Engineer.

(3) *Occupancy standards.* Occupancy standards for replacement housing shall comply with Federal agency approved occupancy requirements or comply with local codes.

(4) *Absence or inadequacy of local standards.* In those instances where there is no local housing code or a local housing code does not contain certain minimum standards or the standards are inadequate, the Chief of Engineers, based on recommendations of the District Engineer, will establish such standards.

### § 641.52 Housing provided as a last resort.

When it is determined that adequate replacement housing is not available and cannot otherwise be made available, District Engineers will report the facts to the Chief of Engineers with recommendations. Such housing will be provided by the Government as a last resort.

### § 641.53 Loans for planning and preliminary expenses.

When contemplating loans for planning and other preliminary expenses authorized under section 215, District Engineers will report the facts to the Chief of Engineers with recommendations. This provision also applies in connection with federally assisted projects.

## Subpart C—Moving and Related Expenses

### § 641.61 Eligibility.

(a) Any displaced person (including one who conducts a business or farm operation) is eligible to receive a payment for moving expenses. A person who lives on his business or farm property may be eligible for both moving and related expenses as a dwelling occupant in addition to being eligible for payments with respect to displacement from a business or farm operation.

(b) Any person who moves from real property or moves his personal property from real property as a result of the acquisition of such real property, in whole or in part, or as a result of a written notice of the acquiring agency to vacate real property, or solely for the purpose of section 202 (a) and (b) as a result of the acquisition of, or a written notice of the acquiring agency to vacate, other real property on which such person conducts a business or farm, is eligible to receive a payment for moving expenses.

### § 641.62 Actual reasonable expenses in moving.

(a) *Allowable moving expenses.*

(1) Transportation of individuals, families, and personal property from the acquired site to the replacement site, not to exceed a distance of 50 miles, except where the District Engineer determines that relocation beyond the 50-mile area is justified.

(2) Packing and unpacking, crating and uncrating of personal property.

(3) Advertising for packing, crating, and transportation when the District Engineer determines that it is necessary.

(4) Storage of personal property for a period generally not to exceed 12 months when the District Engineer determines that storage is necessary in connection with relocation.

(5) Insurance premiums covering loss and damage of personal property while in storage or transit.

(6) Removal, reinstallation, reestablishment, including such modification as deemed necessary by the District Engineer, and reconnection of utilities for machinery, equipment, appliances, and other items, not acquired as real property. Prior to payment of any expenses for removal and reinstallation of such property, the displaced person shall be required to agree in writing that the property is personalty and that the Government is released from any payment for the property.

(7) Property lost, stolen, or damaged (not caused by the fault or negligence of the displaced person, his agent or employees), in the process of moving, where insurance to cover such loss or damage is not available.

(8) Payment not to exceed $100 for time lost from employment to supervise hired movers.

(9) Such other reasonable expenses which, in the opinion of the District Engineer, were necessarily incurred by the displaced person.

(b) *Limitations.*

(1) When the displaced person accomplishes the move himself, the amount of payment shall not exceed the estimated cost of moving commercially, unless the District Engineer determines a greater amount is justified.

(2) When an item of personal property which is used in connection with any business or farm operation is not moved but sold and promptly replaced with a comparable item, reimbursement shall not exceed the replacement cost minus the proceeds received from the sale, or the estimated cost of moving, whichever is less.

(3) When personal property which is used in connection with any business or farm operation to be moved is of low value and high bulk, and the cost of moving would be disproportionate in relation to the value, in the judgment of the District Engineer, the allowable reimbursement for the expense of moving the personal property shall not exceed the difference between the amount which would have been received for such item on liquidation and the cost of replacing the same with a comparable item available on the market. This provision will be applicable in the case of moving of junkyards, stockpiled sand, gravel, minerals, metals, and other similar type items of personal property.

(4) If the cost of moving or relocating an outdoor advertising display or displays is determined to be equal to, or in excess of, the in-place value of the display, consideration should be given to acquiring such display or displays as a part of the real property, unless such acquisition is prohibited by State law.

### § 641.63 Nonallowable moving expenses and losses.

(a) Additional expenses incurred because of higher cost of living in a new location.

(b) Cost of moving structures or other improvements as to which the displaced

person reserved removal rights, except as otherwise provided by law.

(c) Improvements to the replacement site, except when required by law.

(d) Interest on loans to cover moving expenses.

(e) Loss of goodwill.

(f) Loss of profits.

(g) Loss of trained employees.

(h) Personal injury.

(i) Cost of preparing the application for moving and related expenses.

(j) Payment for search cost in connection with locating a replacement dwelling.

### § 641.64 Reasonable expenses in searching for replacement business or farm.

(a) *Allowable.*

(1) Actual reasonable travel costs.

(2) Extra costs for meals and lodging.

(3) Time spent in searching at the rate of the displaced person's salary or earnings, but not to exceed $10 per hour.

(4) In the discretion of the District Engineer, broker, real estate, or other professional fees deemed necessary to locate a replacement business or farm operation.

(b) *Limitation.* The total amount a displaced person may be paid for searching expenses may not exceed $500 unless the Chief of Engineers determines that a greater amount is justified based on the circumstances involved.

### § 641.65 Actual direct losses by business or farm operation.

When the displaced person does not move personal property, he shall be required to make a bona fide effort to sell it, and shall be reimbursed for the reasonable costs incurred.

(a) When the business or farm operation is discontinued, the displaced person is entitled to the difference between the fair market value of the personal property for continued use at its location prior to displacement and the sale proceeds, or the estimated cost of moving 50 miles, whichever is less.

(b) When the personal property is abandoned, the displaced person is entitled to payment for the fair market value of the property for continued use at its location prior to displacement or the estimated cost of moving 50 miles, whichever is less.

(c) The cost to the Government of removal of the personal property shall not be considered as an offsetting charge against other payments to the displaced person.

## Subpart D—Payments in Lieu of Moving and Related Expenses

### § 641.81 Dwellings—Moving expense schedules; dislocation allowance.

(a) Subsection 202(b) provides that at the option of the displaced person he may receive a moving expense allowance not to exceed $300 based on schedules established by each agency head. District Engineers will use the moving allowance schedules maintained by the respective State highway departments as the basis for such schedules. These schedules shall provide for adequacy of reimbursement in every locality. The Federal Highway Administration is required to maintain all schedules on a current basis and such schedules are normally available upon request.

(b) Where there are no highway department schedules, the District Engineer will join with other Federal agencies causing displacement in such areas in the development of a single moving expense schedule for the use of all displacing agencies.

(c) A displaced person, who elects to receive a payment based on a schedule, shall be paid a sum not to exceed $300 under the schedule used in the jurisdiction in which the displacement occurs regardless of where he relocates. In addition, he may be paid a dislocation allowance of $200, provided, however, in cases of multiple occupancy, not families, only one dislocation allowance per dwelling will be paid.

### § 641.82 Businesses—Eligibility.

(a) A business, as defined in subsection 101(7) (A), (B), and (C) is eligible under subsection 202(c) to receive a payment in lieu of moving and related expenses. Care must be exercised, in each instance, however, to assure that such payments are made only in connection with a bona fide business. The District Engineer will make a determination with respect to whether a given activity constitutes such a business.

(b) Those businesses described in subsection 101(7)(D) are not eligible under subsection 202(c) for a payment in lieu of moving and related expenses.

(c) Where a displaced person is displaced from his place of business, no payment shall be made under subsection 202(c) until after the District Engineer determines: (1) That the business is not a part of a commercial enterprise having at least one other establishment not being acquired, which is engaged in the same or similar business, and (2) that the business cannot be relocated without a substantial loss of existing patronage. The determination of loss of existing patronage shall be made by the District Engineer only after consideration of all pertinent circumstances, including, but not limited to, the following factors:

(1) The type of business conducted by the displaced concern.

(2) The nature of the clientele of the displaced concern.

(3) The relative importance of the present and proposed location to the displaced business and the availability of a suitable replacement location for the displaced person.

### § 641.83 Farms—Partial taking.

Where a displaced person is displaced from only a part of his farm operation, the fixed payment provided by subsection 202(c) shall be made only if the District Engineer determines that the farm met the definition of a farm operation prior to the acquisition and that the property remaining after the acquisition can no longer meet the definition of a farm operation.

### § 641.84 Nonprofit organizations.

Where a nonprofit organization is displaced, no payment shall be made under subsection 202(c) until after the District Engineer determines:

(a) That the nonprofit organization cannot be relocated without a substantial loss of its existing patronage. The term "existing patronage" as used in connection with nonprofit organizations includes the persons, community, or clientele served or affected by the activities of the nonprofit organization.

(b) That the nonprofit organization is not part of a commercial enterprise having at least one other establishment not being acquired which is engaged in the same or similar activity.

### § 641.85 Net earnings.

The term "average annual net earnings" as used in subsection 202(c) means one-half of any net earnings of the business or farm operation, before Federal, State, and local income taxes, during the 2 taxable years immediately preceding the taxable year in which such business or farm operation moves from the real property acquired for such project, or during such other period as the District Engineer determines to be more equitable for establishing such earnings, and includes any compensation paid by the business or farm operation to the owner, his spouse, or his dependents during such period. Income derived from capital gains resulting from liquidation of business or farm operations in anticipation of Government acquisition should be excluded. However, other capital gains may be included in computing average annual net earnings if they occurred as a normal incident to business or farm operations. If a business or farm operation has no net earnings, or has suffered losses during the period used to compute "average annual net earnings," it may nevertheless receive the $2,500 minimum payment.

### § 641.86 Amount of farm operation or business fixed payment.

The fixed payment to a person displaced from a farm operation or from his place of business, including nonprofit organizations, shall be in an amount equal to the average annual net earnings of the business or farm operation, except that such payment shall not be less than $2,500 nor more than $10,000.

## Subpart E—Replacement Housing Payment for Homeowners

### § 641.101 Eligibility.

(a) In addition to other payments authorized, a displaced owner-occupant is eligible for a replacement housing payment, authorized by section 203(a), not to exceed $15,000, if he meets both of the following requirements:

(1) Actually owned and occupied the acquired dwelling from which displaced for not less than 180 days prior to the initiation of negotiations for the property. The term "initiation of negotiations" means the day on which the acquiring agency makes the first personal contact with the property owner or his representative and furnishes him with a

written offer to purchase the real property.

(2) Purchases and occupies a replacement dwelling, which is DSS, not later than the end of the 1-year period beginning on the date on which he receives from the displacing agency the final payment of all costs of the acquired dwelling, or on the date on which he moves from the acquired dwelling, whichever is the later date, subject to exception in § 641.107(a)(1).

(b) A displaced owner-occupant of a dwelling who is determined to be ineligible under section 203 may be eligible for a replacement housing payment under section 204.

(c) Where the owner of a displaced business or farm owns and occupies a dwelling on the same premises, such person may be eligible for a replacement housing payment in addition to the payments authorized for such displaced business or farm.

**§ 641.102 Comparable replacement dwelling.**

For the purposes of rendering relocation assistance by making referrals for replacement housing and for computation of the replacement housing payment, a comparable replacement dwelling is one which is DSS and:

(a) Functionally equivalent to and substantially the same as the acquired dwelling but not excluding newly constructed housing.

(b) Adequate in size to meet the needs of the displaced family or individual. However, at the option of the displaced person, a replacement dwelling may exceed his needs when the replacement dwelling has the same number of rooms or the equivalent square footage as the dwelling from which he was displaced.

(c) Open to all persons regardless of race, color, religion, or national origin, consistent with the requirement of the Civil Rights Act of 1964 and title VIII of the Civil Rights Act of 1968.

(d) Located in an area not generally less desirable than the one in which the acquired dwelling is located, with respect to:

(1) Neighborhood conditions, including, but not limited to, municipal services and other environmental factors.

(2) Public utilities, and

(3) Public and commercial facilities.

(e) Reasonably accessible to the displaced person's place of employment or potential place of employment.

(f) Within the financial means of the displaced family or individual.

(g) Available on the market to the displaced person.

(h) If housing meeting the above requirements is not available on the market, the District Engineer may, upon a proper finding of the need therefor, consider available housing exceeding these basic criteria. Mobile homes may be considered as replacement dwellings, provided they meet the standards of DSS dwellings.

**§ 641.103 Replacement housing payment.**

The replacement housing payment of not more than $15,000 is comprised of the differential payment for replacement housing, increased interest payments, and expenses incident to the purchase of a replacement dwelling.

**§ 641.104 Differential payment for replacement housing.**

The amount established as the differential payment for the replacement housing sets the upper limit of such payment. The District Engineer may determine the amount, if any, which when added to the acquisition cost of the dwelling acquired by the displacing agency is necessary to purchase a comparable replacement dwelling by either establishing a schedule or by a comparative method.

(a) *Schedule method.* The District Engineer responsible for the displacement of homeowners may make surveys to determine and certify the availability of comparable DSS housing which will meet the requirements for replacement dwellings. These surveys shall be based on a locality-wide study and must include all types of properties comparable and similar to those to be acquired by the agency. In large urban areas this survey may be confined to one area of the city or may cover several different areas if they are comparable and equally accessible to public services and places of employment. In order to assure the greatest comparability of dwellings in any such study to the dwellings being acquired, the study should be divided into classifications as to type of construction, number of rooms, price range, etc. The survey shall include the asking price of any available housing found to be acceptable as replacements. The selling prices of each of the various types of dwellings being studied should also be obtained in the survey. The amount of adjustments required for the asking prices can then be determined by comparing the asking with the actual sale price of similar houses. An analysis of the survey will then develop the average selling price of various classes and types of dwelling units on the market. The District Engineer may then establish a schedule of reasonable acquisition costs for comparable replacements for the various types of properties acquired within the project. Every effort should be made to enlist the assistance and services of local agencies and authorities in preparing these surveys and subsequent schedules. Also, the District Engineer should coordinate his staff's efforts with other agencies and, if feasible, arrange for one agency to conduct all surveys and keep the schedule current. When there are other federally assisted programs which are causing displacements in the area, close coordination is necessary for assurance that the District Engineer and other agencies are not relying upon the same housing and that the total number of units certified by all agencies does not exceed the total of units actually available for replacement housing. The District Engineer should also coordinate with other agencies on the developing of the replacement housing schedules so that the computation of differential housing payments will be uniform.

(b) *Comparative method.* The District Engineer may determine the price of a comparable replacement dwelling by selecting dwellings most representative of the dwelling unit acquired, available to the displaced person, and which meet the definition of a comparable replacement dwelling. A single dwelling shall be used only when additional comparable dwellings are not available.

(c) *Limitations.*

(1) If the displaced person voluntarily purchases and occupies a DSS dwelling at a price less than the acquisition price of the acquired dwelling, no differential payment shall be made.

(2) If the displaced person voluntarily purchases and occupies a DSS replacement dwelling at a price less than the amount estimated to be necessary under (a) or (b), above, the replacement housing payment will be reduced to that amount required to pay the difference between the price of the acquired dwelling and the actual purchase price of the replacement dwelling.

(3) A displaced person who purchases a home which is not DSS, but which he brings up to DSS standards and occupies within the prescribed time period will be considered eligible as contemplated by section 203(a)(2) of the Act.

(4) In order for a displaced person to be eligible for benefits under section 203, his dwelling must have been acquired by the displacing agency. If a displaced person reserves the right to remove the dwelling and moves it to another location, it must be corrected, where necessary, at the owner's expense, to DSS standards and occupied by the applicant before a replacement housing payment can be made. When this is done, benefits will be computed in the some manner as in the case of a purchased replacement dwelling.

(5) Where a dwelling is located on a tract larger than the average residential lot in the area, the replacement housing payment will be determined by estimating the value of the dwelling at the present location on a homesite typical in size for the area and adjusting this amount with the average selling price of a comparable dwelling on a site of average size for the area.

(6) Where a dwelling is located on a tract having a fair market value based on a higher and better use than residential, the replacement housing payment will be determined by estimating the value of the dwelling at its present location but on a lot zoned for residential use, and adjusting this amount with the average selling price of a comparable dwelling on a typical residential homesite for the area.

**§ 641.105 Increased interest payments.**

(a) This shall be the amount, if any, which will compensate such displaced person for any increased interest costs which such person is required to pay for financing the acquisition of any such comparable replacement dwelling. Such amount will be paid only if the dwelling acquired by the displacing agency was encumbered by a bona fide mortgage which was a valid lien on such dwelling for not less than 180 days prior to the initiation of negotiations for acquisition of such dwelling. Such amount will be equal to the excess of the aggregate interest and other debt service costs of the amount of the principal of the mortgage(s) on the replacement dwelling which is equal to the unpaid balance of the mortgage(s) on the acquired dwelling over the remaining term of the mortgage(s) on the acquired dwelling, reduced to discounted present value. The discount rate will be the prevailing interest rate paid on savings deposits by commercial banks in the general area in which the replacement dwelling is located. The basis for the payment for increased interest costs shall be the amount of the unpaid debt on the displaced person's property at the time of the acquisition of the real property. The increased interest payment shall be the present discounted value of the actual additional cost of financing the debt balance for its remaining term plus any points which the displaced person may have to pay on the amount refinanced.

(b) The following is an example of computation of payment for increased interest costs:

| | |
|---|---|
| A new mortgage of $10,000 for 20 years was obtained. | |
| Outstanding balance of mortgage on acquired dwelling | $8,943.27. |
| Number of months remaining until last payment is due for mortgage on acquired dwelling. | 186 months (15½ years). |
| Annual interest rate of mortgage on acquired dwelling | 4¾ percent. |
| Annual interest rate of mortgage on replacement dwelling (or, if it is lower, the prevailing annual interest rate currently charged by mortgage lending institutions in the general area in which the replacement dwelling is located). | 6⅞ percent. |
| Prevailing annual interest rate paid on standard passbook savings accounts by commercial banks. | 4 percent. |
| Monthly payment required to amortize a loan of $8,943.27 in 186 months (15½ years) at an annual rate of 4¾ percent (old dwelling mortgage rate). | $68.06. |
| Monthly payment required to amortize a loan of $8,943.27 in 186 months (15½ years) at an annual interest rate of 6⅞ percent (new dwelling mortgage rate). | $78.34. |
| Monthly payment required to amortize a loan of $8,943.27 in 186 months (15½ years) at an annual rate of 4 percent (savings rate). | $64.66. |
| Monthly payment based on rate for replacement dwelling | $78.34. |
| Monthly payment based on rate for acquired dwelling | $68.06. |
| Difference | $10.28. |
| Divide result (difference) by monthly payment based on savings rate. | $10.28÷$64.66. |
| Result | .158985. |
| Multiply outstanding balance | $8,943.27×.158985. |
| Result | $1,421.85. |
| Add any debt service cost on loan for replacement dwelling (include points paid by purchaser which are not reimbursable as an incidental expense). | $ 217.62. |
| Increased interest cost payment due property owner | $1,639.47. |

**§ 641.106 Expenses incident to purchase of replacement dwelling.**

A displaced person may be paid, as part of the replacement housing payment, reasonable expenses incident to the purchase of the replacement dwelling. Items, such as the following, are eligible for reimbursement:

(a) Legal, closing, and related costs including title searches and guarantees, preparing conveyance contracts, notary fees, surveys, preparing drawings of plots, and charges incident to recordation;

(b) Lenders, FHA, or VA appraisal fees;

(c) FHA or VA application fee;

(d) Certification of structural soundness when required by lender, FHA, or VA;

(e) Credit report;

(f) Escrow agent's fee;

(g) State revenue stamps and sale or transfer taxes.

**§ 641.107 Contract for rehabilitation or construction of replacement dwellings.**

(a) A displaced person may, in lieu of purchasing a comparable DSS replacement dwelling, contract for the rehabilitation of an existing dwelling purchased by him, contract for the purchase of a dwelling to be constructed on a site provided by a builder or developer, or contract for the construction of a dwelling on a site which he owns or acquires for that purpose.

(1) If the date of completion of rehabilitation or construction of a replacement dwelling may be delayed, for reasons not within the reasonable control of the displaced person, beyond the time required for eligibility for payment, the District Engineer may determine the date of occupancy as the date the displaced person enters into a contract for such rehabilitation and construction, or for the purchase, *Provided, however,* That no replacement housing payment will be made until the displaced person actually occupies the dwelling.

(2) Ordinarily, the displacement should not occur before replacement housing is available. However, the displaced owner may elect to contract for purchase of a dwelling to be constructed by a developer, or contract for rehabilitation or construction of a dwelling and relocate into interim housing. Where comparable DSS housing is available and the displaced person makes such election, the cost of living in such interim housing is not reimbursable.

(b) Whenever a displaced person is eligible for a replacement housing payment, the District Engineer may, at the request of the displaced person, provide a written statement to any interested person, financial institution, or lending agency as to the displaced person's eligibility for a payment and the requirements that must be satisfied before such payment may be made. If the proposed replacement dwelling has been selected, or if plans and specifications are available for the construction or rehabilitation of the proposed dwelling, the District Engineer may, after inspecting the dwelling or plans, and finding that they meet the required standards, include such finding and the amount of payment to be available in such statement.

**§ 641.108 Verification and records.**

A written record of the determination that replacement housing is comparable and DSS, with supporting details, will be made and placed with the records of the case. Also, a written verification of the purchase and occupancy of such dwelling will be made and filed with the records of the case.

**§ 641.109 Advance replacement housing payment in condemnation cases.**

No property owner should be deprived of the earliest possible benefits of a replacement housing payment to which he is rightfully due. An advance replacement housing payment may be computed and paid to a property owner if the determination of the acquisition price will be delayed pending the outcome of condemnation proceedings. Since the amount of the replacement housing payment cannot be determined due to the pending condemnation proceeding, except in situations contemplated in §§ 641.104(c)(5) and 641.104(c)(6), a provisional replacement housing payment may be calculated by deeming the appraised fair market value of the property as the acquisition price. Payment of such amount may be made upon the owner-occupant's agreement that: (1) Upon final determination of the condemnation proceeding the replacement housing payment will be recomputed using the acquisition price determined by the court as compared to the average price required to acquire a comparable DSS dwelling; and (2) if the amount awarded in the condemnation proceeding as the fair market value of the property acquired plus the amount of the replace-

ment housing payment advanced exceeds the cost of an average comparable dwelling, he will refund the amount of the excess. However, in no event shall he be required to refund more than the amount of the replacement housing payment advanced. If the property owner does not agree to such adjustment, the replacement housing payment will be deferred until the case is finally adjudicated and computed on the basis of the final determination, using the award as the acquisition price.

**§ 641.110 Requirement to receive payment.**

Before an otherwise eligible owner-occupant may receive a replacement housing payment the District Engineer must have verified that he purchased and occupied DSS housing within the required time. The displaced person is not required to purchase and occupy comparable housing, but he must purchase and occupy DSS housing. Upon such verification, the District Engineer will certify that the owner-occupant did purchase and occupy such housing within the prescribed time.

## Subpart F—Replacement Housing Payments for Tenants and Certain Others

**§ 641.131 Eligibility.**

(a) A displaced tenant or owner-occupant of an acquired dwelling is eligible for a replacement housing payment not to exceed $4,000, as authorized by section 204, if he meets both of the following requirements:

(1) Actually occupied the dwelling for not less than 90 days prior to the initiation of negotiations for acquisition of the property. The term "initiation of negotiations" means the day on which the District Engineer makes the first personal contact with the property owner or his representative and furnishes him with a written offer to purchase the real property. Tenants and other persons occupying property shall be advised, in writing, when negotiations for the property are initiated with the owner thereof.

(2) Is not eligible to receive a payment under section 203.

(b) An owner-occupant of a dwelling for not less than 180 days prior to the initiation of negotiations is eligible for a replacement housing payment as a tenant, as authorized by section 204, when he rents a DSS replacement dwelling, instead of purchasing and occupying a replacement dwelling which is DSS not later than the end of the 1-year period beginning on the date on which he receives from the District Engineer final payment for all costs for the acquired dwelling, or on the date on which he moves from the acquired dwelling, whichever is the later date.

**§ 641.132 Computation and method of payment.**

The benefits consist of a rental replacement housing payment, or if replacement housing is purchased within 1 year from displacement, a down payment, including expenses incident to closing. The total replacement housing payment may not exceed $4,000.

(a) *Rental supplement.* The District Engineer may determine the amount necessary to rent a comparable replacement dwelling by either establishing a schedule or by using a comparative method. However, in cases where it is established that the applicant will occupy comparable DSS replacement housing at a rental which is less than that computed under the following methods, the payment will be based on the actual rental.

(1) *Schedule method.* The District Engineer may establish a rental schedule for renting comparable replacement dwellings as described in § 641.102 and which are available in the private market for the various types of dwellings to be acquired. The payment shall be computed by determining the amount necessary to rent a comparable replacement dwelling for 4 years (the average monthly cost from the schedule) and subtracting from such amount 48 times the average month's rent paid by the displaced tenant in the last 3 months prior to initiation of negotiations, if such rent was reasonable. For a displaced owner-occupant, the present rental rate for the acquired dwelling should be economic rent as determined by market data. There may be other circumstances which may indicate the use of economic rather than actual rent paid by the displaced person. For the purposes of these guidelines, economic rent is defined as the amount of rent the displaced person would have had to pay for a comparable dwelling unit in an area similar to the neighborhood in which the dwelling unit to be acquired is located. The schedule should be based on current analysis of the market to determine an amount for each type of dwelling required. When more than one Federal agency is causing the displacement in a community or an area, the District Engineer shall cooperate with the other agencies concerned in choosing the method for computing the replacement housing payment and shall use uniform schedules of average rental housing in the community or area.

(2) *Comparative method.* The District Engineer may determine the average month's rent by selecting one or more dwellings most representative of the dwelling unit acquired, which is available to the displaced person and meets the definition of a comparable replacement dwelling as described in § 641.102. The payment should be computed by determining the amount necessary to rent a comparable replacement dwelling for 4 years and subtracting from such amount 48 times the average month's rent paid by the displaced tenant in the last 3 months prior to initiation of negotiations, if such rent was reasonable. There may be circumstances which may dictate the use of economic rather than actual rent paid by the displaced person.

(3) *Exceptions.* The District Engineer may establish the average month's rent paid by the displaced person by using a period of more than 3 months as a basis, if he deems it advisable. Also, in any case involving a low income displacee where the average rent paid for the acquired dwelling, plus heat, electricity, and water, if paid in addition to rent exceeded 25 percent of the gross income of such displaced person, the rental supplement will be computed based on the difference between the rent to be paid for the replacement dwelling, plus the above utilities, and 25 percent of the displaced person's gross income.

(4) *Alternate to (a) (1) and (2).* When neither method is feasible, the District Engineer shall make recommendations to the Chief of Engineers for an alternate method of computing the payment.

(5) *Method of payment.* Payments which exceed $1,000 for a 4-year term will be made in equal installments on an annual basis. Before making each payment, the District Engineer will determine that the tenant is in DSS housing. A payment which totals $1,000 or less for a 4-year term will be paid in one lump sum and after such payment the District Engineer has no further responsibility to ascertain whether the tenant continues to occupy DSS housing.

(b) *Purchases—Replacement housing payment.* If the displaced person elects to purchase instead of renting, the payment shall be computed by determining the amount of downpayment required by paragraph (b) (1) of this section, plus certain incidental expenses for the purchase of replacement housing as follows:

(1) The amount of downpayment shall be based on the amount of downpayment that would be required for purchase of a comparable replacement dwelling using a conventional loan, regardless of the type of loan actually obtained. Whereas a minimum downpayment or no downpayment may be required (e.g., VA and FHA), as long as the applicant actually makes a downpayment in the amount which would be required for a conventional loan, reimbursement may be made in such amount.

(2) Incidental expenses of closing the transaction are those as described in § 641.106.

(3) The maximum payment may not exceed $4,000. If more than $2,000 is required, the tenant must match any amount in excess of $2,000 by an equal amount in making the downpayment and related closing costs.

(4) The full amount of the replacement housing payment must be applied to the purchase price and incidental costs shown on the closing statement.

## Subpart G—Mobile Homes

**§ 641.151 Mobile home qualifies as a dwelling.**

A mobile home is a "dwelling" within the meaning of sections 203 and 204 of the Act, regardless of whether, in law, the mobile home is realty or personalty if it is, in fact, the place of permanent or

customary and usual abode of a displaced person as defined in section 101(6) of the Act.

§ 641.152 Acquisition of mobile home.

A mobile home will be acquired where it is considered to be real property under State law, cannot be moved without substantial damage or unreasonable cost, or is not a DSS dwelling.

§ 641.153 Ownership requirements under section 203.

The owner of a mobile home, who is otherwise eligible, qualifies under the "ownership" requirement with respect to section 203 regardless of whether or not he owns any interest in the land on which it is situated.

§ 641.154 Removal of mobile home.

Acquisition of title to the dwelling by the acquiring agency is a prerequisite to the payment of benefits under section 203. If the mobile home is not acquired, it must be removed by the owner, and the moving cost is reimbursable under section 202.

§ 641.155 Mobile home acquired—owner also owns underlying land.

Where the owner of a mobile home, which is acquired, also owns the underlying land:

(a) The owner is entitled to benefits under section 202, if otherwise eligible.

(b) The owner is entitled to benefits under section 203, if otherwise eligible. Benefits under this section, however, should be computed on the basis of the cost of a comparable DSS mobile home on a replacement site.

(c) The owner is entitled to benefits under section 204 if: (1) He is not eligible for a payment under section 203, and (2) he actually and lawfully occupied the mobile home for not less than 90 days prior to the initiation of negotiations.

§ 641.156 Mobile home acquired—owner does not own underlying land.

Where the owner of a mobile home does not own the underlying land and the Government acquires both the land and the mobile home:

(a) The owner is entitled to benefits under section 202, if he is otherwise eligible.

(b) The owner is entitled to benefits under section 203, if otherwise eligible, but his differential benefits are limited to the increased amount necessary to purchase a comparable DSS mobile home, without any land.

(c) The owner is entitled to benefits under section 204 if: (1) He is not eligible for a payment under section 203, and (2) he actually and lawfully occupied the mobile home for not less than 90 days prior to the initiation of negotiations.

§ 641.157 Mobile home acquired—former owner reserves right of removal.

Where the United States acquires a mobile home, because it is considered to be real property, the former owner should be accorded the same opportunity to reserve the right to remove it by a certain date as in the case of conventional homes.

(a) A mobile home will generally have a relatively greater value for removal than would a conventional home. Accordingly, the District Engineer should obtain a return for the mobile home which approximates its market value.

(b) The former owner is not eligible under section 202 for payment of the costs of moving the mobile home in this situation, although reasonable costs of moving the contents separately may be allowed, at the discretion of the District Engineer.

§ 641.158 Mobile home not acquired.

Where the Government acquires the land only and the owner removes the mobile home:

(a) The owner is entitled to benefits under section 202, if otherwise eligible. If he uses such mobile home for his replacement home, he may be paid not only for the cost of moving the mobile home but for detaching and reattaching such mobile home in its new location.

(b) Since acquisition of title to the dwelling is a prerequisite to eligibility for benefits under section 203 and the mobile home was not acquired, the owner is not entitled to benefits under section 203; however, in a proper case, he may be entitled to benefits under section 204.

§ 641.159 Mobile home as replacement dwelling.

A mobile home which meets the DSS standards of the Act is a suitable replacement dwelling. When a mobile home is purchased as a replacement home and located on a site owned or purchased by the applicant, its value should be included in calculating benefits under section 203 or 204.

## Subpart H—Relocation Assistance Advisory Services

§ 641.171 Relocation assistance advisory program.

Section 205 requires establishment of a relocation assistance advisory program for persons displaced as a result of Federal or federally assisted programs or projects. District Engineers will provide such a program where Federal projects are involved; State agencies are required to provide the advisory program when federally assisted projects are involved. Each relocation assistance advisory program shall include such measures, facilities, or services as may be necessary or appropriate in order to:

(a) Determine the need, if any, of displaced persons for relocation assistance;

(b) Provide current and continuing information on the availability, prices and rentals of comparable, decents, safe, and sanitary sales and rental housing and of comparable commercial properties and farms, and locations for displaced businesses;

(c) Assure that within a reasonable period of time prior to displacement there will be available comparable, decent, safe, and sanitary replacement dwellings, equal in number to the number of and available to such displaced persons who require such dwellings and reasonably accessible to their places of employment;

(d) Assist a person who is displaced from his business or farm operation in obtaining and becoming established in a suitable replacement location;

(e) Supply information concerning Federal and State housing programs, disaster loan programs, and other Federal or State programs offering assistance to displaced persons;

(f) Provide other advisory services to displaced persons in order to minimize hardships to such persons in adjusting to such relocation;

(g) Prior to initiation of acquisition, provide persons, from whom it is planned to acquire land, a brochure or pamphlet outlining the benefits to which they may be entitled under the Act and information concerning other assistance which might be furnished them. Such brochures should contain information that any payment received under title II of the Act will not be considered as income for the purposes of the Internal Revenue Code of 1954, or for the purpose of determining eligibility or the extent of eligibility of any person for assistance under the Social Security Act or any other Federal law.

(h) Advise owners and others affected that they should notify the District Engineer before they move.

§ 641.172 Coordination of planned relocation activities.

(a) *Federal coordination.* When two or more Federal agencies contemplate displacement activities in a given community or area, the District Engineer will establish appropriate channels of communication for the purposes of planning relocation activities and coordinating available housing resources. The District Engineer in coordination with the other agencies concerned shall consult with the appropriate Housing and Urban Development Regional/Area Office within the jurisdictional area concerning the availability of housing. Attached as appendix B is a directory of such Regional/Area Offices which are required to be maintained on a current basis by the Department of Housing and Urban Development. Subsequent updated directories are available from that Department upon request. The District Engineer shall designate a representative to meet periodically with the representatives of other Federal agencies to review the impact of their respective programs on the community or area for the purpose of providing the Housing and Urban Development Regional/Area Office with information regarding the projects which will cause displacement.

(b) *Local coordination.* To further insure maximum coordination of relocation activities in a given community or area, the District Engineer shall consult appropriate local officials before proceeding with any proposed project in

the community, consistent with the requirements of the procedures promulgated by the Office of Management and Budget Circular A-95 (revised). That circular provides a central point of identifying local officials.

§ 641.173 Contracting for relocation services.

(a) *Contracting with Central Relocation Agency.* The District Engineer shall consider contracting with the central relocation agency in a community or area for the purpose of carrying out relocation activities. Regulations and procedures shall be prescribed by the District Engineer requiring specific performance standards for these services. Information and assistance concerning these services is available upon request from the appropriate Housing and Urban Development Regional/Area Office.

(b) *Contracting with others.* When a centralized relocation agency is not available in a community or if in the judgment of the District Engineer the centralized agency does not have the capacity to provide the necessary services within the time required, the District Engineer may contract with another public agency or a private contractor who can provide the necessary relocation services.

§ 641.174 Local relocation office.

When the District Engineer determines that the needs of displaced persons warrant, he will establish a relocation office which is reasonably convenient to the majority of the potential displaced persons. Liaison will be established with all real estate firms and realtors in the area in order to provide them with maximum knowledge of the number of displaced persons and their needs for replacement housing and also to establish a workable continuing program for such firms to provide current lists of available housing for sale, which may, in many cases, be listed exclusively with a specific firm. Extreme care must always be taken to reflect exclusive listings and identify the particular firm holding the listing. Although this is also a Government service for the benefit of displaced persons, considerable care and judgment must be exercised not to provide such services in a manner which would usurp the prerogative of private realtors or give the appearance of favoring various firms or individuals. The following information as a minimum will be maintained on a project basis:

(a) Lists of available comparable and decent, safe, and sanitary dwellings.

(b) Current data for such costs as credit data, closing costs, typical downpayments, interest rates, and terms.

(c) Maps showing the location of schools, parks, playgrounds, shopping, public transportation routes, and other information that may be applicable.

(d) Copies of brochures explaining the relocation program.

## Subpart I—Uniform Real Property Acquisition

§ 641.191 Policy.

(a) Consistent with the policy expressed in § 641.6 of this part, every effort will be made, to the greatest extent practicable, to:

(1) Acquire real property by agreements with owners based on negotiations;

(2) Assure consistent treatment for owners in real property acquisition programs; and

(3) Accomplish negotiations expeditiously.

(b) The summary of the appraisal provided for in § 641.192 will be furnished to the landowner and a prompt offer will be made to acquire the real property for an amount not less than the estimated fair market value, as developed by the approved appraisal. This does not preclude further negotiations with respect to the purchase price.

(c) Contracts or options by any agency to purchase land will not include any other payments under the Act or any reference to such payments.

(d) If the acquisition of only part of a property would leave its owner with an uneconomic remnant, the Government shall offer to acquire the entire property.

(e) Application of title III of the Act in leasehold acquisitions is dependent upon the circumstances under which the leasing action takes place. When the Government initiates action to lease a specific property, the pertinent provisions of title III of the Act apply. In cases where the owner voluntarily offers his property to the Government, the provisions of title III do not apply.

§ 641.192 Appraisal of property to be acquired.

(a) Prior to initiation of negotiations, an appraisal of the real property interest to be acquired will be made.

(b) The owner or his designated representative will be given an opportunity to accompany the appraiser during his inspection of the property.

(c) For the purpose of promoting uniformity under section 301(3) of the Act, the standards for appraisals used in this program, the criteria for determining the qualifications of appraisers, and the system of review by qualified appraisers, shall be consistent with the Uniform Appraisal Standards for Federal Land Acquisition published in 1972 by the Interagency Land Acquisition Conference.

(d) Any enhancement or diminution in the value of the property prior to the date of the valuation which is caused by the public improvement for which the property is acquired or by the likelihood that the property would be acquired for such improvement, other than due to physical deterioration within the reasonable control of the owner, will be disregarded in appraising the property.

(e) When the appraisal has been completed and approved, the owner of the real property will be provided with a written statement of, and summary of the basis for, the amount estimated as the fair market value of the property to be acquired. The written statement will be in the form of a letter addressed to the landowner which may be delivered personally or by first class mail. The time and manner of delivery should be made a matter of record. (Appendix C is a suggested format for this letter statement.) Such summary will include, as a minimum, the following items:

(1) Identification of the real property and the estate or interest therein to be acquired including the buildings, structures, and other improvements on the land as well as the fixtures considered to be a part of the real property.

(2) The amount of the estimated just compensation for the property to be acquired as determined by the acquiring agency and a statement of the basis therefor. In the case of a partial taking, damages, if any, shall be separately stated.

(f) A revised or new summary of the basis for appraisal will be furnished to the landowner either if an update of the previously approved appraisal results in a different value determination, or if a second appraisal is obtained and the Division or District Engineer determines that the second appraisal shall be the basis for purchase negotiations and deposit in condemnation proceedings.

§ 641.193 Improvements owned by tenants.

(a) Whenever any interest is acquired for a Federal or federally assisted program in any State, the acquiring agency will acquire at least an equal interest in all buildings, structures, or other improvements located upon the real property, including advertising signs, which the agency determines will be adversely affected by the use to which such real property will be put.

(b) The following apply in determining the just compensation for any such building, structures, or other improvements:

(1) They will be deemed to be part of the real property to be acquired, notwithstanding the right or obligation of the tenant as against the owner of any other interest in the real property to remove them at the expiration of his term.

(2) The fair market value which such structures, buildings, or other improvements contribute to the fair market value of the real property to be acquired, or the fair market value of such buildings, structures, or other improvements for removal from the real property, whichever is greater, will be paid the tenant.

(c) Payments under paragraphs (b) (1) and (2) will not be made:

(1) Which result in duplication of any payments otherwise authorized by law.

(2) Unless the owner of the land involved disclaims all interest in such buildings, structures, or other improvements.

(3) Unless the tenant agrees that in consideration of any such payment he will assign, transfer, and release to the acquiring agency all his right, title, and interest in and to such buildings, structures, and improvements.

(d) The tenant may reject payment under this subsection and obtain payment for the buildings, structures, or other improvements in accordance with any other applicable law.

§ 641.194 Requirement to move.

(a) The construction or development of a project will be so scheduled that, to

the greatest extent practicable, no person lawfully occupying real property will be required to move from a dwelling (assuming a replacement dwelling as required by subpart E hereof will be available), or to move his business or farm operation, without at least 90 days' written notice prior to the date on which such move is required. This requirement applies only in those instances where actual displacement of persons, businesses, or farm operations occur. A notice of less than 90 days should be given only in an emergency or other extraordinary situations. When it is proposed to give an advance notice of less than 90 days, the prior approval of HQDA (DAEN-REA) Washington, D.C. 20314, will be obtained.

(b) No owner will be required to surrender possession of real property before he has been paid the agreed purchase price, or the deposit has been made with the court, in accordance with section I of the Act of February 26, 1931 (46 Stat. 1421, 40 U.S.C. 258a), for the benefit of the owner, in an amount not less than the approved appraised fair market value of such property, or the amount of the award of compensation in the condemnation proceeding for such property.

**§ 641.195 Condemnation.**

(a) The time of condemnation will neither be advanced, nor negotiations or condemnation and the deposit of funds in court be deferred, nor any other action coercive in nature taken, in order to compel an agreement on price.

(b) If real property is to be acquired by condemnation, proceedings will be instituted promptly. No action will intentionally be taken which will make it necessary for an owner to institute legal proceedings to prove the taking of his real property.

**§ 641.196 Expenses incidental to transfer of title to the United States.**

As soon as practicable after the date of payment of the purchase price or the date of deposit in court of funds to satisfy the award in a condemnation to acquire real property, the owner will be reimbursed to the extent the District Engineer determines fair and reasonable for expenses he necessarily incurred for:

(a) Recording fees, transfer taxes, and similar expenses incident to conveying the real property to the United States;

(b) Costs for prepayment of any preexisting recorded mortgage entered into in good faith encumbering such real property; and

(c) The pro rata portion of real property taxes paid which are allocable to a period subsequent to the date of vesting title in the United States, or the effective date of possession of such real property by the United States, whichever is earlier.

**§ 641.197 Lease to former owner or occupant.**

If an owner or tenant is permitted to occupy the real property acquired on a rental basis for a short term or for a period subject to termination by the Government on short notice, the amount of rent required will not exceed the fair market rental value of the property to a short-term occupier.

**§ 641.198 Litigation expenses.**

Section 304 of the Act provides that:

(a) The Federal court having jurisdiction of a proceeding instituted by a Federal agency to acquire real property by condemnation will award the owner of any right, or title to, or interest in, such real property such sum as will in the opinion of the court reimburse such owner for his reasonable costs, disbursements, and expenses, including reasonable attorney, appraisal, and engineering fees, actually incurred because of the condemnation proceedings, if:

(1) The final judgment is that the Federal agency cannot acquire the real property by condemnation; or

(2) The proceeding is abandoned by the United States.

(b) Any award made pursuant to subsection (a) of this section will be paid by the head of the Federal agency for whose benefit the condemnation proceeding was instituted.

(c) The court rendering a judgment for the plaintiff in a proceeding brought under section 1346(a)(2) or 1491 of title 28, U.S.C., awarding compensation for the taking of property by a Federal agency, or the Attorney General affecting a settlement of any such proceeding, will determine and award or allow to such plaintiff, as part of such judgment or settlement, such sum as will, in the opinion of the court or the Attorney General, reimburse such plaintiff for his reasonable costs, disbursements, and expenses, including reasonable attorney, appraisal, and engineering fees, actually incurred because of such proceeding.

## Subpart J—Federally Assisted Programs

### Relocation Assistance Assurances by State Agencies

**§ 641.211 Assurances.**

(a) *General.* In the case of federally assisted programs carried out by State agencies, such agencies are required by the Act to reimburse owners for necessary expenses as specified in sections 303 and 304 of the Act and must provide the assurances required by sections 210 and 305 of the Act with respect to any program or project that will result in the displacement of any person or the acquisition of any real property. There is no provision for reimbursement by the Federal Government to States for such costs incurred after July 1, 1972.

(b) *Information on benefits to affected persons.* The assurances required of State agencies by sections 210 and 305 of the Act should include a statement that the affected persons will be adequately informed of the benefits, policies, and procedures described in the assurances.

(c) *Inability of States to provide assurances for programs or projects causing displacement.* If a State agency is unable to provide the assurances required by sections 210 and 305 of the Act, the District Engineer shall not approve any grant to, or contract or agreement with, such State agency under which Federal financial assistance will be available to pay all or part of the cost of such program or project, until such time as assurances applicable to all persons to be displaced and owners of real property to be acquired are provided.

(d) *Monitoring assurances.* The District Engineer shall take continuing action to conduct inspections to insure that State agencies are acting in accordance with the assurances they have provided.

**§ 641.212 Grants, contracts, or agreements executed prior to July 1, 1972.**

Under section 211 of the Act, any grant to, or contract with, a State agency executed before July 1, 1972, under which Federal financial assistance is available to pay all or part of the cost of any program or project which will result in the displacement of any person on or after July 1, 1972, or the date on which the Act becomes effective in such State, whichever is earlier, shall be amended to include the cost of providing payments and services under sections 210 and 305 of the Act.

### Administration

**§ 641.231 Administration — Relocation assistance programs.**

(a) *Approval.* The District Engineer is responsible for assuring that State agencies comply fully with these regulations in administering the relocation program whether relocation is by a State agency itself or by a contractor acting for the State agency so as to provide uniform and effective relocation benefits for all displaced persons.

(b) *Contract for services by State agencies.* A State agency electing to contract for services pursuant to section 212 of the Act should enter into a written contract consistent with these regulations. Contracts shall include, as a minimum, the following provisions:

(1) That payments and assistance will be provided in accordance with these regulations.

(2) That records will be retained by the contractor for a period of at least 3 years and shall be available for inspection by representatives of the Army.

(3) That there be full compliance with title VI of the Civil Rights Act of 1964 (Public Law 88-353).

**§ 641.232 Project cost.**

(a) *State relocation payments part of project cost.* The cost to a State agency of providing payments and assistance pursuant to the Act shall be included as part of the cost of a project for which the Federal Government furnishes financial assistance, and the State agency will be eligible for Federal financial assistance with respect to such payments and assistance in the same manner and to the same extent as other program or project costs.

(b) *Relocation payments excluded from project cost where displaced person*

*has received comparable benefits under eminent domain.* No payment or assistance under the Act will be required of a State agency, or included as a program or project cost if the displaced person receives a payment required by the State law of eminent domain which is determined by the Chief of Engineers to have substantially the same purpose and effect as the payment and assistance required by the Act as set forth in this regulation. When the District Engineer is of the opinion that such situation exists, he will submit his recommendation through the Division Engineer to HQDA (DAEN–REH–O) Washington, D.C. 20314, for determination.

## Subpart K—Application Processing and Submission to Disbursing Officer for Payment of Benefits

### § 641.251 Preparation of Preliminary Relocation Data Form.

(a) As soon as practicable after acquisition action is commenced, the Preliminary Relocation Data Form, ENG Form 4436 (appendix D) will be prepared for each owner, tenant, or other person living on the premises who is not a member of the owner's or tenant's family, for the purpose of obtaining information relative to each prospective applicant for later use in processing his application at the time of his relocation and for the purpose of being informed on the scope of relocation assistance involved. This form should be prepared prior to vacation of the property, if practicable.

(b) If the prospective applicant has not previously been furnished with information concerning benefits under title II of the Act, such information should be furnished at the time the Preliminary Relocation Data Form is prepared.

### § 641.252 Application.

(a) The application to be used in processing claims for relocation assistance is comprised of various forms developed under the direction of the Office of Management and Budget, Proposed Standard Forms 260 through 267 (appendix E) which are under consideration for use by all Federal agencies engaged in land acquisition. These forms are self-explanatory and the District Engineer will render such assistance to the applicant as may be necessary for their completion. The application, when submitted to the District Engineer, must be accompanied by supporting invoices, receipts, or other items to substantiate payment for each item in the amount claimed.

(b) Applications for payments for benefits must be filed with the appropriate District Engineer not later than 18 months from the date full payment for the real property acquired is made by the Government, or from the date the displaced person moves from the acquired property, whichever is later. When the property is acquired by condemnation, the date on which the Government has satisfied all awards will be considered as the date of full payment. If circumstances warrant, the Chief of Engineers may authorize acceptance of a late filed application. Prior to acceptance of such an application, authorization should be requested from HQDA (DAEN–REH) Washington, D.C. 20314, with full justification.

### § 641.253 Investigation report.

Upon receipt of an application, the District Engineer will make such computations as may be necessary, ENG Form 4437 (appendix E) with respect to relocation benefits due based on the application form received and will complete the Report of Investigation, ENG Form 4438 (appendix F).

### § 641.254 Determination of relocation benefits due applicant.

After initial review of the various forms and supporting documentation comprising the application and determination of the amounts allowable, such amounts will be recorded on the Determination of Relocation Benefits Due Applicant, ENG Form 4439 (appendix G). Approval or disapproval, in whole or in part, for each element claimed will be indicated. The completed application will be forwarded with all necessary supporting documents to the appropriate disbursing officer for payment. The applicant will be advised promptly by the District Engineer of the action taken on his application. Where there is a difference between the amount claimed and the amount allowed, the applicant will be informed as to his rights on appeal (subpart M).

### § 641.255 Stocking of forms.

The various ENG forms and proposed standard forms will be stocked at the OCE Publications Depot.

### § 641.256 Recommended changes to forms.

The District Engineer will submit any recommended changes in forms to HQDA (DAEN–REH) Washington, D.C. 20314.

### § 641.257 Retention of records.

All forms and supporting documents relating to each application will be retained by the District Engineer for not less than 3 years.

## Subpart L—Records and Reports

### § 641.271 General.

The reports required by this chapter are designed to provide detailed information on applicants at Federal projects requesting reimbursement under the provisions of title II, Public Law 91–646, and summary information on payments made by local interests at federally assisted projects under the provisions of titles II and III of Public Law 91–646.

### § 641.272 Reports control symbol.

RCS DAEN–RE–18 and DD–I&L (A) 1124 are assigned to reports required by § 641.273.

### § 641.273 Reporting requirements.

(a) *RCS DAEN–RE–18.* Detailed information concerning persons displaced from their homes, businesses or farms by Federal projects of the Department of the Army (Military and Civil Works) and the Department of the Air Force and those Federal agencies for which the Corps of Engineers acts as agent will be reported quarterly as of September 30, December 31, March 31, and June 30. The method of reporting is explained in appendix H.

(b) *RCS DD–I&L (A) 1124.*

(1) Each Division and District Engineer will furnish the narrative comments required by paragraph 9.3 of appendix J.

(2) The following summary data will be furnished for each department (Army, AF, Civil Works, USPS, etc.):

| | | | | |
|---|---|---|---|---|
| Actual administrative costs: | | | | |
| Section 205, title II, Public Law 91–646 | fiscal year ____ | $_____ | | |
| Other administrative costs, including overhead | fiscal year ____ | $_____ | | |
| Total | fiscal year ____ | $_____ | | |
| Projected administrative costs | fiscal year ____ | $_____; | fiscal year ____ | $_____ |
| Projected relocation payments | fiscal year ____ | $_____; | fiscal year ____ | $_____ |

The actual administrative costs will include expenditures for the current fiscal year which the report covers. (Example: fiscal year 1973, $2,500.) Projected administrative costs and projected relocation payments will include anticipated fund requirements for the 2 subsequent fiscal years. (Example: fiscal year 1974, $25,000; fiscal year 1975, $50,000.)

(3) Summary statistical data pertaining to land and relocation costs during the fiscal year by local interests in connection with federally assisted projects will be reported. Formats contained in appendix J will be used for this purpose.

### § 641.274 Reporting instructions.

(a) *Quarterly reports.* Quarterly reports required by RCS DAEN–RE–18 will be furnished to HQDA (DAEN–REP–R) Washington, D.C. 20314, NLT the Seventh working day after the end of the reporting period.

(b) *Annual reports.* Annual reports required by RCS DD–I&L (A) 1124 will be dispatched in sufficient time to reach HQDA (DAEN–REP–R) Washington, D.C. 20314, by August 1 of each year.

(c) *Data transmission.* Electronic transmission of punched cards by DCS Autodin is recommended and procedures outlined in Chapter 4 of ER 18–1–18 should be followed. "REP" should be punched in card columns 6–8 of the Data Header Card and "DAEN–RE–18" should be punched in card columns 25–34 of the Text Header Card.

## Subpart M—Appeals

### § 641.291 Administrative review.

Procedures are set forth in this chapter, under section 213(b) of the Act, for

the review of the application for benefits of any person who considers himself aggrieved by a determination as to his eligibility for payments, or the amount of such payments. Such administrative review is hereinafter designated as an "appeal." In the case of a State program or project receiving Federal financial assistance, a review by the head of the State agency is required in accordance with procedures established by said State agency which will insure fair, adequate, and prompt review of all appeals filed.

§ 641.292 Notice to applicant.

(a) Prompt written notice will be given to an applicant of any determination made in connection with his application. This written notice shall include a full explanation concerning any amount claimed which has been disallowed as well as an explanation of his right to appeal. Payment of any amounts determined to be due the applicant will be made promptly and the applicant will be informed that acceptance of any such amounts will not prejudice his right to appeal any determination made in connection with his application.

(b) The applicant should be advised that if he believes the decision made in connection with his application for benefits under the Act is in error, he may file an appeal with the District Engineer or with the Chief of the District Real Estate Division, in writing, within 180 days from the date of the notice of such decision, identifying any claimed errors and stating the basis for his appeal. In addition, he should be advised that he may appear or be represented by counsel at a mutually agreeable time and may submit additional information at any time prior to final action on his appeal. He should also be advised that his appeal will be considered by the District Engineer, reviewed by the Division Engineer and, if action favorable to him cannot be taken, submitted to the Office, Chief of Engineers, for final decision.

§ 641.293 Filing of appeal.

An applicant may file an appeal from a decision denying his application, or from a decision which the applicant believes to be in error in any respect. Any written objection by an applicant to a decision made on his case or to a determination of benefits due him will be considered to be an appeal and will be promptly acknowledged as such. Notwithstanding any additional correspondence or communication with the applicant, the appeal will be processed in accordance with these appeal procedures unless formally withdrawn by the applicant.

§ 641.294 Processing of appeals.

(a) Appeals will be processed through channels to HQDA (DAEN–REH–A). An attempt will be made to resolve the matter at each level of review. If a proposed solution at any level is satisfactory to the applicant, the case will be considered closed without further processing.

(b) After receipt of the appeal, the alleged errors cited by the applicant and any additional information furnished by him in support of his appeal will be investigated promptly by the District Engineer. A report will be prepared, which will include a brief outline of the facts upon which the application is based, the initial decision from which the applicant has appealed, the basis for appeal, the scope of the investigation, factors considered in reviewing the case, the decision on appeal, and the reasons in support thereof.

(c) The applicant shall have the right to request a conference concerning his appeal with the reviewing official concerned at any level of review and to present any evidence relevant to the appeal at any time prior to action by such official. The applicant will be promptly notified by the reviewing official as to the decision in his case at each stage of the appeal proceeding.

(d) An appeal assembly will be prepared in sufficient copies to provide one copy for the next higher level of review and two copies (including original papers where available) for submission to OCE. The assembly will have a jacket cover or heavy paper backing with a suitable fastener at the top. It will consist of the following items, which will be assembled in the order shown below with such variations or additions as circumstances may require:

(1) Report of review.
(2) Written appeal and amendments.
(3) Application with attachments.
(4) Pertinent correspondence in chronological order.
(5) Any other documents and information which have a significant bearing on the case.

§ 641.295 Review of appeal by the Division Engineer.

(a) The Division Engineer will review the appeal as expeditiously as possible to insure that:

(1) The District Engineer's decision on the appeal is in accordance with the law and existing regulations; and

(2) The appeal assembly contains the necessary information in support of the decision and has been assembled as required by this regulation.

(b) If the Division Engineer concurs in the recommendation of the District Engineer, the assembly, with his comments and recommendations, will be promptly forwarded to HQDA (DAEN–REH–A). If the Division Engineer does not concur in the District Engineer's recommendation, the assembly will be returned to the District Engineer for further consideration or will be submitted to the Chief of Engineers, as may be appropriate. In the event the Division Engineer determines that favorable action is warranted on the appeal, he is authorized to direct such a solution.

§ 641.296 Final review of appeal by OCE.

Authority to make determinations on appeals has been delegated to the Chief of Engineers and his Director of Real Estate. If the position of the Division Engineer is not concurred in, the assembly will be returned for further consideration or for a directed solution. If the appeal is denied, the applicant will be promptly notified. This will constitute the final administrative review of the applicant's appeal and the pertinent correspondence, including a copy of the appeal assembly with original papers, will be sent to the District Engineer for filing.

§ 641.297 Dissemination of decisions.

Except as authorized by OCE, the District Engineer will not refer to appeal decisions in letters sent to other applicants.

[FR Doc.73–10574 Filed 5–30–73;8:45 am]

## CHAPTER XVI—SELECTIVE SERVICE SYSTEM

## CLASSIFICATION OF REGISTRANTS

Whereas, on April 23, 1973, the director of Selective Service published a notice of proposed amendments to Selective Service regulations, 38 FR 10016 of April 23, 1973; and

Whereas such publication complied with the publication requirement of section 13(b) of the Military Selective Service Act (50 App. U.S.C. sections 451 et seq.) in that more than 30 days have elapsed subsequent to such publication during which period no comment from the public has been received; and I certify that I have requested the views of officials named in section 2(a) of Executive Order 11623 and none of them has timely requested that the matter be referred to the President for decision.

These amendments would change the identification of the local board that is required to issue the duplicate notice of classification, eliminate the opportunity for a registrant to request an Armed Forces examination, and modify the requirement that a registrant has unaltered documents in his personal possession. The final texts of the amendments are as proposed.

Now, therefore, by virtue of the authority vested in me by the Military Selective Service Act, as amended (50 App. U.S.C. sections 451 et seq.) and Executive Order 11623 of October 12, 1971, the Selective Service regulations, constituting a portion of chapter XVI of title 32 of the Code of Federal Regulations, are hereby amended, effective 11:59 p.m. e.d.s.t. on June 2, 1973, as follows:

### PART 1623—CLASSIFICATION PROCEDURE

Section 1623.7, Issuing a duplicate notice of classification, is amended to read as follows:

§ 1623.7 Issuing a duplicate notice of classification.

A duplicate notice of classification will be issued to a registrant by the local board with which he is registered upon its receipt of his written request therefor.

### PART 1628—EXAMINATION OF REGISTRANTS

§ 1628.6 [Amended]

Section 1628.6(c) is revoked.

### PART 1641—DUTY OF REGISTRANTS

Paragraph (a) of § 1641.6, Duty to have unaltered documents in personal possession, is amended to read as follows:

**§ 1641.6 Duty to have unaltered documents in personal possession.**

(a) Every registrant who has not discharged his current military obligation under the Military Selective Service Act shall, until his liability for training and service has terminated, have in his personal possession except while he is on active duty (other than active duty for training or for the sole purpose of undergoing a physical examination) in the Armed Forces (1) his registration certificate (SSS form 2) and notice of classification (SSS form 110) showing his current classification or (2) his status card (SSS form 7) most recently issued by the local board.

* * * * *

JOHN D. DEWHURST,
*Acting Director.*

MAY 24, 1973.

[FR Doc.73-10756 Filed 5-30-73;8:45 am]

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## Title 21—Food and Drugs

## CHAPTER I—FOOD AND DRUG ADMINISTRATION, DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

### SUBCHAPTER B—FOOD AND FOOD PRODUCTS

### PART 27—CANNED FRUITS AND FRUIT JUICES

### Canned Apricots, Prunes, Seedless Grapes, Cherries, Berries, Plums, and Figs; Order Amending Standards of Identity

In the matter of amending the standards of identity for canned apricots, canned prunes, canned seedless grapes, canned cherries, canned berries, canned plums, and canned figs (21 CFR 27.10, 27.15, 27.25, 27.30, 27.35, 27.45, and 27.70):

A notice of proposed rulemaking in the above-identified matter was published in the FEDERAL REGISTER of November 8, 1972 (37 FR 23730), based on a petition submitted by the National Canners Association, 1133 20th Street NW., Washington, D.C. 20038, to provide for the optional use of packing media prepared from a single fruit juice that is fresh, canned, frozen, or concentrated or a blend of two or more such fruit juices, one of which may be the juice of the fruit being packed, or all of which may be juices from different fruits. In addition, the petition provided for the use of slightly sweetened water already provided for in other standardized canned fruits, as an optional packing medium in canned prunes (21 CFR 27.15).

Twenty-nine comments were received in response to the invitation to comment on the NCA proposal. Twenty-seven of the comments were from consumers and two were from processors of canned fruits. All of the consumers commented adversely on the proposal. They opposed adoption of the proposal for the following reasons:

(1) That mixing fruit juices would result in causing serious problems to those who are allergic to certain fruits;

(2) That canned fruits packed in their own juice would no longer be available in the marketplace.

The Commissioner understands the concern of these consumers but in this case they apparently have misunderstood the intent of the NCA proposal. It proposes to give packers only the option of preparing packing media from fruit juices that are different from that of the fruit packed. The existing identity standards permit processors to pack canned fruits in their own juices. In the judgment of the Commissioner the intent of the NCA proposal is not to eliminate packing canned fruits in their own juice but to supplement those products with canned fruits packed in different fruit juices and combinations thereof.

In either case, the name of the fruit juice or juices used will be prominently declared on a label so that those who have reason to avoid certain fruits can easily determine if a product contains a fruit juice or juices that they wish to avoid.

The two processors who favored the NCA proposal stated that their experiences in market-testing these products show that they are well received by consumers. They also expressed the belief that they are the only available satisfactory substitute for fruits which were formerly packed in cyclamate.

Since NCA proposes that the use of the additional packing media is optional and that the name(s) of the fruit juice(s) from which they are prepared is prominently declared on the label, the Commissioner concludes that it will promote honesty and fair dealing in the interest of consumers to amend the standards of identity for canned apricots, prunes, seedless grapes, cherries, berries, plums, and figs (21 CFR 27.10, 27.15, 27.25, 27.30, 27.35, 27.45, and 27.70) to provide for the optional use of packing media prepared from fruit juices and to amend the standard of identity for canned prunes (21 CFR 27.15) to provide for the use of "slightly sweetened water" as an optional packing medium.

Therefore, pursuant to provisions of the Federal Food, Drug, and Cosmetic Act (secs. 401, 701, 52 Stat. 1046, 1055 as amended 70 Stat. 919, 72 Stat. 948; 21 U.S.C. 341, 371) and under authority delegated to the Commissioner (21 CFR 2.120). *It is ordered*, That part 27 be amended, as follows:

1. In § 27.10 by amending paragraphs (c), (d), and (e) to read as follows:

**§ 27.10 Canned apricots; identity; label statement of optional ingredients.**

* * * * *

(c)(1) The optional packing media referred to in paragraph (a) of this section are:

(i) Water.
(ii) Fruit juice(s).
(iii) Slightly sweetened water.
(iv) Light sirup.
(v) Heavy sirup.
(vi) Extra heavy sirup.
(vii) Slightly sweetened fruit juice(s).
(viii) Light fruit juice(s) sirup.
(ix) Heavy fruit juice(s) sirup.
(x) Extra heavy fruit juice(s) sirup.

For the purposes of this section the term "fruit juice(s)" means single strength expressed juice(s) of sound, mature fruit(s). It may be fresh, frozen, canned, or made from concentrate(s). However, if it is made from concentrate(s), the juice(s) shall be reconstituted with water to the soluble solids that each fruit juice had before concentration. Fruit juice(s) may be used singly or in combination. If a fruit juice(s) is used that is regulated by a standard of identity of this chapter, it shall conform to the compositional requirements prescribed by such standard, prior to the addition of any sweetener which may be used. The term "water" means, in addition to water, any mixture of water and fruit juice(s), except that water used in preparing equivalent single strength juice(s) from concentrate(s) shall not be considered under the meaning of this term.

(2) Each of the packing media in subparagraph (1) (iii) to (x) of this paragraph, inclusive, is prepared with a liquid ingredient and a saccharine ingredient. Water is the liquid ingredient from which the packing media in subparagraph (1) (iii) to (vi) of this paragraph, inclusive, are prepared, and fruit juice(s) as defined in subparagraph (1) of this paragraph is the liquid ingredient from which the packing media in subparagraph (1) (vii) to (x) of this paragraph, inclusive, are prepared. The saccharine ingredient from which the packing media in subparagraph (1) (iii) to (x) of this paragraph, inclusive, are prepared is one of the following: Sugar, invert sugar sirup; any combination of sugar or invert sugar sirup and dextrose in which the weight of the solids of the dextrose used is not more than one-half the weight of the solids of the sugar or invert sugar sirup used; any combination of sugar or invert sugar sirup and corn sirup or glucose sirup in which the weight of the solids of the corn sirup or glucose sirup used is not more than one-third the weight of the solids of the sugar or invert sugar sirup used; or any combination of sugar or invert sugar sirup, dextrose, and corn sirup or glucose sirup in which twice the weight of the solids of the dextrose used added to three times the weight of the solids of the corn sirup or glucose sirup used is not more than the weight of the solids of the sugar or invert sugar sirup used; except that the packing media in subparagraph (1) (vii) to (x) of this paragraph, inclusive, when prepared with fresh, canned, or frozen single strength fruit juice(s) are not prepared with any invert sugar sirup or with any corn sirup other than dried corn sirup or with any glucose sirup other than dried glucose sirup. A packing medium prepared with fresh, canned, or frozen single strength fruit juice(s) and any invert sugar sirup or corn sirup other than dried corn sirup or glucose sirup other than dried glucose sirup is considered to be prepared with water as the liquid ingredient. A packing medium prepared with concentrated fruit juice(s) that has been reconstituted with water or with water and invert sugar sirup, corn sirup, or

glucose sirup (in combinations as specified in this paragraph) to the soluble fruit solids that each fruit juice had before concentration is considered to be prepared with fruit juice as the liquid ingredient.

(3) The respective densities of the packing media in subparagraph (1) (iii) to (x) of this paragraph, inclusive, as measured on the Brix hydrometer 15 days or more after the apricots are canned, are within the range prescribed for each in the following list:

| Number of packing medium: | *Brix measurement* |
|---|---|
| (1) (iii) | Less than 16°. |
| (1) (vii) | 16° or more but less than 16°. |
| (1) (iv) and (viii) | 16° or more but less than 21°. |
| (1) (v) and (ix) | 21° or more but less than 25°. |
| (1) (vi) and (x) | 25° or more but not more than 40°. |

(d) (1) The principal display panel of the label shall bear the name of the optional apricot ingredient used, as specified in paragraph (b) of this section, and the name whereby the optional packing medium used is designated in paragraph (c) of this section, preceded by "in" or "packed in," except that as regards the word "fruit": If the optional packing media in paragraph (c) (1) (ii), (vii) to (x) of this section, inclusive, are prepared with:

(i) A single fruit juice, the name of the juice shall be used in lieu of the word "fruit" in the name of the packing medium.

(ii) A combination of two or more fruit juices, the names of the juices in the order of predominance by weight shall either be used in lieu of the word "fruit" in the name of the packing medium or be declared on the label as specified in paragraph (e) (2) of this section.

(iii) A single fruit juice or a combination of two or more fruit juices any of which are made from concentrate(s), the words "from concentrate(s)" shall follow the word "juice(s)" in the name of the packing medium and in the name(s) of such juice(s) when declared as specified in paragraph (e) (2) of this section.

(2) When any of the optional ingredients permitted by one of the following specified subparagraphs of paragraph (a) of this section are used, the label shall bear the words set forth below after the number of such subparagraph:

(i) "Spiced" or "spice added" or "with added spice," or in lieu of the word "spice," the common name of the spice.

(ii) "Flavoring added" or "with added flavoring," or in lieu of the word "flavoring," the common name of the flavoring.

(iii) "Seasoned with vinegar" or "seasoned with _____ vinegar," the blank being filled in with the word showing the kind of vinegar used.

(iv) "Seasoned with apricot pits."

(v) "Seasoned with apricot kernels."

When two or more of the optional ingredients specified in paragraph (a) (1), (2), (3), and (4) or (5) of this section are used, such words may be combined, as for example, "seasoned with cider vinegar, cloves, cinnamon oil, and apricot kernels."

(e) (1) Wherever the name "apricots" appears on the label so conspicuously as to be easily seen under the customary conditions of purchase, the words and statements specified in paragraph (d) (2) of this section, showing the optional ingredients used, shall immediately and conspicuously precede or follow such name without intervening written, printed, or graphic matter, except that the specific varietal name of the apricots may so intervene.

(2) Whenever the names of the fruit juices used do not appear in the name of the packing medium as provided for in paragraph (d) (1) (ii) of this section such names, and as specified in paragraph (d) (1) (iii) of this section, the words "from concentrate," shall appear together in an ingredient statement pursuant to the requirements of § 1.8d of this chapter.

2. In § 27.15 by deleting paragraphs (e) and (f) and by amending paragraphs (b), (c), and (d) to read as follows:

**§ 27.15 Canned prunes; identity; label statement of optional ingredients.**

* * * * *

(b) (1) The optional packing media referred to in paragraph (a) of this section are:

(i) Water.
(ii) Fruit juice(s).
(iii) Slightly sweetened water.
(iv) Light sirup.
(v) Heavy sirup.
(vi) Extra heavy sirup.
(vii) Slightly sweetened fruit juice(s).
(viii) Light fruit juice(s) sirup.
(ix) Heavy fruit juice(s) sirup.
(x) Extra heavy fruit juice(s) sirup.

For the purposes of this section, the term "fruit juice(s)" means single strength expressed juice(s) of sound, mature fruit(s). It may be fresh, frozen, canned, or made from concentrate(s). However, if it is made from concentrate(s), the juice(s) shall be reconstituted with water to the soluble solids that each fruit juice had before concentration. Fruit juice(s) may be used singly or in combination. If a fruit juice(s) is used that is regulated by a standard of identity of this chapter, it shall conform to the compositional requirements prescribed by such standard, prior to the addition of any sweetener which may be used. The term "water" means, in addition to water, any mixture of water and fruit juice(s), except that water used in preparing equivalent single strength juice(s) from concentrate(s) shall not be considered under the meaning of this term.

(2) Each of the packing media in subparagraph (1) (iii) to (x) of this paragraph, inclusive, is prepared with a liquid ingredient and a saccharine ingredient. Water is the liquid ingredient from which the packing media in subparagraph (1) (iii) to (vi) of this paragraph, inclusive, are prepared, and fruit juice(s) as defined in subparagraph (1) of this paragraph is the liquid ingredient from which the packing media in subparagraph (1) (vii) to (x) of this paragraph, inclusive, are prepared. The saccharine ingredient from which the packing media in subparagraph (1) (iii) to (x) of this paragraph, inclusive, are prepared is one of the following: Sugar, invert sugar sirup; any combination of sugar or invert sugar sirup and dextrose in which the weight of the solids of the dextrose used is not more than one-half the weight of the solids of the sugar or invert sugar sirup used; any combination of sugar or invert sugar sirup and corn sirup or glucose sirup in which the weight of the solids of the corn sirup or glucose sirup used is not more than one-third the weight of the solids of the sugar or invert sugar sirup used; or any combination of sugar or invert sugar sirup, dextrose, and corn sirup or glucose sirup in which twice the weight of the solids of the dextrose used added to three times the weight of the solids of the corn sirup or glucose sirup used is not more than the weight of the solids of the sugar or invert sugar sirup used; except that the packing media in subparagraph (1) (vii) to (x) of this paragraph, inclusive, when prepared with fresh, canned, or frozen single strength fruit juice(s) are not prepared with any invert sugar sirup or with any corn sirup other than dried corn sirup or with any glucose sirup other than dried glucose sirup. A packing medium prepared with fresh, canned, or frozen single strength fruit juice(s) and any invert sugar sirup or corn sirup other than dried corn sirup or glucose sirup other than dried glucose sirup is considered to be prepared with water as the liquid ingredient. A packing medium prepared with concentrated fruit juice(s) that has been reconstituted with water or with water and invert sugar sirup, corn sirup, or glucose sirup (in combinations as specified in this paragraph) to the soluble fruit solids that each fruit juice had before concentration is considered to be prepared with fruit juice as the liquid ingredient.

(3) The respective densities of the packing media in subparagraph (1) (iii) to (x) of this paragraph, inclusive, as measured on the Brix hydrometer 15 days or more after the prunes are canned, are within the range prescribed for each in the following list:

| Number of packing medium: | *Brix measurement* |
|---|---|
| (1) (iii) and (vii). | Less than 20°. |
| (1) (iv) and (viii). | 20° or more but less less than 24°. |
| (1) (v) and (ix) | 24° or more but less than 30°. |
| (1) (vi) and (x) | 30° or more but not more than 45°. |

(c) (1) Wherever the word "prunes" apears on the label in the name of the food prepared with a packing medium it shall be preceded by one of the words "cooked," "stewed," or "prepared," and shall be followed by the name whereby the optional packing medium used is

designated in paragraph (b) of this section, preceded by "in" or "packed in," except that as regards the word "fruit": If the optional packing media in paragraph (b)(1) (ii), (vii) to (x) of this section, inclusive, are prepared with:

(i) A single fruit juice, the name of the juice shall be used in lieu of the word "fruit" in the name of the packing medium.

(ii) A combination of two or more fruit juices, the names of the juices in the order of predominance by weight shall either be used in lieu of the word "fruit" in the name of the packing medium or be declared on the label as specified in paragraph (d)(2) of this section.

(iii) A single fruit juice or a combination of two or more fruit juices any of which are made from concentrate(s), the words "from concentrate(s)" shall follow the word "juice(s)" in the name of the packing medium and in the name(s) of such juice(s) when declared as specified in paragraph (d)(2) of this section.

(2) Wherever the word "prunes" appears on the label in the name of the food prepared without added packing medium it shall be preceded by the word "moistened" or the words "moist pack," and shall be followed by the words "without packing medium." The statement "prepared from dried prunes," which is a part of the name of the food, shall immediately follow the name of the optional packing medium or the words "without packing medium," as the case may be, without intervening written, printed, or graphic matter. The type used for the words "prepared from dried prunes" shall be of the same style and not less than one-half of the point size of the type used for the word "prunes."

(3) When any of the optional ingredients permitted by one of the following specified subparagraphs of paragraph (a) of this section is used, the label shall bear the words set forth after the number of such subparagraph:

(i) "Spiced" or "spice added" or "with added spice" or, in lieu of the word "spice," the common name of the spice.

(ii) "Flavoring added" or "with added flavoring" or, in lieu of the word "flavoring," the common name of the flavoring.

(iii) "Seasoned with vinegar" or "seasoned with _____ vinegar," the blank being filled in with the name of the vinegar used.

(iv) "Citric acid added" or "with added citric acid."

(v) "Lemon juice added" or "with added lemon juice."

(vi) "_____ added" or "with added _____," the blank being filled in with the name of the citrus pieces used.

When two or more of the optional ingredients specified in paragraph (a) of this section are used, such words may be combined, as for example, "with added spices, lemon slices, and lemon juice."

(d)(1) Wherever the name "prunes" and the other labeling prescribed by paragraphs (c) (1) and (2) of this section appear on the label so conspicuously as to be easily seen under the customary conditions of purchase, the words and statements specified in paragraph (c)(3) of this section showing optional ingredients used, shall immediately and conspicuously precede or follow such name without intervening written, printed, or graphic matter, except that the specific varietal name of the prunes may so intervene.

(2) Whenever the names of the fruit juices used do not appear in the name of packing medium as provided for in paragraph (d)(1)(ii) of this section such names, and as specified in paragraph (d)(1)(iii) of this section the words "from concentrates," shall appear together in an ingredient statement pursuant to the requirements of § 1.8d of this chapter.

3. In § 27.25 by amending paragraphs (c), (d), (e), and (f) to read as follows:

**§ 27.25 Canned seedless grapes; identity; label statement of optional ingredients.**

* * * * *

(c)(1) The optional packing media referred to in paragraph (a) of this section are:

(i) Water.
(ii) Fruit juice(s).
(iii) Slightly sweetened water.
(iv) Light sirup.
(v) Heavy sirup.
(vi) Extra heavy sirup.

For the purposes of this section, the term "fruit juice(s)" means single strength expressed juice(s) of sound, mature fruit(s). It may be fresh, frozen, canned, or made from concentrate(s). However, if it is made from concentrate(s), the juice(s) shall be reconstituted with water to the soluble solids that each fruit juice had before concentration. Fruit juice(s) may be used singly or in combination. If a fruit juice(s) is used that is regulated by a standard of identity of this chapter, it shall conform to the compositional requirements prescribed by such standard, prior to the addition of any sweetener which may be used. The term "water" means, in addition to water, any mixture of water and fruit juice(s), except that water used in preparing equivalent single strength juice(s), from concentrate(s) shall not be considered under the meaning of this term.

(2) Each of the packing media in subparagraph (1) (iii) to (vi), inclusive, of this paragraph is prepared with water and one of the optional saccharine ingredients specified in paragraph (d) of this section.

(3) The respective densities of packing media in subparagraph (1) (iii) to (vi), inclusive, of this paragraph as measured on the Brix hydrometer 15 days or more after the grapes are canned, are within the range prescribed after the name of each in the following list:

| Name of packing medium: | *Brix measurement* |
|---|---|
| Slightly sweetened water. | Less than 14°. |
| Light sirup | 14° or more but less than 18°. |
| Heavy sirup | 18° or more but less than 22°. |
| Extra heavy sirup. | 22° or more but not more than 35°. |

(d) The optional saccharine ingredients referred to in paragraph (c) of this section are:

(1) Sugar.
(2) Invert sugar sirup.
(3) Any mixture of sugar and invert sugar sirup.
(4) Any of the optional saccharine ingredients in subparagraphs (1), (2), and (3) of this paragraph with dextrose: *Provided*, That the weight of the solids of the dextrose does not exceed one-third of the total weight of the solids of the combined saccharine ingredients.
(5) Any of the optional saccharine ingredients in subparagraphs (1), (2), and (3) of this paragraph with corn sirup or glucose sirup or such sirups in dried form, or any two or more of such sirups or dried sirups: *Provided*, The weight of the solids of such sirups or dried sirups used does not exceed one-fourth of the total weight of the solids of the combined saccharine ingredients.
(6) Any mixture of the optional saccharine ingredients in subparagraph (4) and (5) of this paragraph.

(e)(1) The principal display panel of the label shall bear the name of the optional grape ingredient used, as specified in paragraph (b) of this section, and the name whereby the optional packing medium used is designated in paragraph (c) of this section, preceded by "in" or "packed in," except that as regards the word "fruit": If the optional packing media in paragraph (c)(1)(ii) of this section, inclusive, are prepared with:

(i) A single fruit juice, the name of the juice shall be used in lieu of the word "fruit" in the name of the packing medium.

(ii) A combination of two or more fruit juices, the names of the juices in the order of predominance by weight shall either be used in lieu of the word "fruit" in the name of the packing medium or be declared on the label as specified in paragraph (f)(2) of this section.

(iii) A single fruit juice or a combination of two or more fruit juices any of which are made from concentrate(s), the words "from concentrate(s)" shall follow the word "juice(s)" in the name of the packing medium and in the name(s) of such juice(s) when declared as specified in paragraph (f)(2) of this section.

(2) When any of the optional ingredients permitted by one of the following specified subparagraphs of paragraph (a) of this section are used, the label shall bear the words set forth below after the number of such subparagraph:

(i) "Spiced" or "spice added" or "with added spice," or, in lieu of the word "spice," the common name of the spice.

(ii) "Flavoring added" or "with added flavoring," or, in lieu of the word "flavoring," the common name of the flavoring.

(iii) "Seasoned with vinegar" or "seasoned with _____ vinegar," the blank being filled in with the name of the vinegar used.

When two or all of the optional ingredients specified in paragraph (a) (1), (2), and (3) of this section are used, such words may be combined, as for example, "seasoned with cider vinegar, cloves, and cinnamon oil."

(f) (1) Wherever the name of the food appears on the label so conspicuously as to be easily seen under the customary conditions of purchase, the words and statements specified in paragraph (e) (2) of this section, showing the optional ingredients used, shall immediately and conspicuously precede or follow such name without intervening written, printed, or graphic matter, except that the specific varietal name of the grapes may so intervene.

(2) Whenever the names of the fruit juices used do not appear in the name of the packing medium as provided for in paragraph (e) (1) (ii) of this section such names, and as specified in paragraph (e) (1) (iii) of this section, the words "from concentrate," shall appear together in an ingredient statement pursuant to the requirement of § 1.8d of this chapter.

4. In § 27.30 by amending paragraphs (c), (d), and (e) to read as follows:

**§ 27.30 Canned cherries; identity; label statement of optional ingredients.**

* * * * *

(c) (1) The optional packing media referred to in paragraph (a) of this section are:

(i) Water.
(ii) Fruit juice(s).
(iii) Slightly sweetened water.
(iv) Light sirup.
(v) Heavy sirup.
(vi) Extra heavy sirup.
(vii) Slightly sweetened fruit juice(s).
(viii) Light fruit juice(s) sirup.
(ix) Heavy fruit juice(s) sirup.
(x) Extra heavy fruit juice(s) sirup.

For the purposes of this section the term "fruit juice(s)" means single strength expressed juice(s) of sound, mature fruit(s). It may be fresh, frozen, canned, or made from concentrate(s). However, if it is made from concentrate(s), the juice(s) shall be reconstituted with water to the soluble solids that each fruit juice had before concentration. Fruit juice(s) may be used singly or in combination. If a fruit juice(s) is used that is regulated by a standard of identity of this chapter, it shall conform to the compositional requirements prescribed by such standard, prior to the addition of any sweetener which may be used. The term "water" means, in addition to water, any mixture of water and fruit juice(s), except that water used in preparing equivalent single strength juice(s) from concentrate(s) shall not be considered under the meaning of this term.

(2) Each of the packing media in subparagraph (1) (iii) to (x) of this paragraph, inclusive, is prepared with a liquid ingredient and a saccharine ingredient. Water is the liquid ingredient from which the packing media in subparagraph (1) (iii) to (vi) of this paragraph, inclusive, are prepared, and fruit juice(s) as defined in subparagraph (1) of this paragraph is the liquid ingredient from which the packing media in subparagraph (1) (vii) to (x) of this paragraph, inclusive, are prepared. The saccharine ingredient from which the packing media in subparagraph (1) (iii) to (x) of this paragraph, inclusive, are prepared is one of the following: Sugar, invert sugar sirup; any combination of sugar or invert sugar sirup and dextrose in which the weight of the solids of the dextrose used is not more than one-half the weight of the solids of the sugar or invert sugar sirup used; any combination of sugar or invert sugar sirup and corn sirup or glucose sirup in which the weight of the solids of the corn sirup or glucose sirup used is not more than one-third the weight of the solids of the sugar or invert sugar sirup used; or any combination of sugar or invert sugar sirup, dextrose, and corn sirup or glucose sirup in which twice the weight of the solids of the dextrose used added to three times the weight of the solids of the corn sirup or glucose sirup used is not more than the weight of the solids of the sugar or invert sugar sirup used; except that the packing media in subparagraph (1) (vii) to (x) of this paragraph, inclusive, when prepared with fresh, canned, or frozen single strength fruit juice(s) are not prepared with any invert sugar sirup or with any corn sirup other than dried corn sirup or with any glucose sirup other than dried glucose sirup. A packing medium prepared with fresh, canned, or frozen single strength fruit juice(s) and any invert sugar sirup or corn sirup other than dried corn sirup or glucose sirup other than dried glucose sirup is considered to be prepared with water as the liquid ingredient. A packing medium prepared with concentrated fruit juice(s) that has been reconstituted with water or with water and invert sugar sirup, corn sirup, or glucose sirup (in combinations as specified in this paragraph) to the soluble fruit solids that each fruit juice had before concentration is considered to be prepared with fruit juice as the liquid ingredient.

(3) The respective densities of the packing media in subparagraph (1) (iii) to (x) of this paragraph, inclusive, as measured on the Brix hydrometer 15 days or more after the cherries are canned, are within the range prescribed for each in the following list:

| Number of packing medium in the case of sweet cherries: | *Brix measurement* |
|---|---|
| (1) (iii) and (vii). | Less than 16°. |
| (1) (iv) and (viii). | 16° or more but less than 20°. |
| (1) (v) and (ix). | 20° or more but less than 25°. |
| (1) (vi) and (x). | 25° or more but not more than 35°. |

| Number of packing medium in the case of red sour cherries: | *Brix measurement* |
|---|---|
| (1) (iii) and (vii). | Less than 18°. |
| (1) (iv) and (viii). | 18° or more but less than 22°. |
| (1) (v) and (ix). | 22° or more but less than 28°. |
| (1) (vi) and (x). | 28° or more but not more than 45°. |

(d) (1) The principal display panel of the label shall bear the name of the optional cherry ingredient used, as specified in paragraph (b) of this section, and the name whereby the optional packing medium used is designated in paragraph (c) of this section, preceded by "in" or "packed in," except that as regards the word "fruit": If the optional packing media in paragraph (c) (1) (ii), (vii) to (x) of this section, inclusive, are prepared with:

(i) A single fruit juice, the name of the juice shall be used in lieu of the word "fruit" in the name of the packing medium.

(ii) A combination of two or more fruit juices, the names of the juices in the order of predominance by weight shall either be used in lieu of the word "fruit" in the name of the packing medium or be declared on the label as specified in paragraph (e) (2) of this section.

(iii) A single fruit juice or a combination of two or more fruit juices any of which are made from concentrate(s), the words "from concentrate(s)" shall follow the word "juice(s)" in the name of the packing medium and in the name(s) of such juice(s) when declared as specified in paragraph (e) (2) of this section.

(2) When any of the optional ingredients permitted by one of the following specified subparagraphs of paragraph (a) of this section are used, the label shall bear the words set forth below after the number of such subparagraph:

(i) "Spiced" or "spice added" or "with added spice," or in lieu of the word "spice," the common name of the spice.

(ii) "Flavoring added" or "with added flavoring," or in lieu of the word "flavoring," the common name of the flavoring.

(iii) "Seasoned with vinegar" or "seasoned with _____ vinegar," the blank being filled in with the word showing the kind of vinegar used.

When two or more of the optional ingredients specified in paragraph (a) (1), (2), and (3), of this section are used, such words may be combined, as for example, "seasoned with cider vinegar, cloves, and cinnamon oil."

(e) (1) Wherever the name "cherries" appears on the label so conspicuously as to be easily seen under the customary conditions of purchase, the words and statements specified in paragraph (d) (2) of this section, showing the optional ingredients used, shall immediately and conspicuously precede or follow such name without intervening written, printed, or graphic matter, except that the specific varietal name of the cherries may so intervene.

(2) Whenever the names of the fruit juices used do not appear in the name of the packing medium as provided for in paragraph (d)(1)(ii) of this section such names, and as specified in paragraph (d)(1)(iii) of this section, the words "from concentrate," shall appear together in an ingredient statement pursuant to the requirements of § 1.8d of this chapter.

5. In § 27.35 by deleting paragraph (f) and by amending paragraphs (c), (d), and (e) to read as follows:

**§ 27.35 Canned berries; identity; label statement of optional ingredients.**

* * * * *

(c)(1) The optional packing media referred to in paragraph (a) of this section are:

(i) Water.
(ii) Fruit juice(s).
(iii) Slightly sweetened water.
(iv) Light sirup.
(v) Heavy sirup.
(vi) Extra heavy sirup.
(vii) Slightly sweetened fruit juice(s).
(viii) Light fruit juice(s) sirup.
(ix) Heavy fruit juice(s) sirup.
(x) Extra heavy fruit juice(s) sirup.

For the purposes of this section the term "fruit juice(s)" means single strength expressed juice(s) of sound, mature fruit(s). It may be fresh, frozen, canned, or made from concentrate(s). However, if it is made from concentrate(s), the juice(s) shall be reconstituted with water to the soluble solids that each fruit juice had before concentration. Fruit juice(s) may be used singly or in combination. If a fruit juice(s) is used that is regulated by a standard of identity of this chapter, it shall conform to the compositional requirements prescribed by such standard, prior to the addition of any sweetener which may be used. The term "water" means, in addition to water, any mixture of water and fruit juice(s), except that water used in preparing equivalent single strength juice(s) from concentrate(s) shall not be considered under the meaning of this term.

(2) Each of the packing media in subparagraph (1) (iii) to (x) of this paragraph, inclusive, is prepared with a liquid ingredient and a saccharine ingredient. Water is the liquid ingredient from which the packing media in subparagraph (1) (iii) to (vi) of this paragraph, inclusive, are prepared, and fruit juice(s) as defined in subparagraph (1) of this paragraph is the liquid ingredient from which the packing media in subparagraph (1) (vii) to (x) of this paragraph, inclusive, are prepared. The saccharine ingredient from which the packing media in subparagraph (1) (iii) to (x) of this paragraph, inclusive, are prepared is one of the following: Sugar, invert sugar sirup; any combination of sugar or invert sugar sirup and dextrose in which the weight of the solids of the dextrose used is not more than one-half the weight of the solids of the sugar or invert sugar sirup used; any combination of sugar or invert sugar sirup and corn sirup or glucose sirup in which the weight of the solids of the corn sirup or glucose sirup used is not more than one-third the weight of the solids of the sugar or invert sugar sirup used; or any combination of sugar or invert sugar sirup, dextrose, and corn sirup or glucose sirup in which twice the weight of the solids of the dextrose used added to three times the weight of the solids of the corn sirup or glucose sirup used is not more than the weight of the solids of the sugar or invert sugar sirup used; except that the packing media in subparagraph (1) (vii) to (x) of this paragraph, inclusive, when prepared with fresh, canned, or frozen single strength fruit juice(s) are not prepared with any invert sugar sirup or with any corn sirup other than dried corn sirup or with any glucose sirup other than dried glucose sirup. A packing medium prepared with fresh, canned, or frozen single strength fruit juice(s) and any invert sugar sirup or corn sirup other than dried corn sirup or glucose sirup other than dried glucose sirup is considered to be prepared with water as the liquid ingredient. A packing medium prepared with concentrated fruit juice(s) that has been reconstituted with water or with water and invert sugar sirup, corn sirup, or glucose sirup (in combinations as specified in this paragraph) to the soluble fruit solids that each fruit juice had before concentration is considered to be prepared with fruit juice as the liquid ingredient.

(3) The respective densities of packing media in subparagraph (1) (iii) to (x), inclusive, of this paragraph as measured on the Brix hydrometer 15 days or more after the berries are canned, fall within the range prescribed for each in the following table of optional packing media:

OPTIONAL PACKING MEDIA

| Optional berry ingredient | (c)(1) (iii) and (vii): Slightly sweetened water and slightly sweetened fruit juice | | (c)(1) (iv) and (viii): Light sirup and light fruit juice sirup | | (c)(1) (v) and (ix): Heavy sirup and heavy fruit juice sirup | | (c)(1) (vi) and (x): Extra heavy sirup and extra heavy fruitj uice sirup | |
|---|---|---|---|---|---|---|---|---|
| | Minimum Brix | Maximum Brix less than— | Minimum Brix | Maximum Brix less than— | Minimum Brix | Maximum Brix less than— | Minimum Brix | Maximum Brix not more than— |
| | *Degrees* | *Degrees* | *Degrees* | *Degrees* | *Degrees* | *Degrees* | *Degrees* | *Degrees* |
| Blackberries | 14 | 14 | 19 | 19 | 24 | 24 | 25 | 35 |
| Blueberries | 15 | 15 | 20 | 20 | 25 | 25 | 25 | 35 |
| Boysenberries | 14 | 14 | 19 | 19 | 24 | 24 | 25 | 35 |
| Dewberries | 14 | 14 | 19 | 19 | 24 | 24 | 25 | 35 |
| Gooseberries | 14 | 14 | 20 | 20 | 26 | 26 | 25 | 35 |
| Huckleberries | 15 | 15 | 20 | 20 | 25 | 25 | 25 | 35 |
| Loganberries | 14 | 14 | 19 | 19 | 24 | 24 | 25 | 35 |
| Black raspberries | 14 | 14 | 20 | 20 | 27 | 27 | 25 | 35 |
| Red raspberries | 14 | 14 | 22 | 22 | 28 | 28 | 25 | 35 |
| Strawberries | 14 | 14 | 19 | 19 | 27 | 27 | 25 | 35 |
| Youngberries | 14 | 14 | 19 | 19 | 24 | 24 | 25 | 35 |

(d)(1) The principal display panel of the label shall bear the name of the optional berry ingredient used, as specified in paragraph (b) of this section, and the name whereby the optional packing medium used is designated in paragraph (c) of this section, preceded by "in" or "packed in," except that as regards the word "fruit": If the optional packing media in paragraph (c)(1) (ii), (vii) to (x) of this section, inclusive, are prepared with:

(i) A single fruit juice, the name of the juice shall be used in lieu of the word "fruit" in the name of the packing medium.

(ii) A combination of two or more fruit juices, the names of the juices in the order of predominance by weight shall either be used in lieu of the word "fruit" in the name of the packing medium or be declared on the label as specified in paragraph (e)(2) of this section.

(iii) A single fruit juice or a combination of two or more fruit juices any of which are made from concentrate(s), the words "from concentrate(s)" shall follow the word "juice(s)" in the name of the packing medium and in the name(s) of such juice(s) when declared as specified in paragraph (e)(2) of this section.

(e)(1) Wherever the name of the food appears on the label so conspicuously as to be easily seen under the customary conditions of purchase, the statements specified in this section, showing the optional ingredients used, shall immediately and conspicuously precede or follow such name without intervening written, printed, or graphic matter, except that the specific varietal name of the berries may so intervene.

(2) Whenever the names of the fruit juices used do not appear in the name of the packing medium as provided for in paragraph (d)(1)(ii) of this section such names, and as specified in paragraph (d)(1)(iii) of this section, the words "from concentrate," shall appear together in an ingredient statement pursuant to the requirements of § 1.8d of this chapter.

6. In § 27.45 by deleting paragraph (f) and by amending paragraphs (c), (d), and (e) to read as follows:

**§ 27.45 Canned plums; identity; label statement of optional ingredients.**

* * * * *

(c)(1) The optional packing media referred to in paragraph (a) of this section are:

(i) Water.
(ii) Fruit juice(s).
(iii) Slightly sweetened water.
(iv) Light sirup.
(v) Heavy sirup.
(vi) Extra heavy sirup.
(vii) Slightly sweetened fruit juice(s).
(viii) Light fruit juice(s) sirup.
(ix) Heavy fruit juice(s) sirup.
(x) Extra heavy fruit juice(s) sirup.

For the purposes of this section the term "fruit juice(s)" means single strength expressed juice(s) of sound, mature fruit(s). It may be fresh, frozen, canned, or made from concentrate(s). However, if it is made from concentrate(s), the juice(s) shall be reconstituted with water to the soluble solids that each fruit juice had before concentration. Fruit juice(s) may be used singly or in combination. If a fruit juice(s) is used that is regulated by a standard of identity of this chapter, it shall conform to the compositional requirements prescribed by such standard, prior to the addition of any sweetener which may be used. The term "water" means, in addition to water, any mixture of water and fruit juice(s), except that water used in preparing equivalent single strength juice(s) from concentrate(s) shall not be considered under the meaning of this term.

(2) Each of the packing media in subparagraph (1) (iii) to (x) of this paragraph, inclusive, is prepared with a liquid ingredient and a saccharine ingredient. Water is the liquid ingredient from which the packing media in subparagraph (1) (iii) to (vi) of this paragraph, inclusive, are prepared, and fruit juice(s) as defined in subparagraph (1) of this paragraph is the liquid ingredient from which the packing media in subparagraph (1) (vii) to (x) of this paragraph, inclusive, are prepared. The saccharine ingredient from which the packing media in subparagraph (1) (iii) to (x) of this paragraph, inclusive, are prepared is one of the following: Sugar, invert sugar sirup; any combination of sugar or invert sugar sirup and dextrose in which the weight of the solids of the dextrose used is not more than one-half the weight of the solids of the sugar or invert sugar sirup used; any combination of sugar or invert sugar sirup and corn sirup or glucose sirup in which the weight of the solids of the corn sirup or glucose sirup used is not more than one-third the weight of the solids of the sugar or invert sugar sirup used; or any combination of sugar or invert sugar sirup, dextrose, and corn sirup or glucose sirup in which twice the weight of the solids of the dextrose used added to three times the weight of the solids of the corn sirup or glucose sirup used is not more than the weight of the solids of the sugar or invert sugar sirup used; except that the packing media in subparagraph (1) (vii) to (x) of this paragraph, inclusive, when prepared with fresh, canned, or frozen single strength fruit juice(s) are not prepared with any invert sugar sirup or with any corn sirup other than dried corn sirup or with any glucose sirup other than dried glucose sirup. A packing medium prepared with fresh, canned, or frozen single strength fruit juice(s) and any invert sugar sirup or corn sirup other than dried corn sirup or glucose sirup other than dried glucose sirup is considered to be prepared with water as the liquid ingredient. A packing medium prepared with concentrated fruit juice(s) that has been reconstituted with water or with water and invert sugar sirup, corn sirup, or glucose sirup (in combinations as specified in this paragraph) to the soluble fruit solids that each fruit juice had before concentration is considered to be prepared with fruit juice as the liquid ingredient.

(3) The respective densities of packing media in subparagraph (1) (iii) to (x), inclusive, of this paragraph as measured on the Brix hydrometer 15 days or more after canning, are within the range prescribed for each in the following list:

| | *Brix measurement* |
|---|---|
| Number of packing medium in the case of purple plums: | |
| (1) (iii) and (vii). | Less than 18°. |
| (1) (iv) and (viii). | 18° or more but less than 21°. |
| (1) (v) and (ix). | 21° or more but less than 26°. |
| (1) (vi) and (x). | 26° or more but not more than 35°. |
| Number of packing medium in the case of all other varieties: | |
| (1) (iii) and (vii). | Less than 16°. |
| (1) (iv) and (viii). | 16° or more but less than 19°. |
| (1) (v) and (ix). | 19° or more but less than 24°. |
| (1) (vi) and (x). | 24° or more but not more than 35°. |

(d)(1) The principal display panel of the label shall bear the name of the optional plum ingredient used, as specified in paragraph (b) of this section, and the name whereby the optional packing medium used is designated in paragraph (c) of this section, preceded by "in" or "packed in," except that as regards the world "fruit": If the optional packing media in paragraph (c)(1) (ii), (vii) to (x) of this section, inclusive, are prepared with:

(i) A single fruit juice, the name of the juice shall be used in lieu of the word "fruit" in the name of the packing medium.

(ii) A combination of two or more fruit juices, the names of the juices in the order of predominance by weight shall either be used in lieu of the word "fruit" in the name of the packing medium or be declared on the label as specified in paragraph (e)(2) of this section.

(iii) A single fruit juice or a combination of two or more fruit juices any of which are made from concentrate(s), the words "from concentrate(s)" shall follow the word "juice(s)" in the name of the packing medium and in the name(s) of such juice(s) when declared as specified in paragraph (e)(2) of this section.

(2) When any of the optional ingredients permitted by one of the following specified subparagraphs of paragraph (a) of this section are used, the label shall bear the words set forth below after the number of such subparagraph:

(a)(1) "Spiced" or "spice added" or "with added spice," or in lieu of the word "spice," the common name of the spice.

(2) "Flavoring added" or "with added flavoring," or in lieu of the word "flavoring," the common name of the flavoring.

(3) "Seasoned with _____ vinegar," the blank being filled in with the word showing the kind of vinegar used.

When two or more of the optional ingredients specified in paragraph (a) (1), (2), and (3), of this section are used, such words may be combined, as for example, "seasoned with cider vinegar, cloves, and cinnamon oil."

(e)(1) Wherever the name of the food appears on the label so conspicuously as to be easily seen under the customary conditions of purchase, the words and statements specified in paragraph (d)(2) of this section, showing the optional ingredients used, shall immediately and conspicuously precede or follow such name without intervening written, printed, or graphic matter, except that the specific varietal name of the plums may so intervene.

(2) Whenever the names of the fruit juices used do not appear in the name of the packing medium as provided for in paragraph (d)(1)(ii) of this section such names, and as specified in paragraph (d)(1)(iii) of this section, the words "from concentrate," shall appear together in an ingredient statement pursuant to the requirements of § 1.8d of this chapter.

7. In § 27.70 by amending paragraphs (c), (d), and (e) to read as follows:

**§ 27.70 Canned figs; identity; label statement of optional ingredients.**

* * * * *

(c)(1) The optional packing media referred to in paragraph (a) of this section are:

(i) Water.
(ii) Fruit juice(s).
(iii) Slightly sweetened water.
(iv) Light sirup.
(v) Heavy sirup.
(vi) Extra heavy sirup.
(vii) Slightly sweetened fruit juice(s).
(viii) Light fruit juice(s) sirup.
(ix) Heavy fruit juice(s) sirup.
(x) Extra heavy fruit juice(s) sirup.

For the purposes of this section the term "fruit juice(s)" means single strength expressed juice(s) of sound, mature fruit(s). It may be fresh, frozen, canned, or made from concentrate(s). However, if it is made from concentrate(s), the

juice(s) shall be reconstituted with water to the soluble solids that each fruit juice had before concentration. Fruit juice(s) may be used singly or in combination. If a fruit juice(s) is used that is regulated by a standard of identity of this chapter, it shall conform to the compositional requirements prescribed by such standard, prior to the addition of any sweetener which may be used. The term "water" means, in addition to water, any mixture of water and fruit juice(s), except that water used in preparing equivalent single strength juice(s) from concentrate(s) shall not be considered under the meaning of this term.

(2) Each of the packing media in subparagraph (1) (iii) to (x) of this paragraph, inclusive, is prepared with a liquid ingredient and a saccharine ingredient. Water is the liquid ingredient from which the packing media in subparagraph (1) (iii) to (vi) of this paragraph, inclusive, are prepared, and fruit juice(s) as defined in subparagraph (1) of this paragraph is the liquid ingredient from which the packing media in subparagraph (1) (vii) to (x) of this paragraph, inclusive, are prepared. The saccharine ingredient from which the packing media in subparagraph (1) (iii) to (x) of this paragraph, inclusive, are prepared is one of the following: Sugar, invert sugar sirup; any combination of sugar or invert sugar sirup and dextrose in which the weight of the solids of the dextrose used is not more than one-half the weight of the solids of the sugar or invert sugar sirup used; any combination of sugar or invert sugar sirup and corn sirup or glucose sirup in which the weight of the solids of the corn sirup or glucose sirup used is not more than one-third the weight of the solids of the sugar or invert sugar sirup used; or any combination of sugar or invert sugar sirup, dextrose, and corn sirup or glucose sirup in which twice the weight of the solids of the dextrose used added to three times the weight of the solids of the corn sirup or glucose sirup used is not more than the weight of the solids of the sugar or invert sugar sirup used; except that the packing media in subparagraph (1) (vii) to (x) of this paragraph, inclusive, when prepared with fresh, canned, or frozen single strength fruit juice(s) are not prepared with any invert sugar sirup or with any corn sirup other than dried corn sirup or with any glucose sirup other than dried glucose sirup. A packing medium prepared with fresh, canned, or frozen single strength fruit juice(s) and any invert sugar sirup or corn sirup other than dried corn sirup or glucose sirup other than dried glucose sirup is considered to be prepared with water as the liquid ingredient. A packing medium prepared with concentrated fruit juice(s) that has been reconstituted with water or with water and invert sugar sirup, corn sirup, or glucose sirup (in combinations as specified in this paragraph) to the soluble fruit solids that each fruit juice had before concentration is considered to be prepared with fruit juice as the liquid ingredient.

(3) The respective densities of the packing media in subparagraph (1) (iii) to (x) of this paragraph, inclusive, as measured on the Brix hydrometer 15 days or more after the figs are canned, are within the range prescribed for each in the following list:

| Number of packing medium: | *Brix measurement* |
|---|---|
| (1) (iii) and (vii). | 11° or more but less than 16°. |
| (1) (iv) and (viii). | 16° or more but less than 21°. |
| (1) (v) and (ix). | 21° or more but less than 26°. |
| (1) (vi) and (x). | 26° or more but not more than 35°. |

(d) (1) The label shall name the optional fig ingredient used, as specified in paragraph (b) of this section (where combinations of figs and split figs are used, the ingredient present in larger proportion by weight shall be named first), and the name whereby the optional packing medium is designated in paragraph (c) of this section, preceded by "in" or "packed in," except that as regards the word "fruit": If the optional packing media in paragraph (c) (1) (ii), (vii) to (x) of this section, inclusive, are prepared with:

(i) A single fruit juice, the name of the juice shall be used in lieu of the word "fruit" in the name of the packing medium.

(ii) A combination of two or more fruit juices, the names of the juices in the order of predominance by weight shall either be used in lieu of the word "fruit" in the name of the packing medium or be declared on the label as specified in paragraph (e) (2) of this section.

(iii) A single fruit juice or a combination of two or more fruit juices any of which are made from concentrate(s), the words "from concentrate(s)" shall follow the word "juice(s)" in the name of the packing medium and in the name(s) of such juice(s) when declared as specified in paragraph (e) (2) of this section.

(2) When any of the optional ingredients permitted by one of the following specified subparagraphs of paragraph (a) of this section are used, the label shall bear the words set forth below after the number of such subparagraph:

(i) "Spiced" or "spice added" or "with added spice," or, in lieu of the word "spice," the common name of the spice.

(ii) "Flavoring added" or "with added flavoring" or, in lieu of the word "flavoring" the common name of the flavoring.

(iii) "Seasoned with vinegar" or "seasoned with _____ vinegar," the blank being filled in with the name of the vinegar used.

(iv) "With added _____," the blank being filled in with the name or names of the citrus segment or segments used.

(v) "Seasoned with salt" or "salt added."

When the additional of lemon juice (including concentrated lemon juice) or citric acid lowers the pH of the canned figs to less than 4.3, the label shall bear the statement "with added lemon juice" or "with added concentrated lemon juice" (if such is used) or "with added citric acid." When two or more of the optional ingredients specified in paragraph (a) of this section are used, such words may be combined, as for example, "with added spices, orange slices, and lemon juice."

(e) (1) Wherever the name of the food appears on the label so conspicuously as to be easily seen under the customary conditions of purchase, the words and statements specified in paragraph (d) (2) of this section, showing the optional ingredients used shall immediately and conspicuously precede or follow such name without intervening written, printed, or graphic matter, except that the specific varietal name of the figs may so intervene.

(2) Whenever the names of the fruit juices used do not appear in the name of the packing medium as provided for in paragraph (d) (1) (ii) of this section such names, and as specified in paragraph (d) (1) (iii) of this section, the words "from concentrate," shall appear together in an ingredient statement pursuant to the requirements of § 1.8d of this chapter.

Any person who will be adversely affected by the foregoing order may at any time on or before July 2, 1973, file with the Hearing Clerk, Department of Health, Education, and Welfare, room 6–88, 5600 Fishers Lane, Rockville, Md. 20852, written objections thereto. Objections shall show wherein the person filing will be adversely affected by the order, specify with particularity the provisions of the order deemed objectionable, and state the grounds for the objections. If a hearing is requested, the objections shall state the issues for the hearing, shall be supported by grounds factually and legally sufficient to justify the relief sought, and shall include a detailed description and analysis of the factual information intended to be presented in support of the objections in the event that a hearing is held. Objections may be accompanied by a memorandum or brief in support thereof. Six copies of all documents shall be filed. Received objections may be seen in the above office during working hours, Monday through Friday.

*Effective date.*—This order shall become effective July 30, 1973, except as to any provisions that may be stayed by the filing of proper objections. Notice of the filing of objections or lack thereof will be given by publication in the FEDERAL REGISTER.

(Secs. 401, 701, 52 Stat. 1046, 1055 as amended by 70 Stat. 919 and 72 Stat. 948; 21 U.S.C. 341, 371.)

Dated May 23, 1973.

SAM D. FINE,
*Associate Commissioner for Compliance.*

[FR Doc.73-10633 Filed 5-30-73;8:45 am]

PART 135e—NEW ANIMAL DRUGS FOR USE IN ANIMAL FEEDS

Coumaphos

The Commissioner of Food and Drugs has evaluated a supplemental new animal drug application (40-001V) filed by Chemagro, division of Baychem Corp., P.O. Box 4913, Kansas City, Mo. 64120, proposing revisions in use of coumaphos at the 0.004 percent level in chickens and the additional use of coumaphos at 0.003 percent level in chickens. The supplemental application is approved.

Therefore, pursuant to provisions of the Federal Food, Drug, and Cosmetic Act (sec. 512(i), 82 Stat. 347; 21 U.S.C. 360b(i)) and under authority delegated to the Commissioner (21 CFR 2.120), part 135e is amended in § 135e.39 in the table in paragraph (f) by revising the text for item 3 in the "Limitations" column and by adding a new item 4 to the table as follows:

§ 135e.39 Coumaphos.

* * * * *

(f) *Conditions of use.*—It is used as follows:

| Amount | Limitations | Indications for use |
|---|---|---|
| * * * | * * * | * * * |
| 3. Coumaphos..... * * * | For replacement pullets in complete feed; administer before the onset of production; diagnosis by competent personnel is essential; administer continuously as total feed ration for from 10 to 14 days; do not feed to chickens under 8 weeks of age nor within 10 days of vaccination or other conditions of stress; if birds are maintained on contaminated litter or exposed to infected birds a second 10 to 14 day treatment is recommended but not sooner than 3 weeks after the end of the previous treatment; as sole medication; if reinfection occurs after production begins, repeat treatment as recommended for laying flocks. | * * * |
| 4. Coumaphos..... 27.2 grams per ton (0.003%). | For laying flocks of chickens in complete feed; administer continuously as the total feed ration for 14 days; when reinfection occurs, treatment may be repeated but not sooner than 3 weeks after the end of the previous treatment; do not feed to chickens within 10 days of vaccination or other conditions of stress; treatment of colored breeds of commercial layers should be avoided while in production since these breeds appear to be more sensitive to coumaphos than white breeds; as sole medication; medications in general should be avoided while birds are approaching peak production such interruption of normal feeding practices may upset the flock and lower egg production; diagnosis by competent personnel is essential; flock condition and production records should be carefully evaluated prior to treatment. | Do. |

*Effective date.*—This order shall be effective May 31, 1973.

(Sec. 512(i), 82 Stat. 347; 21 U.S.C. 360b(i).)

Dated May 22, 1973.

C. D. VAN HOUWELING,
*Director,*
*Bureau of Veterinary Medicine.*

[FR Doc.73-10626 Filed 5-30-73;8:45 am]

## CHAPTER II—BUREAU OF NARCOTICS AND DANGEROUS DRUGS, DEPARTMENT OF JUSTICE

## PART 308—SCHEDULES OF CONTROLLED SUBSTANCES

### Exempt Chemical Preparations

The Director of the Bureau of Narcotics and Dangerous Drugs has received applications pursuant to § 308.23 of title 21 of the Code of Federal Regulations requesting that several chemical preparations containing controlled substances be granted the exemptions provided for in § 308.24 of title 21 of the Code of Federal Regulations.

The Director hereby finds that each of the following chemical preparations and mixtures is intended for laboratory, industrial, education, or special research purposes, is not intended for general administration to a human being or other animal, and either (a) contains no narcotic controlled substance and is packaged in such a form or concentration that the package quantity does not present any significant potential for abuse, or (b) contains either a narcotic or nonnarcotic controlled substance and one or more adulterating or denaturing agents in such a manner, combination, quantity, proportion, or concentration, that the preparation or mixture does not present any potential for abuse. If the preparation or mixture contains a narcotic controlled substance, the preparation or mixture is formulated in such a manner that it incorporates methods of denaturing or other means so that the preparation or mixture is not liable to be abused, and so that the narcotic substance cannot in practice be removed. The Director further finds that exemption of the following chemical preparations and mixtures is consistent with the public health and safety as well as the needs of researchers, chemical analysis, and suppliers of these products.

Therefore, under the authority vested in the Attorney General by sections 301 and 501(b) of the Comprehensive Drug Abuse Prevention and Control Act of 1970 (21 U.S.C. 821 and 871(b) and delegated to the Director of the Bureau of Narcotics and Dangerous Drugs by § 0.100 of title 28 of the Code of Federal Regulations, the Director hereby orders that part 308 of title 21 of the Code of Federal Regulations be amended as follows:

a. By amending § 308.24(i) by adding the following chemical preparations:

§ 308.24 Exempt chemical preparations.

* * * * *

(i) * * *

| Manufacturer or supplier | Product name and supplier's catalog No. | Form of product | Date of application |
|---|---|---|---|
| * * | * * | * * | * |
| American Hospital Supply Corp. (Dade Division). | Buffered Thrombin (Bovine), Catalog No. B4233-40, Euglobulin Lysis Set. | Bottle: 2 ml | Apr. 10, 1973 |
| * * | * * | * * | * |
| Environmental Chemical Specialties, Inc. | Dextran Coated Charcoal Solution | Bottle: 1,000 ml | Mar. 26, 1973 |
| Do | TBG-Radiothyroxine Solution | do | Do |
| * * | * * | * * | * |
| Flow Laboratories | DGV No. 3-080 | Bottle: 125 ml | Apr. 16, 1973 |
| Do | CEP Buffer No. 3-083 | Bottle: 125 ml | Do. |
| Do | CEP Plate No. 5-076 | Plate: 20 ml | Do. |
| Do | Merthiolate No. 6-088B | Bottle: 20 ml | Do. |
| * * | * * | * * | * |
| J.W.S. Delavau Co., Inc., and the Theta Corp. | Allobarbital No. FP305 | Vial: 2 ml | Apr. 10, 1973 |
| Do | Amobarbital No. FP313 | do | Do. |
| Do | Amphetamine No. FP604 | do | Do. |
| Do | Anileridine No. FP203 | do | Do. |
| Do | Aprobarbital No. FP306 | do | Do. |
| Do | Barbital No. FP314 | do | Do. |
| Do | Butabarbital No. FP315 | do | Do. |
| Do | Butalbital No. FP307 | do | Do. |
| Do | Chloral Betaine No. FP502 | do | Do. |
| Do | Chloral Hydrate No. FP501 | do | Do. |
| Do | Cocaine No. FP602 | do | Do. |
| Do | Codeine No. FP102 | do | Do. |
| Do | Cyclobarbital No. FP308 | do | Do. |
| Do | Diphenoxylate No. FP206 | do | Do. |
| Do | Dihydrocodeine No. FP108 | do | Do. |
| Do | Ethchlorvynol No. FP508 | do | Do. |
| Do | Ethylmorphine No. FP106 | do | Do. |
| Do | Fentanyl No. FP211 | do | Do. |
| Do | Glutethimide No. FP404 | do | Do. |
| Do | Heptabarbital No. FP309 | do | Do. |
| Do | Hexobarbital No. FP303 | do | Do. |
| Do | Hydrocodone No. FP107 | do | Do. |
| Do | Hydromorphone No. FP103 | do | Do. |
| Do | Levorphanol No. FP208 | do | Do. |
| Do | Marker Mixture No. FPM-104 | do | Do. |
| Do | Marker Mixture No. FPM-201 | do | Do. |
| Do | Meperidine No. FP201 | do | Do. |
| Do | Mephobarbital No. FP301 | do | Do. |
| Do | Meprobamate No. FP402 | do | Do. |
| Do | Methadone No. FP206 | do | Do. |

| Manufacturer or supplier | Product name and supplier's catalog No. | Form of product | Date of application |
|---|---|---|---|
| Do | Methamphetamine No. FP603 | do | Do. |
| Do | Metharbital No. FP302 | do | Do. |
| Do | Methohexital No. FP304 | do | Do. |
| Do | Methylphenidate No. FP605 | do | Do. |
| Do | Monthly Urine Test No. FPM-103 | do | Do. |
| Do | Morphine No. FP101 | do | Do. |
| Do | Oxycodone No. FP109 | do | Do. |
| Do | Oxymorphone No. FP104 | do | Do. |
| Do | Paraldehyde No. FP506 | do | Do. |
| Do | Pentobarbital No. FP318 | do | Do. |
| Do | Phenazocine No. FP213 | do | Do. |
| Do | Phenametrazine No. FP606 | do | Do. |
| Do | Phenobarbital No. FP320 | do | Do. |
| Do | Piminodine No. FP202 | do | Do. |
| Do | Probarbital No. FP319 | do | Do. |
| Do | Secobarbital No. FP310 | do | Do. |
| Do | Talbutal No. FP311 | do | Do. |
| Do | Thiamylal No. FP322 | do | Do. |
| Do | Thiopental No. FP321 | do | Do. |
| Do | Vinbarbital No. FP312 | do | Do. |
| Do | Weekly urine test (FDA) No. FPM-101. | do | Do. |
| Do | Weekly urine test (States) No. FPM-102. | do | Do. |
| * * | * * * * * | * | * |
| Lederle Laboratories | Urine drug check kit No. 2958-91 to include: UDC 1 No. 2959-38. | Bottle: 25 ml | Apr. 4, 1973 |
| Do | UDC 1a No. 2979-38 | do | Do. |
| Do | UDC 2 No. 2960-38 | do | Do. |
| Do | UDC 3 No. 2961-38 | do | Do. |
| Do | UDC 4 No. 2962-38 | do | Do. |
| Do | UDC 5 No. 2963-38 | do | Do. |
| Do | UDC 6 No. 2964-38 | do | Do. |
| Do | UDC 7 No. 2965-38 | do | Do. |
| Do | UDC 8 No. 2966-38 | do | Do. |
| Do | UDC 9 No. 2967-38 | do | Do. |
| Do | UDC 10 No. 2968-38 | do | Do. |
| Do | UDC 10a No. 2980-38 | do | Do. |
| Do | UDC 11 No. 2969-38 | do | Do. |
| Do | UDC 12 No. 2970-38 | do | Do. |
| Do | UDC 13 No. 2971-38 | do | Do. |
| Do | UDC 14 No. 2972-38 | do | Do. |
| Do | UDC 15 No. 2973-38 | do | Do. |
| Do | UDC 15a No. 2981-38 | do | Do. |
| Do | UDC 16 No. 2974-38 | do | Do. |
| Do | UDC 17 No. 2975-38 | do | Do. |
| Do | UDC 18 No. 2976-38 | do | Do. |
| Do | UDC 19 No. 2977-38 | do | Do. |
| Do | UDC 20 No. 2978-38 | do | Do. |
| * * | * * * * * | * | * |
| E. R. Squibb & Sons | Barbital Buffer Mixture for use with Gastrin Immutope Kit No. 09510. | Vial: 5 cc | Nov. 21, 1972 |
| * * | * * * * * | * | * |

b. By amending § 308.24(i) by deleting the following chemical preparation:

**§ 308.24 Exempt chemical preparations.**

* * * * * * *

(i) * * *

| Manufacturer or supplier | Product name and supplier's catalog No. | Form of product | Date of application |
|---|---|---|---|
| * * | * * * * * | * | * |
| American Hospital Supply Corp. (Dade Division). | Adsorbed Plasma Reagent No. B4233-1 and B4233-2. | Bottle: 1 ml | Aug. 16, 1971 |
| * * | * * * * * | * | * |
| E. R. Squibb & Sons | Barbital Buffer Mixture for use with Gastrin Immutope Kit No. 09510. | Vial: 20 ml | Nov. 21, 1972 |
| * * | * * * * * | * | * |

*Effective date.*—This order is effective on May 31, 1973. Any interested person may file written comments on or objections to the order on or before July 30, 1973. If any such comments or objections raise significant issues regarding any finding of fact or conclusion of law upon which the order is based, the Director shall immediately suspend the effectiveness of the order until he may reconsider the application in light of the comments and objections filed. Thereafter, the Director shall reinstate, revoke, or amend his original order as he determines appropriate.

Dated May 18, 1973.

JOHN E. INGERSOLL,
*Director, Bureau of Narcotics and Dangerous Drugs.*

[FR Doc. 73-10689 Filed 5-30-73;8:45 am]

## Title 45—Public Welfare

## CHAPTER X—OFFICE OF ECONOMIC OPPORTUNITY

## ACTION TAKEN PURSUANT TO OPINION AND ORDER

This notice applies to all grantees funded under titles II, III, or VII of the EOA when such assistance is administered by OEO, and to all headquarters and regional offices of OEO.

In the case of *Local 2677, AFGE* v. *Phillips*, U.S. District Court for the District of Columbia, April 11, 1973, the Court held that certain actions taken by OEO were unauthorized and granted an injunction against their implementation or enforcement. Consideration is being given to a possible appeal from the decision and order. However, the Office of Economic Opportunity has carefully reviewed those actions potentially affected by the order, and on the basis of such review is taking the following action.

A. *OEO issuances promulgated since January 29, 1973 which are rescinded.*—(a) Memorandum of January 29, 1973, "Termination Section 221 Funding."[1]

(b) OEO I. 6730-3, termination of section 221 funding.[2]

(c) OEO Staff I. 6710-1, Change 8, grant processing instruction during the OEO phaseout period. (Pt. 1067, § 1067.4; 45 CFR 1067.4.)

(d) OEO Staff I. 6710-1, change 9, additional funding instructions. (Pt. 1067, § 1067.5; 45 CFR 1067.5.)

(e) OEO Staff I. 6710-1, change 10, funding periods for grant actions. (Pt. 1067, § 1067.6; 45 CFR 1067.6.)

(f) OEO Staff I. 6710-1, change 11, final regional grant processing instructions during the OEO phaseout period. (Pt. 1067, § 1067.6; 45 CFR 1067.6.)

B. *New effective dates for those OEO instructions not otherwise affected by the court order.*—The following instructions are reaffirmed in substance as not in conflict with the decision of the court except that they shall have the following new effective dates (July 2, 1973):

(a) OEO I. 6140, legal services programs; effective May 2, 1973. (Pt. 1061, § 1061.4-1; 45 CFR 1061.4-1.)

(b) OEO I. 6803-4, allowability of costs for organization dues, membership fees, and donations, effective April 27, 1973. (Pt. 1068, §§ 1068.7-1 through 1068.7-4; 45 CFR 1068.7-1—1068.7-4.)

(c) OEO I. 6907-01, restrictions on political activities; effective April 13, 1973. (Pt. 1069, §§ 1069.5-1 through 1069.5-3; 45 CFR 1069.5-1—1069.5-3.)

(d) OEO I. 6910-1, change 2, travel regulations for CAP grantees and delegate agencies; effective April 15, 1973. (Pt. 1069, § 1069.3-5; 45 CFR 1069.3-5.)

(e) OEO I. 7044-1, use of OEO grant funds for the purpose of program or other involvement in all communications media; effective April 27, 1973. (Pt. 1070, §§ 1070.4-1 through 1070.4-5); 45 CFR 1070.4-1—1070.4-5.)

C. *OEO Issuances promulgated since January 29, 1973, which are affirmed.*

All OEO issuances promulgated since January 29, 1973, not hereinabove mentioned were unaffected either in substance or procedure, by the court order and are effective as promulgated.

(Sec. 602, 78 Stat. 528; 42 U.S.C. 2942.)

J. ALAN MACKAY,
*Acting General Counsel.*

Approved by

HOWARD PHILLIPS,
*Acting Director.*

[FR Doc.73-10816 Filed 5-30-73;8:45 am]

[1] Not filed with the Office of Federal Register.

[2] *Ibid.*

Title 5—Administrative Personnel

CHAPTER I—CIVIL SERVICE COMMISSION

PART 550—PAY ADMINISTRATION (GENERAL)

Voluntary Withholding of City Income Taxes in Selected Cities

Section 550.361 is amended by adding an allotment regulation to establish an experimental program for a period of up to 3 years to permit voluntary withholding of city income taxes in selected cities.

§ 550.361 Scope.

(a) An agency may permit an employee, regardless of his tenure, to make an allotment for the payment of State or District of Columbia income taxes when he is employed outside of, but is a resident in, a State or the District of Columbia with which the Secretary of the Treasury has entered into an agreement to withhold income taxes from the pay of employees under sections 5516 and 5517 of title 5, United States Code.

(b) On an experimental basis beginning July 1, 1973, for a period of up to 3 years, an agency may permit an employee, regardless of tenure, to make an allotment for city income tax, when he is employed in, or a resident of, a city (selected by the Civil Service Commission) with which the Department of the Treasury has entered into an agreement to withhold city income taxes from the pay of employees, and in accordance with procedures set forth in the Fiscal Requirements Manual issued by the Department of the Treasury.

(5 U.S.C. secs. 5516, 5517, 5527.)

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

[FR Doc.73-10973 Filed 5-30-73;8:45 am]

Title 7—Agriculture

CHAPTER IX—AGRICULTURAL MARKETING SERVICE (MARKETING AGREEMENTS AND ORDERS; FRUITS, VEGETABLES, NUTS), DEPARTMENT OF AGRICULTURE

[Valencia Orange Reg. 434]

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

Limitation of Handling

This regulation fixes the quantity of California-Arizona Valencia oranges that may be shipped to fresh market during the weekly regulation period June 1–June 7, 1973. It is issued pursuant to the Agricultural Marketing Agreement Act of 1937, as amended, and marketing order No. 908. The quantity of Valencia oranges so fixed was arrived at after consideration of the total available supply of Valencia oranges, the quantity of Valencia oranges currently available for market, the fresh market demand for Valencia oranges, Valencia orange prices, and the relationship of season average returns to the parity price for Valencia oranges.

§ 908.734 Valencia Orange Regulation 434.

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

(2) The need for this regulation to limit the respective quantities of Valencia oranges that may be marketed from district 1, district 2, and district 3 during the ensuing week stems from the production and marketing situation confronting the Valencia orange industry.

(i) The committee has submitted its recommendation with respect to the quantities of Valencia oranges that should be marketed during the next succeeding week. Such recommendation, designed to provide equity of marketing opportunity to handlers in all districts, resulted from consideration of the factors enumerated in the order. The committee further reports that the fresh market demand for Valencia oranges lacks tone. Prices, f.o.b. for Valencia oranges averaged $3.27 per carton on a sales volume of 720 cars for the week ended May 24, 1973, compared with $3.33 per carton on a sales volume of 814 cars for the previous week. Track and rolling supplies at 443 cars were up 52 cars from last week.

(ii) Having considered the recommendation and information submitted by the committee, and other available information, the Secretary finds that the respective quantities of Valencia oranges which may be handled should be fixed as hereinafter set forth.

(3) It is hereby further found that it is impracticable and contrary to the public interest to give preliminary notice, engage in public rulemaking procedure, and postpone the effective date of this regulation until 30 days after publication hereof in the FEDERAL REGISTER (5 U.S.C. 553), because the time intervening between the date when information upon which this regulation is based became available and the time when this regulation must become effective in order to effectuate the declared policy of the act is insufficient, and a reasonable time is permitted, under the circumstances, for preparation for such effective time; and good cause exists for making the provisions hereof effective as hereinafter set forth. The committee held an open meeting during the current week, after giving due notice thereof, to consider supply and market conditions for Valencia oranges and the need for regulation; interested persons were afforded an opportunity to submit information and views at this meeting; the recommendation and supporting information for regulation during the period specified herein were promptly submitted to the Department after such meeting was held; the provisions of this regulation, including its effective time, are identical with the aforesaid recommendation of the committee, and information concerning such provisions and effective time has been disseminated among handlers of such Valencia oranges; it is necessary, in order to effectuate the declared policy of the act, to make this regulation effective during the period herein specified; and compliance with this regulation will not require any special preparation on the part of persons subject hereto which cannot be completed on or before the effective date hereof. Such committee meeting was held on May 29, 1973.

(b) *Order.*—(1) The respective quantities of Valencia oranges grown in Arizona and designated part of California which may be handled during the period June 1, 1973, through June 7, 1973, are hereby fixed as follows:

"(i) District 1: 264,000 cartons;

(ii) District 2: 432,000 cartons;

(iii) District 3: 104,000 cartons."

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

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

Dated May 30, 1973.

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

[FR Doc.73-10989 Filed 5-30-73;11:12 am]

Title 8—Aliens and Nationality

CHAPTER I—IMMIGRATION AND NATURALIZATION SERVICE, DEPARTMENT OF JUSTICE

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

PART 211—DOCUMENTARY REQUIREMENTS: IMMIGRANTS; WAIVERS

PART 223a—REFUGEE TRAVEL DOCUMENT

PART 236—EXCLUSION OF ALIENS

PART 299—IMMIGRATION FORMS

Refugee Travel Document; Extension of Effective Date

Reference is made to the order published in the FEDERAL REGISTER on March 30, 1973 (38 FR 8237), pursuant to section 553 of title 5 of the United States Code (80 Stat. 383), setting forth adopted rules pertaining to the issuance of travel documents to refugees, said order to become effective on June 1, 1973. On advice of the Public Printer, because of technical difficulties the documents will not be available. In the light of the

advice of the Public Printer, the effective date of the order of March 30, 1973 (38 FR 8237), is hereby extended to August 1, 1973.

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

Dated May 29, 1973.

JAMES F. GREENE,
*Acting Commissioner of Immigration and Naturalization.*

[FR Doc.73-10955 Filed 5-30-73;8:45 am]

## Title 9—Animals and Animal Products

## CHAPTER III—ANIMAL AND PLANT HEALTH INSPECTION SERVICE (MEAT AND POULTRY PRODUCTS INSPECTION) DEPARTMENT OF AGRICULTURE

### SUBCHAPTER A—MANDATORY MEAT INSPECTION

### PART 331—SPECIAL PROVISIONS FOR DESIGNATED STATES AND TERRITORIES; AND FOR DESIGNATION OF ESTABLISHMENTS WHICH ENDANGER PUBLIC HEALTH AND FOR SUCH DESIGNATED ESTABLISHMENTS

#### Designation of Nevada

*Statement of considerations.*—A representative of the Governor of the State of Nevada has advised this Department that the State of Nevada is no longer in a position to continue administering the State meat inspection program after June 30, 1973, and has requested the Department to assume the responsibility for carrying out the provisions of titles I and IV of the Federal Meat Inspection Act, with respect to establishments within the State at which cattle, sheep, swine, goats, or equines are slaughtered or their carcasses, or parts or products thereof, are prepared for use as human food, solely for distribution within such State, and with respect to intrastate operations and transactions concerning meat products and other articles and animals subject to the act, and persons, firms, and corporations engaged therein.

The Secretary heretofore determined that the State of Nevada had developed and activated requirements at least equal to the requirements under titles I and IV of the Federal act. However, such titles contemplate a continuous, ongoing program, and in view of the termination date now applicable to the Nevada program, it is hereby determined that the Nevada requirements are not at least equal to the prescribed Federal requirements. Therefore, notice is hereby given that the Secretary of Agriculture designates said State under section 301(c)(3) of the act. On July 1, 1973, the provisions of titles I and IV of the act shall apply to intrastate operations and transactions in said State and to persons, firms, and corporations engaged therein, to the same extent and in the same manner as if such operations and transactions were conducted in or for commerce, within the meaning of the act, and any establishment in the State of Nevada which conducts any slaughtering or preparation of carcasses or parts or products thereof as described above must have Federal inspection or cease its operations, unless it qualifies for an exemption under section 23(a) or 301(c) of the act. The exemption provisions of the act are very limited.

Therefore, the operator of each such establishment who desires to continue such operations after designation of the State becomes effective should immediately communicate with the Regional Director for Meat and Poultry Inspection, as listed below, for information concerning the requirements and exemptions under the act and application for inspection and survey of the establishment:

Dr. L. J. Rafoth, Director, Western Region, for meat and poultry inspection program, room 102, building 2C, 620 Central Avenue, Alameda, Calif. 94501. Telephone: A/C 415-273-7402.

Accordingly, § 331.2 of the regulations under the Federal Meat Inspection Act (9 CFR 331.2) is amended pursuant to said act by adding the following State name (in alphabetical order) and effective date of designation to the list set forth in said section:

| State: | *Effective date of designation* |
|---|---|
| Nevada | July 1, 1973 |

(Secs. 21 and 301(c), 34 Stat. 1260, as amended, 21 U.S.C. 621, 661(c); 37 FR 28464, 28477.)

This amendment of the regulations is necessary to reflect the determination of the Secretary of Agriculture under section 301(c) of the Federal Meat Inspection Act. It does not appear that public participation in this rulemaking proceeding would make additional information available to the Secretary. Therefore, under the administrative procedure provisions in 5 U.S.C. 553, it is found upon good cause that such public procedure is impracticable and unnecessary, and good cause is found for making this amendment effective less than 30 days after publication in the FEDERAL REGISTER.

This amendment and the notice given hereby shall become effective May 31, 1973.

Done at Washington, D.C., on May 24, 1973.

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

[FR Doc.73-10737 Filed 5-30-73;8:45 am]

### SUBCHAPTER C—MANDATORY POULTRY PRODUCTS INSPECTION

### PART 381—POULTRY PRODUCTS INSPECTION REGULATIONS

#### Subpart V—Special Provisions for Designated States and Territories; Criteria and Procedure for Designating Establishments With Operations Which Would Clearly Endanger the Public Health; Disposition of Poultry Products Therein

NOTICE OF DESIGNATION OF NEVADA

*Statement of considerations.*—A representative of the Governor of the State of Nevada has advised this Department that the State of Nevada is no longer in a position to continue administering the State poultry products inspection program after June 30, 1973, and has requested the Department to assume the responsibility for carrying out the provisions of sections 1–4, 6–10, and 12–22 of the Poultry Products Inspection Act, with respect to establishments within the State at which poultry are slaughtered or poultry products are processed for use as human food, solely for distribution within such State, and with respect to intrastate operations and transactions concerning poultry products and other articles and poultry subject to the act, and persons, firms, and corporations engaged therein.

The Secretary heretofore determined that the State of Nevada had developed and activated requirements at least equal to the requirements under sections 1–4, 6–10, and 12–22 of the Federal act. However, such provisions contemplate a continuous, ongoing program, and in view of the termination date now applicable to the Nevada program, it is hereby determined that the Nevada requirements are not at least equal to the prescribed Federal requirements. Therefore, notice is hereby given that the Secretary of Agriculture designates said State under section 5(c)(3) of the act. On July 1, 1973, the provisions of sections 1–4, 6–10, and 12–22 of the act shall apply to intrastate operations and transactions in said State and to persons, firms, and corporations engaged therein, to the same extent and in the same manner as if such operations and transactions were conducted in or for "commerce," within the meaning of the act, and any establishment in the State of Nevada which conducts any slaughtering or processing of poultry or poultry products as described above must have Federal inspection or cease its operations, unless it qualifies for an exemption under section 15 or 15(c)(2) of the act.

Therefore, the operator of each such establishment who desires to continue such operations after designation of the State becomes effective should immediately communicate with the Regional Director for Meat and Poultry Inspection, listed below, for information concerning the requirements and exemptions under the act and application for inspection and survey of the establishment:

Dr. L. J. Rafoth, Director, Western Region for Meat and Poultry Inspection Program, room 102, building 2C, 620 Central Avenue, Alameda, Calif. 94501, telephone: A/C 415-273-7402.

Accordingly, the regulations in part 381 in this subchapter (9 CFR pt. 381) are amended as follows:

1. Section 381.187 is amended by deleting the State of Nevada and its certification date from the list set forth in said section.

2. Section 381.221 of the regulations (9 CFR 381.221) is amended by adding the following State name (in alphabetical order) and effective date of designation to the list set forth in said section:

| State: | *Effective date of designation* |
|---|---|
| Nevada | July 1, 1973 |

(Secs. 14 and 5(c), 71 Stat. 441, as amended, 21 U.S.C. 454(c), 463; 37 FR 28464, 28477.)

These amendments of the regulations are necessary to reflect the determination of the Secretary of Agriculture under section 5(c) of the Poultry Products Inspection Act. It does not appear that public participation in this rulemaking proceeding would make additional information available to the Secretary. Therefore, under the administrative procedure provisions in 5 U.S.C. 553, it is found upon good cause that such public procedure is impracticable and unnecessary, and good cause is found for making these amendments effective less than 30 days after publication in the FEDERAL REGISTER.

These amendments and the notice given hereby shall become effective May 31, 1973.

Done at Washington, D.C., on May 24, 1973.

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

[FR Doc.73-10738 Filed 5-30-73;8:45 am]

## Title 12—Banks and Banking

## CHAPTER III—FEDERAL DEPOSIT INSURANCE CORPORATION

## EXECUTIVE SECRETARY OF THE CORPORATION; ADMINISTRATIVE LAW JUDGES

Effective May 15, 1973, parts 302, 303, 306, 308, 309, and 335 of the rules and regulations of the Federal Deposit Insurance Corporation (12 CFR pts. 302, 303, 306, 308, 309, and 335) are amended as follows:

### PART 302—FORMULATION AND PROMULGATION OF RULES AND REGULATIONS

1. The first sentence of § 302.3 is amended by deleting the words "the Special Committee will submit its" and inserting the words "duly constituted committees will submit their" in lieu thereof.

2. The last sentence of § 302.4 is amended by deleting the word "Secretary" and inserting the words "Executive Secretary of the Corporation" in lieu thereof.

### PART 303—APPLICATIONS, REQUESTS, AND SUBMITTALS

3. The first sentence of § 303.9 is amended by deleting the word "Secretary" and inserting the words "Executive Secretary of the Corporation" in lieu thereof.

4. The second sentence of paragraph (a) of § 303.10 is amended by deleting the words "the Board of Review or".

5. The second sentence of paragraph (b) of § 303.11 is amended by deleting the word "Secretary" and inserting the words "Executive Secretary" in lieu thereof.

6. Paragraph (d) of § 303.11 is amended to read as follows:

(d) *Deputy Director (Operations Branch).*—In the absence of the Director of Bank Supervision, all powers granted to him under the provisions of this part may be exercised instead by the Deputy Director of the Division of Bank Supervision (Operations Branch).

7. Paragraph (b) of § 303.12 is amended by deleting the words "Associate Director" and inserting the words "Deputy Director (Operations Branch)" in lieu thereof.

8. The last sentence of paragraph (a) of § 303.13 is amended by deleting the word "Secretary" and inserting the words "Executive Secretary" in lieu thereof.

9. The last sentence of paragraph (k) of § 303.14 is amended by deleting the word "Secretary" and inserting the words "Executive Secretary" in lieu thereof.

### PART 306—RECEIVERSHIPS AND LIQUIDATIONS

10. The 12th sentence of § 306.2 is amended by deleting the words "the Special Committee" and inserting the words "duly constituted committees" in lieu thereof.

### PART 308—RULES OF PRACTICE AND PROCEDURES

11. Paragraph (a) of § 308.2 is amended by deleting the word "Secretary" each place it appears therein and inserting the words "Executive Secretary" each place it appears therein and words "trial examiner" in the last sentence thereof and inserting the words "administrative law judge" in lieu thereof.

12. Paragraph (b) of § 308.2 is amended by deleting the words "a trial examiner" and inserting the words "an administrative law judge" in lieu thereof.

13. The first sentence of § 308.3 is amended by deleting the word "Secretary" and inserting the words "Executive Secretary of the Corporation" in lieu thereof.

14. The second sentence of § 308.3 is amended by deleting the words "trial examiner" and inserting the words "administrative law judge" in lieu thereof.

15. The second sentence of paragraph (a) of § 308.4 is amended by deleting the word "Secretary" and inserting the words "Executive Secretary of the Corporation" in lieu thereof.

16. The second sentence of paragraph (c) of § 308.4 is amended by deleting the words "trial examiner" and inserting the words "administrative law judge" in lieu thereof and by deleting the word "Secretary" and inserting the words "Executive Secretary of the Corporation" in lieu thereof.

17. The third sentence of paragraph (c) of § 308.4 is amended by deleting the words "trial examiner" and inserting the words "administrative law judge" in lieu thereof.

18. The first sentence of paragraph (d) of § 308.4 is amended by deleting the words "trial examiner" and inserting the words "administrative law judge" in lieu thereof and by deleting the word "Secretary" and inserting the words "Executive Secretary of the Corporation" in lieu thereof.

19. The second sentence of paragraph (d) of § 308.4 is amended by deleting the words "trial examiner" and inserting the words "administrative law judge" in lieu thereof.

20. The first sentence of paragraph (e) of § 308.4 is amended by deleting the word "Secretary" and inserting the words "Executive Secretary of the Corporation" in lieu thereof.

21. The third sentence of paragraph (e) of § 308.4 is amended by deleting the words "trial examiner" and inserting the words "administrative law judge" in lieu thereof.

22. Paragraphs (a) and (b)(7) of § 308.5 are amended to read as follows:

**§ 308.5 Conduct of hearings.**

(a) *Selection of administrative law judge.*—Any hearing shall be held before an administrative law judge selected by the Civil Service Commission and designated by the Board of Directors and, unless otherwise provided in the notice of hearing, shall be conducted as hereinafter provided.

(b) *Authority of administrative law judge.*—All hearings governed by this part shall be conducted in accordance with the provisions of chapter 5 of title 5 of the United States Code. The administrative law judge designated by the Board of Directors to preside at any such hearing shall have complete charge of the hearing, and he shall have the duty to conduct it in a fair and impartial manner and to take all necessary action to avoid delay in the disposition of proceedings. The administrative law judge shall have all powers necessary to that end, including the following:

* * * * *

(7) To consider and rule upon, as justice may require, all procedural and other motions appropriate in an adversary proceeding, except that an administrative law judge shall not have power to decide any motion to dismiss the proceedings or other motion which results in final determination of the merits of the proceedings.

Without limitation on the foregoing provisions of this paragraph, the administrative law judge shall, subject to the provisions of this part, have all the authority of section 556(c) of title 5 of the United States Code.

* * * * *

23. Paragraph (c) of § 308.5 is amended by deleting the words "trial examiner" each place they appear therein and inserting the words "administrative law judge" in lieu thereof and by deleting the word "examiner's" and inserting the words "administrative law judge's" in lieu thereof.

24. Paragraph (e) of § 308.5 is amended by deleting the word "Secretary" each place it appears therein and inserting the words "Executive Secretary" in lieu thereof and by deleting the words "trial

examiner" each place they appear therein and inserting the words "administrative law judge" in lieu thereof.

25. The second and third sentences of paragraph (g) of § 308.5 are amended by deleting the words "trial examiner" and inserting the words "administrative law judge" in lieu thereof.

26. The first sentence of paragraph (h) of § 308.5 is amended by deleting the words "trial examiner" and inserting the words "administrative law judge" in lieu thereof and by deleting the word "secretary" and inserting the words "Executive Secretary of the Corporation" in lieu thereof.

27. The second sentence of paragraph (h) of § 308.5 is amended by deleting the word "Secretary" and inserting the words "Executive Secretary of the Corporation" in lieu thereof.

28. Paragraph (a) of § 308.6 is amended by deleting the words "trial examiner" each place they appear therein and inserting the words "administrative law judge" in lieu thereof.

29. Paragraph (b) of § 308.6 is amended by deleting the words "trial examiner" and inserting the words "administrative law judge" in lieu thereof.

30. The fifth sentence of paragraph (c) of § 308.6 is amended by deleting the words "trial examiner" and inserting the words "administrative law judge" in lieu thereof.

31. Paragraph (e) of § 308.6 is amended by deleting the words "trial examiner" each place they appear therein and inserting the words "administrative law judge" in lieu thereof.

32. The first and third sentences of paragraph (f) of § 308.6 are amended by deleting the words "trial examiner" and inserting the words "administrative law judge" in lieu thereof.

33. The seventh sentence of paragraph (g) of § 308.6 is amended by deleting the word "Secretary" and inserting the words "Executive Secretary" in lieu thereof.

34. The first sentence of paragraph (b) of § 308.7 is amended by deleting the words "trial examiner" and inserting the words "administrative law judge" in lieu thereof.

35. Paragraph (c) of § 308.7 is amended by deleting the words "trial examiner" and inserting the words "administrative law judge" in lieu thereof.

36. The second sentence of paragraph (a) of § 308.8 is amended by deleting the words "a trial examiner" and inserting the words "an administrative law judge" in lieu thereof and by deleting the word "Secretary" and inserting the words "Executive Secretary of the Corporation" in lieu thereof.

37. The third sentence of paragraph (a) of § 308.8 is amended by deleting the word "Secretary" and inserting the words "Executive Secretary of the Corporation" in lieu thereof.

38. The fourth sentence of paragraph (a) of § 308.8 is amended by deleting the words "trial examiner" and inserting the words "administrative law judge" in lieu thereof.

39. Paragraphs (b), (c), and (d) of § 308.8 are amended by deleting the words "trial examiner" each place they appear therein and inserting the words "administrative law judge" in lieu thereof.

40. The second sentence of paragraph (e) of § 308.8 is amended by deleting the words " a trial examiner" and inserting the words "an administrative law judge" in lieu thereof and by deleting the words "trial examiner's" and inserting the words "administrative law judge's" in lieu thereof.

41. The third sentence of paragraph (e) of § 308.8 is amended by deleting the words "trial examiner" and inserting the words "administrative law judge" in lieu thereof.

42. Paragraph (f) of § 308.8 is amended by deleting the words "trial examiner" and inserting the words "administrative law judge" in lieu thereof.

43. The first sentence of paragraph (a) of § 308.9 is amended by deleting the words "the Secretary's notice" and inserting the words "notice by the Executive Secretary of the Corporation" in lieu thereof and by deleting the words "trial examiner" each place they appear therein and inserting the words "administrative law judge" in lieu thereof.

44. The first sentence of paragraph (b) of § 308.9 is amended by deleting the words "trial examiner" and inserting the words "administrative law judge" in lieu thereof and by deleting the word "Secretary" and inserting the words "Executive Secretary of the Corporation" in lieu thereof.

45. The second sentence of paragraph (b) of § 308.9 is amended by deleting the word "Secretary" and inserting the words "Executive Secretary of the Corporation" in lieu thereof and by deleting the words "trial examiner's" and inserting the words "administrative law judge's" in lieu thereof.

46. Paragraph (a) of § 308.10 is amended by deleting the words "trial examiner" each place they appear therein and inserting the words "administrative law judge" in lieu thereof and by deleting the word "Secretary" and inserting the words "Executive Secretary of the Corporation" in lieu thereof.

47. Paragraph (b) of § 308.10 is amended by deleting the words "trial examiner" each place they appear therein and inserting the words "administrative law judge" in lieu thereof.

48. The second sentence of paragraph (a) of § 308.11 is amended by deleting the words "trial examiner" and inserting the words "administrative law judge" in lieu thereof.

49. The first sentence of paragraph (b) of § 308.11 is amended by deleting the word "Secretary" and inserting the words "Executive Secretary" in lieu thereof.

50. The first sentence of § 308.12 is amended by deleting the words "trial examiner" and inserting the words "administrative law judge" in lieu thereof.

51. Section 308.13 is amended by deleting the word "Secretary" each place it appears therein and inserting the words "Executive Secretary" in lieu thereof.

52. The second sentence of § 308.14 is amended by deleting the word "Secretary" and inserting the words "Executive Secretary" in lieu thereof.

53. Section 308.15 is amended by deleting the word "Secretary" each place it appears therein and inserting the words "Executive Secretary" in lieu thereof.

54. The first sentence of paragraph (a) of § 308.16 is amended by deleting the word "Secretary" and inserting the words "Executive Secretary" in lieu thereof.

55. The last sentence of paragraph (b) of § 308.16 is amended by deleting the words "trial examiner" and inserting the words "administrative law judge" in lieu thereof.

56. Section 308.17 is amended by deleting the word "Secretary" each place it appears therein and inserting the words "Executive Secretary" in lieu thereof.

57. Section 308.19 is amended by deleting the words "trial examiner" each place they appear therein and inserting the words "administrative law judge" in lieu thereof.

58. The last sentence of § 308.25 is amended by deleting the words "trial examiner" and inserting the words "administrative law judge" in lieu thereof.

## PART 309—PUBLISHED AND UNPUBLISHED RECORDS AND INFORMATION

59. Subparagraph (3) of paragraph (a) of § 309.1 is amended by deleting the word "Secretary" each place it appears therein and by inserting the words "Executive Secretary" in lieu thereof.

## PART 335—SECURITIES OF INSURED STATE NONMEMBER BANKS

60. The last sentence of subdivision (ii) of subparagraph (2) of paragraph (c) of § 335.3 is amended by deleting the word "Secretary" and inserting the words "Executive Secretary" in lieu thereof.

The purpose of these amendments is to reflect the redesignation of the Secretary of the Corporation as the Executive Secretary of the Corporation; the redesignation of the Associate Director of the Division of Bank Supervision as the Deputy Director of the Division of Bank Supervision (Operations Branch); the redesignation of trial examiners as administrative law judges; and the abolition of an internal committee, referred to as the special committee, by the Corporation's Board of Directors. The amendments are authorized under paragraphs "Seventh" and "Tenth" of section 9 of the Federal Deposit Insurance Act, as amended (12 U.S.C. 1819 "Seventh" and "Tenth").

Inasmuch as the Board of Directors has found, pursuant to § 302.6 of the Corporation's rules and regulations (12 CFR 302.6), that the amendments to parts 302, 303, 306, 308, 309, and 335 are

editorial and not substantive in nature and that notice, public participation, and prior publication are unnecessary and would serve no useful purpose, the requirements of section 553 of title 5, United States Code, with respect to notice, public participation, and deferred effective date were not followed in connection with these amendments.

Dated at Washington, D.C., this 14th day of May 1973.

By order of the Board of Directors.

FEDERAL DEPOSIT INSURANCE CORPORATION,
[SEAL] E. F. DOWNEY,
*Secretary.*

[FR Doc.73-10790 Filed 5-30-73;8:45 am]

## Title 14—Aeronautics and Space

### CHAPTER I—FEDERAL AVIATION ADMINISTRATION, DEPARTMENT OF TRANSPORTATION

[Docket No. 11741, Amdt. No. 37-36]

### PART 37—TECHNICAL STANDARD ORDER AUTHORIZATIONS

### Revisions of Weight Marking Requirement

The purpose of this amendment to part 37 of the Federal Aviation Regulations is to revise the general weight marking requirement contained in § 37.7 (d)(3). This action was published as a notice of proposed rulemaking (37 FR 4217; Feb. 29, 1972), and circulated as notice 72-5, dated February 18, 1972. Except as modified by the following discussion, the reasons for the amendment are those contained in the notice.

Notice 72-5 proposed to amend § 37.7 (d)(3) to permit a general weight marking tolerance for articles produced under a technical standard order (TSO) authorization of ±0.2 pounds or ±3 percent of the actual weight, whichever is greater. Six of the seven comments received in response to notice 72-5 were in favor of the proposed amendment. However, one of those commentators also requested that sport parachutes not be required to comply with any weight marking requirement. While this comment is beyond the scope of notice 72-5, it will be considered in future rulemaking action.

The other commentator, while not objecting to the proposed weight marking tolerance for smaller TSO items, felt that the proposed requirement would result in excessive tolerances for items whose weight exceeds approximately 20 pounds. The commentator recommended that items which have a nominal weight of over 20 pounds be marked with a weight that is within ±0.2 pounds or ±5 percent of the actual weight, whichever is greater. The FAA does not agree. The weight marking tolerance suggested by the commentator is unduly restrictive and is not necessary in the interest of safety. Nevertheless, in order to further assure that the weight and balance analysis of aircraft will not be adversely affected by the proposed amendment, the proposal has been revised to provide that the marked weight may not differ from the actual weight by more than 10 pounds. Since this change imposes no additional burden on any person, further notice and public procedure hereon is unnecessary.

Interested persons have been afforded the opportunity to participate in the making of this amendment and all relevant material submitted has been fully considered.

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

In consideration of the foregoing, § 37.7(d)(3) of the Federal Aviation regulations is amended to read as hereinafter set forth, effective June 30, 1973.

**§ 37.7 General rules governing holders of TSO authorizations.**

* * * * *

(d) * * *

(3) The nominal weight of the article, which must be within ±0.2 pounds of the actual weight or ±3 percent of the actual weight, whichever is greater, except that the difference between the weight marked on the article and the actual weight of the article may not exceed ±10 pounds.

* * * * *

Issued in Washington, D.C., on May 22, 1973.

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

[FR Doc.73-10759 Filed 5-30-73;8:45 am]

[Docket No. 73-SO-29, Amdt. 39-1649]

### PART 39—AIRWORTHINESS DIRECTIVES

### Piper Model PA-34-200 Airplanes

Amendment 39-1639, AD 73-11-2, requires inspection of the main landing gear support structure and repair if necessary on Piper PA-34-200 airplanes. After issuing amendment 39-1639, the agency determined that further clarification is necessary. Therefore, the AD is being amended to specify that the primary inspection may be performed by the pilot.

Since this amendment provides a clarification only and imposes no additional burden on any person, notice and public procedure hereon are unnecessary and the amendment may be made effective in less than 30 days.

In consideration of the foregoing, and pursuant to the authority delegated to me by the Administrator (31 FR 13697), § 39.13 of part 39 of the Federal Aviation regulations, amendment 39-1639 (38 FR 13367) AD 73-11-2, is amended by adding the following paragraph at the end of the existing AD:

The checks required by paragraph (a) may be performed by the pilot.

This amendment becomes effective May 31, 1973.

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

Issued in East Point, Ga., on May 22, 1973.

P. M. SWATEK,
*Director, Southern Region.*

[FR Doc.73-10867 Filed 5-30-73;8:45 am]

[Airspace Docket No. 72-EA-88]

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

### Designation of Additional Control Areas

On March 19, 1973, a notice of proposed rulemaking (NPRM) was published in the FEDERAL REGISTER (38 FR 7241) stating that the Federal Aviation Administration (FAA) was considering an amendment to part 71 of the Federal Aviation regulations that would designate three offshore additional control areas near Narragansett, R.I., Patchogue, N.Y., and Barnegat, N.J.

Interested persons were afforded an opportunity to participate in the proposed rulemaking through the 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., July 19, 1973, as hereinafter set forth.

In § 71.163 (38 FR 344) the following additional control areas are added:

NARRAGANSETT, R.I.

That airspace extending upward from 3,000 feet MSL bounded on the north by the south boundary of control 1169, on the east by the southwest boundary of control 1145, on the south by the New York Oceanic CTA/FIR, on the southwest by the northeast boundary of control 1147, on the west by longitude 72°30'00'' W., excluding those portions within the Fire Island, N.Y., South Island, N.Y., and Nantucket, Mass., transition areas.

PATCHOGUE, N.Y.

That airspace extending upward from 3,000 feet MSL bounded on the north by the south boundary of control 1169, on the east by longitude 72°30'00'' W., on the southwest by the northeast boundary of control 1147, on the northwest by the east boundary of Victor Airway 139 excluding those portions within the Fire Island, N.Y., and South Island, N.Y., transition areas.

BARNEGAT, N.J.

That airspace extending upward from 2,000 feet MSL bounded on the northeast by the southwest boundary of control 1147, on the southeast by the New York Oceanic CTA/FIR, on the southwest by the northeast boundary of control 1148, on the northwest by the east boundary of Victor Airway 139, on the north by latitude 39°44'00'' N.

(Secs. 307(a), 1110, Federal Aviation Act of 1958, 49 U.S.C. 1438(a), 1510; Executive Order 10854 (24 FR 9565); sec. 6(c), Department of Transportation Act, 49 U.S.C. 1655 (c).)

Issued in Washington, D.C., on May 21, 1973.

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

[FR Doc. 73-10769 Filed 5-30-73;8:45 am]

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[Airspace Docket No. 72-EA-105]

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

### Designation of Additional Control Area

On March 19, 1973, a notice of proposed rulemaking (NPRM) was published in the FEDERAL REGISTER (38 FR 7241) stating that the Federal Aviation Administration (FAA) was considering an amendment to part 71 of the Federal Aviation regulations that would designate an additional control area adjacent to the east coast of the United States.

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

In consideration of the foregoing, part 71 of the Federal Aviation regulations is amended, effective 0901 G.m.t., August 16, 1973, as hereinafter set forth.

In § 71.163 (38 FR 344), the following additional control area is added:

BETHANY BEACH, DEL.

That airspace extending upward from 2,000 feet MSL bounded on the west by a line 3 nautical miles east of and parallel to the U.S. shoreline; on the northeast by the southwest boundary of control 1148; and on the south by latitude 38°00'00" N.

(Sec. 307(a), 1110, Federal Aviation Act of 1958, 49 U.S.C. 1348(a), 1510, Executive Order 10854 (24 FR 9565); sec. 6(c), Department of Transportation Act, 49 U.S.C. 1655(c).)

Issued in Washington, D.C., on May 21, 1973.

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

[FR Doc.73-10760 Filed 5-30-73;8:45 am]

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[Airspace Docket No. 73-GL-11]

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

### Designation of Control Zone and Alteration of Transition Area

On page 8177 of the FEDERAL REGISTER dated March 29, 1973, the Federal Aviation Administration published a notice of proposed rulemaking which would amend §§ 71.171 and 71.181 of part 71 of the Federal Aviation regulations so as to designate a control zone and alter the transition area at Gary, Ind.

Interested persons were given until April 30, 1973, to submit written comments, suggestions, or objections regarding the proposed amendments.

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

These amendments shall be effective 0901 G.m.t., July 19, 1973.

(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 Des Plaines, Ill., on May 7, 1973.

R. O. ZIEGLER,
*Acting Director, Great Lakes Region.*

In § 71.171 (38 FR 351), the following control zone is added:

GARY, IND.

Within a 5-mile radius of Gary Municipal Airport (latitude 41°36'54" N., longitude 87°-24'37" W.). This control zone shall be effective during the specific dates and times established in advance by a notice to airmen. The effective date and time will thereafter be continuously published in the Airman's Information Manual.

In § 71.181 (38 FR 435), the following transition area is added:

GARY, IND.

That airspace extending upward from 700 feet above the surface within a 5-mile radius of the Gary Municipal Airport (latitude 41°36'54" N., longitude 87°24'37" W.) and within 3 miles each side of the 124° bearing from the Gary Airport extending from the 5-mile radius to 13 miles southeast of the airport, excluding the portion that overlies Chicago and Griffith, Ind., transition area.

[FR Doc.73-10761 Filed 5-30-73;8:45 am]

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[Airspace Docket No. 72-GL-83]

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

### Designation, Alteration and Deletion of Transition Areas and Alteration of Airways; Correction

In the FEDERAL REGISTER, vol. 38, on pages 10440 and 10441 in the issue of Friday, April 27, 1973, the following corrections and additions are made:

In § 71.181 (38 FR 435) add below Windom, Minn.: Osceola, Wis.

Below Minneapolis, Minn., delete the reference to Osceola, Wis., in its entirety.

In § 71.123 (38 FR 307) V2—the deletion is correct, insert after "Alexandria, Minn." "including a N alternate".

Add after V171 as next item listed:

V148—delete "29 miles, 46 miles, 31 MSL, Redwood Falls, Minn., including a south alternate from Sioux Falls, 29 miles, 49 miles, 31 MSL, Redwood Falls," and insert in place "Redwood Falls, Minn., including a S alternate".

Issued in Des Plaines, Ill., on April 6, 1973.

R. O. ZIEGLER,
*Acting Director, Great Lakes Region.*

In § 71.181 (38 FR 435), the following transition area is added:

MINNESOTA

That airspace extending upward from 1,200 feet above the surface within the boundary of the State of Minnesota south of parallel 46°30'.

In § 71.181 (38 FR 435), the following transition areas are amended by deleting reference to that airspace extending upward from 1,200 feet above the surface:

Albert Lea, Minn.
Alexandria, Minn.
Benson, Minn.
Fairbault-Owatonna, Minn.
Fergus Falls, Minn.
Jackson, Minn.
Mankato, Minn.
Marshall, Minn.
Montevideo, Minn.
Morris, Minn.
New Ulm, Minn.
Pipestone, Minn.
Redwood Falls, Minn.
St. Cloud, Minn.
Windom, Minn.

In § 71.181 (38 FR 435), the following transition areas are deleted:

Madison, Minn.
Darwin, Minn.
Hope, Minn.

In § 71.181 (38 FR 435), the following transition areas are amended as indicated:

Brainerd, Minn.—Delete all after "1,200 feet above the surface" and insert in place "within a 31½-mile radius of the VORTAC north of parallel 46°30' and west of V161".

Duluth, Minn.—Add "and the portion in Minnesota south of parallel 46°30'".

Fairmont, Minn.—Delete all after "18½ miles southeast of the airport" and insert "excluding the portion in Minnesota".

Fargo, N. Dak.—Add "excluding that portion in Minnesota south of parallel 46°30'".

Grantsburg, Wis.—Add "excluding the portion in Minnesota".

Minneapolis, Minn.—Delete all after "1,200 feet above the surface" and insert in place "within the State of Wisconsin bounded by V13, V55, and V78".

Delete: "Osceola, Wis.—Add 'excluding that portion in Minnesota'".

Sioux Falls, S. Dak.—Add "excluding that portion in Minnesota".

Spirit Lake, Iowa—Add "excluding that portion in Minnesota".

Worthington, Minn.—Delete "within 9½ miles west and 4½ miles east of the Worthington VOR 358° radial extending from the VOR to 18½ miles north of the VOR; and", and add at end of description "excluding the portion in Minnesota".

In § 71.123 (38 FR 307), the following airways are amended as follows:

V2—Delete "25 miles, 50 miles, 30 MSL Alexandria, Minn., including an N alternate from Fargo, 25 miles, 52 miles, 30 MSL Alexandria, 5 miles, 70 miles 25 MSL", and insert in place "Alexandria, Minn".

V24—Delete "15 miles, 64 miles, 33 MSL".

V55—Delete "9 miles, 55 miles, 25 MSL" and "9 miles, 45 miles, 26 MSL".

V82—Delete "11 miles, 52 miles, 25 MSL".

V161—Delete "14 miles, 52 miles, 25 MSL".

V171—Delete "6 miles, 51 miles, 27 MSL".

Add: "V148—delete "29 miles, 46 miles, 31 MSL, Redwood Falls, Minn., includ-

ing a south alternate from Sioux Falls, 29 miles, 49 miles, 31 MSL, Redwood Falls," and insert in place "Redwood Falls, Minn., including a S alternate"."

[FR Doc.73-10762 Filed 5-30-73;8:45 am]

[Airspace Docket No. 73-RM-11]

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

### Alteration of Transition Area

On May 4, 1973, a notice of proposed rulemaking was published in the FEDERAL REGISTER (38 FR 11113) stating that the Federal Aviation Administration was considering an amendment to part 71 of the Federal Aviation Regulations that would alter the description of the Billings, Mont., transition area.

Interested persons were given 30 days in which to submit written comments, suggestions, or objections. No objections have been received to this proposal.

Subsequent to the publication of the notice of proposed rulemaking on May 4, 1973, a change in the instrument procedure for Logan Field Airport, Billings, Mont., negated the need for an extension to the 700-ft transition area beyond a 29-mi radius of Logan Field Airport.

Accordingly, that airspace within 6.5 mi each side of the Billings VORTAC 301° radial extending from the 29-mi radius to 32 mi northwest of the VORTAC is deleted from the amendment. Since this change is less restrictive in nature and imposes no additional burden on any person, notice and public procedure hereon are unnecessary.

In consideration of the foregoing, the proposed amendment is hereby adopted subject to the following change:

Delete from the description of the 700-ft transition area the following. "* * * within 6.5 mi each side of the Billings VORTAC 301° radial extending from the 29-mi radius to 32 mi northwest of the VORTAC * * *"

In §71.181 (38 FR 435) the description of the Billings, Mont., transition area is amended to read:

BILLINGS, MONT.

That airspace extending upward from 700 ft above the surface within a 29-mi radius of Logan Field Airport (latitude 45°48'25" N., longitude 108°31'55" W.); that airspace extending upward from 1,200 ft above the surface within a 36-mi radius of Logan Field Airport; that airspace extending upward from 6,700 ft MSL within a 46-mi radius of the Billings VORTAC extending from the Billings VORTAC 008° radial clockwise to the 057° radial, excluding the portion that overlies V2N; that airspace extending upward from 6,700 ft MSL within a 58-mi radius of the Billings VORTAC extending from the Billings VORTAC 057° radial clockwise to the southwest edge of V19-86 excluding the portion that overlies V2 and V2N; that airspace extending upward from 10,700 ft MSL within a 58-mi radius of the Billings VORTAC extending from the southwest edge of V19-86 clockwise to the Billings VORTAC 192° radial excluding the portions that overlie VOR Federal airways; that airspace extending upward from 8,200 ft MSL within a 46-mi radius of the Billings VORTAC extending from the Billings VORTAC 192° radial clockwise to the northwest edge of V465 excluding the portions that overlie VOR Federal airways; that airspace extending upward from 8,700 ft MSL within a 46-mi radius of the Billings VORTAC extending from the west edge of V465 clockwise to the south edge of V2-86; that airspace extending upward from 7,700 ft MSL within a 58-mi radius of the Billings VORTAC extending from the south edge of V2-86 clockwise to the southwest edge of V2N excluding that portion of V2-86 that has a 1,200-ft AGL floor; that airspace extending upward from 6,700 ft MSL within a 58-mi radius of the Billings VORTAC extending from the north edge of V2N clockwise to the Billings VORTAC 008° radial excluding those portions of V187 and V19 that have 1,200-ft AGL floors.

*Effective date.*—This amendment shall be effective 0901 G.m.t., August 16, 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 Aurora, Colo., on May 21, 1973.

M. M. MARTIN,
*Director, Rocky Mountain Region.*

[FR Doc.73-10763 Filed 5-30-73;8:45 am]

[Airspace Docket No. 73-RM-12]

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

### Alteration of Transition Area

On April 23, 1973, a notice of proposed rulemaking was published in the FEDERAL REGISTER (38 FR 10012) stating that the Federal Aviation Administration was considering an amendment to part 71 of the Federal Aviation regulations that would alter the transition area at Sioux Falls, S. Dak.

Interested persons were given 30 days in which to submit written comments, suggestions, or objections. No objections have been received and the proposed amendment is hereby adopted without change.

*Effective date.*—This amendment shall be effective 0901 G.m.t., July 19, 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 Aurora, Colo., on May 18, 1973.

M. M. MARTIN,
*Director, Rocky Mountain Region.*

In § 71.181 (38 FR 435) the description of the Sioux Falls, S. Dak., 700-ft transition area is amended to read:

SIOUX FALLS, S. DAK.

That airspace extending upward from 700 feet above the surface within a 20-mile radius of Joe Foss Field (latitude 43°34'55" N., longitude 96°44'35" W.); within 9.5 miles southwest and 4.5 miles northeast of the Sioux Falls VORTAC 330° radial, extending from the 20-mile radius area to 18.5 miles northwest of the VORTAC; and within 9.5 miles northwest and 4.5 miles southeast of the Sioux Falls ILS localizer northeast course, extending from the 20-mile radius area to 23 miles northeast of the airport.

[FR Doc.73-10764 Filed 5-30-73;8:45 am]

[Airspace Docket No. 73-RM-17]

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

### Alteration of Transition Area

On April 23, 1973, a notice of proposed rulemaking was published in the FEDERAL REGISTER (38 FR 10012) stating that the Federal Aviation Administration was considering an amendment to part 71 of the Federal Aviation Regulations that would alter the transition area at Bozeman, Mont.

Interested persons were given 30 days in which to submit written comments, suggestions, or objections. No objections have been received and the proposed amendment is hereby adopted without change.

*Effective date.*—This amendment shall be effective 0901 G.m.t., July 19, 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 Aurora, Colo., on May 18, 1973.

M. M. MARTIN,
*Director, Rocky Mountain Region.*

In § 71.181 (38 FR 435) the description of the Bozeman, Mont., transition area as amended by 37 FR 28501 is further amended to add the following:

BOZEMAN, MONT.

After "28 miles northwest of Gallatin Field", add "and that airspace extending upward from 9,000 feet MSL within 6 miles northeast and 10 miles southwest of the Bozeman VOR 338° radial extending from 10 miles northwest of the Bozeman VOR to 37.5 miles northwest of the VOR."

[FR Doc.73-10765 Filed 5-30-73;8:45 am]

[Airspace Docket No. 72-SO-122]

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

### Alteration of Transition Area

On March 15, 1973, a notice of proposed rulemaking (NPRM) was published in the FEDERAL REGISTER (38 FR 7009) stating that the Federal Aviation Administration (FAA) was considering an amendment to part 71 of the Federal Aviation Regulations that would alter the Christiansted, St. Croix, V.I., control zone and transition area.

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

Subsequent to the issuance of the NPRM, it was determined that no expansion of the control zone was required; therefore, no action is taken to extend the control zone. However, the description of the control zone has been amended herein to reflect the name change of St. Croix RBN to "Christiansted RBN," as proposed in the NPRM.

In consideration of the foregoing, part 71 of the Federal Aviation Regulations is amended, effective 0901 G.m.t., July 19, 1973, as hereinafter set forth.

In § 71.171 (38 FR 351) the Christiansted, St. Croix, V.I., control zone is amended by deleting "St. Croix RBN" and substituting "Christiansted RBN" therefor.

In § 71.181 (38 FR 435) the Christiansted, St. Croix, V.I., transition area is amended to read as follows:

CHRISTIANSTED, ST. CROIX, V.I.

That airspace extending upward from 700 feet above the surface within an 8.5-mile radius of Alexander Hamilton Airport (latitude 17°42'13" N., longitude 64°47'54" W.); within 3 miles each side of the 208° bearing from Christiansted RBN, extending from the 8.5-mile radius area to 8.5 miles southwest of the RBN; and that airspace extending upward from 1,200 feet above the surface within a 15-mile radius of Alexander Hamilton Airport; within 9.5 miles north and 4.5 miles south of the St. Croix VOR 068° radial, extending from the 15-mile radius area to 18.5 miles east of the VOR; within 9.5 miles southeast and 4.5 miles northwest of the 208° bearing from Christiansted RBN, extending from the 15-mile radius area to 18.5 miles southwest of the RBN; within 9.5 miles south and 4.5 miles north of the ILS localizer west course, extending from the 15-mile radius area to 18.5 miles west of the LOM.

(Sec. 307(a), 1110, Federal Aviation Act of 1958, 49 U.S.C. 1348(a), 1510; Executive Order 10854 (24 FR 9565); sec. 6(c), Department of Transportation Act, 49 U.S.C. 1655(c).)

Issued in Washington, D.C., on May 22, 1973.

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

[FR Doc.73-10766 Filed 5-30-73;8:45 am]

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[Airspace Docket No. 72-SW-78]

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

### Alteration and Revocation of VOR Federal Airways; Correction

On April 17, 1973, FR Doc. 73-732 was published in the FEDERAL REGISTER (38 FR 9488) which amends part 71 of the Federal Aviation Regulations, effective 0901 G.m.t., June 21, 1973, by describing V-306 in part, from Navasota, Tex., to Daisetta, Tex. Action is taken herein to correct the description of V-306 between Navasota and Daisetta.

Since amending the description of this airway is a minor editorial change on which the public would have no particular reason to comment, notice and public procedure thereon are unnecessary.

In consideration of the foregoing, effective June 21, 1973, FR Doc. 73-7332 (38 FR 9488) is amended, as hereinafter set forth.

Paragraph 9. In V-306, line three, delete "Navasota, Tex.; Daisetta, Tex.;" and substitute "Navasota, Tex.; INT Navasota 084° and Daisetta, Tex., 283° radials, Daisetta;" therefor.

(Sec. 307(a), Federal Aviation Act of 1958, 49 U.S.C. 1349(a); sec. 6(c), Department of Transportation Act, 49 U.S.C. 1655(c).)

Issued in Washington, D.C., on May 18, 1973.

CHARLES H. NEWPOL,
*Acting Chief, Airspace and Air Traffic Rules Division.*

[FR Doc.73-10767 Filed 5-30-73;8:45 am]

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[Airspace Docket No. 72-WA-57]

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

### Designation of Additional Control Areas

On March 6, 1973, a notice of proposed rulemaking (NPRM) was published in the FEDERAL REGISTER (38 FR 6075) stating that the Federal Aviation Administration (FAA) was considering an amendment to part 71 of the Federal Aviation regulations that would designate additional control areas along the east coast of the United States.

Interested persons were afforded an opportunity to participate in the proposed rulemaking through the 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., July 19, 1973, as hereinafter set forth.

In § 71.163 (38 FR 344) the following additional control areas are added:

HOG ISLAND, VA.

That airspace extending upward from 2,000 feet MSL bounded on the north by latitude 38°00'00" N.; on the northeast by the southwest edge of control 1148; on the east by the New York Oceanic CTA/FIR; on the south by the north edge of control 1149; on the west by longitude 75°30'00" W., and on the northwest by a line 3 nautical miles southeast of and parallel to the shoreline to the point of beginning.

PENDLETON, VA.

That airspace extending upward from 2,000 feet MSL bounded on the north by the southeast by the New York Oceanic CTA/FIR; on the southwest by the northeast edge of control 1181; and on the west by longitude 75°30'00" W.

(Sec. 307(a), 1110, Federal Aviation Act of 1958, 49 U.S.C. 1348(a), 1510, Executive Order 10854 (24 FR 9565); sec. 6(c), Department of Transportation Act, 49 U.S.C. 1655(c).)

Issued in Washington, D.C., on May 21, 1973.

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

[FR Doc.73-10770 Filed 5-30-73;8:45 am]

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[Airspace Docket No. 73-WA-24]

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

### Domestic High Altitude Reporting Points; Correction

The purpose of this amendment to part 71 of the Federal Aviation regulations is to revoke Palm Beach, Fla., as a high-altitude reporting point.

Palm Beach VORTAC is not being used as part of the high-altitude jet-route structure, since no routes traverse its location. Therefore, Palm Beach should be designated a noncompulsory reporting point.

Since the designation and deletion of reporting points in accordance with the current requirements of air traffic control is a minor matter upon which the public would not have particular reason to comment, notice and public procedure thereon are unnecessary. Also, as it is desirable to incorporate this change in the regulations to correctly reflect current requirements, good reason exists for making this change effective on less than 30 days notice.

In consideration of the foregoing, part 71 of the Federal Aviation regulations is amended, effective on May 31, 1973, as hereinafter set forth.

Section 71.207 (38 FR 613) is amended as follows: "Palm Beach, Fla." is deleted.

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

Issued in Washington, D.C., on May 18, 1973.

CHARLES H. NEWPOL,
*Acting Chief, Airspace and Air Traffic Rules Division.*

[FR Doc.73-10768 Filed 5-30-73;8:45 am]

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[Airspace Docket No. 72-WA-67]

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

## PART 73—SPECIAL USE AIRSPACE

### Alteration of Restricted Area and Continental Control Area

On January 15, 1973, a notice of proposed rulemaking (NPRM) was published in the FEDERAL REGISTER (38 FR 1511) stating that the Federal Aviation Administration (FAA) was considering amendments to parts 71 and 73 of the Federal Aviation regulations that would enlarge restricted area R-4501A Fort Leonard E. Wood, Mo., and raise the vertical limits to 18,000 feet MSL. R-4501A would then be added to the list of restricted areas included in the continental control area.

After the notice was published, it was noted that the correct title for R-4501A is Fort Leonard Wood West. Therefore, R-4501A will be so identified in this action.

Interested persons were afforded an opportunity to participate in the pro-

posed rulemaking through the submission of comments. Only one comment was received and it was favorable.

In consideration of the foregoing, parts 71 and 73 of the Federal Aviation regulations are amended, effective 0901 G.m.t., July 19, 1973, as hereinafter set forth.

In § 71.151 (38 FR 341) "R–4501A Fort Leonard Wood West, Mo." is added.

In § 73.45 (38 FR 656) the description of R–4501A Fort Leonard Wood West, Mo., is amended to read as follows:

R–4501A FORT LEONARD WOOD WEST, MO.

BOUNDARIES

Beginning at latitude 37°41'06" N., longitude 92°09'17" W.; to latitude 37°38'15" N., longitude 92°09'17" W.; to latitude 37°36'23" N., longitude 92°13'52" W.; to latitude 37°36'23" N., longitude 92°15'21" W.; to latitude 37°39'38" N., longitude 92°15'21" W.; to latitude 37°41'07" N., longitude 92°14'23" W.; to point of beginning.

*Designated altitudes.*—Surface to but not including 18,000 feet MSL.

*Time of designation.*—a. Surface to 2,200 feet MSL: Continuous.

b. 2,200 feet MSL and above: by NOTAM issued at least 24 hours in advance.

*Controlling agency.*—Federal Aviation Administration, Kansas City ARTC Center.

*Using agency.*—Commanding General, Fort Leonard Wood, Mo.

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

Issued in Washington, D.C., on May 21, 1973.

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

[FR Doc.73-10771 Filed 5-30-73;8:45 am]

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[Airspace Docket No. 71-AL-25]

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

## PART 73—SPECIAL USE AIRSPACE

### Designation of Restricted Area and Alteration of Continental Control Area

On April 18, 1972, a notice of proposed rulemaking was published in the FEDERAL REGISTER (37 FR 7637) stating that the Federal Aviation Administration (FAA) was considering amendments to parts 71 and 73 of the Federal Aviation regulations that would designate a new joint-use restricted area south of Fairbanks, Alaska (near Blair Lakes, Alaska), and include it in the continental control area.

Comments received as a result of the proposal and two informal airspace meetings held in Fairbanks, Alaska, produced modifications to the original proposal. These modifications were incorporated in a supplemental notice of proposed rulemaking published in the FEDERAL REGISTER (38 FR 891) January 5, 1973. The comment period on the supplemental notice closed February 5, 1973; however, several verbal inquiries were received from persons who desired to comment but were unable to comply within the time specified. The comment period was therefore informally extended and all comments received prior to March 20, 1973, were considered.

The comments received as a result of the supplemental notice did not differ substantially from the previous objections generated by the original notice. In general, those persons objecting from an aeronautical standpoint felt they were being deprived of their public right of transit through the navigable airspace. Additionally, they expressed concern that adequate safety and traffic separation could not be assured because of the proximity of the restricted area to airways, accepted student training area, and the city of Fairbanks.

The objections summarized below are a consolidation of comments generated by the original and supplemental notice.

1. South takeoffs from Fairbanks International Airport turning left to on-course come uncomfortably close to the proposed restricted area—within 3 miles. Additionally, the funneling of aircraft caused by the location of the restricted area would reduce the latitude to vector aircraft efficiently and economically.

2. Civil aviation should have first priority on the airspace.

3. The floor of the high speed corridor—1,000 feet above ground level (AGL)—does not provide adequate buffer for civil users operating below this floor.

4. Restricted area located too close to the city of Fairbanks.

5. Possible unintentional transgression into the restricted airspace, particularly by student pilots, because of inability to recognize the boundaries. General aviation users stated they believe the military aircraft would not be able to confine their activity within the proposed restricted area.

6. The recognized visual flight rule (VFR) flyway along the foothill area paralleling the Alaskan range east to west—Tanana River to the Nenana River—would be restricted.

7. When weather is marginal and VFR aircraft are confined to low altitudes, it would be difficult to obtain status of the restricted area or a clearance through it because of lack of radio reception. The combination of weather and restricted airspace could "box in" a pilot.

8. Circumnavigation of the restricted area would tend to concentrate traffic and increase the potential for aircraft collisions.

9. Fires started from ordnance delivery would decrease flight visibility to the detriment of the see-and-be-seen concept of separation.

10. Potential for sonic booms would be a hazard to Fairbanks.

11. Proposed restricted area poorly located. It is too close to Fairbanks International Airport. Accidental bomb releases could impact outside restricted area.

12. Civil pilots recommended positive radar separation be provided between Air Force and civil aircraft.

13. Blue airway 26 penetrates, in part, the proposed restricted area.

14. The joint-use designation clearly states the active time periods, and at other times the restricted area reverts to other users without request—inferring that precise control is not needed to delineate activation and deactivation of the restricted area.

15. A distance measuring equipment (DME) fix at the Fairbanks International Airport would not serve a VFR pilot with an aircraft not DME equipped. Radar and standard instrument departure procedures (SID's) serve only instrument flight rule (IFR) flight operations and provide no useful service to the VFR pilot.

16. The various changes in days and hours of the joint-use restricted areas are its most dangerous feature since it is very likely that civil aircraft would enter a "hot" area by mistake.

A number of comments gave no credence to the latitude that would be afforded nonmilitary users of this airspace. It was inferred that every flight would be adversely affected by this proposal and no acceptable alternatives would be available. The following conditions are emphasized to alleviate some apparent misconceptions.

a. The advertised active period of the proposed restricted area is limited to specified hours, Monday through Friday. The area is nonexistent outside these hours.

b. Although the advertised times indicate active military usage up to 7 hours per day, the actual military practice operations will occupy an average of only 2 hours per day. At all other advertised times this joint-use airspace may be released to other users upon request to the controlling agency, the Federal Aviation Administration, Eielson radar approach control (RAPCON).

c. Military practice operations within the restricted area would be limited to suitable weather conditions. Inflight visibility minimum will be 5 miles and inflight ceiling minimum will be 3,000 feet AGL. When meteorological flight conditions are less than the minimum specified, other users could expect no difficulty in obtaining clearance to operate into the restricted area.

d. Direct communications will exist between the safety officer located in the scoring tower and the Eielson RAPCON. Activation and deactivation of the restricted area will be precisely controlled to assure the most efficient use of the airspace.

e. The boundary of the restricted area north of latitude 64°20'00" N. containing the target areas, will be marked for easy visual detection from the air; however, the method used to mark the boundary has not been finalized.

Although it is recognized that certain minor penalties would be imposed on all segments of aviation, the distribution of these penalties is reasonably equitable. Alternate courses of action are readily available to civil users as

cataloged in the following reply to the summarized comments:

*Item 1.*—There are not any insurmountable problems associated with south takeoffs from Fairbanks International Airport. Adequate airspace is available for radar vectoring, or under nonradar procedures, to effect a normal left-hand turn to intercept on-course airways. In addition to the radar navigation currently provided IFR traffic, standard instrument departure procedures and the establishment of a DME fix would be implemented to routinely aid traffic to bypass the restricted area. High performance military aircraft will be required to display a discrete radar beacon code while operating within the restricted area to provide for additional traffic safety. Furthermore, a built-in buffer area is designed into the restricted area permitting nonparticipating aircraft to operate adjacent to the boundary.

*Item 2.*—It would not be feasible to allow civil aircraft to have first priority over the use of the airspace because random VFR aircraft operations and aircraft with no radio would preclude planned use of the area.

*Item 3.*—The high speed corridor southeast of the target area extends from 1,000 feet AGL to 7,500 feet mean sea level (MSL). The military bomb run profile is planned to begin at approximately 2,500 to 3,000 feet AGL at the far southeast end. Descent to 1,500 feet AGL would occur on entering the area of relatively flat terrain, continuing at that altitude until crossing the target area boundary at latitude 64°20'00"N. The free area below the corridor floor may be transited safely without clearance. However, for those aircraft who prefer a clearance through the area at higher altitudes, it is anticipated that there will be very few times when it will be denied. The actual military use of the corridor within the advertised scheduled times is not expected to exceed 2 hours per day.

*Item 4.*—The distance boundary-to-boundary from the site location to the City of Fairbanks is approximately 17 nautical miles. This is more than adequate for noise dispersion and/or safety considerations.

*Item 5.*—Unintentional transgression into the restricted area is possible, but not probable. The north portion of the restricted area containing the target area is to be marked for easy visual detection from the air. Furthermore, the military observers in the scoring towers would report the observance of nonparticipating aircraft and cause military activity to be deferred or aborted until the transgressing aircraft is clear of the area. Additionally, there are natural terrain features such as buttes and rivers to aid in defining the general location of the restricted area boundaries. Adequate radio navigation aids—low frequency and very high frequency—are also available for guidance around the area. As to the stated belief that military aircraft would not be able to confine their activity within the proposed restricted area, adequate airspace needs plus a buffer area have been designed into the restricted area to encompass the military operational requirements.

*Item 6.*—The options available to civil pilots to fly above or below the corridor without a clearance provide acceptable alternatives to the east/west VFR flyway along the Alaskan range. Also, since actual military use is not expected to exceed more than 2 hours per day during the advertised time, most requests to transit the corridor area can be expected to be approved.

*Item 7.*—The military requires that their operations be conducted during reasonably good visibility and cloud conditions. When ceilings—broken to overcast—are observed to be less than 3,000 feet and/or visibilities less than 5 miles, use of the restricted area will not occur. If a VFR pilot encountered low ceilings, he would have the option of crossing underneath the corridor with the added assurance that no military operations would be in effect, or if the weather restriction pertained only to visibility of less than 5 miles but more than 3 miles, he could climb to an adequate altitude for radio reception—approximately 2,500 feet—and obtain clearance to transit the area. It should be noted that all of this area is encompassed by a 1,200-foot floor transition area and FAR part 91 weather minimus are currently applicable. Therefore, the restricted area would have no greater adverse impact on operating procedures under marginal VFR weather conditions than currently exists with the 1,200-foot floor transition area.

*Item 8.*—The concentration of traffic caused by circumnavigation of the restricted airspace should not be a problem. The joint use of the area and the available options to other users to obtain clearance through the area would alleviate any congestion.

*Item 9.*—It is unlikely that reduced visibility will occur from fires started by ordnance detonations. The area has been prepared to minimize tundra fires. Additionally, firefighting aircraft carrying retardant chemicals and water are prepared to respond quickly. The likelihood of large fires developing, causing restrictions to visibility, is extremely remote.

*Item 10.*—The military is limited to conducting all pertinent training operations at subsonic speeds and sonic booms should not affect the city of Fairbanks.

*Item 11.*—An adequate amount of airspace separates the restricted area from Fairbanks International Airport and normal air traffic operations at the two locations should be unaffected. The military advises that safety procedures built into the operations will make accidental bomb releases with subsequent impact outside the restricted area highly improbable.

*Item 12.*—Positive radar separation between civil and military aircraft can be accomplished. Air traffic control facilities can maintain radar surveillance of IFR aircraft and requesting VFR aircraft and provide such aircraft with navigation instruction to remain outside of the restricted area. Air traffic control will not have direct communications or control over the aircraft while they are operating within the restricted area. This type of direct traffic control over the military aircraft would not be feasible or desirable. The purpose of a restricted area is to provide preplanned procedural separation from other users of the airspace by confining the military aircraft and the related tactical training operations to the restricted area.

*Item 13.*—Action will be initiated to realign blue airway 26 and the southwest course of the Fairbanks LFR, 5 degrees to the west, thereby bypassing the restricted area.

*Item 14.*—The purpose of the joint-use designation is to allow nonmilitary users to have access to the restricted airspace during the advertised times whenever the military activity has been canceled, rescheduled, concluded, or weather conditions preclude military operations. Joint-use should not be confused with the part-time designation of this airspace. Outside of the advertised time periods, the restricted area is nonexistent.

*Item 15.*—It is conceded that the location of a DME fix and/or radar and standard instrument departures are primarily for IFR use under IFR conditions. If visual navigation is the primary means used by a VFR pilot to avoid the restricted airspace, these navigational aids may serve no useful purpose to him. However, a VFR pilot is not precluded from using these aids under VFR conditions if his aircraft is appropriately equipped to do so. In any event, radar service is available to the VFR pilot on request. The controlling agency, the Eielson RAPCON, will provide flight following service and headings to avoid the restricted area if such service is requested.

*Item 16.*—The various changes in days and hours of the joint-use restricted area should not be dangerous because the designated times will be published on aeronautical charts and will not vary. Furthermore, if any pilot is not sure of the status of the restricted area, he can obtain the information by contacting the controlling agency, the Eielson RAPCON.

In consideration of the foregoing, parts 71 and 73 of the Federal Aviation Regulations are amended, effective 0901 G.m.t., August 16, 1973, as hereinafter set forth.

§ 71.151 (38 FR 341) "R–2211 Blair Lakes, Alaska," is added.

In § 73.22 (38 FR 630) the following restricted area is added:

R–2211 BLAIR LAKES, ALASKA

BOUNDARIES

Beginning at latitude 64°33'00" N., longitude 147°45'00" W.; to latitude 64°04'00" N., longitude 146°49'00" W.; thence along the east bank of the Little Delta River to latitude 63°50'50" N., longitude 146°47'30" W.; to latitude 63°56'00" N., longitude 147°02'00" W.; to latitude 64°25'00" N., longitude 147°58'00" W.; to latitude 64°29'32" N., longitude 147°54'45" W.; to point of beginning.

*Time of designation.*—Monday through Friday at the following local times:

a. April through September 0900–1100; 1400–1700.

b. October through March 0900–1200; 1400–1700.

*Designated altitudes.*—

a. North of an east/west line at latitude 64°20'00" N., surface to 18,000 feet MSL.

b. South of an east/west line at latitude 64°20'00" N., 1,000 feet AGL to 7,500 feet MSL.

*Controlling agency.*—Federal Aviation Administration, Eielson RAPCON.

*Using agency.*—Alaskan Air Command.

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

Issued in Washington, D.C., on May 22, 1973.

CHARLES H. NEWPOL,
*Acting Chief, Airspace and Air Traffic Rules Division.*

[FR Doc.73-10772 Filed 5-30-73;8:45 am]

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[Airspace Docket No. 73-WA-15]

## PART 73—SPECIAL USE AIRSPACE

### Extension of Temporary Restricted Areas

On March 28, 1973, a notice of proposed rulemaking (NPRM) was published in the FEDERAL REGISTER (38 FR 8066) stating that the Federal Aviation Administration (FAA) was considering an amendment to part 73 of the Federal Aviation Regulations that would extend the time of designation of temporary restricted areas R–5116A and R–5116B from July 1, 1973, through September 30, 1973.

Interested persons were afforded an opportunity to participate in the proposed rulemaking through submission of comments. Only one comment was received and it was favorable.

In consideration of the foregoing, part 73 of the Federal Aviation Regulations is amended, effective 0901 G.m.t., June 21, 1973, as hereinafter set forth.

In § 73.51 (38 FR 658, 1923), the restricted areas R–5116A and R–5116B are amended as follows:

In the time of designation, "* * * June 30, 1973, * * *" is deleted and "* * * September 30, 1973 * * *" is substituted therefor.

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

Issued in Washington, D.C., on May 21, 1973.

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

[FR Doc.73-10774 Filed 5-30-73;8:45 am]

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[Airspace Docket No. 73-WA-26]

## PART 73—SPECIAL USE AIRSPACE

### Revocation of Prohibited Area

On April 13, 1973, a rule was published in the FEDERAL REGISTER (38 FR 9292) designating a prohibited area, P–45, at Wounded Knee, S. Dak.

Conditions which generated the requirement for the prohibited area no longer exist, therefore, the prohibited area is now unneeded.

Since this amendment makes the airspace again available for public use, the public would have no particular interest in participating with rulemaking, therefore, notice and public procedure thereon are unnecessary. However, as it is desirable to make this airspace available at the earliest practicable date, good cause exists for making this amendment effective on less than 30 days' notice.

In consideration of the foregoing, part 73 of the Federal Aviation Regulations is amended, effective on May 31, 1973, as hereinafter set forth.

In § 73.93 (38 FR 679) the Wounded Knee, S. Dak., prohibited area P–45 is revoked.

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

Issued in Washington, D.C., on May 17, 1973.

RAYMOND G. BELANGER,
*Acting Director, Air Traffic Service.*

[FR Doc.73-10773 Filed 5-30-73;8:45 am]

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[Airspace Docket No. 73-EA-31]

## PART 75—ESTABLISHMENT OF JET ROUTES AND AREA HIGH ROUTES

### Redesignation of Waypoint and Area High Routes

The purpose of this amendment to part 75 of the Federal Aviation Regulations is to change the name of "Marburg, Va." Waypoint to "Marbury, Md." and to relocate the waypoint approximately 1,500 feet from its present position. It was originally intended that this waypoint coincide with the intersection of jet routes J37 and J40. A recomputation of the location of the intersection and the waypoint revealed the slight difference which is corrected herein.

Since this amendment is a minor matter upon which the public would not have particular reason to comment, notice and public procedure thereon are unnecessary. Also, as it is desirable to incorporate this change in the regulations to correctly reflect a current requirement, good reason exists for making this amendment effective July 19, 1973.

In consideration of the foregoing, part 75 of the Federal Aviation Regulations is amended, effective 0901 G.m.t., July 19, 1973, as hereinafter set forth.

Section 75.400 (38 FR 700) is amended as follows:

In J816R "Marburg, Va. 38°30'27" N., 77°07'05" W. Flat Rock, Va." is deleted and "Marbury, Md. 38°30'12" N., 77°07'07" W. Flat Rock, Va." is substituted therefor. In J957R "Marburg, Va. 38°30'27" N., 77°07'05" W. Flat Rock, Va." is deleted and "Marbury, Md. 38°30'12" N., 77°07'07" W. Flat Rock, Va." is substituted therefor.

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

Issued in Washington, D.C., on May 22, 1973.

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

[FR Doc.73-10776 Filed 5-30-73;8:45 am]

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[Airspace Docket No. 72-WA-40]

## PART 75—ESTABLISHMENT OF JET ROUTES AND AREA HIGH ROUTES

### Designation of Area High Routes

On March 29, 1973, a notice of proposed rulemaking (NPRM) was published in the FEDERAL REGISTER (38 FR 8177) stating that the Federal Aviation Administration (FAA) was considering an amendment to part 75 of the Federal Aviation regulations that would designate four area high routes between the central United States and the west coast.

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

To avoid possible confusion with locations presently identified, the Joliet, Mont., waypoint name proposed in the notice of proposed rulemaking (NPRM) is changed to Big Horn, Mont., and Agate, Nebr., waypoint name also proposed in the NPRM is changed to Otsie, Nebr.

In consideration of the foregoing, part 75 of the Federal Aviation regulations is amended, effective 0901 G.m.t., July 19, 1973, as hereinafter set forth.

In § 75.400 (38 FR 700) the following area high routes are added:

| Waypoint name | Geographical coordinates N. Latitude/W. Longitude (in degrees, minutes, and seconds) | Reference facility |
|---|---|---|
| J805R—GATEWAY HEMLOCK, OREG., TO WOODSTOCK, ILL. | | |
| Hemlock, Oreg. | 43°18'08"/126°40'46" | Newport, Oreg. |
| Newport, Oreg. | 44°34'32"/124°03'34" | Do. |
| Dayville, Oreg. | 44°35'50"/119°26'41" | Pendleton, Oreg. |
| McCall, Idaho | 44°46'02"/116°12'19" | McCall, Idaho. |
| Lima, Mont. | 44°52'56"/112°13'36" | Dubois, Idaho. |
| Big Horn, Mont. | 44°52'08"/108°42'55" | Billings, Mont. |
| Clearmont, Wyo. | 44°43'43"/106°20'12" | Crazy Woman, Wyo. |
| Ash Creek, S. Dak. | 44°19'46"/101°52'35" | Dupree, S. Dak. |
| Sioux Falls, S. Dak. | 43°36'58"/ 96°46'51" | Sioux Falls, S. Dak. |
| West Union, Iowa. | 42°57'17"/ 91°45'37" | Nodine, Minn. |
| Woodstock, Ill. | 42°21'21"/ 88°24'13" | Milwaukee, Wis. |
| J806R—ROBBINSVILLE, N.J., TO GATEWAY HEMLOCK | | |
| Robbinsville, N.J. | 40°12'08"/74°29'44" | Robbinsville, N.J. |
| Furnace, Pa. | 40°36'35"/78°02'40" | Philipsburg, Pa. |
| Shiloh, Ohio | 40°57'44"/82°30'16" | Appleton, Ohio |
| Plant, Ind. | 41°37'29"/87°15'57" | Lafayette, Ind. |
| Morrison, Ill. | 41°55'53"/89°47'00" | Bradford, Ill. |
| Elberon, Iowa. | 42°00'53"/92°15'40" | Dubuque, Iowa. |
| Kamrar, Iowa. | 42°25'45"/93°43'56" | Fort Dodge, Iowa. |
| Sioux Falls, S. Dak. | 43°36'58"/96°46'51" | Sioux Falls, S. Dak. |
| Ash Creek, S. Dak. | 44°19'46"/101°52'35" | Dupree, S. Dak. |
| Clearmont, Wyo. | 44°43'43"/106°20'12" | Crazy Woman, Wyo. |
| Big Horn, Mont. | 44°52'08"/108°42'55" | Billings, Mont. |
| Lima, Mont. | 44°52'56"/112°13'36" | Dubois, Idaho. |
| McCall, Idaho. | 44°46'02"/116°12'19" | McCall, Idaho. |
| Dayville, Oreg. | 44°35'50"/119°26'41" | Pendleton, Oreg. |
| Newport, Oreg. | 44°34'32"/124°03'34" | Newport, Oreg. |
| Hemlock, Oreg. | 43°18'08"/126°40'46" | Do. |
| J956R—MORRISON, ILL., TO GATEWAY REDWOOD | | |
| Morrison, Ill. | 41°55'53"/89°47'00" | Bradford, Ill. |
| Elberon, Iowa. | 42°00'53"/92°15'40" | Dubuque, Iowa. |
| Danbury, Iowa. | 42°13'53"/95°38'35" | Omaha, Nebr. |
| Dry Creek, Nebr. | 42°20'04"/96°25'33" | Wolbach, Nebr. |
| Otsie, Nebr. | 42°29'03"/103°28'24" | Scottsbluff, Nebr. |
| Split Rock, Wyo. | 42°25'17"/108°14'00" | Boysen Reservoir, Wyo. |
| Malad City, Idaho. | 42°12'00"/112°27'02" | Malad City, Idaho. |

| Waypoint name | Geographical coordinates N. Latitude/W. Longitude (in degrees, minutes, and seconds) | Reference facility |
|---|---|---|
| Delaplain, Nev.. | 42°02'01"/114°24'46" | Twin Falls, Idaho. |
| Coleman, Nev... | 41°46'53"/117°39'54" | Rome, Oreg. |
| Likely Pines, Calif. | 41°20'21"/120°12'09" | Lakeview, Oreg. |
| Fortuna, Calif.. | 40°40'12"/124°14'00" | Fortuna, Calif. |
| Redwood, Calif. | 40°38'22"/126°56'27" | Do. |
| J887R—GATEWAY REDWOOD TO WOODSTOCK, ILL. | | |
| Redwood, Calif. | 40°38'22"/126°56'27" | Fortuna, Calif. |
| Fortuna, Calif.. | 40°40'17"/124°14'00" | Do. |
| Likely Pines, Calif. | 41°20'21"/120°12'09" | Lakeview, Oreg. |
| Coleman, Nev... | 41°46'53"/117°39'54" | Rome, Oreg. |
| Delaplain, Nev. | 42°02'01"/114°24'46" | Twin Falls, Idaho. |
| Malad City, Idaho. | 42°12'00"/112°27'02" | Malad City, Idaho. |
| Split Rock, Wyo. | 42°25'17"/108°14'00" | Boysen Reservoir, Wyo. |
| Otsie, Nebr.... | 42°29'03"/103°28'24" | Scottsbluff, Nebr. |
| Dry Creek, Nebr. | 42°20'04"/98°26'33" | Wolbach, Nebr. |
| Kamrar, Iowa.. | 42°25'45"/93°43'56" | Des Moines, Iowa. |
| Scales Mound, Ill. | 42°22'53"/90°24'00" | Iowa City, Iowa. |
| Woodstock, Ill.. | 42°21'21"/88°24'13" | Milwaukee, Wis. |

(Sec. 307(a), 1110, Federal Aviation Act of 1958, 49 U.S.C. 1348(a), 1510, Executive Order 10854 (24 FR 9565); sec. 6(c), Department of Transportation Act, 49 U.S.C. 1655(c).)

Issued in Washington, D.C., on May 22, 1973.

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

[FR Doc.73-10775 Filed 5-30-73;8:45 am]

[Airspace Docket No. 72-WA-70]

## PART 75—ESTABLISHMENT OF JET ROUTES AND AREA HIGH ROUTES

### Alteration of Waypoints and Area High Routes

On March 28, 1973, a notice of proposed rulemaking (NPRM) was published in the FEDERAL REGISTER (38 FR 8067) stating that the Federal Aviation Administration (FAA) was considering an amendment to part 75 of the Federal Aviation regulations that would alter the following RNAV routes:

1. J951R from Washington, D.C., to St. Louis, Mo.
2. J974R from Washington, D.C., to Los Angeles, Calif.
3. J981R from Los Angeles, Calif., to Washington, D.C.
4. J982R from Los Angeles, Calif., to Kansas City, Mo.

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

Defiance, N. Mex., waypoint is relocated at the intersection of J974R and J855R–J941R so that it may be used on its present route (J855R–J941R) and also on J974R to replace the Gallup, N. Mex., waypoint. Although this was not mentioned in the notice of proposed rulemaking, it is a minor matter upon which the public would not have particular reason to comment.

In consideration of the foregoing, part 75 of the Federal Aviation Regulations is amended, effective 0901 G.m.t., August 16, 1973, as hereinafter set forth.

Section 75.400 (38 FR 700 and 37 FR 26709) is amended as follows:

1. In J855R and J941R "Defiance, N. Mex., 35°24'51" N., 108°57'44" W. St. Johns, Ariz." is deleted and "Defiance, N. Mex., 35°26'19" N., 109°09'39" W. Gallup, N. Mex." is substituted therefor.

2. In J951R "Casanova, Va. 38°38'28" N., 77°51'57" W., Gordonville, Va." is deleted and "Front Royal, Va. 39°05'26" N., 78°12'02" W. Casanova, Va." is substituted therefor.

3. J974R is amended to read: J974R Washington, D.C., to Los Angeles, Calif.

| Name of waypoint | N. latitude/W. longitude (in degrees, minutes, and seconds) | Reference facility |
|---|---|---|
| Front Royal, Va. | 39°05'26"/078°12'02" | Casanova, Va. |
| Henderson, W. Va. | 38°45'15"/082°01'35" | Charleston, W. Va. |
| Minerva, Ky.... | 38°42'28"/083°54'20" | Louisville, Ky. |
| Marine, Ill..... | 38°43'46"/089°51'54" | Capital, Ill. |
| Hawk, Mo..... | 38°42'35"/090°35'59" | Farmington, Mo. |
| Tightwad, Mo.. | 38°21'43"/093°34'00" | Springfield, Mo. |
| Wichita, Kans.. | 37°43'40"/097°27'11" | Pioneer, Okla. |
| Larrabee, Kans. | 37°10'36"/100°29'46" | Garden City, Kans. |
| Sofia, N. Mex.. | 36°25'38"/104°01'41" | Tucumcari, N. Mex. |
| Springer, N. Mex. | 36°15'07"/104°46'52" | Las Vegas, N. Mex. |
| Defiance, N. Mex. | 35°26'19"/109°09'39" | Gallup, N. Mex. |
| Drake, Ariz.... | 34°56'54"/112°32'15" | Prescott, Ariz. |
| Chubbuck, Calif. | 34°32'20"/114°48'08" | Parker, Calif. |
| Morrow, Calif.. | 34°02'51"/117°14'54" | Oceanside, Calif. |

4. J981R is amended to read: J981R Los Angeles, Calif., to Washington, D.C.

| Name of waypoint | N. latitude/W. longitude (in degrees, minutes, and seconds) | Reference facility |
|---|---|---|
| Parker, Calif... | 34°06'07"/114°40'53" | Needles, Calif. |
| Prescott, Ariz.. | 34°42'09"/112°28'46" | Phoenix, Ariz. |
| Two Wells, N. Mex. | 35°13'50"/108°47'53" | St. Johns, Ariz. |
| Mora, N. Mex.. | 35°52'40"/105°18'54" | Las Vegas, N. Mex. |
| Canadian, Tex. | 36°21'15"/101°48'33" | Amarillo, Tex. |
| Tangier, Okla.. | 36°32'14"/099°56'38" | Kingfisher, Okla. |
| Irwin, Mo..... | 37°30'10"/004°18'35" | Butler, Mo. |
| Sprott, Mo..... | 37°56'21"/090°16'20" | Farmington, Mo. |
| Canter, Ky.... | 38°16'02"/085°35'26" | Louisville, Ky. |
| Rensford, W. Va. | 38°24'04"/081°23'29" | Beckley, W. Va. |
| Diana, W. Va.. | 38°29'44"/080°11'01" | Do. |

5. J982R is amended to read: Los Angeles, Calif., to Kansas City, Mo.

| Name of waypoint | N. latitude/W. longitude (in degrees, minutes, and seconds) | Reference facility |
|---|---|---|
| Parker, Calif... | 34°06'07"/114°40'53" | Needles, Calif. |
| Prescott, Ariz.. | 34°42'09"/112°28'46" | Phoenix, Ariz. |
| Two Wells, N. Mex. | 35°13'50"/108°47'53" | St. Johns, Ariz. |
| Mora, N. Mex.. | 35°52'40"/105°18'54" | Las Vegas, N. Mex. |
| Canadian, Tex. | 36°21'15"/101°48'33" | Amarillo, Tex. |
| Tangier, Okla.. | 36°32'14"/099°56'38" | Kingfisher, Okla. |
| Wichita, Kans.. | 37°43'40"/097°27'11" | Pioneer, Okla. |
| Factory, Kans.. | 38°57'48"/095°05'22" | Butler, Mo. |

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

Issued in Washington, D.C., on May 18, 1973.

CHARLES H. NEWPOL,
*Acting Chief, Airspace and Air Traffic Rules Division.*

[FR Doc.73-10777 Filed 5-30-73;8:45 am]

## CHAPTER II—CIVIL AERONAUTICS BOARD

### SUBCHAPTER A—ECONOMIC REGULATIONS

[Reg. ER-803]

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

Adopted by the Civil Aeronautics Board at its office in Washington, D.C., May 25, 1973.

Pursuant to the authority delegated to the General Counsel in § 385.19 of the Board's Organization Regulations, there follows a reissuance of part 208 incorporating all amendments which were in effect on May 24, 1973. The reissuance shall become effective on June 21, 1973. Procedure for review by the Board is set forth in subpart C of part 385.

By the Civil Aeronautics Board.

[SEAL] O. D. OZMENT,
*Acting General Counsel.*

**Subpart A—General Provisions**

PROTECTION OF CUSTOMERS' DEPOSITS



AUTHORITY: Secs. 101(3), 101(34), 204(a), 401(d)(3), 401(n), 403, 404(b), 407, 411, 416(b), 417; 72 Stat. 737 (as amended by 76 Stat. 143, 82 Stat. 867, 84 Stat. 921), 743, 754 (as amended by 76 Stat. 143, 82 Stat. 867), 758 (as amended by 74 Stat. 445), 760, 766, 769, 771, 76 Stat. 145; 49 U.S.C. 1301, 1324, 1371, 1373, 1374, 1377, 1381, 1386, 1387.

## Subpart A—General Provisions

### § 208.1 Applicability.

This part contains terms, conditions, and limitations on the operating authority of supplemental air carriers, including substantive regulations implementing paragraphs (1), (2), and (3) of section 401(n) of the act. The requirements of this part shall constitute terms, conditions, and limitations attached to certificates issued pursuant to section 401(d)(3) of the act. The requirements shall also attach to special operating authorizations issued under section 417 or to exemptions issued under section 416 of the act.

### § 208.2 Separability.

If any provision of this part or the application thereof to any air transportation, person, class of persons, or circumstance is held invalid, neither the remainder of the part nor the application of such provision to other air transportation, persons, classes of persons, or circumstances shall be affected thereby.

### § 208.3 Definitions.

For the purposes of this part:

(a) "Filing" shall mean filing in compliance with § 302.3(a) of this chapter except that provisions in this part which require filing with Board offices other than the Docket Section shall be controlling.

(b) "Supplemental air carrier" means an air carrier holding a certificate issued under section 401(d)(3) of the act, or a special operating authorization issued under section 417 of the act.

(c) "Supplemental air transportation" means charter flights in air transportation performed pursuant to a certificate of public convenience and necessity issued under section 401(d)(3) of the act (1) authorizing the holder to engage in supplemental air transportation of persons and property between any point in any State of the United States or the District of Columbia, and any other point in any State of the United States or the District of Columbia (exclusive of air transportation within the State of Alaska) or in foreign or overseas supplemental air transportation, or (2) authorizing the holder to engage in supplemental air transportation of persons and their personal baggage between any point in any State of the United States or the District of Columbia, on the one hand, and points in Greenland, Iceland, the Azores, Europe, Africa, and Asia, as far east as (and including) India, on the other hand.

(d) "Agreement" means any oral or written agreement, contract, understanding, or arrangement, and any amendment, revision, modification, renewal, extension, cancellation, or termination thereof.

(e) "Cargo agent" means any person (other than a supplemental air carrier or one of its bona fide regular employees or an indirect air carrier lawfully engaged in air transportation under authority conferred by any applicable part of the economic regulations of the Board) who for compensation or profit (1) solicits, obtains, receives, or furnishes directly or indirectly, property or consolidated shipments of property for transportation upon the aircraft of supplemental air carriers; or (2) procures or arranges for air transportation of property or consolidated shipments of property upon aircraft of a supplemental air carrier by charter, lease, or any other arrangement.

(f) [Reserved]

(g) "Ticket agent" means any person (other than a supplemental air carrier or one of its bona fide regular employees) who for compensation or profit (1) solicits, obtains, receives, or furnishes directly or indirectly, passengers or groups of passengers for transportation upon the aircraft of a supplemental air carrier; or (2) procures or arranges for air transportation of passengers or groups of passengers upon aircraft of a supplemental air carrier by charter, lease, or any other arrangement.

(h) "Pro rata charter" means a charter, the cost of which is divided among the passengers transported.

(i) "Single entity charter" means a charter, the cost of which is borne by the charterer and not by individual passengers, directly or indirectly.

(j) "Mixed charter" means a charter, the cost of which is borne, or pursuant to contract may be borne, partly by the charter participants and partly by the charterer.

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

(l) "Travel agent" means any person engaged in the formation of groups for transportation or in the solicitation or sale of transportation services.

(m) "Charter group" means that body of individuals who shall actually participate in the charter flight.

(n) "Charter organization" means that organization, group, or other entity from whose members (and their immediate families) a charter group is derived.

(o) [Reserved]

(p) [Reserved]

(q) [Reserved]

(r) [Reserved]

(s) "Charter flight" means air transportation performed by supplemental air carriers in accordance with § 208.6.

(t) "Substitute service" means the performance by an air carrier of foreign or overseas air transportation, or air transportation between the 48 contiguous States, on the one hand, and the State of Alaska or Hawaii, on the other hand, in planeload lots pursuant to an agreement with another air carrier to fulfill such other air carrier's contractual obligations to perform such air transportation for the Department of Defense.

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

(v) "Net worth" means the net stockholder equity as specified in form 41 balance sheet account 2995 of the "Uniform System of Accounts and Reports."

### § 208.3a Waiver.

(a) A waiver of any of the provisions of this part may be granted by the Board upon the submission by an air carrier of a written request therefor not less than 30 days prior to the flight to which it relates provided such a waiver is in the public interest and it appears to the Board that special or unusual circum-

stances warrant a departure from the provisions set forth herein. Notwithstanding the foregoing, waiver applications filed less than 30 days prior to a flight may be accepted by the Board in emergency situations in which the circumstances warranting a waiver did not exist 30 days before the flight.

(b) A request for a waiver of any of the provisions of § 208.202b shall be accompanied by a list of the names, addresses, and telephone numbers of all the passengers on the flight to which the request relates.

**§ 208.4 Particular records.**

Each supplemental air carrier shall maintain the following records in accordance with part 249 of this chapter, except that they may be maintained at either the principal office or the principal operations base of the carrier:

(a) A record of the names, addresses, and telephone numbers of all passengers transported on each pro rata charter trip.

(b) The written confirmation, and accompanying passenger list, received from another carrier pursuant to § 208.202b; and a copy of its written request, and accompanying passenger list, to such other carrier for such confirmation.

**§ 208.5 Reports of emergency commercial charters for other direct carriers.**

(a) It shall be an express condition upon authority conferred by § 208.6 (b)(1) and (c)(1) that each supplemental air carrier which performs an emergency charter transporting commercial traffic for another direct carrier shall file a report with the Bureau of Operating Rights, within 30 days following each charter flight, containing the following information:

(1) Name of direct carrier performing the charter and name of direct carrier for which the charter was performed;

(2) Date of flight or flights;

(3) Points of origin and destination, and intermediate points, if any;

(4) Number of passengers and/or tons of cargo transported;

(5) Description of circumstances creating the emergency;

(6) Date of initial contact by the chartering carrier regarding the charter;

(7) Reasons why the traffic in question was not or could not be carried by other carriers certificated to serve the particular market.

**§ 208.6 Charter flight limitations.**

Charter flights in air transportation performed by supplemental air carriers shall be limited to the following:

(a) All transportation of persons and/or property pursuant to contracts with the Department of Defense where the entire capacity of one or more aircraft has been engaged by the Department;

(b) Air transportation performed on a time, mileage, or trip basis where the entire capacity of one or more aircraft has been engaged for the movement of persons and/or property (or of persons and their personal baggage in the case of supplemental air transportation as defined in § 208.3(c)(2)):

(1) By a person for his own use (including a direct air carrier or a direct foreign air carrier when such aircraft is engaged solely for the transportation of company personnel or company property, or in cases of emergency, of commercial traffic: *Provided*, That emergency charters for commercial traffic shall be reported in accordance with § 208.5);

(2) By a person (no part of whose business is the formation of groups or the consolidation of shipments for transportation or the solicitation or sale of transportation services) for the transportation of a group of persons and/or their property, as agent or representative of such group;

(3) By an air freight forwarder or international air freight forwarder holding, a currently effective operating authorization under part 296 or part 297 of this subchapter for the carriage of property in air transportation, or by a person authorized by the Board to transport by air used household goods of personnel of the Department of Defense;

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

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

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

(7) By a travel group charter, organizer on behalf of a travel group pursuant to part 372a of this chapter; or

(c) Air transportation performed on a time, mileage, or trip basis where less than the entire capacity of an aircraft has been engaged for the movement of persons and their personal baggage by two or more of the following persons: *Provided*, That such persons in the aggregate engage the entire capacity of the aircraft:

(1) By a person for his own use (including a direct air carrier or a direct foreign air carrier when such aircraft is engaged solely for the transportation of company personnel and their personal baggage or in cases of emergency, of commercial passenger traffic: *Provided*, That emergency charters for commercial traffic shall be reported in accordance with § 208.5);

(2) By a person (no part of whose business is the formation of groups or the consolidation of shipments for transportation or the solicitation or sale of transportation services), for the transportation of a group of persons and their personal baggage, as agent or representative of such group;

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

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

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

(6) By a travel group charter organizer on behalf of a travel group pursuant to part 372a of this chapter: *Provided*, That with respect to paragraph (c) of this section each person engaging less than the entire capacity of an aircraft shall contract and pay for 40 or more seats: *And provided further*, That paragraph (c) shall not be construed to apply to movements of property.

**§ 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.

LIABILITY INSURANCE REQUIREMENTS

**§ 208.10 Applicability of liability insurance requirements.**

(a) No supplemental air carrier shall engage in air transportation unless such carrier has and maintains in effect liability insurance coverage evidenced by a currently effective certificate of liability insurance filed with and accepted by the Board as complying with the requirements of this part; and no supplemental carrier shall operate in air transportation any aircraft, or perform services within any geographical area, to which such insurance does not apply. "Insurance certificate," as used herein, means one or more than one certificate, evidencing one or more than one policy of aircraft liability insurance properly endorsed, issued by one or more than one insurer, which alone or in combination provides the minimum coverage prescribed in § 208.11. When more than one insurer is involved in providing the minimum coverage prescribed herein, the limits and types of liability assumed by each insurer shall be clearly stated in the certificate of insurance.

(b) The insurance coverage and certificate required by this part shall be obtained from a reputable and financially responsible insurance company or association which is legally authorized to issue aircraft liability policies in one or more States of the United States or in the District of Columbia.

**§ 208.11 Minimum limits of liability.**

(a) The minimum limits of liability insurance coverage maintained by a supplemental air carrier shall be as follows:

(1) Liability for bodily injury to or death of aircraft passengers: A limit for any one passenger of at least $75,000, and a limit for each occurrence in any one aircraft of at least an amount equal to the sum produced by multiplying $75,000 by 75 percent of the total number of passenger seats installed in the aircraft.

(2) Liability for bodily injury to or death of persons (excluding passengers): A limit of at least $75,000 for any one person in any one occurrence, and a limit of at least $500,000 for each occurrence.

(3) Liability for loss of or damage to property: A limit of at least $500,000 for each occurrence.

(b) Notwithstanding the provisions of paragraph (a) of this section, a supplemental air carrier may be insured for a single limit of liability for each occurrence. In that event, coverage must be equal to or greater than the combined required minimums for bodily injury, property damage, and/or passenger liability for the type of use to which such aircraft is put, as the case may be.[1]

(c) In the case of a single limit of liability, aircraft may be insured by a combination of primary and excess policies. Such policies must have combined coverage equal to or greater than the required minimums for bodily injury to nonpassengers, property damage, and/or passenger liability for the type of use to which the aircraft is put, as the case may be.

**§ 208.12 Terms and conditions of insurance coverage.**

With respect to insurance required by this part:

(a) Insurance contracts shall provide for payment by the insurer on behalf of the insured supplemental air carrier, within the specified limits of liability, of all sums which the insured carrier shall become legally obligated to pay as damages for bodily injury to or death of any person, or for loss of or damage to property of others, resulting from the negligent operation, maintenance or use of aircraft in air transportation by the insured carrier.

(b) The liability of the insurer shall apply to all operations by the insured carrier in air transportation. The liability of the insurer shall not be subject to any exclusion by virtue of violations, by the insured carrier, of any applicable safety or economic provision of the Federal Aviation Act of 1958, as amended, or of any applicable safety or economic rule, regulation, order, or other legally imposed requirement prescribed thereunder by the Federal Aviation Administration or the Civil Aeronautics Board, respectively.

(c) The liability of the insurer shall not be contingent upon the financial condition, solvency, or freedom from bankruptcy of the insured. The limits of the insurer's liability for the amounts prescribed herein shall apply separately to each occurrence, and any payment made under the policy because of any one occurrence shall not reduce the liability of the insurer for payment of other damages resulting from any other occurrence.

(d) Within the limits of liability herein prescribed, the insurer shall not be relieved from liability by any condition in the policy or any endorsement thereon, or violation thereof by the insured air carrier, other than the exclusions set forth in § 208.13, or such other exclusions as may be individually approved by the Board. Cancellation of an approved policy shall be effected only upon written notice to the Board, in accordance with § 208.14(d).

(e) Except for the geographical exclusions authorized in § 208.13 (g) and (h), the coverage shall be worldwide. For good cause shown, however, the Board may waive this requirement or amend the certificate or other operating authority to describe the geographical areas actually served by the supplemental air carrier. Authority for any general restriction (e.g., North American Continent, Western Hemisphere, etc.) shall be recited in any endorsement containing a general restriction.

**§ 208.13 Authorized exclusions of liability.**

Unless other exclusions are individually approved by the Board, no policy or certificate of insurance required by this part shall contain any exclusion other than the following authorized exclusions: The insurance afforded under this policy shall not apply to:

(a) Any loss against which the named insured has other valid and collectible insurance, except that the limits of liability provided under this policy shall be excess of the limits provided by such other valid and collectible insurance up to the limits certified in a Certificate of Insurance issued to the Civil Aeronautics Board in Washington, D.C., but in no event exceeding the limits of liability expressed elsewhere in this policy.

(b) Any loss arising from the ownership, maintenance, or use of any aircraft not declared to the insurer in accordance with the terms and conditions of this policy;

(c) Liability assumed by the named insured under any contract or agreement, unless such liability would have attached to the insured even in the absence of such contract or agreement: *Provided, however,* That this exclusion shall not apply to the named insured's waiver of liability limitations under the Warsaw Convention by signing a counterpart to the agreement of carriers (Agreement CAB 18900), as approved by Board Order E–23680, May 13, 1966, agreeing to a minimum liability for injury or death of passengers of $75,000 per passenger, or any amendment or amendments to such agreement which may be approved by the Board and to which the named insured becomes a party.

(d) Bodily injury, sickness, disease, mental anguish, or death of any employee of the named insured while engaged in the duties of his employment, or any obligation for which the named insured or any company as his insurer may be held liable under any workmen's compensation or occupational disease law;

(e) Loss of or damage to property owned, rented, occupied, or used by, or in the care, custody, or control of the named insured, or carried in or on any aircraft with respect to which the insurance afforded by this policy applies;

(f) Personal injuries or death, or damage to or destruction of property, caused directly or indirectly, by hostile or warlike action, including action in hindering, combating, or defending against an actual impending or expected attack by any government or sovereign power, de jure or de facto, or military, naval, or air forces, or by an agent of such government, power, authority, or forces; the discharge, explosion, or use of any weapon of war employing atomic fission or atomic fusion, or radio-active materials; insurrection, rebellion, revolution, civil war, or usurped power, including any action in hindering, combating, or defending against such an occurrence; or confiscation by any government or public authority.

(g) Any loss arising from operations by the named insured within any country of the Sino-Soviet bloc or Cuba: *Provided,* That a loss caused by mere misadventure in flying over or landing in such territory shall not be excluded. The "Sino-Soviet bloc" is defined to include Lithuania, Latvia, Estonia, Czechoslovakia, Bulgaria, Rumania, Hungary, Poland, Albania, East Germany (Soviet zone of Germany and Soviet sector of Berlin), Communist China, North Korea, North Vietnam, Outer Mongolia, and the Union of Soviet Socialist Republics;

(h) Any loss arising from operations by the named insured to or from installations of the Distant Early Warning System (DEW line) or the Ballistic Missile Early Warning System (BMEWS).

**§ 208.14 Filing of certificates, endorsements, and notices.**

(a) Certificates of insurance, endorsements, and notices of cancellation shall be filed in duplicate on forms prescribed and furnished by the Board. All documents shall be signed in ink by an authorized officer or agent of the insurer; no facsimile signatures will be accepted.

NOTE.—CAB Forms 606, 607, 608, and 609 are available, upon request, from the Publications Services Section, Civil Aeronautics Board, Washington, D.C. 20428.

[1] For example: The minimum single limit of liability acceptable for an aircraft in passenger service with 60 passenger seats would be computed on the basis of limits set forth in paragraph (a) as follows: 60×0.75 equals 45; 45×$75,000 equals $3,375,000; $3,375,000 plus $500,000 (nonpassenger liability per occurrence), plus $500,000 (property damage per occurrence) equals $4,375,000. The latter would be the minimum amount in which a single limit liability policy may be written based upon the above assumptions.

(b) Endorsements that add previously unlisted aircraft to coverage or that delete listed aircraft from coverage shall be filed with the Board not more than 5 days after the effective date of such endorsement: *Provided, however,* That aircraft shall not be listed in the carrier's operations specifications with the Federal Aviation Agency and shall not be operated unless liability insurance coverage has attached.

(c) A supplemental carrier which intends to operate a charter flight to or from a country of the Sino-Soviet block or Cuba or to or from a DEW line or BMEWS installation and whose approved insurance coverage excludes operations within such areas shall file an endorsement waiving the applicable exclusion, or a separate certificate of insurance expressly applicable to such flight, at least 30 days before the proposed flight date, unless the Board finds that waiver of this requirement is in the public interest.

(d) Certificates of insurance approved by the Board shall not be canceled by the insurer upon less than 30 days' notice to the Board and the insured carrier by registered mail. An insured carrier shall not cancel an approved certificate during the effectiveness of any operating authorization from the Board unless the notice of cancellation is accompanied by a replacement certificate of insurance, complying in all respects with this part and effective upon the date of cancellation of the approved certificate and policy, or by a notice that the carrier has ceased operations.

(e) If any certificate of insurance endorsement, notice of cancellation, or other document relating to liability insurance required to be filed with the Board does not comply with these regulations, the Board will notify the air carrier and the insurer by registered mail, or by telegram, stating the deficiencies. If the carrier is not notified of objections by the Board within 20 days after filing of any document, such document shall be deemed approved by the Board as complying with the requirements of this part, but such approval may be rescinded by the Board upon reasonable notice.

(f) All documents required to be filed with respect to liability insurance shall be filed with the Civil Aeronautics Board, attention of Bureau of Accounts and Statistics, B-42b, Washington, D.C. 20428.

### § 208.15 Compliance.

In addition to all other applicable sanctions provided by law or the regulations of the Board, operation in air transportation of any aircraft, or performance of services within any geographical area, to which Board-approved liability insurance does not apply shall be cause for immediate suspension of all operating authority, pursuant to section 401(n)(5) of the act and subpart J of part 302 of this chapter.

## Minimum Extent of Service

### § 208.25 Minimum service requirements.

Each supplemental air carrier shall perform services authorized by its certificate or authority to engage in supplemental air transportation for at least 500 hours of revenue flight in any two consecutive calendar quarters. Failure to perform such minimum services will be deemed to constitute a prima facie case for suspension of the carrier's operating authority pursuant to the provisions of section 401(n)(5) of the act: *Provided,* That the carrier may, within 15 days after the end of the two consecutive calendar quarters in which such failure occurred, show unusual circumstances constituting good cause why its operating authority should not be suspended.

## Operations and Tariffs

### § 208.30 Prohibited advertising.

(a) No supplemental air carrier shall advertise its services or hold itself out to the public as an air carrier authorized to engage in air transportation unless it includes the words "supplemental air carrier" in such advertising.

(b) No supplemental air carrier shall conduct business in any name other than that set forth in its certificate, except as expressly authorized by the Board.

### § 208.31 Prohibited control of a supplemental air carrier.

Control of a supplemental air carrier shall not, without prior application to and approval by the Board, be transferred, directly or indirectly, by assignment, transfer of voting stock, or otherwise, to any person who controlled, or participated in control of, as a partner, officer, or director, any air carrier theretofore found by the Board to have committed knowing and willful violations of the Civil Aeronautics Act of 1938, as amended, the Federal Aviation Act of 1958, or any order, rule, or regulation issued pursuant to said acts during the period such person controlled or participated in the control of said air carrier. Any such application may be approved by the Board with or without hearing. No such application shall be denied unless the Board finds, after notice to said supplemental air carrier and the parties to the proposed transfer, and after opportunity for hearing, that, in the event the proposed transfer is consummated, said supplemental air carrier will thereby be rendered unfit, unwilling, or unable to conform to the provisions of the Federal Aviation Act of 1958, and the rules, regulations, and requirements of the Board thereunder. For the purposes of this section, a transfer of 20 percent or more of the voting stock of the supplemental air carrier shall be deemed to constitute prima facie evidence of a transfer of control so as to require the filing of an appropriate application with the Board.

### § 208.31a Written agreements with ticket agents.

Each agreement between a supplemental air carrier and any ticket or cargo agent shall be reduced to writing and signed by all the parties thereto, if it relates to any of the following subjects:

(a) The furnishing of persons or property for transportation;

(b) The arranging for flights for the accommodation of persons or property;

(c) The solicitation or generation of passenger or cargo traffic to be transported;

(d) The charter or lease of aircraft.

### § 208.31b Written contracts with charterers.

(a) Every agreement to perform a charter trip, except charters for the Department of Defense, shall be in writing and signed by an authorized representative of the supplemental air carrier and the charterer prior to operation of a charter flight: *Provided,* That where execution of a contract prior to commencement of flight is impracticable because the charter has been arranged on short notice, compliance with the provision hereof shall be effected within 7 days after commencement of the flight. The written agreement shall include without limitation:

(1) Date and place of execution of the contract or agreement;

(2) Signature, printed or typed name of each signatory, and official position of each;

(3) Dates of flights and points involved;

(4) Type and capacity of aircraft: Number of passenger seats available or pounds of cargo capacity; and

(5) Rates, fares, and charges applicable to the charter trip, including the charter price, live and ferry mileage charges, and layover and other nonflight charges.

(b) No term or condition of the charter contract shall, on its face, be inconsistent with any provision of the carrier's published tariff.

### § 208.32 Tariffs and terms of service.

(a) No air carrier shall perform any supplemental air transportation unless such air carrier shall have on file with the Board, pursuant to part 221 of this chapter, a currently effective tariff showing all rates, fares, and charges for the use of the entire capacity or less than the entire capacity (see § 208.6(c)) of one or more aircraft in such supplemental air transportation and showing all rules, regulations, practices, and services in connection with such supplemental air transportation, including eligibility requirements for charter groups not inconsistent with those established in this part.

(b) The total charter price and other terms of service rendered pursuant to this part shall conform to those set forth in the applicable tariff on file with the

Board and in force at the time of the respective charter flight and the contract must be for the entire capacity or for less than the entire capacity (see § 208.6(c)) of one or more aircraft. Where a carrier's charter charge computed according to a mileage tariff includes a charge for ferry mileage, the carrier shall refund to the charterer any sum charged for ferry mileage which is not in fact flown in the performance of the charter: *Provided*, That the carrier shall not charge the charterer for ferry mileage flown in addition to that stated in the contract unless such mileage is flown for the convenience of and at the express direction of the charterer.

(c) Every charter tariff shall contain the following provision: Payments for a charter flight made to any person to whom the carrier, directly or indirectly, has paid a commission or has agreed to pay a commission with respect to such flight, shall be considered payment to the carrier: *Provided, however*, That this requirement shall not be applicable to foreign-originated charters.

(d) Each and every contract for a charter to be operated hereunder shall incorporate the provisions of §§ 208.10 through 208.15, inclusive, and 208.32a, 208.33, and 208.33a, where applicable, concerning insurance and substitute transportation.

(e) The carrier shall require full payment of the total charter price, including payment for the return portion of a round trip, or the posting of a satisfactory bond for full payment, prior to the commencement of any portion of the air transportation: *Provided, however*, That in the case of a charter for less than the entire capacity of an aircraft pursuant to § 208.6(c), the carrier shall require full payment of the total charter price, including payment for the return portion of a round trip, not less than 30 days prior to the commencement of any portion of the transportation and such payment shall not be refundable unless the charter is canceled by the carrier or unless the carrier accepts a substitute charterer for one which has canceled a charter, in which case the amount paid by the latter shall be refunded.

(f) Where four or more round trip flights per calendar year are conducted on behalf of a chartering organization by a carrier or carriers, one-way passengers shall not be carried except that up to 5 percent of the charter group may be transported one way in each direction, there shall be no intermingling of passengers and each planeload group, or less than planeload group (see § 208.6(c)), shall move as a unit in both directions, except as provided in § 208.36. This provision shall not be construed as permitting knowing participation in any plan whereby each leg of a round trip is chartered separately in order to avoid the 5-percent limitation aforesaid.

### § 208.32a Flight delays and substitute air transportation (foreign).

Supplemental air carriers shall assume, and publish as part of the rules and regulations of their tariffs applicable to passenger service in foreign air transportation, the following obligations without prejudice, and in addition, to any other rights or remedies of passengers under applicable law:

(a) *Substitute air transportation.*—(1) On all charter flights, unless the air carrier causes an aircraft to finally enplane each passenger and commence the takeoff procedures at the airport of departure before the 48th hour following the time scheduled for the departure of such flight, it shall provide substitute transportation in accordance with the provisions of this paragraph.

(2) As soon as the air carrier discovers, or should have discovered by the exercise of reasonable prudence and forethought, that the departure of any such charter flight will be delayed more than 48 hours, such air carrier shall arrange for and pay the costs of substitute air transportation for the charter group on another charter flight, operated by any other carrier or foreign air carrier.

(3) When neither the charter transportation contracted for nor substitute transportation has been performed before the expiration of 48 hours following the scheduled departure time of any such charter flight, the charterer, or his duly authorized agent, may arrange for substitute air transportation of the members of the charter group, at economy or tourist class fares, on individually ticketed flights and the chartered air carrier shall pay the cost of such air transportation to the substitute air carrier or foreign air carrier.

(4) In determining the period of time during which the departure of a charter flight has been delayed within the purview of this paragraph, periods of delay caused by the prohibition of flights to or from the airport of departure because of weather or other operational conditions affecting such airport shall be excluded if, and while, the air carrier has available an airworthy aircraft which is capable of transporting the charter group in a condition of operational readiness.

(b) *Incidental expenses.*[1] (1) On the return leg of a charter flight bound from a point outside the country where the charter originated and is to terminate, unless the air carrier causes an aircraft to finally enplane each passenger and commence the takeoff procedures at the airport of departure before the 6th hour following the time scheduled for the departure of such flight, it shall pay incidental expenses in accordance with the provisions of this paragraph. Such payments shall be made at the airport of departure as soon as they become due to the charterer, or its duly authorized agent, for the account of each passenger, including infants and children traveling at reduced fares. In the case of charter flights bound to or from the United States on the return leg, "country" as used in this paragraph means the 48 contiguous States of the United States.

(2) Such payments shall be made at the rate of $16 for each full 24-hour period of delay following the scheduled departure time. However, the sum of $8 shall be paid for each passenger delayed 6 hours following the scheduled departure time. Thereafter, during the succeeding 18 hours of delay, an additional sum of $8 shall be paid for each passenger delayed in installments of $4 for the first and second succeeding 6-hour period of delay, or any fractional part thereof. If the delay continues beyond a period of 24 hours following the scheduled departure time, such payments shall be made in equal installments of $4 for each further 6-hour period of delay, or any fractional part thereof: *Provided, however*, That the air carrier may, at its option, discharge this obligation by providing free meals and lodging in lieu of making such payments. The obligation of the air carrier to pay incidental expenses or provide free meals and lodging shall cease when substitute air transportation is provided in accordance with the provisions of paragraph (a) of this section.

### § 208.33 Flight delays and substitute air transportation (interstate and overseas).

Supplemental air carriers shall assume, and publish as part of the rules and regulations of their tariffs applicable to passenger service in interstate and overseas air transportation, the following obligations without prejudice, and in addition, to any other rights or remedies of passengers under applicable law:

(a) In case of flight delays of more than 6 hours beyond the departure time stated in the charter contract or 4 hours beyond the time of departure stated on an individual flight ticket, the carrier, upon request and at the passenger's or charterer's option (or in case of the engagement by one charterer of less than the capacity of an aircraft, at the option of any one charterer), must provide alternative air transportation at no additional cost to the passenger or charterer, or immediately refund the full value of the unused ticket or the unperformed charter contract.

(b) In case of additional flight delays en route exceeding 6 hours for charter flights or 2 hours for individually ticketed flights, the carrier must, upon request and at the passenger's or charterer's option (or in case of the engagement by one charterer of less than the capacity of an aircraft, at the option of any one charterer), furnish alternative transportation to the specified destination, or immediately refund the full value of unperformed transportation. The en route delays shall be calculated without inclusion of any delay at departure but all additional delays at intermediate stops

[1] Although the requirements with respect to providing incidental expenses are made expressly applicable only to the return leg of a charter flight, the air carriers are expected in the case of delay in departure of the originating leg of a flight, to furnish such incidental expenses to charter passengers whose homes are not located within a reasonable distance from the point of origination of the charter.

en route shall be added up in determining whether the limit of delay has been reached.

(c) In case of flight cancellations or flight delays, refunds shall be paid immediately upon presentation of an unused flight coupon or upon demand of the charterer or his representative (or in case of the engagement by one charterer of less than the capacity of an aircraft, upon demand of any one charterer or his representative) to the air carrier or its agent.

(d) The rules and regulations in the carrier's tariffs governing immediate refunds or alternative transportation may provide for an exception in case of unavoidable delays due solely to weather.

**§ 208.33a Substitution or subcontracting.**

Supplemental air carriers may subcontract the performance of services which they have contracted to perform only to air carriers authorized by the Board to perform such services.

**§ 208.34 Record retention.**

Each carrier operating pursuant to this part shall comply with the applicable record-retention provisions of part 249 of this subchapter, as amended.

**§ 208.35 Payments, gratuities, and donations.**

(a) Neither a carrier nor a travel agent shall make any payments or extend gratuities of any kind, directly or indirectly, to any member of a chartering organization in relation either to air transportation or land tours or otherwise.

(b) Neither a carrier nor a travel agent shall make any donation to a chartering organization or an individual charter participant.

(c) Nothing in this section shall preclude a carrier from paying a commission (within the limits of §§ 208.202 and 208.302) to a member of a chartering organization if such member is its agent, or restrict a carrier or a travel agent from offering to each member of the charter group such advertising and good will items as are customarily extended to individually ticketed passengers (e.g., canvas traveling bag or a money exchange computer).

**§ 208.36 Substitute transportation in emergencies.**

(a) A carrier shall be permitted to transport a passenger on a charter flight with a group other than his own or on a ferry flight (as defined in § 241.03 of this subchapter) under the following circumstances:

(1) The passenger was transported by the carrier on an outbound charter flight;

(2) The transportation is for return passage only;

(3) When the passenger is required to return at a different time than his own charter flight due to emergency circumstances beyond the passenger's control; and

(4) The charter group with which the passenger is to travel expresses no objection to his participation in the charter flight.

For the purposes of this paragraph, "emergency circumstances beyond the passenger's control" shall mean illness or injury to the passenger or a member of his immediate family; death of a member of the passenger's immediate family; or weather conditions or unforeseeable and unavoidable delays in ground transportation or connecting air transportation.

(b) In all cases where such substitute transportation is furnished, the carrier shall file a report with the Director, Bureau of Operating Rights, within 30 days after the substitute transportation is provided setting forth the circumstances of the carriage. Such report shall include the name of the passenger; the name of his chartering organization; the name of the chartering organization with whom he traveled in substitute transportation; the date he was originally scheduled to return and the date on which he actually returned; a description of the circumstances which made the substitute transportation necessary; and the evidence which the carrier obtained to substantiate the need for substitute transportation (e.g., a doctor's certificate).

PROTECTION OF CUSTOMERS' DEPOSITS

**§ 208.40 Escrow of cash or trust for protection of customers' deposits.**

(a) Except as provided in § 208.41, no supplemental air carrier shall engage in air transportation unless it maintains, in accordance with the following standard, an escrow of cash or a trust as security for customers' deposits with the carrier for prepayment of air transportation.

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

(c) The escrow agreement or the trust agreement between a bank and the air carrier shall not be effective until approved by the Board. Claims against the escrow or trust may be made only with respect to the nonperformance of air transportation. As used in this section, the term "bank" includes a bank, savings and loan association, or other financial institution insured by the Federal Deposit Insurance Corporation or the Federal Savings and Loan Insurance Corporation.

**§ 208.41 Performance bond in lieu of escrow of cash or trust.**

The carrier may elect, in lieu of placing cash in escrow or creating a trust pursuant to § 208.40, to file with the Board's Bureau of Operating Rights, in a form satisfactory to the Bureau, a performance bond which guarantees to the U.S. Government the performance of air transportation pursuant to contracts entered into by such carrier, but to be performed, in whole or in part, after the date of execution of the bond. The amount of such bond shall be not less than the amount of cash that would be required to be placed in escrow or in trust by the carrier pursuant to § 208.40. Claims under the bond may be made only with respect to the nonperformance of air transportation.

**§ 208.42 No priority in payment of claims.**

If an air carrier is required to maintain cash in escrow or in trust for the protection of customers' deposits pursuant to § 208.40, there shall be no priority in the payment of claims against such funds held in escrow or in trust or against the bonding company in the event that a performance bond is filed by the carrier in lieu of placing cash in escrow or in trust, but such claims shall be processed and paid on a pro rata basis.

## Subpart B—Provisions Relating to Military Charters

**§ 208.100 Applicability of subpart.**

This subpart sets forth the special rules applicable to military charters.

**§ 208.101 Minimum rates and compensation for air transportation performed for the Department of Defense.**

The authority conferred upon a supplemental air carrier pursuant to a certificate of public convenience and necessity issued under section 401(d)(3) of the act, insofar as it encompasses the right to provide air transportation pursuant to contract with the Department of Defense or any branch thereof in foreign or overseas air transportation, air transportation between the 48 contiguous States on the one hand and the State of Alaska or Hawaii on the other hand, or between military installations within the 48 contiguous States, shall be subject to the condition that the rate or compensation received by the carrier for any such air transportation is not less than that set forth in § 288.7 of this subchapter.

**§ 208.102 Substitute service.**

Supplemental air carriers are authorized to provide "substitute service" as defined in this part, subject to the provisions of part 288 of this chapter.

**§ 208.103 Tariffs and terms of service.**

The provisions of § 208.32 shall apply to charters under this subpart except that paragraphs (c), (e), and (f) and the second sentence of paragraph (b) of such section shall not be applicable.

## Subpart B1—Provisions Relating to Military Backhaul Charters

**§ 208.150 Military backhaul exemption.**

Subject to the provisions of this part and all other applicable rules, regulations, conditions, or requirements, sup-

plemental air carriers are hereby exempted from the provisions of section 401 of the act to the extent necessary to permit them to engaged in overseas or foreign "supplemental air transportation" on the reverse leg of a charter performed in the opposite direction under a contract with the Department of Defense calling for one-way service.

### Subpart C—Provisions Relating to Pro Rata Charters

**§ 208.200 Applicability of subpart.**

This subpart sets forth the special rules applicable to pro rata charters.

REQUIREMENTS RELATING TO AIR CARRIERS

**§ 208.200a Solicitation and formation of a chartering group.**

(a) A carrier shall not engage, directly or indirectly, in any solicitation of individuals (through personal contact, advertising, or otherwise) as distinguished from the solicitation of an organization for a charter trip, except after a charter contract has been signed.

(b) A carrier shall not employ, directly or indirectly, any person for the purpose of organizing and assembling members of any organization, club, or other entity into a group to make the charter flight, except after a charter contract has been signed.

**§ 208.201 Pretrip notification and charter contract.**

(a) Upon a charter flight date being reserved by the carrier or its agent, the carrier shall provide the prospective charterer with a copy of this part 208.[1] The charter contract shall include a provision that the charterer, and any agent thereof, shall only act with regard to the charter in a manner consistent with this part and that the charterer shall within due time submit to the carrier such information as specified in § 208.215. The carrier shall also require that the charterer and any travel agent involved shall furnish it at least 30 days prior to departure of the first flight the statements of supporting information required in §§ 208.217 and 208.204, respectively, unless the charter has been contracted for within 30 days before the date of departure, in which event the statement and attachments shall be filed with the carrier on the date the charter contract is executed. In the event of a substitution of carriers, the carrier with whom the statements and attachments have been filed may forward them to the substitute carrier, in which case new statements need not be executed.

(b) The carrier shall attach to its copy of the charter contract a certification by an officer of the chartering organization or other qualified person, authorizing the person who executes the contract to do so on behalf of the chartering organization.[4] If the carrier executes a charter contract within 15 days of the flight date, the carrier shall require the person who executes the contract on behalf of the charterer to certify as to whether or not a contract for the flight has been canceled by another carrier because the chartering organization was found to be ineligible under the regulations. The carrier shall also notify the Board, within 5 days after the contract has been executed, that its execution took place within 15 days of flight date. Where the certification discloses, or the carrier has reason to believe, that a contract for the flight has been canceled by another carrier, the notification to the Board shall also state that the carrier has made an independent inquiry and has satisfied itself that such cancellation was not caused by the ineligibility of the chartering organization. If a charter contract is for the return flight of a one-way charter by the same charter organization, a copy of the passenger list (§ 208.215) of the outbound charter shall be attached to the charter contract.

**§ 208.202 Agent's commission.**

The carrier shall not pay its agent a commission or any other benefits, directly or indirectly, in excess of 5 percent of the total charter price as set forth in the carrier's charter tariff on file with the Board, or more than the commission related to charter flights paid to an agent by a carrier certificated to render regular service on the same route, whichever is greater. The carrier shall not pay any commission whatsoever to an agent if the agent receives a commission from the charterer for the same service.

**§ 208.202a Statement of supporting information.**

Prior to performing a charter flight the carrier shall execute, and require the travel agent (if any) and the charterer to execute, the statement of supporting information attached hereto and made a part thereof. If a charter contract covers more than one charter flight, only one statement need be filed: *Provided, however,* That separate financial data (see item 13 of statement) shall be filed for each one-way or round trip flight. The carrier shall require the charterer to annex to the statement copies of all announcements of the charterer in connection with the chart issued after the contract is signed.

**§ 208.202b Charter trips originating in the United States.**

(a) In the case of a charter trip originating in the United States which includes foreign air transportation, and where separate charter contracts cover the flight departing from the United States and the flight returning to the United States, the time by which the carrier to perform the returning flight, as well as the carrier to perform the departing flight, must receive full payment of its charter price (or a satisfactory bond for such payment), in compliance with the requirements of § 208.32(e), shall be not less than 15 days prior to the departing flight, for a planeload charter, or not less than 30 days prior to the departing flight, if the charter is for less than the entire capacity of an aircraft, pursuant to § 208.6(c).

(b) In addition to requiring timely payment of its charter price (or the posting of a bond), pursuant to paragraph (a) of this section, the carrier performing the departing flight from the United States shall request in writing from the carrier performing the returning flight for the same chartering group, and the carrier performing the returning flight shall furnish, not later than 15 days prior to the scheduled departure of a planeload charter, or not later than 30 days prior to the scheduled departure of a less-than-planeload charter, written confirmation that the latter carrier has also received timely payment of its charter price (or the posting of a bond), pursuant to paragraph (a) of this section. Both the request and the confirmation shall contain particulars sufficient to identify the charter trip, including such details as the date and point of origin of the departing flight, the date and point of origin of the returning flight, and the name of the chartering group; and both shall be accompanied by a passenger list. The confirmation shall also contain a statement to the effect that the carrier has not previously furnished such confirmation to any other carrier with respect to the same charter trip.

(c) The requirements of this section shall apply to all charter flights scheduled to depart after the effective date hereof: *Provided, however,* That with respect to planeload charter flights scheduled to depart less than 15 days after the effective date hereof, and with respect to less-than-planeload charter flights scheduled to depart less than 30 days after the effective date hereof, requirements hereunder as to advance payments and receipt of written confirmation thereof by the departing carrier, need not be met within the time specified in this section but may be met at any time before flight departure.

(d) Every carrier which has entered into a charter contract covering only one-way foreign air transportation from the United States, to be performed in connection with a pro rata charter trip originating in the United States, must obtain, before performing such departing flight, either written confirmation from the returning carrier (as provided in paragraph (b) or (c) of this section, as the case may be), or a waiver granted by the Board pursuant to § 208.3a, such waiver to be based either on the grounds set forth in said § 208.3a, or on a showing that the arrangements between the chartering organization and the charter participants do not involve the provision

[1] Copies of this part are available by purchase from the Superintendent of Documents, Washington, D.C. 20402. Single copies will be furnished without charge on written request to the Publications Services Section, Civil Aeronautics Board, Washington, D.C. 20428.

[4] Not applicable where the charter is based on employment in one entity or employee or student status at a school.

of return transportation to the United States.

**§ 208.202c Air carrier to identify enplanements.**

The air carrier shall make reasonable efforts to verify the identity of all enplaning charter participants, and the documentary source of such verification shall be noted on the passenger list: *Provided, however,* That in the case of international flights the identity of each enplaning charter participant shall be verified by means of his passport or, if there be none, by means of any other travel identity document, and the passport number or travel identity document number shall be entered on the passenger list.

REQUIREMENTS RELATING TO TRAVEL AGENTS

**§ 208.203 Prohibition against double compensation.**

A travel agent may not receive a commission from both the direct air carrier and the charterer for the same service.

**§ 208.204 Statement of Supporting Information.**

Travel agents shall execute, and furnish to air carriers, section A of part II of the statement of supporting information attached hereto and made a part hereof, at such time as required by the carrier to afford it due time for review thereof.

REQUIREMENTS RELATING TO THE CHARTERING ORGANIZATION

**§ 208.210 Solicitation of charter participants.**

(a) As used in this section, "solicitation of the general public" means:

(1) A solicitation going beyond the bona fide members of an organization (and their immediate families). This includes air transportation services offered by an air carrier under circumstances in which the services are advertised in mass media, whether or not the advertisement is addressed to members of a specific organization, and regardless of who places or pays for the advertising. Mass media shall be deemed to include radio and television, and newspapers and magazines. Advertising in such media as newsletters or periodicals of membership organizations, industrial plant newsletters, college radio stations, and college newspapers shall not be considered advertising in mass media to the extent that

(i) The advertising is placed in a medium of communication circulated mainly to members of an organization that would be eligible to obtain charter service, and

(ii) The advertising states that the charter is open only to members of the organization referred to in subdivision (i) of this subparagraph, or only to members of a subgroup thereof. In this context, a subgroup shall be any group with membership drawn primarily from members of the organization referred to in subdivision (i) of this subparagraph: *Provided,* That this paragraph shall not be construed as prohibiting air carrier advertising which offers charter services to bona fide organizations, without reference to a particular organization or flight.

(2) The solicitation, without limitation of the members of an organization so constituted as to ease the admission to membership, and nature of membership, as to be in substance more in the nature of a segment of the public than a private entity.

(b) Members of the charter group may be solicited only from among the bona fide members of an organization, club, or other entity, and their immediate families, and may not be brought together by means of a solicitation of the general public. "Bona fide members" means those members of a charter organization who: (1) Have not joined the organization merely to participate in the charter as the result of solicitation of the general public; and (2) are members for a minimum of 6 months prior to the starting flight date. The requirement in subparagraph (2) of this paragraph is not applicable to

(i) Students and employees of a single school, and immediate families thereof; or

(ii) Employees of a single Government agency, industrial plant, or mercantile establishment, and immediate families thereof.

(c) Solicitation of, as well as participation by, members of an organization with respect to charter flights shall extend only to the organization, or the particular chapter or unit thereof, which signs the charter agreement with the air carrier as the charterer.

(d) A charterer shall not advertise or otherwise solicit its members for any charter until a charter contract has been signed: *Provided, however,* That this prohibition shall not extend to oral inquiries or internal mailings directed to members to determine interest in a charter flight or charter program so long as no fixed price for air transportation is held out. After a charter contract is signed, copies of solicitation material shall be furnished the carrier at the same time it is distributed to members.

**§ 208.211 Passengers on charter flights.**

Only bona fide members of the charterer, and their immediate families, may participate as passengers of a charter flight, and the participants must be members of the specific organization or chapter which authorized the charter. The charterer must maintain a central membership list, available for inspection by the carrier or Board representative, which shows the date each person became a member.[3] Where four or more round-trip flights per calendar year are conducted on behalf of a chartering organization by a carrier or carriers, intermingling between flights or reforming of planeload groups, or less than planeload groups (see § 208.6(c)), shall not be permitted, and each group must move as a unit in both directions, except as provided in § 208.36.

**§ 208.212 Participation of immediate families in charter flights.**

(a) The immediate family of any bona fide member of a charter organization may participate in a charter flight.

(b) "Immediate family" means only the following persons who are living in the household of a member of a charter organization, namely, the spouse, dependent children, and parents, of such member.

**§ 208.213 Charter costs.**

(a) The costs of charter flights shall be prorated equally among all charter passengers and no charter passenger shall be allowed free transportation; except that: (1) Children under 12 years of age may be transported at a charge less than the equally prorated charge; (2) children under 2 years of age may be transported free of charge.

(b) The charter shall not make charges to the charter participants which exceed the actual costs incurred in consummating the charter arrangements, nor include as a part of the assessment for the charter flight any charge for purposes of charitable donations. All charges related to the charter flight arrangements collected from the charter participants which exceed the actual costs thereof shall be refunded to the participants in the same ratio as the charges were collected.

(c) Reasonable administrative costs of organizing the charter may be divided among the charter participants. Such costs may include a reasonable charge for compensation to members of the charter organization for actual labor and personal expenses incurred by them. Such charge shall not exceed $300 (or $500 where the charter participants number more than 80) per round-trip flight. Neither the organizers of the charter, nor any member of the chartering organization, may receive any gratuities or compensation, direct or indirect from the carrier, the travel agent, or any organization which provides any service to the chartering organization whether of an air transportation nature or otherwise. Nothing in this section shall preclude a member of a chartering organization who is the carrier's agent from receiving a commission from the carrier (within the limits of § 208.202), or prevent any member of the charter group from accepting such advertising and goodwill items as are customarily extended to individually ticketed passengers (e.g., a canvas traveling bag or a money exchange computer).

(d) If the total expenditures, including among other items compensation to members of the chartering organization, referred to in paragraph (c) of this section, but exclusive of expenses for air-transportation or land tours, exceed $750 per round-trip flight, such expenditures

[3] Where the charter is based on employment in one entity or student or employee status at a school, records of the corporation, agency or school will suffice to meet the requirements.

shall be supported by properly authenticated vouchers.

§ 208.214 Statements of charges.

The chartering organization, in any announcements or statements to prospective charter participants giving price per seat, shall state that the seat price is a pro rata share of total charter cost and is subject to increase or decrease depending on the number of participants. All announcements shall separately state the cost of ground arrangements, if any, the cost of air transportation, the administrative expenses of the charterer, and the total cost of the entire trip. All announcements shall also identify the carrier, the number of seats available, and the type of aircraft to be used for the charter.

§ 208.215 Passenger lists.

(a) Prior to each one-way or round-trip flight, a list shall be filed by the charterer with the air carrier showing the names, addresses, and telephone numbers of the persons to be transported, including standbys who may be transported, specifying the relationship of each such person to the charterer (by designating opposite his name one of the three relationship categories hereinafter described), the date the person joined or last renewed a lapsed membership in the charter organization, and the designation "one-way" in the case of one-way passengers. The list shall be amended if passengers are added or dropped before flight.

(b) The relationship of a prospective passenger shall be classified under one of the following categories and specified on the passenger list as follows:

(1) A bona fide member of the chartering organization who will have been a bona fide member of the chartering organization for at least 6 months prior to the starting flight date. Specify on the passenger list as "(1) member."

(2) The spouse, dependent child, or parent of a bona fide member who lives in such member's household. Specify on the passenger list as "(2) spouse" or "(2) dependent child" or "(2) parent." Also give name and address of member relative where such member is not a prospective passenger.

(3) Bona fide members of entities consisting only of persons employed by a single Government agency, industrial plant, or mercantile company, or students and employees of a school or persons whose proposed participation in the charter flight was permitted by the Board pursuant to request for waiver. Specify on the passenger lists as "(3) special" or "(3) member" (where participants are from a school group or from a Government agency, industrial plant, or mercantile company).

(c) In the case of a round-trip flight, the above information must be shown for each leg of the flight and any variations between the outbound and inbound trips must be explained on the list.

(d) Attached to such list must be a certification, signed by a duly authorized representative of the charterer, reading:

The attached list of persons includes every individual who may participate in the charter flight. Every person as identified on the attached list (1) was a bona fide member of the chartering organization, and will have been a member for at least 6 months prior to the starting flight date, or (2) is a bona fide member of an entity consisting of (a) students and employees of a single school, or (b) employees of a single Government agency, industrial plant, or merchantile establishment, or (3) is a person whose participation has been specifically permitted by the Civil Aeronautics Board, or (4) is the spouse, dependent child, or parent of a person described hereinbefore and lives in such person's household.[6]

---

(Signature)

§ 208.216 Application for a charter.

A chartering organization shall make written application to the air carrier, setting forth the number of seats desired, points to be included in the proposed flight or flights, the dates of departure for each one-way or round-trip flight, and the number of round-trip flights which have been conducted for the organization by any carrier or carriers during the calendar year.

§ 208.217 Statement of Supporting Information.

Charterers shall execute and file with the air carrier section B of part II of the Statement of Supporting Information attached hereto and made a part hereof at such time as required by the carrier to afford it due time for review thereof.

## Subpart D—Provisions Relating to Single Entity Charters

§ 208.300 Applicability of subpart.

This subpart sets forth the special rules applicable to single entity charters.

§ 208.301 Tariffs and terms of service.

The provisions of § 208.32 shall apply to charters under this subpart except that paragraphs (e) and (f) and the second sentence of paragraph (b) of such section shall not be so applicable.

§ 208.302 Commissions paid to travel agents.

No direct air carriers shall pay a travel agent any commission in excess of 5 percent of the total charter price or more than the commission related to charter flights paid to an agent by a carrier certificated to fly the same route, whichever is greater.

§ 208.303 Statement of supporting information.

Part I of the statement of supporting information attached hereto shall be applicable in the case of single entity charters.

## Subpart E—Provisions Relating to Mixed Charters

§ 208.400 Applicable rules.

The rules set forth in subpart C of this part shall apply in the case of mixed charters.

STATEMENT OF SUPPORTING INFORMATION[1]

Part I—To be completed by air carrier for each single entity, mixed, or pro rata charter. (Where more than one round-trip flight is to be performed under the charter, clearly indicate applicability of answers.)

1. Name of transporting carrier: _____

2. Commencement date(s) of proposed flight(s): _____
(a) Going _____
(b) Returning _____

3. Points to be included in proposed flight(s): _____
(a) From _____ to _____
(b) Returning from _____ to _____
(c) Other stops required by charterer:

4. (a) Type of aircraft to be used: _____
(b) Seating capacity: _____
(c) Number of persons to be transported:

5. (a) Total charter price: _____
(b) Does the charter price conform to tariff on file with the Board? _____
(c) If pro rata or mixed charter, explain construction of charter price in relation to tariff on file with the Board. (In case of mileage tariff, show mileage for each segment involved and indicate whether segment is live or ferry.) _____

6. (a) Has the carrier paid, or does it contemplate payment of any commissions, direct or indirect, in connection with the proposed flight? Yes [ ] No [ ]
(b) If "yes" give names and addresses of such recipients and indicate the amount paid or payable to each recipient. If any commission to a travel agent exceeds 5 percent of the total charter price, attach a statement justifying the higher amount under this regulation.

7. (a) Will the carrier or any affiliate provide any services or perform any functions in addition to the actual air transportation? Yes [ ] No [ ]
(b) If "Yes" describe services or functions:

8. Name and address of charterer: _____

9. If charter is single entity, indicate purpose of flight: _____

10. On what date was the charter contract executed? _____

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

[1] This must be retained by the air carrier for 2 years pursuant to the requirements of part 249, but open to Board inspection, and to be filed with the Board on demand.

11. If the charter is pro rata, has a copy of part 208 of the Civil Aeronautics Board's economic regulations been mailed to or delivered to the prospective charterer? Yes [ ] No [ ]

Part II—To be completed for pro rata or mixed charters only.

Sections A—To be supplied by travel agent, or where none, by the air carrier or an affiliate under its control where either of the latter performs or provides any travel agency function or service (excluding air transportation sales but including land tour arrangements).

1. What specific services have been or will be provided by agent to charterer on a group basis? _____

2. What specific services have been or will be provided by agent to individual participants in the proposed charter? _____

3. Has the agent or, to his knowledge, have any of his principals, officers, directors, associates or employees compensated any member of the chartering organization in relation either to the proposed charter flight or any land tour? Yes [ ] No [ ]

4. Does the agent have any financial interest in any organization rendering services to the chartering organization? Yes [ ] No [ ] If answer is "yes" explain: _____

WARRANTY [2]

I, _____ represent and
(Name)
warrant that I have acted with regard to this charter operation (except to the extent fully and specifically explained in part II, section A) and will act with regard to such operation in a manner consistent with part 208 of the Board's economic regulations.

_____ _____
(Date) (Signature and address of travel agent or, if none, of authorized official of air carrier where such carrier or an affiliate under its control performs any travel agency function or service (excluding air transportation sales but including land tour arrangements).)

[2] Any air carrier, or any officer, agent, employee, or representative thereof, who shall, knowingly and willfully, fail or refuse . . . to keep or preserve accounts, records, and memoranda in the form and manner prescribed or approved by the Board . . ., or shall, knowingly and willfully, falsify, multilate, or alter any such report, account, record, or memorandum . . . shall be deemed guilty of a misdemeanor and, upon conviction thereof, be subject for each offense to a fine of not less than $100 and not more than $5,000. Title 49 U.S.C., § 1472(e).

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

Section B—To be supplied by charterer:

1. Description of chartering organization, including its objective and purposes: _____

2. What activities are sponsored by the chartering organization? _____

3. When was the organization founded? _____

4. Qualification or requirements for membership in organization and membership fee, if any: _____

5. Has there been any reference to prospective charter flights in soliciting new members for the charter organization? Yes [ ] No [ ]

6. State where a list of members is available for inspection. _____

7. Attach list of prospective passengers (including "standbys" and one-way passengers designated as such), showing for each: (a) Name, address, and telephone number; (b) relationship of such person to chartering organization, i.e., member, spouse, dependent child, parent or "special" (a person whose proposed participation in the charter flight was permitted by the Board pursuant to request for waiver); (c) if such person is related to a member who is not a prospective passenger, the member's name, address, and telephone number; and (d) date member joined or last renewed a lapsed membership. (NOTE: This is a list of prospective passengers, and does not necessarily have to represent the passengers actually to be carried. The list is to the amended, if passengers are dropped or added before flights and the certification required by § 208.215 must be attached to the list.)

8. What are requirements for participation in charter? _____

9. How were prospective participants for charter solicited (attach any solicitation material)? _____

10. Will there be any participants in the charter flight other than (1) members of the chartering organization or (2) spouse, dependent children, and parents of a member of the chartering group residing in the same household with the member? Yes [ ] No [ ]

11. Will there by any members of the charter organization participating in the charter who will have been members of the organization for a period of less than 6 months prior to flight date? [3] Yes [ ] No [ ] If answer is "yes," give names of participants who will not have been members for 6 months: _____

12. If there is any intermediary involved in the charter, other than the travel agent whose participation is described in part II, section A, submit name, address, remuneration, and scope of activity: _____

13. Estimated receipts:

_____ × _____ =
(Pro rata charge) (No. of passengers)

$_____
(Estimated receipts from charter)

[3] Not applicable to school charters, nor to charters limited to employees of a single Government agency, industrial plant or mercantile company.

Estimated receipts from other sources, if any: _____

Explain: _____

(a) Total receipts. $_____

Estimated expenditures, including aircraft charter (separately itemize air transportation, land tour, and administrative expenses):

| *Item* | *Amount* | *Payable to* |
|---|---|---|
| _____ | _____ | _____ |
| _____ | _____ | _____ |
| _____ | _____ | _____ |

(b) Total expenditures: $_____

Explain any difference between (a) and (b): _____

14. Are any of the expenses included in item 13 above, to be paid to any members of the chartering organization? Yes [ ] No [ ] If "yes" state how much, to whom and for what services: _____

15. Is any member of the chartering organization to receive any compensation or benefit directly or indirectly from the air carrier, the travel agent, or any organization providing services in relation to the air or land portion of the trip? Yes [ ] No [ ] If "yes" explain fully: _____

16. Will any person in the group (except children under 2 years) be transported without charge? Yes [ ] No [ ]

17. Will charter costs be divided equally among charter participants, except to the extent that a lesser charge is made for children under 12 years old? Yes [ ] No [ ]

18. Separately state for the outbound and inbound flights the number of one-way passengers anticipated to be transported in each direction: _____

19. If four or more round trips are contracted for, will each group move as a unit in both directions? Yes [ ] No [ ]

20. If charters have been performed for organization during past 5 years, give dates and name of carrier performing charters: _____

21. Has a copy of part 208 "Terms, Conditions and Limitations of Certificates to engage in Supplemental Air Transportation," of the economic regulations of the Civil Aeronautics Board been received by the charterer? Yes [ ] No [ ]

22. Attach copies of all announcements of the chartering organization in connection with the charter issued after the charter contract is signed.

WARRANTY OF CHARTERER [4]

I, _____
(Name)
and _____
(Name)
represent and warrant that the charterer has acted with regard to this charter operation explained in part II, section B), and will act

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

with regard to such operation, in a manner consistent with part 208 of the Board's Economic Regulations. I (we) further represent and warrant that the charterer has not offered charter flights simultaneously with the solicitation of membership in the chartering organization in any mass media advertising or notice or through direct mailing or public posters. I (we) further represent and warrant that all charter participants have been informed of eligibility and cost requirements of part 208 and that a flight may be canceled if ineligible participants are included.

| | |
|---|---|
| (Date) | (Signature—person within organization in charge of charter arrangements) |
| | (Signature and title of officer. This should be the chief officer of the chartering organization except in the case of a school charter, in which case the warranty must be by school official not directly involved in charter.) |

WARRANTY OF AIR CARRIER [5]

To the best of my knowledge and belief all the information presented in this statement, including but not limited to, those parts warranted by the charterer and the travel agent, is true and correct. I represent and warrant that the carrier has acted with regard to this charter operation (except to the extent fully and specifically explained in this statement or any attachment thereto) and will act with regard to such operation in a manner consistent with part 208 of the Board's economic regulations.

| | |
|---|---|
| (Date) | (Signature and title of authorized official of air carrier) |

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

[FR Doc.73-10862 Filed 5-30-73;8:45 am]

## Title 16—Commercial Practices

## CHAPTER I—FEDERAL TRADE COMMISSION

[Docket No. C-2386]

## PART 13—PROHIBITED TRADE PRACTICES

### Concord Carpet Corp. et al.

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

(Sec. 6, 38 Stat. 721; 15 U.S.C. 46. Interpret or apply sec. 5, 38 Stat. 719, as amended, 67 Stat. 111, as amended; 15 U.S.C. 45, 1191.) [Cease and desist order, Concord Carpet Corp. et al., Chickamauga, Ga., docket No. C-2386, Apr. 23, 1973.]

*In the Matter of Concord Carpet Corp., a Corporation, Trading as Concord Carpet Mills, Inc., and William E. Hale, Jr., Individually and as an Officer of Said Corporation*

Consent order requiring a Chickamauga, Ga. manufacturer and seller of carpets and rugs, among other things to cease manufacturing for sale, selling, importing, or distributing any product, fabric, or related material which fails to conform to an applicable standard of flammability or regulation issued under the provisions of the Flammable Fabrics Act, as amended.

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

*It is ordered*, That respondent Concord Carpet Corp., a corporation, trading as Concord Carpet Mills, Inc., or under any other name or names, its successors and assigns, and its officers, and respondent William E. Hale, Jr., individually and as an officer of said corporation and respondents' agents, representatives, and employees directly or through any corporation, subsidiary, division, or other device, do forthwith cease and desist from manufacturing for sale, selling, offering for sale, in commerce, or importing into the United States, or introducing, delivering for introduction, transporting or causing to be transported in commerce, or selling or delivering after sale or shipment in commerce, any product, fabric, or related material; or manufacturing for sale, selling, or offering for sale, any product made of fabric or related material which has been shipped or received in commerce, as commerce, product, fabric, and related material, are defined in the Flammable Fabrics Act, as amended, which product, fabric or related material fails to conform to an applicable standard or regulations continued in effect, issued or amended under the provisions of the aforesaid act.

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

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

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

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

*It is further ordered*, That the 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. Such notice shall include respondent's current business or employment in which he is engaged as well as a description of his duties and responsibilities.

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

*It is further ordered*, That the respondents herein shall, within 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 April 23, 1973.

By the Commission.

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

[FR Doc.73-10746 Filed 5-30-73;8:45 am]

[Docket No. C-2391]

## PART 13—PROHIBITED TRADE PRACTICES

### Lane Carpet Mills, Inc., and Clifford M. Booker

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

(Sec. 6, 38 Stat. 721; 15 U.S.C. 46. Interpret or apply sec. 5, 38 Stat. 719, as amended, 67 Stat. 111, as amended; 15 U.S.C. 45, 1191.)

[5] Any air carrier, or any officer, agent, employee, or representative thereof, who shall, knowingly and willfully, fail or refuse * * * to keep or preserve accounts, records, and memoranda in the form and manner prescribed or approved by the Board * * *, or shall, knowingly and willfully, falsify, mutilate, or alter any such report, account, record, or memorandum * * * shall be deemed guilty of a misdemeanor and, upon conviction thereof, be subject for each offense to a fine of not less than $100 and not more than $5,000. (49 U.S.C. 1472(e)).

[Cease and desist order, Lane Carpet Mills, Inc. et al., Fairmount, Ga., docket No. C-2391, Apr. 26, 1973.]

*In the Matter of Lane Carpet Mills, Inc., a Corporation, and Clifford M. Booker, individually and as an Officer of Said Corporation*

Consent order requiring a Fairmount, Ga., manufacturer and seller of carpets and rugs, among other things to cease manufacturing for sale, selling, importing, or distributing any product, fabric, or related material which fails to conform to an applicable standard of flammability or regulation issued under the provisions of the Flammable Fabrics Act, as amended.

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

*It is ordered,* That respondent Lane Carpet Mills, Inc., a corporation, its successor and assigns, and its officers, and respondent Clifford M. Booker individually and as an officer of said corporation and respondents' agents, representatives, and employees directly or through any corporation, subsidiary, division, or other device, do forthwith cease and desist from manufacturing for sale, selling, offering for sale, in commerce, or importing into the United States, or introducing, delivering for introduction, transporting or causing to be transported in commerce, or selling or delivering after sale or shipment in commerce, any product, fabric, or related material; or manufacturing for sale, selling or offering for sale, any product made of fabric or related material which has been shipped or received in commerce, as "commerce," "product," "fabric," and "related material" are defined in the Flammable Fabrics Act, as amended, which product, fabric, or related material fails to conform to an applicable standard or regulation continued in effect, issued or amended under the provisions of the aforesaid act.

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

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

*It is further ordered,* That the provisions of this order with respect to customer notification, recall, and processing or destruction shall, in addition to the products set forth in subparagraph 1 of paragraph 2 of the complaint, be applicable to any other styles of carpeting found not to meet an applicable standard under the Flammable Fabrics Act, as amended, since the issuance of the complaint and until the order becomes final within the meaning of the Federal Trade Commission Act.

*It is further ordered,* That respondents herein shall, within 10 days after service upon them of this order file with the Commission a special report in writing setting forth respondents' intentions as to compliance with this order. This special report shall also advise the Commission fully and specifically concerning (1) the identity of the products which gave rise to the complaint, (2) the identity of the purchasers of said products, (3) the amount of said products on hand and in the channels of commerce, (4) any action taken and any further actions proposed to be taken to notify customers of the flammability of said products and effect the recall of said products from customers, and of the results thereof, (5) any action taken or proposed to be taken to bring said products into conformance with the applicable standard of flammability under the Flammable Fabrics Act, as amended, or to destroy said products, and the results of such action, and (6) any disposition of said products since April 27, 1972. Respondents will submit with their report a complete description of each style of carpet or rug currently in inventory or production. Upon request, respondents will forward to the Commission for testing a sample of any such carpet or rug. Respondents will also advise the Commission fully and specifically concerning items (1) through (5) above with regard to any products coming within the purview of paragraph 4 of this order.

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

*It is further ordered,* That the individual respondent named herein promptly notify the Commisison of the discontinuance of his present business or employment and of his affiliation with a new business or employment. Such notice shall include respondent's current business or employment in which he is engaged as well as a description of his duties and responsibilities.

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

*It is further ordered,* That the respondents herein shall, within 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 April 26, 1973.

By the Commission.

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

[FR Doc.73-10747 Filed 5-30-73;8:45 am]

[Docket No. C-2385]

## PART 13—PROHIBITED TRADE PRACTICES

### Sweetwater Carpet Corp.

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

(Sec. 6, 38 Stat. 721; 15 U.S.C. 46. Interpret or apply sec. 5, 38 Stat. 719, as amended, 67 Stat. 111, as amended; 15 U.S.C. 45, 1191.) [Cease and desist order, Sweetwater Carpet Corp., New York, N.Y., docket No. C-2385, Apr. 23, 1973.]

*In the Matter of Sweetwater Carpet Corp., a Corporation*

Consent order requiring a New York City manufacturer and seller of carpets and rugs, among other things to cease manufacturing for sale, selling, importing, or distributing any product, fabric, or related material which fails to conform to an applicable standard of flammability or regulation issued under the provisions of the Flammable Fabrics Act, as amended.

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

*It is ordered,* That respondent Sweetwater Carpet Corp., a corporation, its successors and assigns, and its officers, and respondent's agents, representatives, and employees, directly or through any corporation, subsidiary, division, or other device, do forthwith cease and desist from manufacturing for sale, selling, offering for sale, in commerce, or importing into the United States, or introducing, delivering for introduction, transporting or causing to be transported in commerce, or selling or delivering after sale or shipment in commerce, any carpet or rug; or manufacturing for sale, selling, or offering for sale, any carpet or rug made of fabric or related material which has been shipped or received in commerce, as "carpet," "rug," "commerce," "fabric" and "related material" are defined in the Flammable Fabrics Act, as amended, or any applicable standard or regulation continued in effect, issued or amended under the provisions of the aforesaid act, which carpet or rug fails to conform to an applicable standard or regulation continued in effect, issued or amended under the provisions of the aforesaid act.

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

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

*It is further ordered,* That the respondent herein shall, within 10 days

after service upon it of this order, file with the Commission a special report in writing setting forth the respondent's intentions as to compliance with this order. This special report shall also advise the Commission fully and specifically concerning: (1) The identity of the products which gave rise to the complaint, (2) the identity of the purchasers of said products, (3) the amount of said products on hand and in the channels of commerce, (4) any action taken and any further actions proposed to be taken to notify customers of the flammability of said products and effect the recall of said products from customers, and of the results thereof, (5) any disposition of said products since March 21, 1972, and (6) any action taken or proposed to be taken to bring said products into conformance with the applicable standard of flammability under the Flammable Fabrics Act, as amended, or to destroy said products and the results of such action. Respondent will submit with its report, a complete description of each style of carpet or rug currently in inventory or production. Upon request, respondent will forward to the Commission for testing a sample of any such carpet or rug.

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

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

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

Issued April 23, 1973.

By the Commission.

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

[FR Doc.73-10749 Filed 5-30-73;8:45 am]

## Title 19—Customs Duties

### CHAPTER I—BUREAU OF CUSTOMS, DEPARTMENT OF THE TREASURY

[T.D. 73-147]

### PART 12—SPECIAL CLASSES OF MERCHANDISE

#### Import Quotas on Coffee

In accordance with the obligations of the United States under article 45 of the International Coffee Agreement of 1968, the Department of State has requested that in the period April 1, 1973–September 30, 1973 (the last 6 months of the coffee year 1972–73), the Bureau of Customs authorize the entry of 2,513,244 pounds of green coffee of nonmember origin. Accordingly, § 12.71(b) of the Customs Regulations is amended to read as follows:

**12.71 Import quotas on coffee.**

* * * * *

(b) *Basket quota.* All coffee not specifically identified as a product of or shipment from a member country shall be charged to the quota of 2,513,244 pounds of green coffee, or its equivalent, which is established for the period April 1, 1973–September 30, 1973 (the last 6 months of the coffee year 1972–73).

* * * * *

(Sec. 302, 82 Stat. 1348, as amended; 19 U.S.C. 1356f, Executive Order 11449, January 17, 1969, 34 F.R. 917; 3 CFR 1969 Comp.)

Since the amendment merely conforms the Customs Regulations to the terms of article 45 of the International Coffee Agreement of 1968, good cause is found to waive notice and public procedure, as unnecessary under 5 U.S.C. 553.

*Effective date.*—This amendment shall be effective as of April 1, 1973.

[SEAL] VERNON D. ACREE, *Commissioner of Customs.*

Approved May 17, 1973.

EDWARD L. MORGAN, *Assistant Secretary of the Treasury.*

[FR Doc.73-10798 Filed 5-30-73;8:45 am]

## Title 49—Transportation

### CHAPTER V—NATIONAL HIGHWAY TRAFFIC SAFETY ADMINISTRATION, DEPARTMENT OF TRANSPORTATION

[Docket No. 71-13; Notice 4]

### PART 571—FEDERAL MOTOR VEHICLE SAFETY STANDARDS

#### Motor Vehicle Brake Fluids

*Correction*

In FR Doc. 73-9883 appearing on page 12922 in the issue of Thursday, May 17, 1973, make the following changes:

1. The boldface section heading appearing immediately after the amendatory paragraph 2 should be deleted.

2. Subparagraph (e) should read as set forth below:

(e) The following safety warnings in capital and lower case letters as indicated:

(1) FOLLOW VEHICLE MANUFACTURER'S RECOMMENDATIONS WHEN ADDING _____" (Complete with "BRAKE FLUID" or "HYDRAULIC SYSTEM MINERAL OIL" as applicable).

(2) (For hydraulic system mineral oil only) "Hydraulic System Mineral Oil is *NOT COMPATIBLE* with the rubber components of brake systems designed for use with DOT brake fluids."

(3) "KEEP _____ CLEAN. Contamination with dirt or other materials may result in brake failure or costly repairs" (Fill in "BRAKE FLUID" or "HYDRAULIC SYSTEM MINERAL OIL" as applicable).

(4) "CAUTION: STORE _____ ONLY IN ITS ORIGINAL CONTAINER. KEEP CONTAINER CLEAN AND TIGHTLY CLOSED. DO NOT REFILL CONTAINER OR USE OTHER LIQUIDS." (Fill in with "BRAKE FLUID" or "HYDRAULIC SYSTEM MINERAL OIL" as applicable. The last sentence is not required for containers with a capacity in excess of 5 gal).

## CHAPTER X—INTERSTATE COMMERCE COMMISSION

### SUBCHAPTER A—GENERAL RULES AND REGULATIONS

[S. O. No. 1138]

### PART 1033—CAR SERVICE

#### Colorado & Southern Railway Co. and Colorado & Wyoming Railway Co.

At a session of the Interstate Commerce Commission, Railroad Service Board, held in Washington, D.C., on the 23d day of May 1973.

It appearing, that in Finance dockets Nos. 26945 and 27022, the Colorado & Wyoming Railway Co. (C&W) was authorized to construct and operate a line of railroad approximating 2.5 miles in length in Pueblo County, Colo., extending from a point in the vicinity of milepost 124 of the jointly owned main track of the Atchison, Topeka & Santa Fe Railway Co. (ATSF) and the Colorado & Southern Railway Co. (C&S) to the Comanche electric generating plantsite of the Public Service Company of Colorado; that the C&S be granted trackage rights over this line; and that the C&W be granted trackage over certain jointly owned ATSF–C&S trackage in the vicinity of ATSF–C&S milepost 124 in order to provide a connection between the aforedescribed newly constructed C&W trackage and other C&W trackage;

And it further appearing, that there is immediate need for the operations by the C&S over these C&W tracks and by the C&W over these joint ATSF-C&S tracks for the movement of equipment and coal to the aforementioned newly established electric generating station; that such operations by these carriers over these tracks are necessary in the interest of the public and the commerce of the people; that notice and public procedure herein are impracticable 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:

**§ 1033.1138 Service Order No. 1138.**

(a) *The Colorado and Southern Railway Co. authorized to operate over tracks on the Colorado & Wyoming Railway Co. The Colorado & Wyoming Railway Co. authorized to operate over jointly owned tracks of the Atchison, Topeka and Santa Fe Railway Co. and the Colorado and Southern Railway Co.* The Colorado and Southern Railway Co. (C&S) be, and

it is hereby, authorized to operate unit coal trains over tracks of the Colorado & Wyoming Railway Co. in Pueblo County, Colo., between a point in the vicinity of milepost 124 of the jointly owned main track of the Atchison, Topeka and Santa Fe Railway Co. (ATSF) and the C&S, and the Comanche electric generating station of the Public Service Co. of Colorado, a distance of approximately 2.5 miles.

(b) The C&W be, and it is hereby, authorized to operate over jointly owned tracks of the ATSF-C&S in the vicinity of milepost 124, located in Pueblo County, Colo., to effect a connection between the above-described Comanche powerplant extension of the C&W and other tracks of the C&W.

(c) *Application.* The provisions of this order shall apply to intrastate, interstate, and foreign traffic.

(d) *Rates applicable.* Inasmuch as these operations by the C&S over tracks of the C&W and by the C&W over jointly owned tracks of the ATSF–C&W are deemed to be due to carriers' disabilities, the rates applicable to traffic moved by the C&S over these tracks of the C&W and by the C&W over these jointly owned tracks of the ATSF–C&S, shall be the rates which were applicable on the shipments at the time of shipment as originally routed.

(e) *Effective date.* This order shall become effective at 11:59 p.m., May 25, 1973.

(f) *Expiration date.* The provisions of this order shall expire at 11:59 p.m., November 30, 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] JOSEPH M. HARRINGTON,
*Acting Secretary.*

[FR Doc.73-10849 Filed 5-30-73;8:45 am]

# Proposed Rules

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rulemaking prior to the adoption of the final rules.

## DEPARTMENT OF THE TREASURY

### Internal Revenue Service

### [ 26 CFR Part 1 ]

### PROPERTY OF CERTAIN PUBLIC UTILITIES

### Proposed Depreciation Allowance

Notice is hereby given that the regulations set forth in tentative form in the attached appendix are proposed to be prescribed by the Commissioner of Internal Revenue, with the approval of the Secretary of the Treasury or his delegate. Prior to the final adoption of such regulations, consideration will be given to any comments or suggestions pertaining thereto which are submitted in writing (preferably six copies) to the Commissioner of Internal Revenue, attention: CC:LR:T, Washington, D.C. 20224, by July 2, 1973. Written comments or suggestions which are not exempt from disclosure by the Internal Revenue Service may be inspected by any person upon compliance with 26 CFR 601.702(d)(9). The provisions of 26 CFR 601.601(b) shall apply with respect to the designation of portions of comments or suggestions as exempt from disclosure. Any person submitting written comments or suggestions who desires an opportunity to comment orally at a public hearing on these proposed regulations should submit his request, in writing, to the Commissioner by July 2, 1973. In such case, a public hearing will be held, and notice of the time, place, and date will be published in a subsequent issue of the FEDERAL REGISTER, unless the person or persons who have requested a hearing withdraw their request for a hearing before notice of the hearing has been filed with the Office of the Federal Register. The proposed regulations are to be issued under the authority contained in sections 167(l) and 7805 of the Internal Revenue Code of 1954 (83 Stat. 625, 26 U.S.C. 167(l)) (68A Stat. 917, 26 U.S.C. 7805).

R. F. HARLESS,
*Commissioner of Internal Revenue.*

This document contains amendments to the Income Tax regulations (26 CFR pt. 1) under section 167(l) of the Internal Revenue Code of 1954 to conform such regulations to the provisions of section 441(a) of the Tax Reform Act of 1969 (83 Stat. 625), relating to depreciation allowance for property of certain public utilities.

On September 1, 1972, notice of proposed rulemaking was published in the FEDERAL REGISTER (37 FR 17845) regarding the amendment of the Income Tax regulations in order to provide rules under section 167(l). Paragraph (h) of § 1.167(l)–1 as proposed on September 1, 1972, provides rules with respect to the use of a normalization method of regulated accounting. This document contains a new subparagraph (6) to be added to § 1.167(l)–1 (h) to provide an additional requirement regarding a normalization method of regulated accounting. Under this new requirement, a taxpayer does not use a normalization method of regulated accounting if, for ratemaking purposes, the amount for deferred taxes under section 167(l) which is excluded from the base to which the taxpayer's rate of return is applied exceeds the amount in the reserve for deferred taxes for the period used in determining the taxpayer's cost of service in such ratemaking.

The proposed rule also provides a formula to determine the amount in the reserve account. Under this formula, increases or decreases to the reserve are prorated to take into account the number of days during which such increases or decreases are actually charged or credited to the reserve account.

The proposed rule does not apply where a regulatory body has already entered a final determination on or before May 31, 1973. A determination is final if all rights to request a review, a rehearing, or a redetermination by the regulatory body have been exhausted or have lapsed.

In order to conform the Income Tax regulations (26 CFR pt. 1) under section 167(l) to the amendment of the Internal Revenue Code of 1954 made by section 441(a) of the Tax Reform Act of 1969 (83 Stat. 625), relating to the depreciation allowance for property of certain public utilities, such regulations are amended by adding a new subparagraph (6) as set forth below to § 1.167(l)–1(h), as set forth in paragraph 2 of the notice of proposed rulemaking published on September 1, 1972 (37 FR 17845).

**§ 1.167(l)–1 Limitations on reasonable allowance in case of property of certain public utilities.**

* * * * *

(h) *Normalization method of accounting.* * * *

(6) *Exclusion of normalization reserve from rate base.*—(i) Notwithstanding the provisions of subparagraph (1) of this paragraph, a taxpayer does not use a normalization method of regulated accounting if, for ratemaking purposes, the amount for deferred taxes under section 167 (l) which is excluded from the base to which the taxpayer's rate of return is applied exceeds the amount in the reserve for deferred taxes for the period used in determining the taxpayer's cost of service in such ratemaking. For this purpose, the amount in the reserve account for a period is the amount of the reserve (determined under subparagraph (2) of this paragraph) at the beginning of the period and a pro rata portion of the amount of any increase or decrease charged or credited to the account during the period. Such portion shall be determined by multiplying such increase or decrease by a fraction, the numerator of which is the number of days remaining in the period at the time the increase or decrease is charged or credited to the reserve account, and the denominator of which is the total number of days in the period.

(ii) The provisions of this subparagraph shall not apply in the case of a final determination entered on or before May 31, 1973. For this purpose, a determination is final if all rights to request a review, a rehearing, or a redetermination by the regulatory body which makes such determination have been exhausted or have lapsed.

[FR Doc.73-10965 Filed 5-30-73;8:45 am]

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### [ 26 CFR Part 301 ]

### PRESIDENTIAL ELECTION CAMPAIGN FUND

### Designation by Individuals

Notice is hereby given that the regulations set forth in tentative form below are proposed to be prescribed by the Commissioner of Internal Revenue, with the approval of the Secretary of the Treasury or his delegate. Prior to the final adoption of such regulations, consideration will be given to any comments or suggestions pertaining thereto which are submitted in writing (preferably six copies) to the Commissioner of Internal Revenue, attention: CC:LR:T, Washington, D.C. 20224, by July 2, 1973. In addition, as indicated in the preamble of the appendix to this notice, consideration is also being given to revising the forms and instructions relative to the Presidential Campaign Fund. Consequently, comments or suggestions relative to such revisions are also solicited. Written comments or suggestions which are not exempt from disclosure by the Internal Revenue Service may be inspected by any person upon compliance with 26 CFR 601.702(d)(9). The provisions of 26 CFR 601.601(b) shall apply with respect to the designation of portions of comments or suggestions as exempt from disclosure. Any person submitting written comments or suggestions who desires an opportunity to comment orally at a

public hearing on these proposed regulations should submit his request, in writing, to the Commissioner by July 2, 1973. In such case, a public hearing will be held, and notice of the time, place, and date will be published in a subsequent issue of the FEDERAL REGISTER, unless the person or persons who have requested a hearing withdraw their requests for a hearing before notice of the hearing has been filed with the Office of the Federal Register. The proposed regulations are to be issued under the authority contained in section 7805 of the Internal Revenue Code of 1954 (68A Stat. 917; 26 U.S.C. 7805).

[SEAL] R. F. HARLESS,
*Acting Commissioner of Internal Revenue.*

This document contains proposed amendments to the regulations on procedure and administration (26 CFR pt. 301) in order to provide rules regarding the administration of section 6096 of the Internal Revenue Code of 1954, as amended by section 802(a) of the Revenue Act of 1971 (85 Stat. 573). These regulations are applicable for taxable years beginning after December 31, 1972.

The proposed amendments provide that the specific procedures for making designations to the Presidential Election Campaign Fund shall be in accordance with the form furnished by the Internal Revenue Service for such purpose and the instructions applicable thereto in order to achieve maximum flexibility. It is presently contemplated that for calendar year 1973, form 1040 and form 1040A will contain instructions on the form itself to the effect that if the tax is $1 or more ($2 in the case of a joint return) a designation may be made on form 4875.

Consideration is also being given to arranging the forms 1040 and 1040A packages in order to highlight the use of form 4875.

PROPOSED AMENDMENTS TO THE REGULATIONS

The regulations on procedure and administration are amended as follows:

PARAGRAPH 1.—The following new sections are added immediately after § 301.6091–1:

**§ 301.6096 Statutory provisions; designation by individuals.**

SEC. 6096. *Designation by individuals.*—(a) *In general.*—Every individual (other than a nonresident alien) whose income tax liability for any taxable year is $1 or more may designate that $1 shall be paid over to the Presidential Election Campaign Fund for the account of the candidates of any specified political party for President and Vice President of the United States, or if no specific account is designated by such individual, for a general account for all candidates for election to the offices of President and Vice President of the United States, in accordance with the provisions of section 9006(a)(1). In the case of a joint return of husband and wife having an income tax liability of $2 or more, each spouse may designate that $1 shall be paid to any such account in the fund.

(b) *Income tax liability.*—For purposes of subsection (a), the income tax liability of an individual for any taxable year is the amount of the tax imposed by chapter 1 on such individual for such taxable year (as shown on his return), reduced by the sum of the credits (as shown in his return) allowable under sections 32(2), 33, 35, 37, and 38.

(c) *Manner and time of designation.*—A designation under subsection (a) may be made with respect to any taxable year, in such manner as the Secretary or his delegate may prescribe by regulations—

(1) At the time of filing the return of the tax imposed by chapter 1 for such taxable year, or

(2) At any other time (after the time of filing the return of the tax imposed by ch. 1 for such taxable year) specified in regulations prescribed by the Secretary or his delegate.

[Sec. 6096 added by sec. 302, Foreign Investors Tax Act 1966 (80 Stat. 1587); amended by sec. 802 (a) and (b)(2), Rev. Act 1971 (85 Stat. 573).]

**§ 301.6096–1 Designation by individuals.**

(a) *In general.*—(1) For taxable years ending on or after December 31, 1972, every individual (other than a nonresident alien) whose income tax liability, as defined in paragraph (b) of this section, is $1 or more may, at his option, designate that $1 shall be paid over to the Presidential Election Campaign Fund, in accordance with the provisions of section 9006. Such designation may be made either for the account of the candidate, as defined in section 9002(2), of any specified political party referred to in section 9002 (6), (7), or (8), for President and Vice President of the United States, or for a general account for all candidates for election to the offices of President and Vice President of the United States.

(2) In the case of a joint return of a husband and wife, each spouse may designate that $1 be paid to any account as provided in paragraph (a)(1) of this section only if the joint income tax liability of the husband and wife is $2 or more.

(b) *Income tax liability.* For purposes of paragraph (a) of this section, the income tax liability of an individual for any taxable year is the amount of the tax imposed by chapter 1 on such individual for such taxable year (as shown on his return), reduced by the sum of the credits shown in his return.

(c) *Manner and time of designation.* A designation under paragraph (a) of this section may be made with respect to any taxable year only at the time of the filing of the return of the tax imposed by chapter 1 for such taxable year. Such designation shall be made by the individual on the form furnished by the Internal Revenue Service for such purpose in accordance with the instruction applicable thereto, and must be filed with the original income tax return for such year (whether or not timely filed), but not separately nor with an amended return.

[FR Doc.73–10990 Filed 5–30–73;9:54 am]

## DEPARTMENT OF JUSTICE

### Bureau of Narcotics and Dangerous Drugs

[ 21 CFR Part 308 ]

### SCHEDULES OF CONTROLLED SUBSTANCES

**Proposed Placement of Benzphetamine, Chlorphentermine, Clortermine, Diethylpropion, Fenfluramine, Mazindol, Phendimetrazine, and Phentermine in Schedule III; Extension of Time for Comments**

Notices were published in the FEDERAL REGISTER on May 9 and 10, 1973, proposing placement of benzphetamine (38 FR 12119), chlorphentermine (38 FR 12120), clortermine (38 FR 12121), diethylproprion (38 FR 12230), mazindol (38 FR 12124), phendimetrazine (38 FR 12126), and phentermine (38 FR 12127) in schedule III of the Controlled Substances Act, and fenfluramine (38 FR 12123) in schedule IV of the Controlled Substances Act.

Because of delays in the publication of one of these notices, less than 30 days exist between the date of publication and the time set in the notices for comments. In order to correct this situation, the Director hereby extends the time for filing comments to June 11, 1973. All comments upon or objections to any of the foregoing proposals must be received no later than June 11, 1973.

In the event a hearing is held, the date of the hearing will be June 18, 1973, rather than June 11 as published in the foregoing notices. The place and time of day for the hearing, if held, remains unchanged.

Dated May 25, 1973.

JOHN E. INGERSOLL,
*Director, Bureau of Narcotics and Dangerous Drugs.*

[FR Doc.73–10856 Filed 5–30–73;8:45 am]

[ 21 CFR Part 308 ]

### SCHEDULES OF CONTROLLED SUBSTANCES

**Proposed Placement of 2,5-Dimethoxyamphetamine in Schedule I**

Based upon the investigations of the Bureau of Narcotics and Dangerous Drugs and upon the scientific and medical evaluation and recommendation of the Secretary of Health, Education, and Welfare, received pursuant to section 201(b) of the Comprehensive Drug Abuse Prevention and Control Act of 1970 (21 U.S.C. 811(b)), the Director of the Bureau of Narcotics and Dangerous Drugs finds that 2,5-Dimethoxyamphetamine (and its salts, isomers, and salts of isomers whenever the existence of such salts, isomers, and salts of isomers is possible within the specific chemical designation):

(1) Has a high potential for abuse;

(2) Has no currently accepted medical use in treatment in the United States; and

(3) Lacks accepted safety for use under medical supervision.

Therefore, under the authority vested in the Attorney General by section 201 (a) of the Comprehensive Drug Abuse Prevention and Control Act of 1970 (21 U.S.C. 811(a)), and delegated to the Director of the Bureau of Narcotics and Dangerous Drugs by § 0.100 of title 28 of the Code of Federal Regulations, the Director proposes that § 308.11(d) o ftitle 21 of the Code of Federal Regulations be amended by adding a new paragraph (18) to read:

§ 308.11 Schedule I.

* * * * *

(d) * * *

| | | |
|---|---|---|
| (18) | 2,5-dimethoxyamphetamine. Some trade or other names: 2,5-dimethoxy - a - methylphenethylamine; 2,5-DMA. | 7396 |

* * * * *

Conferences have been held between the Bureau and the only two companies known to manufacture and use 2,5-dimethoxyamphetamine in the United States. These companies have fully cooperated with the Bureau and consented to the placement of the chemical in schedule I to insure that it does not become subject to abuse in the future.

All other interested persons are invited to submit their comments or objections in writing regarding this proposal. These comments or objections should state with particularity the issues concerning which the person desires to be heard. Comments and objections should be submitted in quintuplicate to the Hearing Clerk, Office of Chief Counsel, Bureau of Narcotics and Dangerous Drugs, Department of Justice, room 611, 1405 I Street NW., Washington, D.C. 20537, and must be received no later than July 6, 1973.

In the event that an interested party submits objections to this proposal which present reasonable grounds for this rule not to be finalized and requests a hearing in accordance with 21 CFR 308.45, the party will be notified by registered mail that a hearing on these objections will be held at the time and place set forth in the letter. A notice of hearing will simultaneously be published in the FEDERAL REGISTER. If objections submitted do not present such reasonable grounds, the party will so be advised by registered mail.

If no objections presenting reasonable grounds for a hearing on the proposal are received within the time limitations, and all interested parties waive or are deemed to waive their opportunity for the hearing or to participate in the hearing, the Director may cancel the hearing and, after giving consideration to written comments, issue his final order pursuant to 21 CFR 308.48 without a hearing.

Dated May 25, 1973.

JOHN E. INGERSOLL,
*Director, Bureau of Narcotics and Dangerous Drugs.*

[FR Doc.73-10857 Filed 5-30-73;8:45 am]

[21 CFR Part 308]

## SCHEDULES OF CONTROLLED SUBSTANCES

### Proposed Transfer of Nine Derivatives of Barbituric Acid and Their Salts From Schedule III to Schedule II

Based upon the investigations of the Bureau of Narcotics and Dangerous Drugs and upon the scientific and medical evaluation and recommendation of the Secretary of Health, Education, and Welfare, received pursuant to section 201 (b) of the Comprehensive Drug Abuse Prevention and Control Act of 1970 (21 U.S.C. 811(b)), the Director of the Bureau of Narcotics and Dangerous Drugs finds that amobarbital, butabarbital, cyclobarbital, heptabarbital, pentobarbital, probarbital, secobarbital, talbutal, and vinbarbital, and the salts of each:

(1) Have a high potential for abuse;

(2) Have a currently accepted medical use in treatment in the United States; and

(3) May, when abused, lead to severe physical and psychological dependence.

Consequently, the Director has determined that the nine subject barbituric acid derivatives and their salts should be transferred to schedule II of the Comprehensive Drug Abuse Prevention and Control Act of of 1970. The Director has also determined that compounds, mixtures, and preparations containing one of the nine subject barbituric acid derivatives and one or more active medicinal ingredients not having a depressant or stimulant effect on the central nervous system, should not be transferred to schedule II at this time. As proposed, all such combination products would remain in schedule III, and the combination products currently excepted under § 308.32 of title 21 of the Code of Federal Regulations would remain excepted. The Bureau believes that at the present time the overwhelming majority of abused barbituric drugs are in the form of single entity preparations or combinations of two derivatives of barbituric acid with no other active ingredients. This is the problem, therefore, that demands an immediate response. The Bureau recognizes, however, that the numerous barbiturate combination products do present potential abuse problems which require the establishment of effective criteria for the implementation of appropriate controls, by proper placement in schedule II, schedule III, or exception from certain controls.

Therefore, under the authority vested in the Attorney General by section 201 (a) of the Comprehensive Drug Abuse Prevention and Control Act of 1970 (21 U.S.C. 811(a)), and delegated to the Director, Bureau of Narcotics and Dangerous Drugs by § 0.100 of title 28 of the Code of Federal Regulations, the Director proposes that:

1. Section 301.02 of title 21 of the Code of Federal Regulations be amended by adding new paragraphs (b)(10), (11), (12), (13), (14), (15), (16), (17), and (18) to read:

§ 308.02 Definitions.

(b) * * *

(10) Amobarbital.
(11) Butabarbital.
(12) Cyclobarbital.
(13) Heptabarbital.
(14) Pentobarbital.
(15) Probarbital.
(16) Secobarbital.
(17) Talbutal.
(18) Vinbarbital.

* * * * *

2. Section 308.12 of title 21 of the Code of Federal Regulations be amended by the addition of a new subparagraph to read:

§ 308.12 Schedule II.

* * * * *

(e) *Depressants.*—Unless specifically excepted or unless listed in another schedule, any material, compound, mixture, or preparation which contains any quantity of the following substances having a depressant effect on the central nervous system:

| | | |
|---|---|---|
| (1) | Amobarbital and its salts | 2125 |
| (2) | Butabarbital and its salts | 2175 |
| (3) | Cyclobarbital and its salts | 2190 |
| (4) | Heptabarbital and its salts | 2225 |
| (5) | Pentobarbital and its salts | 2270 |
| (6) | Probarbital and its salts | 2305 |
| (7) | Secobarbital and its salts | 2315 |
| (8) | Talbutal and its salts | 2324 |
| (9) | Vinbarbital and its salts | 2335 |

* * * * *

3. Section 308.13(c) of title 21 of the Code of Federal Regulations be amended to read as follows:

§ 308.13 Schedule III.

* * * * *

(c) *Depressants.*—Unless specifically excepted or unless listed in another schedule, any material, compound, mixture, or preparation which contains any quantity of the following substances having a depressant effect on the central nervous system:

| | | |
|---|---|---|
| (1) | Any compound, mixture, or preparation containing amobarbital, butabarbital, cyclobarbital, heptabarbital, phentobarbital, probarbital, secobarbital, talbutal, or vinbarbital or any salt thereof and one or more other active medicinal ingredients which other such ingredients are not listed in any schedule | 2351 |
| (2) | Any substance which contains any quantity of a derivative of barbituric acid or any salt thereof | 2100 |
| (3) | Chlorhexadol | 2510 |
| (4) | Glutethimide | 2550 |
| (5) | Lysergic acid | 7300 |
| (6) | Lysergic acid amide | 7310 |
| (7) | Methyprylon | 2575 |
| (8) | Phencyclidine | 7471 |
| (9) | Sulfondiethylmethane | 2600 |
| (10) | Sulfonethylmethane | 2605 |
| (11) | Sulfonmethane | 2610 |

All interested persons are invited to submit their comments or objections in writing regarding this proposal. These comments or objections should state

with particularity the issues concerning which the person desires to be heard. A person may comment on or object to the application of this proposal to any one or more of the nine derivatives named without filing comments on the remaining derivatives. Comments and objections should be submitted in quintuplicate to the Hearing Clerk, Office of Chief Counsel, Bureau of Narcotics and Dangerous Drugs, Department of Justice, room 611, 1405 I Street NW., Washington, D.C. 20537, and must be received no later than June 29, 1973.

In the event that an interested party submits objections to this proposal which present reasonable grounds for this rule not to be finalized and requests a hearing in accordance with 21 CFR 308.45, the party will be notified by registered mail that a hearing on these objections will be held at 10 a.m., on July 16, 1973, in room 1210, 1405 I Street NW., Washington, D.C. 20537. If objections submitted do not present such reasonable grounds, the party will so be advised by registered mail.

If no objections presenting reasonable grounds for a hearing on the proposal are received within the time limitations, and all interested parties waive or are deemed to waive their opportunity for the hearing or to participate in the hearing, the Director may cancel the hearing and, after giving consideration to written comments, issue his final order pursuant to 21 CFR 308.48 without a hearing.

A petition dated March 8, 1972, was submitted to the Director by Robert M. Brandon and Steven T. Wax, co-Directors of the task force on Drug Abuse, and four other persons under the provisions of section 201(a) of the Comprehensive Drug Abuse Prevention and Control Act of 1970 (21 U.S.C. 811(a)) requesting that the Director initiate proceedings to place amobarbital, secobarbital, pentobarbital and two other substances in schedule II. On April 4, 1972, the Bureau received a letter from the American Public Health Association requesting to join in the foregoing petition (37 FR 9500). In light of the investigation of the Bureau and the recommendation of the Department of Health, Education, and Welfare referred to earlier, it is not necessary to determine whether the grounds upon which the petitioners relied in the petition are sufficient in themselves to justify the initiation of the requested proceedings. The question of whether any one of the petitioners has standing as an "interested party" is also academic and a decision in this regard is hereby reserved.

Dated May 25, 1973.

JOHN E. INGERSOLL,
*Director, Bureau of Narcotics and Dangerous Drugs.*

[FR Doc.73-10858 Filed 5-30-73;8:45 am]

## DEPARTMENT OF AGRICULTURE

### Agricultural Marketing Service

### [ 7 CFR Part 929 ]

[Docket No. AO 341-A3]

### CRANBERRIES GROWN IN CERTAIN STATES

### Notice of Recommended Decision and Opportunity To File Written Exceptions Regarding Proposed Amendment of Amended Marketing Agreement and Order Regulating Handling

This recommended decision, issued pursuant to the rules of practice and procedure governing the formulation of and amendments to marketing agreements and orders, discusses the issues presented at a public hearing in Wareham, Mass., on February 14, 1973, in Wisconsin Rapids, Wis., on February 22, and in Long Beach, Wash., on February 27, to consider amendments to the marketing agreement and order regulating the handling of cranberries produced in the States listed above.

The proposed amendments are discussed in detail in the recommended decision. The recommended decision concludes that the marketing agreement and order should be amended and an appropriate amendment is set forth therein.

Interested persons may file exceptions to this recommended decision with the Hearing Clerk, U.S. Department of Agriculture, room 112, Administration Building, Washington, D.C. 20250, not later than June 15, 1973. Exceptions should be filed in quadruplicate. All such communications will be made available for public inspection at the office of the hearing clerk during regular business hours (7 CFR 1.27(b)).

Pursuant to the rules of practice and procedure, as amended, governing proceedings to formulate marketing agreements and orders (7 CFR part 900), notice is hereby given of the filing with the hearing clerk of this recommended decision with respect to proposed amendment of the marketing agreement, as amended, and Order No. 929, as amended (7 CFR part 929), regulating the handling of cranberries grown in the States of Massachusetts, Rhode Island, Connecticut, New Jersey, Wisconsin, Michigan, Oregon, Washington, and Long Island in the State of New York, hereinafter referred to collectively as the "order". The order is effective pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (48 Stat. 31, as amended; 7 U.S.C. 601-674), hereinafter referred to as the "act".

*Preliminary statement.*—The public hearing, on the record of which the proposed amendment of the order is formulated, was instituted by the Agricultural Marketing Service as a result of proposals submitted by the Cranberry Marketing Committee, the administrative agency established pursuant to the amended marketing agreement and order. A notice that such public hearing would be held in the Town Hall, Wareham, Mass., on February 14, 1973, in the McMillian Memorial Library, Wisconsin Rapids, Wis., on February 22, 1973, and in the Long Beach Grange Hall, Long Beach, Wash., on February 27, 1973, was published in the FEDERAL REGISTER on February 9, 1973 (38 FR 38985).

*Material issues.*—The material issues presented on the record of the hearing involved amendatory action relating to:

1. Changing the beginning date of the 2-year term of office for the committee from September 1 to August 1; and authorizing the committee to meet earlier than now permitted to formulate its marketing policy, consider the need for regulations and submit its recommendation with respect thereto when it deems the production and marketing situation warrants;

2. Changing the requirements with respect to submission of the names of nominees from two to one or more for each committee position to be filled; and authorizing the Secretary to consider other qualified persons;

3. Providing representation on the committee for all growers in District 4 (Oregon and Washington) who are not affiliated with the major cooperative, and allow them to participate in nomination proceedings;

4. Providing authority for the committee, with the approval of the Secretary, to levy a late-payment charge and an interest charge on assessments that are not paid within the time specified;

5. Clarifying the withholding provisions so that each handler and the committee can more easily and accurately determine the withholding obligation;

6. Liberalizing the provisions dealing with interhandler transfers to permit handlers to transfer cranberries freely to other handlers, and require each handler to report such transfers to the committee twice each year;

7. Elimination of the requirement for inspection of withheld (restricted from marketing) cranberries, when such cranberries are released to the handler in accordance with the special provisions of the order relating to withheld cranberries; and

8. Making conforming changes.

*Findings and conclusions.*—The findings and conclusions on the material issues, all of which are based upon the evidence adduced at the hearing and the record thereof, are as follows:

1. The order should be amended to change the beginning date of the 2-year term of office of committee members from September 1 to August 1. The Crop Reporting Board issues its report of estimated production during the 3d week

in August. It is desirable for the committee to meet as soon as practicable after this report is available to formulate its marketing policy and consider the need for regulation of the oncoming crop. Since the term of office begins on September 1, it is not possible for the committee to meet before that date.

The committee whose term of office expires on August 31 of every other year could meet prior to September 1. However, it was testified at the hearing that the committee that will supervise the program during the crop-year should formulate the marketing policy and be responsible for any recommendation for regulation. The language in the order states "Each crop-year prior to making any recommendation * * *, the committee shall submit to the Secretary a report setting forth its marketing policy for the crop-year." This infers that the committee meeting should be held within the crop-year. Since it is desirable for the committee to meet earlier than September 1, the order should be changed to permit the committee to meet as soon as practicable after August 1. Fixing the beginning date of the term of office as August 1 would add the needed flexibility. Accordingly, the order should be amended as hereinafter set forth.

2. The provisions of the order which require the industry to submit two nominees for each position to be filled on the committee should be changed to require the submission of one or more nominees for each position. The order provides that the large cooperative marketing organization may obtain its nominations by means of grower meetings or by resolution of the Board of Directors. The order directs that all other growers will obtain nominees through meetings held in each district. Requiring the submission of two nominees for each position has caused problems in the operation of the order. Attendance at nomination meetings has sometimes been low. In order to comply with the two nominees for each position requirement of the order it has been necessary to nominate growers who are not in attendance. It is not always known whether such nominees are eligible to serve or if they would serve. Usually the industry desires that the person with the most votes be appointed as a member and the person with the next highest votes be the alternate. Presently, the person with the second highest number of votes for member may not be considered for the alternate position as he must be considered for appointment as member and he should not be considered for two positions at the same time. Similar objections exist to requiring the major cooperative to submit two names of nominees for each position it is to fill on the committee.

Amending the order to require submission of the names of one or more nominees for each committee position to be filled should result in greater flexibility in selecting the best qualified individuals for member and alternate positions respectively. The extension of authority to permit the Secretary to consider other eligible persons, in addition to the nominees, would provide sufficient latitude for him to make a choice. The order should therefore be amended as hereinafter set forth.

3. Some growers in District 4 are not affiliated with the major cooperative marketing organization. The order does not currently provide sufficient committee representation for these growers as is the case for growers not so affiliated in other districts. It would be desirable and the order should be amended to specifically provide representation on the committee for these District 4 growers. Such amendment should permit such growers to participate in the selection of nominees as well as make them eligible to serve on the committee. This could be accomplished by treating Districts 3 and 4 growers as one unit for purposes of committee representation for such growers. Hence, the order would provide that all such growers in Districts 3 and 4 may participate together in the selection of nominees to fill positions representing growers not affiliated with the major cooperative. It should provide that each grower in either district would be eligible to serve in such a position on a committee. It should also provide that the member who represents growers in District 3 who are not so affiliated shall also represent such growers in District 4. Because of the distance between Districts 3 and 4 it would not be feasible to require the growers from these two districts to meet in one place to select nominees. In the past it has been the practice to hold a nomination meeting in District 3 and it is desirable to continue to hold meetings in that district. However, District 4 growers should not be required to be present in order to participate in the nominations. A procedure should be provided to permit participation by District 4 growers. Development of an appropriate procedure should be the responsibility of the Cranberry Marketing Committee. Such could be patterned after the following procedure which was outlined at the hearing: Growers in District 4 would be notified by mail of the time and place of the nomination meeting in District 3. District 4 growers would be asked to indicate whether they would attend the meeting. Those indicating that they would not attend the meeting would submit the names of candidates to the Department or the committee. At the nomination meeting in District 3, the names of any candidates submitted by mail would be placed in nomination. This could be done by the Department of Agriculture's representative or by the person conducting the meeting. Growers in attendance could then nominate other eligible persons. All eligible growers present would be permitted to vote. District 4 growers would be provided an opportunity to vote by mail. The combined vote of District 3 and 4 growers would determine the nominee for member and alternate member.

4. The order should be amended, as hereinafter set forth, to permit the committee, with the approval of the Secretary, to levy a late payment charge and interest on overdue assessments. The only source of funds to pay the expenses of the committee is from assessments on handlers. Each handler pays a pro rata share of the committee's expenses in proportion to the volume of cranberries handled. The failure of handlers to pay assessment obligations promptly results in added expense and operational problems for the committee. The committee has frequently encountered difficulty in collecting assessments from some handlers. To attempt to collect, the committee must incur the added expense of sending out additional billings and contacting each delinquent handler by phone, in person, or through one of its field offices. Nonpayment of assessments hampers the operation of the committee and may require it to borrow money and to pay interest to continue operation. Authority for the committee to levy a late payment charge and to add interest to the outstanding delinquent obligation would encourage handlers to pay assessment obligations promptly. By paying the obligation when due, handlers would not be subject to either the late payment charge or interest. It would not be desirable to specify the rate of interest in the order. The rate of interest changes as the availability of money fluctuates. If the interest rate was specified in the order, it would be necessary to amend the order each time the interest rate should be changed. Amending the order involves a considerable amount of time and expense. Therefore, the order should permit the committee to establish the late payment charge, and fix the rate of interest, with the approval of the Secretary, so as to provide the flexibility needed to make such adjustments as are found to be necessary.

5. Handlers acquire cranberries which have been "screened" to remove the extraneous material which is picked up with the berries as they are harvested, and "unscreened" berries from which the extraneous material, including cull berries, has not been removed. Cranberries from which the extraneous material has been removed are referred to as "screened cranberries", and cranberries from which such material has not been removed are referred to as "unscreened cranberries" or "cranberries in the chaff". All cranberries are screened before they are handled.

Under the order, there have been no problems in the application of the withholding percentage to cranberries which were screened before the handler received them. The handler merely applied the percentage to the total quantity so received to ascertain the amount required to be withheld. Likewise, few problems have been experienced in the case of cranberries received in the chaff and screened shortly thereafter. The percentage was applied to the quantity of marketable berries screened out of the lot to ascertain the quantity that was required to be withheld.

However, substantial quantities of cranberries are acquired in the chaff and stored for a considerable length of time before they are screened. Such berries deteriorate and diminish (shrink) in quantity in storage so that the quantity of useable berries screened out is less than if the berries had been screened when they were first acquired by the handler. Since some handlers handle berries for growers under a "pool" arrangement, they apply an upward adjustment "shrink factor" to the screened quantity to compensate for the shrink that occurred in storage. Application of the shrink factor is designed to give the grower credit in the pool for the quantity of useable berries in the lot at the time he delivered it to the handler regardless of the length of time the handler kept his berries in storage before screening them. This puts all growers who participate in the pool on an equal footing.

Because of the upward adjustment that is made for pool purposes to compensate for shrinkage in storage, there has been confusion among handlers as to whether or not this same upward adjustment should be made in the screened quantity resulting from the screening of stored cranberries so as to reflect a quantity of screened berries that could have been obtained by screening the berries when they were first received before the withholding percentage is applied.

No such upward adjustment should be made. Since the berries that represent the withholding percentage are contained in the unseparated stored lot, along with the free-market percentage berries, both shrink at the same rate. Therefore, application of the withholding percentage to the screened quantity as determined by actual screening or from a representative sample, regardless of when the determination is made, is fair and equitable. It would not be equitable to require handlers to make an upward adjustment in the screened quantity before the withholding computation is made. This would require the handler to dispose of a quantity of marketable berries equal to that which would result if the percentage were applied to the useable berries contained in the lot before it suffered shrink, and would cause handlers who store berries to withhold a larger proportion of their berries than handlers who do not.

It is true, of course, that a handler which screens its berries at the time of acquisition will derive a larger total for disposition than it would if it stored the same berries for any appreciable length of time prior to screening. This is the necessary result of the fact that stored cranberries shrink in volume over time. However, the time of screening by each handler is a business decision which must be presumed to take into account the various possibilities as to the quantity of berries which will be available for disposition dependent upon when they are screened. That a handler chooses to screen its acquired cranberries after storing them should not alter the basic principle that the quantity of berries which must be withheld is to be determined at the time of screening.

Therefore the order should be amended, as hereinafter set forth, to make it clear that the withholding percentage shall be applied to the quantity of screened cranberries regardless of the time the screening occurs.

Testimony was offered at the hearing contending that the withholding obligation should be based on the quantity of cranberries handled rather than on the quantity acquired by handlers. "Handle" is defined to mean can, freeze, or dehydrate cranberries within the production area or to sell, consign, deliver, or transport cranberries. The order requires restricted percentage cranberries to be withheld from handling. It would, therefore, not be practicable to base the withholding on the volume handled. On this basis, the proposed modification is rejected.

6. The order should be amended so that handlers need report the transfer of cranberries from one handler to another only twice each year. The dates for filing such reports should be specified by the committee. The purpose of the interhandler transfer report, simply stated, is to provide information so the committee can prepare accurate reports with respect to acquisition and disposition of cranberries and levy assessments on each lot of cranberries only once. Thus, the interhandler transfer report provides the committee with the information necessary to make adjustments so that acquisition of any given lot of cranberries will be counted only once regardless of the number of times the lot changes hands among handlers.

The provisions in the order which requires handlers to give notice to the committee prior to such transfer has proved impractical. Cranberries are harvested and handled within a relatively short period of time. Many transactions, including interhandler transfers, are made by telephone. Such rapid transactions are hampered by the requirement that such transactions shall be subject to prior notification to the committee. Experience has shown that such prior notification is not necessary for effective committee operations. Handlers should be permitted to transfer cranberries to any other handler freely. The filing of two interhandler transfer reports each year on dates specified by the committee, probably as January 1 and July 1, of each fiscal period, will enable the committee to function properly and compile statistical data that will meet the needs of the industry and the order should be amended to so provide, as hereinafter set forth.

7. The order should be amended, as hereinafter set forth, to provide that withheld cranberries released to a handler need not be inspected. The inspection requirement is to assure that handlers will meet the withholding obligation with cranberries possessing satisfactory market quality. Such requirements prevent a handler from meeting his withholding obligation with cull or other low quality cranberries which would normally be discarded. The order provides a procedure whereby a handler may obtain release of his withheld cranberries. Upon release such berries may be marketed as free percentage cranberries. Under this procedure, the committee assumes the responsibility of purchasing a like quantity to replace those released. The cranberries purchased by the committee must be inspected and meet the requirements for withheld cranberries because it is the intent of the order that all cranberries withheld from normal marketing channels be of marketable quality. To ascertain that this requirement is met, inspection of the cranberries by the Federal or Federal-State Inspection Service is required. Suppose for example, the quantity of cranberries available is determined by the Secretary to exceed market demands, including a desirable carryover, by 10 percent. He fixes the free and restricted percentage at 90 and 10 percent, respectively. Let us assume that 1,650,000 barrels of cranberries were acquired by all handlers. On that basis 165,000 barrels should be withheld from handling. Inspection of 165,000 barrels should be made. Let us now assume that a particular handler acquired 1,000 barrels of screened cranberries. The restricted percentage is 10 percent. The handler's withholding obligation is 100 barrels. This handler makes application to the committee for the release of 100 barrels, including with the application the required payment which will permit the committee to purchase an equivalent quantity of free percentage berries from other handlers to replace those released. The handler is relieved from any further withholding obligation for the released quantity. The cranberries purchased by the committee replaced those released to the handler and become withheld cranberries. They must be inspected and meet the requirements established for withheld cranberries. Such cranberries may be disposed of only in outlets prescribed for withheld cranberries. The cranberries purchased by the committee fulfill the handlers obligation and no constructive purpose would be served by inspection of the 100 barrels of cranberries that the committee released to the handler. Such cranberries upon release became free percentage cranberries which are not required to be inspected. They are eligible for disposal in any outlet available to free percentage cranberries. They should be subject only to the limitation applicable to free percentage cranberries and the order should be amended accordingly, as hereinafter set forth.

8. The amendments heretofore recommended will make necessary conforming changes in § 929.22(b). Growers are required to be present at nomination meetings and may participate only in the nomination of members and alternate members to represent the district in which they produce cranberries. Combining Districts 3 and 4 for purposes of

representation on the committee and permitting all growers from District 4 not affiliated with the major cooperative to vote for nominees and to serve on the committee to represent such growers makes necessary an exception to such requirements. Such exception has been included in the amendment as hereinafter set forth.

*Ruling on proposed findings and conclusions.*—March 30, 1973, was fixed as the latest date for interested parties to file proposed findings and conclusions, and written arguments or briefs with respect to the facts presented in evidence at the hearing. No brief was filed.

*Recommended further amendments of the marketing agreement and order.*—The following amendment of the marketing agreement and order is recommended as the detailed means by which the foregoing conclusions may be carried out:

1. Section 929.21 *Term of office* is revised to read as follows:

**§ 929.21 Term of office.**

The term of office of each member and alternate member of the committee shall be for 2 years beginning August 1 and ending on the second succeeding July 31. Members and alternate members shall serve in such capacity for the portion of the term of office for which they are selected and have qualified and until their respective successors are selected and have qualified.

2. Section 929.22 *Nominations* is amended by revising subparagraphs (1), (2), and (3) of paragraph (b) thereof. As amended paragraph (b) reads as follows:

**§ 929.22 Nominations.**

* * * * *

(b) *Successor members.*—(1) Any cooperative marketing organization that handled more than two-thirds of the total volume of cranberries produced during the fiscal period during which nominations for membership on the committee are made, or the growers affiliated therewith, shall nominate four or more qualified persons for members and four or more qualified persons for alternate members of the committee. At least one such nominee for member and one such nominee for an alternate member shall represent growers in the State of Oregon and the State of Washington. The names and addresses of such nominees shall be submitted to the Secretary not later than July 1 of each even-numbered year.

(2) The committee shall hold or cause to be held, not later than July 1, of each even-numbered year, meetings of growers in Districts 1, 2, and 3, other than those affiliated with the cooperative marketing organization designated in paragraph (b)(1) of this section, to elect nominees for member and alternate member positions on the committee.

(i) With respect to such meeting in District 3, eligible growers in District 4 shall be permitted to attend the meeting and participate in the selection of nominees. Such growers shall be eligible to be nominated for and serve as member or alternate member. Eligible growers in District 4 who do not attend the nomination meeting shall be afforded an opportunity to participate in the selection of nominees by mail. Selection of the nominee for member and the nominee for alternate member from Districts 3 and 4 shall be on the basis of the total vote of the eligible growers who attended the meeting plus any mail ballots cast by District 4 growers.

(ii) Except as hereinbefore provided, the growers in each such district who are present at the meeting, including District 4 growers who are present at the District 3 meeting, shall nominate one or more qualified persons for member and one or more qualified persons for alternate member of the committee. The names and addresses of such nominees shall be submitted to the Secretary not later than July 1 of each even-numbered year. The committee shall prescribe such procedure for the conduct of nomination meetings and for the submission of names of candidates and voting by mail by District 4 growers as shall be fair and equitable to all persons concerned.

(3) Except as set forth in subparagraph (2) of this paragraph, growers shall only participate in the nomination of members and alternate members to represent the district in which they produced cranberries.

(4) When voting for nominees, each grower shall be entitled to cast only one vote on behalf of himself, his agents, subsidiaries, affiliates, and representatives for each position to be filled.

3. Section 929.23 *Selection* is amended by revising paragraph (b) thereof to read as follows:

**§ 929.23 Selection.**

* * * * *

(b) *Successor members.*—From the nominations made pursuant to § 929.22(b)(1), or from other qualified persons, the Secretary shall select four members of the committee and an alternate for each such member. From the nomination made pursuant to § 929.22(b)(2), or from other qualified persons, the Secretary shall select three members of the committee and an alternate for each such member.

4. Section 929.41 *Assessments* is amended by adding a new paragraph (c) reading as follows:

**§ 929.41 Assessments.**

* * * * *

(c) If a handler does not pay his assessment within the period of time prescribed by the committee, the assessment may be increased by either or both a late payment charge and an interest charge at rates prescribed by the committee, with the approval of the Secretary.

5. Section 929.46 *Marketing policy* is amended by revising paragraph (b) thereof to read as follows:

**§ 929.46 Marketing policy.**

* * * * *

(b) As soon as practicable after August 1 of each crop-year and prior to making any recommendations pursuant to paragraphs (b) (7) and (8) of this section or to § 929.51, the committee shall submit to the Secretary a report setting forth its marketing policy for the crop-year. Such marketing policy shall contain the basis therefor and information relating to:

(1) The estimated total production of cranberries;

(2) The expected general quality of such cranberry production;

(3) The estimated carryover, as of September 1, of frozen cranberries and other cranberry products;

(4) The expected demand conditions for cranberries in different market outlets;

(5) Supplies of competing commodities;

(6) Trend and level of consumer income;

(7) The recommended desirable total marketable quantity of cranberries including a recommended adequate carryover into the following crop year of frozen cranberries and other cranberry products;

(8) Regulation pursuant to § 929.52 expected to be recommended by the committee during the crop year together with its recommendation of the free and restricted percentages and beginning with 1974–75 crop year, the recommended allotment percentages, if any, for the crop year; and

(9) Other factors having a bearing on the marketing of cranberries.

6. Section 929.54 *Withholding* is amended by revising paragraph (a) thereof to read as follows:

**§ 929.54 Withholding.**

(a) Whenever the Secretary has fixed the free and restricted percentages for any fiscal period, as provided for in § 929.52(a), each handler shall withhold from handling a portion of the cranberries he acquires during such period: *Provided*, That such withholding requirements shall not apply to any lot of cranberries for which such withholding requirement previously has been met by another handler in accordance with § 929.55. The withheld portion shall be equal to the sum of the products obtained by multiplying each of the following quantities, as applicable, by the restricted percentage:

(1) The quantity of screened cranberries acquired:

(2) The quantity of screened cranberries obtained at the time unscreened lots of cranberries are screened: *Provided*, That, if the cranberries have not been screened by a date specified by the committee, with the approval of the Secretary, as the date by which each handler shall have met the withholding requirement, the quantity of screened cranberries shall be determined as set

forth in paragraph (a)(3) of this section; and

(3) The quantity of screened cranberries contained in unscreened lots of cranberries acquired (i) which are destined for disposition without screening, or (ii) but which have not been screened prior to the date referred to in paragraph (a)(2) of this section. The committee, with the approval of the Secretary, shall prescribe uniform rules to be followed in determining the quantity of screened cranberries in each lot of unscreened cranberries.

* * * * *

(7) Section 929.55 *Interhandler transfer* is revised to read as follows:

§ 929.55 Interhandler transfer.

(a) Transfer of cranberries from one handler to another may be made without prior notice to the committee. If such transfer is made between handlers who have packing or processing facilities located within the production area, the assessment and withholding obligations provided under this part shall be assumed by the handler who agrees to meet such obligation. If such transfer is to a handler whose packing or processing facilities are outside the production area, such assessment and withholding obligations shall be met by the handler within the production area.

(b) All handlers shall report all such transfers to the committee, on a form provided by the committee, twice a year each at a time specified by the committee.

(8) Section 929.56 *Special provisions relating to withheld (restricted) cranberries* is amended by adding new paragraphs (e) and (f) reading as follows:

§ 929.56 Special provisions relating to withheld (restricted) cranberries.

* * * * *

(e) Cranberries purchased by the committee to replace released cranberries shall be inspected and shall meet such standards as are prescribed for withheld cranberries.

(f) Inspection of withheld cranberries released to a handler is not required.

Dated May 25, 1973.

JOHN C. BLUM,
*Deputy Administrator,*
*Regulatory Programs.*

[FR Doc.73-10852 Filed 5-30-73;8:45 am]

## DEPARTMENT OF TRANSPORTATION

### Federal Aviation Administration

### [ 14 CFR Part 71 ]

[Airspace Docket No. 73-GL-21]

### VOR FEDERAL AIRWAY

### Proposed Alteration

The Federal Aviation Administration (FAA) is considering an amendment to part 71 of the Federal Aviation regulations that would alter Victor Airway 72 between Mansfield, Ohio, and Akron, Ohio.

Interested persons may participate in the proposed rulemaking by submitting such written data, views, or arguments as they may desire. Communications should identify the airspace docket number and be submited in triplicate to the Director, Great Lakes Region, Attention: Chief, Air Traffic Division, Federal Aviation Administration, 2300 East Devon, Des Plaines, Ill. 60018. All communications received on or before July 2, 1973, will be considered before action is taken on the proposed amendment. The proposal contained in this notice may be changed in the light of comments received.

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

The proposed amendment would realine V-72 from Mansfield, Ohio, VORTAC, via the Dalton, Ohio, intersection (V-8 and V-143W), to Akron, Ohio, VORTAC. This realinement would eliminate excessive coordination between Cleveland and Akron-Canton approach controls on traffic proceeding to and from the Akron-Canton terminal area. With the elimination of this coordination procedure, responsiveness to the flying public in this area would be improved.

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

Issued in Washington, D.C., on May 21, 1973.

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

[FR Doc.73-10778 Filed 5-30-73;8:45 am]

### [ 14 CFR Part 71 ]

[Airspace Docket No. 73-GL-23]

### VOR FEDERAL AIRWAY

### Proposed Extension

The Federal Aviation Administration (FAA) is considering an amendment to part 71 of the Federal Aviation regulations that would extend VOR Federal Airway No. V-218 from Minneapolis, Minn., direct to Grand Rapids, Minn.

Interested persons may participate in the proposed rulemaking by submitting such written data, views, or arguments as they may desire. Communications should identify the airspace docket number and be submitted in triplicate to the Director, Great Lakes Region, Attention: Chief, Air Traffic Division, Federal Aviation Administration, 2300 East Devon, Des Plaines, Ill. 60018. All communications received on or before July 2, 1973, will be considered before action is taken on the proposed amendment. The proposal contained in this notice may be changed in the light of comments received.

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

The proposed amendment would designate an airway direct from Grand Rapids to Minneapolis. Frequent use of a direct IFR off-airway route between these points justifies this proposal.

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

Issued in Washington, D.C., on May 22, 1973.

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

[FR Doc.73-10779 Filed 5-30-73;8:45 am]

## Civil Aeronautics Board

### [ 14 CFR Part 298 ]

[Docket No. 25568; EDR-247]

### CLASSIFICATION AND EXEMPTION OF AIR TAXI OPERATORS

### Deletion of Insurance Posting Requirement

Notice is hereby given that the Civil Aeronautics Board has under consideration deletion of the insurance posting requirement for air taxi operators in part 298 of the economic regulations (14 CFR part 298). The principal features of the proposed amendment are described in the attached explanatory statement and the proposed amendment is set forth in the attached proposed rule. The amendment is proposed under the authority of sections 204(a), 407, and 416 of the Federal Aviation Act of 1958, as amended, 72 Stat. 743, 766, and 771; 49 U.S.C. 1324, 1377, and 1386.

Interested persons may participate in the proposed rulemaking through submission of 12 copies of written data, views, or arguments pertaining thereto, addressed to the Docket Section, Civil Aeronautics Board, Washington, D.C. 20428. In addition, individual members of the general public who, as prospective passengers, may be affected by the outcome of this proceeding, may participate in the proposed rulemaking through submission of comments in letter form to the Docket Section at the above indicated address, without the necessity of filing additional copies thereof. All relevant matter received on or before July 2, 1973, will be considered by the Board before taking final action on the proposed rule. Copies of such communications will be available for examination by interested

persons in the Docket Section of the Board, room 712 Universal Building, 1825 Connecticut Avenue NW., Washington, D.C., upon receipt thereof.

By the Civil Aeronautics Board.

Dated May 24, 1973.

[SEAL] PHYLLIS T. KAYLOR,
*Acting Secretary.*

EXPLANATORY STATEMENT

By ER-792,[1] the Board adopted amendments to part 298 modifying the registration requirement for air taxi operators in certain respects and making several changes to the standard registration statement (CAB Form 298-A). In a comment filed in the proceeding, the National Air Transportation Conferences, Inc. (NATC)[2] requested the Board to delete the present requirement in part 298 that an air taxi operator must post a copy of its insurance certificate at each place where it deals with the public. Since no proposal with respect to such requirement had been included in the rulemaking notice,[3] the Board denied this request as being outside the scope of the rulemaking, but expressed its intention to treat NATC's request as a petition for rulemaking with respect to which it would take action in a separate proceeding.

In support of its request petitioner argues that compliance with the insurance posting requirement has imposed a needlessly onerous burden on most air taxi operators without achieving any significant regulatory objectives. As an example of the alleged onerousness of the requirement, NATC states that many of its member carriers, especially the large commuter air carriers, have experienced considerable difficulty in finding enough counter space at their terminal facilities in which to post their insurance certificates. It is also alleged that regulations of certain airport authorities inhibit compliance with this posting requirement.

Petitioner further argues that such requirement is superfluous in light of present regulations with respect to maintenance of liability insurance by air taxi operators. For example, it is noted that aircraft liability insurance is compulsory for air taxi operators; that the carrier's insurance policy must be made available for inspection by the Board at its principal place of business; and that such insurance cannot be canceled, withdrawn, or modified until after 10 days' notice to the Board.

Upon consideration of the petition, we have determined to institute a rule making proceeding with respect to NATC's request. The posting requirement to which NATC objects was originally included in part 298 to encourage air taxi operators to comply with the Board's substantive requirement that they secure liability insurance. It was felt that the posting requirement would, at least in principle, provide each air taxi operator with an incentive to obtain liability insurance coverage—i.e., we assumed that prospective air travelers would patronize the services of only those air taxi operators who had posted a copy of a certificate evidencing compliance with the Board's insurance regulations. However, our experience is that, in practice, such requirement has been of little, if any, value in enhancing enforcement of our insurance regulations again air taxi operators. We are therefore tentatively inclined to believe that compliance with our insurance requirements is most effectively and reliably policed through the registration process, as hereinbelow discussed.

Under present regulations, air taxi operators are required to register and reregister with the Board in order to qualify for, and to retain, their exemption to operate under part 298. Since the procedure by which registration and reregistration is accomplished requires the filing of a certificate of insurance which is currently effective (or, in the case of initial registration, is to become effective), we are assured that each registrant is covered by insurance at the time he files for registration or reregistration, as the case may be. In addition, our staff has instituted certain informal procedures to insure that air taxi operators maintain their insurance coverage during the intervals which elapse between reregistrations; for example, each registered air taxi operator is notified by mail if its filed insurance certificate expires or is canceled, and followup letters are sent to those carriers who do not respond to the initial notification, so that appropriate enforcement action can be instituted against those notified carriers who fail to furnish proof of insurance coverage. In light of the effectiveness of this registration process as an aid to enforcement, we are of the tentative opinion that the subject posting requirement no longer serves a necessary regulatory purpose. Therefore, while we doubt that the posting requirement constitutes an onerous burden, we nonetheless have tentatively concluded that it can be eliminated without any appreciable diminution in the enforceability of the part 298 basic insurance requirement.

For the foregoing reasons, it is proposed to amend part 298 of the economic regulations (14 CFR pt. 298) as follows:

1. Amend § 298.41 by deleting and reserving paragraph (d) as follows:

**§ 298.41 Basic requirements.**

(a) Each air taxi operator * * *

* * * * *

(d) [Reserved]

* * * * *

[FR Doc.73-10861 Filed 5-30-73;8:45 am]

[1] Issued Mar. 20, 1973, 38 FR 7794, docket 24871.

[2] An air taxi trade association.

[3] A similar request was made in comments filed by Puerto Rico International Airlines, Inc., and Suburban Airlines, Inc.

## FEDERAL POWER COMMISSION

**[18 CFR Parts 2, 154]**

[Docket No. R-478]

### NATURAL GAS PRODUCED FROM WELLS

**Notice Instituting Proposed Rulemaking and Order Prescribing Procedure for Establishing Just and Reasonable Rates**

MAY 23, 1973.

1. Notice is hereby given, pursuant to the Administrative Procedure Act (APA), 5 U.S.C. 551 et seq. (1970), and sections 4, 5, 7, 8, 14, 15, and 16 of the Natural Gas Act[1] that the Commission proposes to amend parts 2 and 154, subchapter E, chapter I, title 18 of the Code of Federal Regulations by issuing rules fixing the just and reasonable rate, and otherwise regulating jurisdictional sales by producers of natural gas in the United States (excluding Alaska and Hawaii). The just and reasonable rate to be determined pursuant to this proceeding shall apply to all jurisdictional sales of natural gas which is produced from wells commenced before January 1, 1973,[2] except for those sales certificated under order No. 431,[3] order No. 455,[4] or order No. 428 et seq.[5]

2. A comprehensive history of the Commission's regulation of independent natural gas producers is set forth in the notice of proposed rulemaking and order prescribing procedures issued in docket No. R-389-B on April 11, 1973.

3. We do not propose any specific rates, terms, or conditions in this notice. Rather, we will rely in making such determination on the responses to be filed herein. As part of this notice, we have appended data collection forms prepared by our staff. We ask that comments be addressed to the sufficiency of these forms as a preliminary matter. If we find that revisions to the forms are required, modifications will be ordered before the actual process of data collection is initiated.

4. After review of the initial comments upon the sufficiency of the data collection forms, we will, by further order, fix dates seriatim for the submission of the completed data forms; the issuance of a staff composite of the data

[1] 15 U.S.C. 717c, 717d, 717f, 717g, 717m, 717n, 717o; 52 Stat. 822, 823, 824, 825, 828, 830 (1938); 56 Stat. 83, 84 (1942); 61 Stat. 459 (1947); 76 Stat. 72 (1962).

[2] A rulemaking procedure instituted in docket No. R-389-B will establish a single just and reasonable rate for all sales of natural gas made from wells commenced after Jan. 1, 1973. See notice of proposed rulemaking and order prescribing procedures, docket No. R-389-B, —— FPC —— (issued Apr. 11, 1973).

[3] 45 FPC 570 (1971).

[4] 47 FPC —— (1972), appeal docketed, *John E. Moss, et al.* v. *F.P.C.*, No. 72-1837 (D.C. Cir.).

[5] 45 FPC 454 (1971), appeal heard, *Texaco, Inc., et al.* v. *F.P.C.*, CADC, No. 71-1560 et al., matter now pending in Supreme Court upon a petition for a writ of certiorari.

received; and initial comments by all parties on the proposed rule. We expect such comments to include, inter alia, the party's conclusions and recommendations regarding the appropriate rates, and the rationale, methodology, factors (including both cost and noncost components), and other data relied upon.

5. The just and reasonable rate ultimately prescribed herein should be applicable to all jurisdictional sales by producers from wells commenced before January 1, 1973, irrespective of contract date or date of dedication. We recognize that there are other alternatives to such a demarcation, e.g. contract date or date of deliveries. However, since docket No. R–389–B applies to wells commenced on or after January 1, 1973, we will provide in this proceeding for a single rate applicable to all jurisdictional sales from wells commenced before that date for the entire continental United States.

6. The single rate established herein will be applicable to jurisdictional sales throughout the continental United States from wells commenced prior to January 1, 1973, whether or not gas is presently being produced.[6] There will be a uniform rate for both onshore and offshore production, whether gas-well gas or casinghead gas. Such rate shall be exclusive of State production taxes, measured at 14.73 16/in²a and 60° F, subject to contractual Btu adjustment. And, such rate shall be subject to a downward adjustment for deliveries made closer to the wellhead than a central point in the field; the tailgate of a processing plant; an offshore platform to the buyer's pipeline, or a point on the buyer's pipeline.

7. Since the rate ultimately prescribed herein shall be a just and reasonable rate—to the extent shown necessary by the record compiled herein—the rate provisions of presently effective area rate opinions will be modified. Any final order entered herein will likewise modify any presently effective moratoria prohibiting future rate filings where contractually authorized.

8. Overall, we seek expeditious and flexible procedures which will function more effectively to achieve the goal of producer regulation, that is, the delivery to the interstate market of a continuing reliable and adequate supply of gas at the lowest reasonable cost. We seek to establish rate stability and rate simplification, and we continue to recognize our obligation to eliminate as much rate uncertainty as possible and to provide the incentives necessary to encourage continued production from existing fields. We recognize that there may exist certain instances which call for a pragmatic adjustment to the uniform rate which we propose herein, but each such instance must be considered by us on an ad hoc basis. Accordingly, although we cannot bind future Commissions, we state our conviction that previously issued certificates of public convenience and necessity, and currently effective rate schedules, which conform to rates lawfully determined by the Commission to be just and reasonable, should not be impaired. Our purpose is to establish rates which yield an adequate supply of natural gas for the consumers at the lowest rate consistent with maintaining an industry structure capable of providing, and motivated to provide, service with its attendant risks. See, *Permian Basin Area Rate Cases*, 390 U.S. 747 at 791–2 (1968); *Austral Oil Co.* v. *F.P.C.*, 428 F. 2d 407 (5th Cir., 1970); *Placid Oil Co. et al.* v. *F.P.C.*, —— F. 2d —— (5th Cir., No. 71–2761, Apr. 16, 1973); and *Texas Gulf Coast Area Rate Proceeding*, 45 FPC 674 (1971).

9. All producers who make jurisdictional sales of natural gas in excess of 10 million M ft³ and pipelines or pipeline affiliates who produce natural gas within the continental United States as set forth in appendix A, and their pipeline purchasers as set forth in appendix B, are hereby made respondents to this rulemaking proceeding.

10. Any interested person, other than the parties named in appendixes A and B, may become a party to this proceeding by filing with the Secretary of the Commission, on or before June 18, 1973, a notice of intention to respond in writing to this proposal. Parties having a common interest shall combine in a group, where desirable, and advise the Secretary of the fact and of the group's representative for service. The Secretary will thereupon prepare and publish a list of all parties, including groups of parties, by June 25, 1973. Parties shall certify that all other parties, or a group's designated representative, have been served with a copy of all subsequent filings in this proceeding.

11. In order to expedite this proceeding, each appendix A producer, appendix B natural gas pipeline, whether or not it produces natural gas, and all other persons who desire to submit such comments, are ordered and directed to file their comments as to whether the data requested on the forms attached as appendix C is appropriate and sufficient, or excessive, and any suggestions which they may have concerning the proposed date collection system within 15 days of the issuance of this order with the Federal Power Commission, 825 North Capitol Street NE., Washington, D.C. 20426.[7]

12. Any submittal shall state the name, title, mailing address, and telephone number of the person or persons to whom communications concerning this matter should be addressed, and the interest of that party in this proceeding. An original and 14 copies of all submittals shall be filed. All statements and submittals in response to this notice shall be under oath, acknowledged by a notary public or comparable official, as follows: ---------- being duly sworn, deposes and says that he is (title and organization, if filing is representative capacity) that he is authorized to verify and file this document, that he has examined the statements contained in the submittal or response, and that all such statements are true and correct to the best of his knowledge, information, and belief. Those parties preparing statements and submittals, other than appendix C data schedules in response to this rulemaking shall insert line numbers on each page in the left-hand margin.

(name)

13. Answers to submittals will be provided for in our forementioned order fixing dates for submission of completed data forms and issuance of a staff data composite.

14. All submittals will be placed in the Commission's public files and will be available for inspection in the Commission's Office of Public Information, 825 North Capitol Street NE., Washington, D.C. 20426, during regular business hours.

15. The Commisison will consider all written submittals and responses filed by the parties to this proceeding before issuing and order establishing any rates, terms, and conditions in this proceeding.

16. The Commission does not believe that this proceeding is the proper forum for the consideration of the validity of the setting of rates by rulemaking rather than through an adjudicatory hearing. In *Phillips Petroleum Co. et al.* v. *F.P.C.*, —— F. 2d —— (10th Cir., No. 71–1649 et al., decided Feb. 20, 1972), the Commission's use of rulemaking to set just and reasonable rates was upheld. Further support for the use of rulemaking to set rates was provided in *United States et al.* v. *Florida East Coast Railway Co. et al.*, —— U.S. —— (No. 70–279, decided Jan. 22, 1973). Therefore, we shall direct the parties not to address their comments and responses hereto to the validity of the action proposed to be taken herein.

17. The Secretary shall cause prompt publication of this notice and order to be made in the FEDERAL REGISTER.

By the Commission.

[SEAL] MARY B. KIDD,
*Acting Secretary.*

APPENDIX A

PRODUCERS

| *Seller Code* | *Producers—Excess of 10 million M ft³* |
|---|---|
| 016975 | Amerada Hess Corp. |
| 017970 | American Petrofina Co. of Texas (code as Amer Petrofina of Texas) |
| 018168 | Amoco Production Co. |
| 018260 | Anadarko Production Co. (code as Anadarko Production Co.). |
| 029490 | Ashland Oil, Inc. (code as Ashland Oil Inc). |
| 032020 | The Atlantic Richfield Co. (code as Atlantic Richfield Company). |
| 032600 | Austral Oil Co., Inc. (code as Austral Oil Co Inc). |
| 034500 | Aztec Oil & Gas Co. |
| 050550 | Bass Enterprises Production Co. (code as Bass Enterprises Prod Co). |
| 050800 | Perry R. Bass (code as Perry R Bass). |
| 057580 | Belco Petroleum Corp. (code as Belco Petroleum Corp). |
| 063280 | Beta Development Co. |
| 108600 | Cabot Corp. |

[6] Excluding sales under orders Nos. 431, 455, and 428 et seq.

[7] Copies of app. C are being sent to all parties listed in apps. A and B. Copies are available upon written request made to the Secretary of the Commission, to all other persons desiring to become parties to this proceeding.

| Seller Code | Producers—Excess of 10 million M ft³ |
|---|---|
| 112125 | California Co., a division of Chevron Oil Co. (code as California Co Div Chevron). |
| 133975 | Champlin Petroleum Co. |
| 137265 | Chevron Oil Co., Western Division (code as Chevron Oil Co Western Div). |
| 141010 | Cities Service Oil Co. |
| 148240 | Clinton Oil Co. |
| 148350 | Coastal States Gas Producing Co. (code as Coastal States Gas Prod Co). |
| 156500 | Colorado Oil & Gas Corp. (code as Colorado Oil & Gas Corp). |
| 157000 | Coltexo Corp. |
| 157240 | Columbia Gas Development Corp. (code as Columbia Gas Dev Corp). |
| 165000 | Continental Oil Co. |
| 175500 | Cox, Edwin L. (code as Edwin L Cox). |
| 212605 | Diamond Shamrock Corp. (code as Diamond Shamrock Corp). |
| 219560 | Dorchester Gas Production Co. (code as Dorchester Gas Prod Co). |
| 252170 | Exchange Oil & Gas Co. (code as Exchange Oil & Gas Co). |
| 252327 | Exxon Corp. |
| 273500 | Forest Oil Corp. |
| 294500 | General American Oil Co. of Texas (General Amer Oil Co of Tex). |
| 297390 | Getty Oil Co. |
| 329000 | Gulf Oil Corp. |
| 368700 | Helmerich & Payne, Inc. (code as Helmerich & Payne Inc). |
| 404500 | J. M. Huber Corp. (code as J M Huber Corp). |
| 411500 | Hassie Hunt Trust. |
| 415000 | Hunt Oil Co. |
| 423815 | Imperial American Management Co.[1] (code as Imperial American Mgnt Co). |
| 447610 | The Jupiter Corp. |
| 456400 | Kerr-McGee Corp. |
| 463725 | King Resources Co. |
| 475895 | LVO Corp. |
| 507000 | Lone Star Producing Co. (code as Lone Star Producing Co). |
| 509620 | Louisiana Land and Exploration Co. (code as Louisiana Land & Expl Co). |
| 521850 | McCulloch Gas Processing Corp. (code as McCulloch Gas Process Corp). |
| 521895 | McCulloch Oil Corp. |
| 521900 | McCulloch Oil Corp. of California (code as McCulloch Oil Corp of Cal). |
| 521925 | McCulloch Oil Corp. of Texas (code as McCulloch Oil Corp of Tex). |
| 541750 | MAPCO, Inc. (code as MAPCO Inc). |
| 543050 | Marathon Oil Co. |
| 577990 | Mobil Oil Corp. |
| 581050 | Monsanto Co. |
| 610600 | Nautral Gas & Oil Co. |
| 625500 | Northern Natural Gas Producing Co. (code as Northern Natural Gas Prod). |
| 635680 | Ocean Drilling & Exploration Co. (code as Ocean Drilling & Expl Co). |
| 673040 | Pennzoil Co. |
| 673053 | Pennzoil Producing Co. |
| 678500 | Petroleum, Inc. (code as Petroleum Inc). |
| 683000 | Phillips Petrolehm Co. |
| 687100 | Pioneer Production Corp. (code as Pioneer Production Corp). |
| 689500 | Placid Oil Co. |
| 706600 | Pubco Petroleum Corp. (code as Pubco Petroleum Corp). |
| 736400 | River Corp. |
| 743375 | The Rodman Corp. |
| 781500 | Shell Oil & Gas Co. |
| 786000 | Signal Oil & Gas Co. |
| 796500 | Skelly Oil Co. |
| 807500 | Sohio Petroleum Co. |
| 809440 | The South Coast Corp. |
| 813590 | Southern Natural Gas, joint venture (code as Southern Natural G JT Vent). |
| 81500 | Southern Union Gathering Co. (code as Southern Union Gath Co). |
| 815100 | Southern Union Production Co. (code as Southern Union Prod Co). |
| 846500 | Sun Oil Co. |
| 848000 | Superior Oil Co. |
| 860900 | Tenneco Oil Co. |
| 860960 | Tennessee Gas Co. (code as Tennessee Gas Supply Co). |
| 861930 | Terra Resources, Inc. (code as Terra Resources Inc). |
| 863150 | Texaco, Inc. (code as Texaco Inc). |
| 865500 | Texas Gas Exploration Corp. (code as Texas Gas Exploration Corp). |
| 867250 | Texas Oil & Gas Corp. (code as Texas Oil & Gas Corp). |
| 881285 | Transocean Oil, Inc. (code as Transocean Oil Inc). |
| 895000 | Union Oil Co. of California (code as Union Oil Co of Calif). |
| 896070 | Union Texas Petroleum, division of Allied Chemical (code as Union Texas Petr Dv Allied). |
| 914515 | Warren Petroleum Corp., a division of Gulf Oil Corp. (code as Warren Petr Corp Div Gulf). |
| | PIPELINE AFFILIATES |
| 018260 | Anadarko Production Co. (code as Anadarko Production Co). |
| 141000 | Cities Service Oil Co. |
| 156500 | Colorado Oil & Gas Co. (code as Colorado Oil and Gas Co). |
| 158000 | Columbia Fuel Corp. (code as Columbia Fuel Corp). |
| 237255 | El Paso Products Co. |
| 477000 | La Gloria Oil & Gas Co. (code as La Gloria Oil and Gas Co). |
| 506870 | Lone Star Gathering Co. (code as Lone Star Gathering Co). |
| 507000 | Lone Star Producing Co. (code as Lone Star Producing Co). |
| 625500 | Northern Natural Gas Producing Co. (code as Northern Natural Gas Prod). |
| 626300 | Northwest Production Corp. (code as Northwest Prod Corp). |
| 635750 | Odessa Natural Gasoline Co. (code as Odessa Natural Gasoline Co). |
| 658525 | Pan Eastern Exploration Co. (code as Pan Eastern Expl Co). |
| 673053 | Pennzoil Producing Co. |
| 673051 | Pennzoil Offshore Gas Operators (code as Pennzoil Offshore Gas Op). |
| 673054 | Pennzoil Louisiana & Texas Offshore (code as Pennzoil Louisiana & Texas). |
| 698500 | The Preston Oil Co. |
| 813590 | Southern Natural Gas Co., joint venture (code as Southern Nat Gas Co Joint). |
| 860900 | Tenneco Oil Co. |
| 865500 | Texas Gas Exploration Corp. (code as Texas Gas Exploration Corp). |
| 868700 | Texoma Production Co. |
| | PIPELINE PRODUCTION |
| 026100 | Arkansas Louisiana Gas Co. (code as Arkansas Louisiana Gas Co). |
| 026200 | Arkansas Oklahoma Gas Corp. (code as Arkansas Oklahoma Gas Corp). |
| 119000 | Carnegie Natural Gas Co. (code as Carnegie Natural Gas Co). |
| 156285 | Colorado Interstate Gas Corp. (code as Colo Interstate Gas Co). |
| 157270 | Columbia Gas Transmission Corp. (code as Columbia Gas Trans Corp). |
| 163650 | Consolidated Gas Supply Corp. (code as Consolidated G Supply Corp). |
| 237200 | El Paso Natural Gas Co. (code as El Paso Natural Gas Co). |
| 247400 | Equitable Gas Co. |
| 426275 | Inland Gas Co., Inc., the (code as Inland Gas Co Inc). |
| 426800 | Iroquois Gas Corp. |
| 447610 | Jupiter Corp., the (code as Jupiter Corp The). |
| 455100 | Kentucky West Virginia Gas Co. (code as Kentucky West Va Gas Co). |
| 478015 | Lake Shore Pipe Line Co. (code as Lake Shore Pipe Line Co). |
| 563700 | Michigan Wisconsin Pipe Line Co. (code as Michigan Wis Pipe Line Co). |
| 565550 | Mid Louisiana Gas Co. |
| 576330 | Mississippi River Transmission Corp. (code as Miss River Trans Corp). |
| 581400 | Montana-Dakota Utilities Co. (code as Montana Dakota Utilities C). |
| 597500 | Mountain Fuel Supply Co. (code as Mountain Fuel Supply Co). |
| 610870 | Natural Gas Pipeline Co. of America (code as Natural Gas PL Co of Amer). |
| 625300 | North Pennsylvania Gas Co. (code as North Penn Gas Co). |
| 625400 | Northern Natural Gas Co. (code as Northern Natural Gas Co). |
| 626200 | Northern Utilities, Inc. (code as Northern Utilities Inc). |
| 658900 | Panhandle Eastern Pipe Line Co. (code as Panhandle Eastern P L Co). |
| 672650 | Pennsylvania Gas Co. |
| 813580 | Southern Natural Gas Corp. (code as Southern Natural Gas Corp). |

[1] Complete form 459–B only for those recent rate schedules which made the total annual sales volume greater than 10 million M ft³.

852500 Sylvania Corp.
860800 Tenneco, Inc. (code as Tenneco Inc).
864700 Texas Eastern Transmission Corp. (code as Texas Eastern Trans Corp).
866200 Texas Gas Transmission Corp. (code as Texas Gas Transmission Corp).
884200 Trunkline Gas Co.
897450 United Natural Gas Co. (code as United Natural Gas Co).
928380 Western Gas Interstate.

APPENDIX B

PIPELINE RESPONDENTS

Arkansas Louisiana Gas Co.
Arkansas Oklahoma Gas Corp.
Baca Gas Gathering System, Inc.
Bluebonnet Gas Corp.
Caprock Pipeline Co.
Carnegie Natural Gas Co.
Cascade Natural Gas Corp.
Cimarron Transmission Co.
Cities Service Gas Co.
Colorado Interstate Corp.
Columbia Gas Transmission Corp.
Columbia Gulf Transmission Co.
Consolidated Gas Supply Corp.
Delta Gas, Inc.
El Paso Natural Gas Co.
Equitable Gas Co.
Florida Gas Transmission Co.
Gas Transport, Inc.
Grand Valley Transmission Co.
Great Lakes Gas Transmission Co.
Inland Gas Co., Inc., the.
Inter-City Minnesota Piplines Ltd., Inc.
Iroquois Gas Corp.
Jupiter Corp., the.
Kansas-Nebraska Natural Gas Co., Inc.
Kentucky West Virginia Gas Co.
Lake Shore Pipe Line Co.
Lone Star Gas Co.
Louisiana-Nevada Transit Co.
McCulloch Interstate Gas Corp.
Michigan Wisconsin Pipe Line Co.
Mid Louisiana Gas Co.
Midwestern Gas Transmission Co.
Mississippi River Transmission Corp.
Montana-Dakota Utilities Co.
Mountain Fuel Supply Co.
Mountain Gas Co.
Natural Gas Pipeline Co. of America.
North Pennsylvania Gas Co.
Northern Natural Gas Co.
Northern Utilities, Inc.
Oklahoma Natural Gas Gathering Corp.
Pacific Gas Transmission Co.
Panhandle Eastern Pipe Line Co.
Pennsylvania Gas Co.
Plaquemines Oil & Gas Co.
Sea Robin Pipeline Co.
South Texas Natural Gas Gathering Co.
Southern Natural Gas Corp.
Sylvania Corp.
Tennessee Gas Pipeline Co.
Texas Eastern Transmission Corp.
Texas Gas Pipe Line Corp.
Texas Gas Transmission Corp.
Transcontinental Gas Pipe Line Corp.
Transwestern Pipeline Co.
Trunkline Gas Co.
United Gas Pipe Line Co.
United Natural Gas Co.
Valley Gas Transmission, Inc.
West Texas Gathering Co.
Western Gas Interstate.
Western Transmission Corp.
Zenith Natural Gas Co.

[FR Doc.73-10672 Filed 5-30-73;8:45 am]

# Notices

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

## DEPARTMENT OF THE TREASURY

### Bureau of Alcohol, Tobacco, and Firearms

### 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.

Alphin, Willard E., Route 6, Doniphan, Mo., convicted on April 11, 1955, in the Criminal Court of Lake County, Indiana.

Berazen, Philip, 1020½ Harper Avenue, Los Angeles, Calif., convicted on March 21, 1967, in superior court, State of California for Los Angeles.

Blake, Charles, 3149 West Huron Street, Pontiac, Mich., convicted on January 11, 1932, in Detroit Recorder's Court, Michigan.

Bradley, Patrick M., 129 East 46th Street, Apartment 13, Kansas City, Mo., convicted on October 2, 1959, in the District Court of El Paseo County, Colorado.

Brigman, John T., P.O. Box 87, Micanopy, Fla., convicted on January 6, 1961, in the Circuit Court of Alachua County, Florida.

Call, Buel M., Route No. 3, Box 424, Wilkesboro, N.C., convicted on or about November 17, 1943, and on November 29, 1946, by the U.S. Middle District Court, Wilkesboro, N.C.

Carmine, Don R., Box 131, Centuria, Wis., convicted on August 30, 1956, in U.S. Army general court martial, Headquarters V Corps, APO 79.

Clark, Gerry, W., Route 2, Box 273A, Pearisburg, Va., convicted on April 27, 1970, in circuit court, Giles County, Va.

Crowell, Keith R., 450 West Main Street, Pullman, Wash., convicted on July 18, 1969, in Superior Court of the State of Washington for Whitman County.

Dudish, Michael S., Rural Delivery No. 3, Little Falls, N.Y., convicted on December 14, 1939, by the County Court of Otsego, New York.

Faircloth, William A., 1109 Third Street, Greensboro, N.C., convicted on October 27, 1970, in the Guilford County General Court of Justice, Superior Court Division, Greensboro, N.C.

Fleshner, Bernard R., 2133 Montgomery Drive, Santa Rosa, Calif., convicted on April 24, 1959, by the district court, First Judicial District, County of Laramie, State of Wyoming.

Galloway, John C., 92 Back River Road, Dover, N.H., convicted on June 26, 1967, York Superior Court, Alfred, Maine.

Greco, Anthony A., 8614 East Cambridge, Scottsdale, Ariz., convicted on March 14, 1963, in the Superior Court of the State of Arizona, in and for the county of Maricopa, Ariz.

Hardenbrook, Laurence A., 2626 White Bear Avenue, St. Paul, Minn., convicted on November 3, 1936, in U.S. district court, district of Minnesota.

Heckman, Russell E., 2410 South Third Street, Allentown, Pa., convicted on June 21, 1962, and September 26, 1961, by the court of common pleas, criminal division, Lehigh County, Pa.

Hernandez, Alfred, 613½ Kains Street, Albany, Calif., convicted on April 1, 1965, and on March 14, 1966, in the superior court of the State of California in and for the county of Alameda.

Hinds, Larry B., Box 8012, Mammoth Lakes, Calif., convicted on August 11, 1969, in the superior court, State of California for county of San Luis Obispo.

Hobbs, Thomas M., 10 Sussex Place, apartment 4, Marietta, Ga., convicted on or about November 10, 1964, in Fulton superior Court, Fulton County, Ga.

Holt, Kenneth D., 311–D Guikana Avenue, Fort Richardson, Alaska, convicted on April 4, 1968, in U.S. District Court for the District of Alaska.

Hurst, David G., 17 Holiday Trailer Court, North Liberty, Iowa, convicted on September 2, 1969, in District Court of the State of Iowa in and for Bremer County.

Jarrell, Chester A., RR 3, Box 25A, Elwood, Ind., convicted on May 25, 1970, in Madison Circuit Court, Madison County, Ind.

Jordan, Carl F., 911 17th Avenue SE., Cedar Rapids, Iowa, convicted on August 21, 1970, in the Ninth Judicial Circuit Court of Iowa, District Court, Polk County, Des Moines, Iowa.

Leatzau, Richard, 4709 Alter Road, Detroit, Mich., convicted on October 9, 1963, in the Recorder's Court of the City of Detroit, Michigan.

McElwee, Frederick E., 1321 Roland Heights Avenue, Baltimore, Md., convicted on February 4, 1965, in the northern part of the Municipal Court of Baltimore City, Maryland, and on August 4, 1967, in the northeast part of the Municipal Court of Baltimore City, Maryland.

Marple, Ronald D., 1641 Suburban Avenue, Pittsburgh, Pa., convicted on October 1, 1971, in the Court of Common Pleas of Butler County, Pennsylvania.

Martin, Wilburn E., 9187 Vanity Fair, St. Louis, Mo., convicted on April 20, 1956, in Butler County Circuit Court, Butler County, Mo.

Mascia, Joseph F., 637 East 104th Street, Brooklyn, N.Y., convicted on October 11, 1945, by a general court martial at the U.S. Naval Shipyard, Brooklyn, N.Y.

Motley, Thomas P., 509 Wiegel Drive, Ferguson, Mo., convicted on or about November 27, 1928, in the Circuit Court of Pike County, Illinois.

Odam, Freddie R., 612 East Franklin Street, Taylorville, Ill., convicted on February 10, 1964, and January 28, 1966, in Sangamon County Circuit Court, Taylorville, Ill.

Richards, David J., 1023 18th Avenue, Longview, Wash., convicted on September 27, 1962, in the U.S. District Court for the Western District of Washington, and on October 11, 1962, in the Superior Court for the State of Washington for Cowlitz County.

Russell, George L., R.D. No. 1, Box 301, Dunbar, Pa., convicted on February 7, 1968, and January 14, 1969, in U.S. District Court, Western Division, Pennsylvania.

Sellers, William D., 333 First Street, apartment 112E, Seal Beach, Calif., convicted on January 26, 1966, in the Superior Court of California, Orange County.

Shew, Major Pritch, route 2, Box 354, Wilkesboro, N.C., convicted on May 21, 1962, in the U.S. District Court for the Middle District of North Carolina.

Simpson, Kirby D., 423 Roosevelt Avenue, Beloit, Wis., convicted on April 22, 1963, in the Federal District Court, Eastern Judicial District of Wisconsin, Milwaukee, Wis.

Smith, Donald R., 115 Williams Street, Athens, Ga., convicted on or about June 11, 1970, in the U.S. District Court for the Middle District of Georgia.

Talasco, James, rural delivery No. 1, Lattentown Road, Newburg, N.Y., convicted on September 16, 1959, in the Court of General Sessions for the County of New York, New York.

Taylor, Jacky C., 451 Park, Kansas City, Mo., convicted on May 23, 1968, in the Circuit Court of Lafayette County, Missouri.

Tinsley, Thomas, Jr., 835 South 24th Street, Saginaw, Mich., convicted on March 30, 1959, in the Circuit Court for the County of Saginaw, Michigan.

Zanke, Kurt F., Dobbs Ferry, N.Y., convicted on January 29, 1954, in superior court, county of Merrimack, N.H., June 2, 1954, in county court in and for the county of Orange Newburgh, N.Y., and on November 3, 1954, in Ulster County Court, Kingston, N.Y.

Zebley, Edward A., 193 Coolspring Street, Uniontown, Pa., convicted on November 7, 1969, in the U.S. District Court for the Western District of Pennsylvania.

Signed at Washington, D.C., this 23d day of May 1973.

[SEAL] REX D. DAVIS,
*Director, Bureau of Alcohol, Tobacco, and Firearms.*

[FR Doc.73–10799 Filed 5–30–73;8:45 am]

## DEPARTMENT OF DEFENSE

### Department of the Navy

### DREDGING OF THAMES RIVER, NEW LONDON, CONN.

### Public Hearing and Availability of Draft Environmental Impact Statement

*Announcement.*—A public hearing will be held for the purpose of soliciting comments from the public regarding proposed dredging by the Navy of the Thames River between the U.S. Naval Submarine Base, New London, Conn., and Long Island Sound. The hearing will

be conducted by a senior naval officer, and will include a presentation of the Navy's plan for such dredging.

*Date.*—Thursday, June 14, 1973.
*Time.*—7:30 p.m. to 11:30 p.m.
*Place.*—Memorial Union Ballroom, University of Rhode Island, Kingston, R.I.
*Title.*—Draft Environmental Impact Statement, Dredge River Channel, Naval Submarine Base, New London, Conn.

*Description.*—The proposal is to deepen and selectively widen an existing navigation channel from the U.S. Naval Submarine Base, New London, Conn., to Long Island Sound, a distance of approximately 7.5 mi. The channel will be deepened from an existing depth of 33 to 36 ft with a 1-ft allowance for overdredge. In addition, the approaches to the State pier and the Naval Underwater System Center, both at New London, will be widened and dredged to a depth of 38 ft with a 1-ft allowance for overdredge. The dredge spoil is estimated at 2.7 Myd³ and is proposed to be disposed of in the Providence, R.I., dumpsite.

WHERE COPIES OF THE DRAFT ENVIRONMENTAL IMPACT STATEMENT CAN BE OBTAINED

Northern Division, Naval Facilities Engineering Command, Naval Base, Philadelphia, Pa. 19112, attention: Code 09BE

*Cost of copies; $8.*—Stock is limited. Make checks payable to the Treasurer of the United States.

LOCATION OF LOCAL COPIES AVAILABLE FOR PUBLIC REFERENCE

Public Library of Groton, Fort Hill Road, Groton, Conn. 06340; Public Library of New London, 63 Huntington Street, New London, Conn. 06320; Stonington Library, Wadawanuck Square, Stonington, Conn. 06340; Waterford Public Library, 49 Rope Ferry Road, Waterford, Conn. 06320; Palmer Library, Connecticut College, New London, Conn. 06320; Mitchell College Library, 437 Pequot Avenue, New London, Conn. 06320; University Library, University of Connecticut, Southeastern Branch, Avery Point, Groton, Conn. 06340; Ottis Library, 261 Main Street, Norwich, Conn. 06360; Westerly Public Library, Broad Street, Westerly, R.I. 02891; Hartford Public Library, 500 Main Street, Hartford, Conn. 06103; Newport Public Library, Aquidneck Park, Newport, R.I. 02840; Public Library of Providence, 150 Empire Street, Providence, R.I. 02904; Warwick Public Library, 600 Sandy Land, Warwick, R.I. 02886; University Library, University of Rhode Island, Kingston, R.I. 02881; Fall River Main Library, 104 North Main Street, Fall River, Mass. 02720.

NAME, ADDRESS, AND TELEPHONE NUMBER OF GOVERNMENT CONTACT

Lt. C. T. Way, CEC, USN, Northern Division, Naval Facilities Engineering Command, U.S. Naval Base, Building 77-L, Philadelphia, Pa. 19112; telephone: 215-755-4821.

*Time limit for oral presentations.*—The following procedures will be followed during the public hearing. Individual speakers will be limited to 5 minutes, with 10 minutes for a group spokesman. There will be no relinquishing of time by one speaker to another. Written statements, in addition to or in lieu of oral presentations, will be accepted. The submission of written documentation and text material pertaining to the technical aspects of the proposal is encouraged. The closing date for including written communications in the hearing record is June 21, 1973.

K. A. KONOPISOS.

MAY 23, 1973.

[FR Doc.73-10755 Filed 5-30-73;8:45 am]

## SECRETARY OF THE NAVY AUDIT ADVISORY COMMITTEE

### Notice of Meeting

Pursuant to the provisions of the Federal Adivsory Committee Act (Public Law 92-463 (1972)), notice is hereby given that, on Monday, June 11, 1973, the initial meeting of the Secretary of the Navy Audit Advisory Committee will be held at 8:30 a.m. in room 4D710, the Pentagon, Washington, D.C. The purpose of the meeting will be to introduce the Committee members to the organization of the Navy, and the management, current developments, and the role and function of the Naval Audit Service. The public is invited to attend.

H. B. ROBERTSON, Jr.,
*Rear Admiral, JAGC, U.S. Navy,*
*Acting Judge Advocate General.*

MAY 24, 1973.

[FR Doc.73-10754 Filed 5-30-73;8:45 am]

# DEPARTMENT OF JUSTICE

## Bureau of Narcotics and Dangerous Drugs

## CONTROLLED SUBSTANCES IN SCHEDULE I

### Aggregate Quotas

Section 306 of the Comprehensive Drug Abuse Prevention and Control Act of 1970 (21 U.S.C. 826) requires the Attorney General to establish production quotas for all controlled substances listed in schedule I and schedule II by July 1 of each year.

On April 12, 1973, a notice of the proposed aggregate production quotas for three hallucinogenic substances, including a description of the factors considered, was published in the FEDERAL REGISTER (38 FR 9252). All interested parties were invited to comment on or object to the proposed aggregate production quotas on or before May 16, 1973. No comments have been received by the Bureau.

The Director of the Bureau of Narcotics and Dangerous Drugs, under authority vested in the Attorney General by section 306 of the Comprehensive Drug Abuse Prevention and Control Act of 1970 (21 U.S.C. 826) and delegated to the Director by § 0.100 of title 28 of the Code of Federal Regulations, hereby orders that the aggregate production quotas for the following hallucinogenic substances for 1973, expressed in grams, be established as follows:

| Basic Class: | *Granted—1973* |
|---|---|
| 1. Beta—(3,5 methylene dioxyphenyl) isopropylamine | 1,500 |
| 2. N,N-dimethyltryptemine | 190 |
| 3. Mescaline hydrochloride | 415 |

All persons who submitted an application for either an individual manufacturing quota or procurement quota for 1973 will be notified by mail as to their respective 1973 quota established by the Bureau.

This order is effective on May 31, 1973.

Dated May 25, 1973.

JOHN E. INGERSOLL,
*Director, Bureau of*
*Narcotics and Dangerous Drugs.*

[FR Doc.73-10855 Filed 5-30-73;8:45 am]

# DEPARTMENT OF THE INTERIOR

## Bureau of Land Management

[S 4847, Projects 1354, 507]

## CALIFORNIA

### Order Providing for Opening of Lands; Correction

MAY 23, 1973.

In FR Doc. 73-9630 appearing on page 12838 of the issue for Wednesday, May 16, 1973, in the first line of the legal description referring to Project 1354, Mount Diablo Meridian, the coordinate reading "N½SE¼" should read "W½ SE¼".

WALTER F. HOLMES,
*Chief, Branch of Lands*
*and Minerals Operations.*

[FR Doc.73-10792 Filed 5-30-73;8:45 am]

## Office of the Secretary

## ADVISORY COMMITTEE ON COAL MINE SAFETY RESEARCH

### Notice of Meeting

Notice is hereby given that the Advisory Committee on Coal Mine Safety Research will meet on June 8, 1973, commencing at 9 a.m. in room 5160, Department of the Interior, 18th and C Streets NW., Washington, D.C. The purpose of the Committee is to consult with and to make recommendations to the Secretary on matters involving or relating to coal mine safety research. The meeting will be open to the public, except for an executive session commencing at 3 p.m. at which there will be considered proposed research contracts which contain commercial or financial information which is privileged or confidential matter under 5 U.S.C. 552(b)(4). Persons desiring further information concerning this meeting may contact Dr. Earl T. Hayes, Department of the Interior, Bureau of Mines, room 3610, Telephone: 202-343-5643.

The agenda of the meeting is as follows:

| | |
|---|---|
| 9 a.m. | Opening ceremonies and remarks. |
| 9:30 a.m. | Bureau of Mines reorganization, Dr. Earl T. Hayes, executive secretary. |
| 10 a.m. | Overview of coal mine health and safety research program. |
| 11:30 a.m. | Lunch. |

1 p.m..... Review of fiscal year 1974 program plans, Dr. J. Yancik and staff.
3 p.m..... Executive session.
4 p.m..... Adjournment.

Dated May 25, 1973.

STEPHEN A. WAKEFIELD,
*Assistant Secretary, Energy and Minerals.*

[FR Doc.73-10801 Filed 5-30-73;8:45 am]

[INT DES 73-33]

## BIG SOUTH FORK NATIONAL RECREATION AREA, KY. AND TENN.

### Availability of Draft Environmental Statement

Pursuant to section 102(2)(C) of the National Environmental Policy Act, the Department of the Interior has prepared a draft environmental statement for the proposed Big South Fork National Recreation Area in Kentucky and Tennessee, and invites written comment within 45 days of this notice. Written comment should be addressed to the Director, Southeast Region and the Superintendent, Great Smoky Mountains National Park, at the addresses given below.

The draft environmental statement considers the establishment of 111,100 acres in McCreary County, Ky.; and Fentress, Morgan, Pickett, and Scott Counties, Tenn., as Big South Fork National Recreation Area, a unit of the National Park System.

Copies are available from or for inspection at the following locations:

Office of the Director, southeast region, National Park Service, 3401 Whipple Avenue, Atlanta, Ga. 30344.
Superintendent, Great Smoky Mountains National Park, Gatlinburg, Tenn. 37738.

Dated May 24, 1973.

LAURENCE E. LYNN, Jr.,
*Assistant Secretary of the Interior.*

[FR Doc.73-10752 Filed 5-30-73;8:45 am]

## COLUMBIAN WHITE-TAILED DEER NATIONAL WILDLIFE REFUGE OREGON AND WASHINGTON

### Availability of Final Environmental Impact Statement; Correction

In Doc. 73-9770, published at page 12940 in the issue dated Thursday, May 17, 1973, is corrected by deleting the last sentence in the second paragraph—"This action will include the subject area within the National Wilderness Preservation System."

LAURENCE E. LYNN Jr.,
*Assistant Secretary for Program Development and Budget.*

MAY 23, 1973.

[FR Doc.73-10791 Filed 5-30-73;8:45 am]

# DEPARTMENT OF COMMERCE

### Maritime Administration

## MERCHANT SHIP CONSTRUCTION

### Revised Edition of Standard Specifications

In FR Doc. 73-7827, appearing in the FEDERAL REGISTER issue of April 23, 1973 (38 FR 10029), notice was published of the announcement by the Maritime Administration of the availability for purchase of a new edition of its "Standard Specifications for Merchant Ship Construction" dated December 1972. The notice indicated that, while the new edition had been updated in certain respects, further revision of the standard specifications would be made periodically to reflect technological developments and results of certain investigations.

Notice is hereby given that revision of the specifications may be necessary as a result of the environmental review of the MarAd tanker construction program which is presently in process. As indicated in the draft environmental impact statement concerning the program (NTIS Report No. EIS 73 0392 D), there are alternatives to the present program which involve revision of the present standard specifications for tankers and other oil carrying vessels to require certain antipollution design features and equipment. These alternatives, along with others contained in the final environmental impact statement, will be considered by the Maritime Subsidy Board in the near future.

Dated May 25, 1973.

By order of the Assistant Secretary of Commerce for Maritime Affairs.

ROBERT J. PATTON, Jr.,
*Assistant Secretary.*

[FR Doc.73-10854 Filed 5-30-73;8:45 am]

# DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

### Food and Drug Administration

## OVER-THE-COUNTER HEMORRHOIDAL DRUG PRODUCTS

### Safety and Efficacy Review; Request for Data and Information

*Correction*

In FR Doc. 73-8062 appearing at page 10307 in the issue for Thursday, April 26, 1973, in the list of active ingredients the second item in the right-hand column, reading "Hammamelis water (witch hazel)", should read "Hamamelis water (witch hazel)".

### Health Services and Mental Health Administration

## INDIAN HEALTH ADVISORY COMMITTEE

### Notice of Meeting

The Administrator, Health Services and Mental Health Administration, announces the meeting date and other required information for the following national advisory body scheduled to assemble the month of June 1973:

| Committee name | Date, time, place | Type of meeting and/or contact person |
|---|---|---|
| Indian Health Advisory Committee. | June 26, 1927; 8:30 a.m., Parklawn Bldg., Conference room K, 5600 Fishers Lane, Rockville, Md. | Open—Contact Dr. John G. Todd, Parklawn Bldg., room 5A-55, 5600 Fishers Lane, Rockville, Md. Code 301-443-1087. |

*Purpose.*—The Indian Health Advisory Committee advises the Secretary, the Administrator, Health Services and Mental Health Administration, and the Director, Indian Health Service, on health and other related matters that have a bearing on the conduct of the Indian health program as well as current and proposed regulations and policies.

The committee provides an effective liaison between the Indian Health Service and the Indian people through recognized Indian tribal leaders in the development and awareness of health needs among the Indian people and the Indian Health Service staff as well as in the evaluation of programs to meet those needs in terms of consumer concerns.

*Agenda.*—Agenda will include a discussion of overall Indian health program operations, along with national Indian involvement, current legislation affecting Indian programs, and discussion regarding Indian Health Service and Federal health programs.

Agenda items are subject to change as priorities dictate.

A roster of members and other relevant information regarding the open session may be obtained from the contact person listed above.

Dated May 24, 1973.

ANDREW J. CARDINAL,
*Acting Associate Administrator for Management, Health Services and Mental Health Administration.*

[FR Doc.73-10803 Filed 5-30-73;8:45 am]

### Office of Education

## NATIONAL ADVISORY COUNCIL ON ADULT EDUCATION

### Notice of Public Meeting

Notice is hereby given, pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Public Law 92-463), that the next meeting of the National Advisory Council on Adult Education will be held on June 14, 15, 16, 1973, at the Mayflower Hotel, 1127 Connecticut Avenue NW., Washington, D.C. The Council meeting will commence at 8:30 a.m. on June 14, and terminate at 12:30 p.m. on June 16.

The National Advisory Council on Adult Education is established under section 310 of the Adult Education Act (80 Stat. 1216.20 U.S.C. 1201). The Council is directed to:

Advise the Commissioner in the preparation of general regulations and with respect to policy matters arising in the administration of this title, including policies and procedures governing the approval of State plans under section 306 and policies to eliminate duplication, and to effectuate the coordination of programs under this title and other programs offering adult education activities and services.

The Council shall review the administration and effectiveness of programs under this title, make recommendations with respect thereto, and make annual reports to the President of its findings and recommendations (including recommendations for changes in this title and other Federal laws relating to adult education activities and services). The President shall transmit each

such report to the Congress together with his comments and recommendations.

The meeting of the Council shall be open to the public. The proposed agenda includes:

Standing committee reports: executive committee, legislative committee, publicity and publications committee, research committee.
Special committee reports: correctional institutions, national economic projections, national think tank project, fiscal year 1974 adult education funding.
1974 council operational procedures.

Records shall be kept of all Council proceedings (and shall be available for public inspection at the Office of the National Advisory Council on Adult Education located in room 1144, Pennsylvania Building, 425 13th Street NW., Washington, D.C. 20004).

Signed at Washington, D.C., on May 23, 1973.

GARY A. EYRE,
*Executive Director, National Advisory Council on Adult Education.*

[FR Doc.73-10751 Filed 5-30-73;8:45 am]

### Social and Rehabilitation Service

### NATIONAL ADVISORY COMMITTEE ON SERVICES FOR THE BLIND AND VISUALLY HANDICAPPED

#### Notice of Meeting

The National Advisory Committee on Services for the Blind and Visually Handicapped will meet on June 4, 9-4:30, room 2026, and June 5, 9:15-4, room 3065, Mary E. Switzer Building, 330 C Street SW., Washington, D.C. The committee will review current programs and discuss priorities, objectives and long-range plans affecting the provision of comprehensive services to blind and visually handicapped persons and will make recommendations to the Social and Rehabilitation Service, the Rehabilitation Services Administration, and the Office for the Blind and Visually Handicapped. Meeting open to public observation. Name of person from whom roster of committee members may be obtained: Dr. D. C. MacFarland, Office for the Blind and Visually Handicapped.

D. C. MACFARLAND,
*Executive Secretary.*

MAY 24, 1973.

[FR Doc.73-10903 Filed 5-30-73;8:45 am]

## DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

### Office of the Secretary

[Docket No. N-73-148]

### REVIEW AND EVALUATION OF DEPARTMENTAL PROGRAMS

#### Amendment of Notice and Extension of Time for Filing of Comments

The notice of request for comments and information published April 5, 1973 (38 FR 8685), is amended by:

1. Changing the third line of the text which had limited HUD's reveiew to departmental programs to read, "housing policies and programs of the Federal Government," and
2. Extending the closing date for comments in line 17 of the text by changing "May 1, 1973" to read "June 8, 1973."

(Sec. 7(d), Department of HUD Act, 42 U.S.C. 3535(d).)

Dated May 29, 1973.

JAMES T. LYNN,
*Secretary of Housing and Urban Development.*

[FR Doc.73-10949 Filed 5-30-73;8:45 am]

## DEPARTMENT OF TRANSPORTATION

### Federal Aviation Administration

### AIRPORT TRAFFIC CONTROL TOWER, KNOXVILLE, TENN.

#### Notice of Commissioning

Notice is hereby given that on or about May 24, 1973, the Airport Traffic Control Tower at the Knoxville, Tenn., Downtown Island Airport, will be in operation as an FAA facility. This information will be reflected in the FAA organization statement the next time it is issued. Communications to the tower should be as follows:

Federal Aviation Administration, Airport Traffic Control Tower, P.O. Box 9150, Knoxville, Tenn. 37920

Issued in East Point, Ga., on May 21, 1973.

PHILLIP M. SWATEK,
*Director, Southern Region.*

[FR Doc.73-10780 Filed 5-30-73;8:45 am]

### FLIGHT SERVICE STATION, DILLON, MONT.

#### Notice of Closing

Notice is hereby given that on or about June 15, 1973, the flight service station at Dillon Airport, Dillon, Mont., will discontinue operation as an FAA facility. Service to the aviation public of Dillon, Mont., formerly provided by this facility will be provided by the Bozeman, Mont., Flight Service Station. This information will be reflected in the FAA organization statement the next time it is issued.

Issued in Aurora, Colo., on May 16, 1973.

M. M. MARTIN,
*Director, Rocky Mountain Region.*

[FR Doc.73-10781 Filed 5-30-73;8:45 am]

### GENERAL AVIATION DISTRICT OFFICE, HELENA, MONT.

#### Notice of Boundary Change

Notice is hereby given that on or about June 1, 1973, services to the general aviation public of Phillips County, Mont., formerly provided by the General Aviation District Office at Helena, Mont., will be provided by the General Aviation District Office in Billings, Mont. This information will be reflected in the FAA organization statement the next time it is reissued.

(Sec. 313(a), 72 Stat. 752; 49 U.S.C. 1354.)

Issued in Denver, Colo., on May 18, 1973.

M. M. MARTIN,
*Director, Rocky Mountain Region.*

[FR Doc.73-10782 Filed 5-30-73;8:45 am]

### Office of the Secretary

### URBAN TRANSPORTATION ADVISORY COUNCIL

#### Notice of Meeting

On June 5, 1973, the Urban Transportation Advisory Council will hold a meeting in Washington, D.C., at the Department of Transportation in room 10234. The charter for the Urban Transportation Advisory Council was forwarded to the FEDERAL REGISTER for publication on February 9, 1973.

The Urban Transportation Advisory Council is composed of 25 members and not more than 10 ex officio members appointed by the Secretary of Transportation in accordance with DOT Order 1120.26. The Council consists of recognized urban and transportation authorities in their respective public, private, and academic fields.

The objective of the Council is to identify the requirements for, and improvements in, urban transportation systems. Specifically, the Council maintains contact and coordination with appropriate State, local, and city officials and key members of private industry and other interested groups:

a. To insure that they are advised of, and have an opportunity to comment on, all significant DOT urban transportation programs and proposals;

b. To obtain meaningful information regarding the urban transportation needs of the Nation.

The Council agenda for June 5 follows:

9 a.m.—Opening remarks, followed at 9:15 by "Transportation as a Factor in the Energy Situation; Urban Transportation Planning and Structure of Agencies; Reports on Working Group Matters." The Council will reconvene at 2 to discuss UMTA present and prospective operations and procedures; to hear a progress report on BART; for a roundtable on PRT's; and for other business.

The meeting of the Council will be open to the public.

This notice is given pursuant to section 10 of Public Law 92-463.

Issued on May 23, 1973.

JOHN E. HIRTEN,
*Assistant to the Secretary of Transportation.*

[FR Doc.73-10785 Filed 5-30-73;8:45 am]

## ATOMIC ENERGY COMMISSION

[Docket No. PRM-70-3]

### GENERAL ELECTRIC CO.

#### Filing of Petition for Rulemaking

Notice is hereby given that General Electric Co., 175 Curtner Avenue, San

Jose, Calif., by letter dated May 8, 1973, has filed with the Atomic Energy Commission a petition for rulemaking.

The petitioner requests that the Commission amend its regulation 10 CFR part 70 to authorize export under a general license of small amounts of special nuclear materials such as (a) not more than one gram of uranium-235 and uranium-233 in enriched uranium; (b) not more than one gram of plutonium in any physical or chemical form except metal; (c) not more than 5 g of plutonium in a sealed neutron source; and (d) not more than 0.5 g of plutonium in a heat source such as a pacemaker battery.

The petitioner indicates that maintenance of certain records and filing of certain reports by general licensees may be necessary to assure that appropriate information is available for Commission monitoring of exports under the general license. The petitioner states also that the general license may authorize exports to specific nations depending on the provisions of agreements for cooperation between the United States and those nations.

A copy of the petition for rulemaking is available for public inspection in the Commission's Public Document Room, 1717 H Street NW., Washington, D.C. A copy of the petition may be obtained by writing the rules and proceedings branch at the below address.

All interested persons who desire to submit written comments or suggestions concerning the petition for rulemaking should send their comments to the Rules and Proceedings Branch, Office of Administration—Regulation, U.S. Atomic Energy Commission, Washington, D.C. 20545, on or before July 30, 1973.

Dated at Germantown, Md., this 24th day of May 1973.

For the Atomic Energy Commission.

GORDON M. GRANT,
*Acting Secretary of the Commission.*

[FR Doc.73-10784 Filed 5-30-73;8:45 am]

## CIVIL AERONAUTICS BOARD

[Docket No. 23542]

### ATC BYLAWS INVESTIGATION

#### Notice of Reopened Hearing

Notice is hereby given that the hearing in this proceeding is reopened for the limited purpose of taking testimony on exhibit ATC-R31, proffered on May 17, 1973, the reopened hearing to be on June 7, 1973, at 10 a.m., local time, in room 1031, Universal Building North, 1875 Connecticut Avenue NW., Washington, D.C. 20428.

Dated at Washington, D.C., May 24, 1973.

[SEAL] HENRY WHITEHOUSE,
*Administrative Law Judge.*

[FR Doc.73-10859 Filed 5-30-73;8:45 am]

[Docket No. 24697]

### TRANS WORLD AIRLINES, INC. AND FLYING MERCURY, INC.

#### Enforcement Proceeding; Postponement of Hearing

Upon request by the Bureau of Enforcement, and it appearing that finalization of a settlement agreement is imminent, the hearing in the above-entitled matter now assigned for May 30, 1973 (38 FR 13048, May 18, 1973), is hereby postponed indefinitely, pending either the termination of settlement attempts or Board action on any settlement agreement which may be reached.

Dated at Washington, D.C., May 24, 1973.

[SEAL] THOMAS P. SHEEHAN,
*Administrative Law Judge.*

[FR Doc.73-10860 Filed 5-30-73;8:45 am]

## CIVIL SERVICE COMMISSION

### DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

#### Notice of Grant of Authority to Make Noncareer Executive Assignment

Under authority of § 9.20 of Civil Service rule IX (5 CFR 9.20), the Civil Service Commission authorizes the Department of Housing and Urban Development to fill by noncareer executive assignment in the excepted service the positions of Deputy Director, Urban Program Coordination, Office of the Secretary and Assistant Director, Urban Program Coordination, Office of the Secretary.

[SEAL] JAMES C. SPRY,
*Executive Assistant to the Commissioners.*

[FR Doc.73-10819 Filed 5-30-73;8:45 am]

## COMMISSION ON THE BANKRUPTCY LAWS OF THE UNITED STATES

### NOTICE OF MEETINGS

MAY 25, 1973.

The Commission on the Bankruptcy Laws of the United States will meet on June 7, 8, 9, 10, 11, and 12, 1973, in room 2148 of the Rayburn House Office Building between the hours of 10 o'clock in the morning and 5 o'clock in the afternoon to review issues still pending concerning the Bankruptcy Act and to finalize the Commission's report.

WALTER RAY PHILLIPS,
*Deputy Director.*

[FR Doc.73-10850 Filed 5-30-73;8:45 am]

## COMMITTEE FOR PURCHASE OF PRODUCTS AND SERVICES OF THE BLIND AND OTHER SEVERELY HANDICAPPED

### PROCUREMENT LIST

#### Notice of Proposed Deletion from Procurement List 1973

Notice is hereby given pursuant to section 2(a)(2) of the Act to Create a Committee on Purchases of Blind-Made Products, as amended, 85 Stat. 79, of the proposed deletion of the following commodity from procurement list 1973, published on page 6742 of the FEDERAL REGISTER of March 12, 1973.

CLASS 7510

Binder, Looselead, pressboard
7510-582-4200
7510-582-4199

On or before July 2, 1973, comments and views regarding the proposed deletion may be filed with the Committee. Communications should be addressed to the Executive Director, Committee for Purchase of Products and Services of the Blind and Other Severely Handicapped, 2009 14th Street North, suite 610, Arlington, Va. 22201.

By the Committee.

CHARLES W. FLETCHER,
*Executive Director.*

[FR Doc.73-10915 Filed 5-30-73;8:45 am]

## CONSUMER PRODUCT SAFETY COMMISSION

### SECRETARY OF THE COMMISSION

#### Delegation of Authority To Sign and Submit Documents for Publication in the Federal Register

The Chairman of the Consumer Product Safety Commission, which Commission has been established pursuant to provisions of the Consumer Product Safety Act (Public Law 92-573, 86 Stat. 1207-33; 15 U.S.C. 2051-81), hereby delegates to the Secretary of the Commission authority to sign and submit the Commission's documents for publication in the FEDERAL REGISTER. Such documents may be in the form of notices, proposals, orders, and promulgations.

Dated May 24, 1973.

RICHARD O. SIMPSON,
*Chairman, Consumer Product Safety Commission.*

[FR Doc.73-10757 Filed 5-30-73;8:45 am]

## COST OF LIVING COUNCIL

### FOOD INDUSTRY WAGE AND SALARY COMMITTEE

#### Determination To Close Meeting

Pursuant to authority granted me by Cost of Living Council Order 25, I have determined that the meeting of the Food Industry Wage and Salary Committee to be held, as previously announced, on June 6, 1973, will consist of exchanges of opinions, that the discussions, if written, would fall within exemption (5) of 5 U.S.C. 552(b) and that it is essential to close the meeting to protect the free exchange of internal views and to avoid interference with the operation of the Committee.

Issued in Washington, D.C., on May 29, 1973.

HENRY H. PERRITT, Jr.
*Executive Secretary, Cost of Living Council.*

[FR Doc.73-10955 Filed 5-29-73;3:21 pm]

## LABOR-MANAGEMENT ADVISORY COMMITTEE

### Determination To Close Meeting

Pursuant to the provisions of the Federal Advisory Committee Act (Public Law 92–463, 86 Stat. 770), notice is hereby given that a meeting of the Labor-Management Advisory Committee created by section 8 of Executive Order 11695 will be held on June 6, 1973.

The purpose of the meeting is to provide advice to the chairman of the Cost of Living Council on methods for improvin the collective bargaining process and for assuring wage and salary settlements consistent with gains in productivity and the goal of stemming the rate of inflation.

Pursuant to authority granted me by Cost of Living Council Order 25, I have determined that the meeting of the Labor-Management Advisory Committee will consist of exchanges of opinions, that the discussions, if written, would fall within exemption (5) of 5 U.S.C. 552(b) and that it is essential to close the meeting to protect the free exchange of internal views and to avoid interference with the operation of the committee.

Issued in Washington, D.C., on May 29, 1973.

HENRY H. PERRITT, Jr.,
*Executive Secretary,*
*Cost of Living Council.*

[FR Doc.73–10956 Filed 5–29–73;3:21 pm]

# FEDERAL POWER COMMISSION

[Docket No. RP73–107]

## CONSOLIDATED GAS SUPPLY CORP.

### Notice of Proposed Changes in Rates and Charges

MAY 23, 1973.

Take notice that Consolidated Gas Supply Corp. (Consolidated) tendered for filing on May 15, 1973, proposed changes in its FPC gas tariff, first revised volume No. 1 and original volume No. 2 to become effective on July 1, 1973. The filing consists of original sheet No. 260–A, first revised sheets Nos. 255, 257, and 272–B, second revised sheets Nos. 260, 265, and 272–A, third revised sheets Nos. 266 through 270, firth revised sheets Nos. 271, and 272, and 19th revised sheet No. 8. The proposed rate change would increase Consolidated's revenues from jurisdictional sales and service by $16,852,465 based on the 12 months ended January 31, 1973.

Consolidated states that the increased rates are required to recoup, inter alia, increased cost of transportation by others, increased cost of capital, increased depreciation rates, and increased plant. The rates proposed reflect an overall rate of return of 9.5 percent. Further, Consolidated states that if the Commission suspends the proposed rates for the full suspension period, Consolidated will adjust the proposed rate for billing by filing appropriate tariff sheets, by the applicable surcharge adjustment in effect at that time. Finally, Consolidated asserts that statement P will be filed within 15 days of this tender.

Any person desiring to be heard or to protest said application should file a petition to intervene or protest with the Federal Power Commission, 825 North Capitol Street NE., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's rules of practice and procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before June 8, 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 application are on file with the Commission and are available for public inspection.

MARY B. KIDD,
*Acting Secretary.*

[FR Doc.73–10826 Filed 5–30–73;8:45 am]

[Project 2149, Washington]

## DOUGLAS COUNTY, WASH., PUBLIC UTILITY DISTRICT 1

### Availability of Final Environmental Statement

Notice is hereby given that on May 23, 1973, as required by the Commission rules and regulations under order 415–C, issued December 18, 1972, a final environmental statement prepared by the Commission's staff pursuant to section 102 (2)(C) of the National Environmental Policy Act of 1969 (Public Law 91–100) was placed in the public files of the Federal Power Commission. This statement deals with the wildlife proceedings on Wells project No. 2149.

This statement is available for public inspection in the Commission's Office of Public Information, 825 North Capitol Street NE., Washington, D.C., and its San Francisco Regional Office. Copies will be available from the National Technical Information Service, Department of Commerce, Springfield, Va. 22151.

MARY B. KIDD,
*Acting Secretary.*

[FR Doc.73–10820 Filed 5–30–73;8:45 am]

[Docket No. CI73–746]

## EDWIN L. COX

### Notice of Application

MAY 23, 1973.

Take notice that on May 2, 1973, Edwin L. Cox (Applicant), 3800 First National Bank Building, Dallas, Tex. 75202, filed in docket No. CI73–746 an application pursuant to section 7(c) of the Natural Gas Act and § 2.75 of the Commission's general policy and interpretations (18 CFR 2.75) for a certificate of public convenience and necessity authorizing the sale for resale and delivery of natural gas in interstate commerce to Florida Gas Transmission Co. (Florida Gas) from the East Bayou Field, Iberia Parish, La., all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicant proposes under the optional gas pricing procedure to sell natural gas to Florida Gas from the East Bayou Pigeon Field at an initial rate of 35c/M $ft^3$ at 15.025 lb/$in^2a$, subject to upward and downward Btu adjustment, pursuant to the terms of a contract dated December 1, 1972. Said contract provides for fixed escalations of 1c/M $ft^3$ each year after the date of initial delivery, for reimbursement to the seller for all of any additional taxes which are greater than those being levied on the date of the contract and for a contract term of 20 years. Applicant estimates monthly deliveries of gas from his interest at 20,000 M $ft^3$.

Applicant asserts that the proposed sale will insure the long-term dedication to the interstate market of substantial quantities of natural gas at presently ascertainable prices, thereby materially assisting the pipeline purchaser in alleviating the gas supply shortage with which it is presently confronting. Applicant further asserts that the 35-cent initial price is substantially less than recent intrastate prices for gas in the southern Louisiana area and also substantially less than recent prices in the interstate market for which authority has been requested under the optional gas-pricing procedure. Applicant alleges that the instant contract price with adjustments is far lower than prices for baseload sales of liquefied natural gas or synthetic gas for which applications for authorization are pending or have been approved by the Commission.

Any person desiring to be heard or to make any protest with reference to said application should on or before June 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). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Power Commission by sections 7 and 15 of the Natural Gas Act and the Commission's rules of practice and procedure, a hearing will be held without further notice before the Commission on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required,

further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

MARY B. KIDD,
*Acting Secretary.*

[FR Doc.73-10827 Filed 5-30-73;8:45 am]

[Docket No. CI73-763]

## DYCO PETROLEUM CORP.

### Notice of Application

MAY 23, 1973.

Take notice that on May 7, 1973, Dyco Petroleum Corp. (Applicant), 607 Philtower Building, Tulsa, Okla. 74103, filed in docket No. CI73-763, 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 Northern Natural Gas Co., from the Mocane Laverne Field, Harper County, Okla., all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicant requests authorization to sell approximately 2,000 M $ft^3$ of gas per day, plus additional gas which may be available, for 2 years at 46c/M $ft^3$ the first year and 46.5c/M $ft^3$ the second year at 14.65 lb/$in^2$a, subject to upward and downward Btu adjustment from a base of 930 Btu/$ft^3$, within the contemplation of § 2.70 of the Commission's general policy and interpretations (18 CFR 2.70). Estimated monthly deliveries are 60,000 to 80,000 M $ft^3$ of gas.

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 June 8, 1973, file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Power Commission by sections 7 and 15 of the Natural Gas Act and the Commission's rules of practice and procedure, a hearing will be held without further notice before the Commission on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

MARY B. KIDD,
*Acting Secretary.*

[FR Doc.73-10822 Filed 5-30-73;8:45 am]

[Docket No. CP73-298]

## EL PASO NATURAL GAS CO.

### Notice of Application

MAY 23, 1973.

Take notice that on May 7, 1973, El Paso Natural Gas Co. (Applicant), P.O. Box 1492, El Paso, Tex. 79978, filed an application in docket No. CP73-298 pursuant to sections 7 (b) and (c) of the Natural Gas Act for permission and approval to abandon certain facilities and for a certificate of public convenience and necessity authorizing the construction and operation of certain facilities, all on its Southern Division System in Cochise County, Ariz., all as more fully set forth in the application on file with the Commission and open to public inspection.

Applicant seeks permission and approval to abandon by sale to Arizona Public Service Co. (APS) approximately 10.455 mi. of 4.5-in-o.d. pipe, approximately 1.186 mil. of 2.375-in.-o.d. pipe, two 1-in. taps, and three measurement and regulating stations. Applicant indicates that these facilities are utilized to render service to APS for resale and distribution of natural gas in the Fort Huachuca-Fry, Ariz., service area. Applicant alleges that APS will utilize the facilities as a part of its existing distribution system in the Fort Huachuca-Fry service area and pay Applicant $60,000 for the facilities.

Applicant seeks authorization to construct and operate a measuring and regulating station replacing the three abandoned stations to continue the present level of service to APS. According to Applicant, APS will reimburse it for the estimated cost of $20,000 for the new station.

Any person desiring to be heard or to make any protest with reference to said application should on or before June 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 a grant of the certificate, and 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.73-10828 Filed 5-30-73;8:45 am]

[Dockets Nos. RP72-150, etc.]

## EL PASO NATURAL GAS CO.

### Notice of Further Postponement of Procedural Dates

MAY 23, 1973.

On May 9, 1973, El Paso Natural Gas Co. filed a motion for postponement of the procedural dates as set by the notice issued April 26, 1973, in the above-designated matter. The motion states that the parties were in unanimous agreement that the procedural dates should be postponed.

Upon consideration, notice is hereby given that the procedural dates in the above matter are further modified as follows:

Service of interveners' evidence, June 25, 1973.
Service of El Paso's rebuttal evidence, July 9, 1973.
Hearing and commencement of cross-examination, July 23, 1973 (10 a.m., e.d.t.)

MARY B. KIDD,
*Acting Secretary.*

[FR Doc.73-10829 Filed 5-30-73;8:45 am]

[Docket No. CI73-762]

## RICHARD H. FLEISCHAKER

### Notice of Application

MAY 23, 1973.

Take notice that on May 7, 1973, Richard H. Fleischaker (Applicant), Singer-Fleischaker Oil Co., P.O. Box 663, Oklahoma City, Okla. 73101, filed in docket No. CI73-762 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 Panhandle Eastern Pipe Line Co. from acreage in Beaver County, Okla., all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicant proposes to sell up to 2,000 M ft³ of gas per day for 1 year at 50 c/M ft³ at 14.65 lb/in²a, subject to upward and downward Btu adjustment, within the contemplation of § 2.70 of the Commission's general policy and interpretations (18 CFR 2.70).

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 June 8, 1973, file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Power Commission by sections 7 and 15 of the Natural Gas Act and the Commission's rules of practice and procedure, a hearing will be held without further notice before the Commission on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

MARY B. KIDD,
*Acting Secretary.*

[FR Doc.73-10823 Filed 5-30-73;8:45 am]

[Docket No. G-10632]

## IOWA-ILLINOIS GAS & ELECTRIC CO. ET AL.

### Notice of Petition for Declaration and for Advance Authorization

MAY 23, 1973.

Take notice that on May 8, 1973, Iowa-Illinois Gas & Electric Co. (Iowa-Illinois), 206 East Second Street, Davenport, Iowa 52801, Natural Gas Pipeline Co. of America (Natural), 122 South Michigan Avenue, Chicago, Ill. 60603, and Northern Illinois Gas Co. (Northern Illinois), P.O. Box 190, Aurora, Ill. 60507, filed in docket No. G-10632 a petition for advance authorization to commence rescheduled deliveries of natural gas under § 2.68 of the Commission's general policy and interpretations (18 CFR 2.68) and for a declaration that the status of Northern Illinois under the Natural Gas Act and that of Iowa-Illinois will be unaffected by the contemplated rescheduling of deliveries, all as more fully set forth in the petition in this proceeding.

Petitioners state that they have entered into a letter of intent, dated May 8, 1973, providing for rescheduling Natural's deliveries of gas to Iowa-Illinois and Northern Illinois in order to aid the latter two companies in meeting the firm heating season requirements of their respective customers. Pursuant to said letter of intent, the three companies have agreed to use their best efforts to develop, no later than November 1, 1973, a long-term agreement providing for a mutually beneficial rescheduling of deliveries from and satisfactory to Natural. The instant petition, petitioners state, is concerned solely with the arrangements provided for in said letter of intent in the event that a long-term agreement is not reached.

The petition indicates that as the result of Northern Illinois' projected inability to secure enough gas for storage injection during the summer of 1973 to meet the projected requirements of its firm consumers during the 1973–74 winter, an emergency situation exists on its system. In order to alleviate this emergency, Iowa-Illinois has agreed to release and Natural has agreed to deliver to Northern Illinois, during the period ending October 1, 1973, up to 3 million M ft³ of natural gas currently available to Iowa-Illinois from Natural. Iowa-Illinois forecasts an inability in 1973–75 and beyond to supply the firm requirements of its consumers under certain severe weather conditions, and Northern Illinois has agreed, provided no long-term agreement is reached, to release and Natural has agreed to deliver to Iowa-Illinois, beginning not sooner than April 1, 1974, and ending no later than October 1, 1976, at such times as the parties mutually agree, an amount of gas equivalent to that made available to Northern Illinois during the summer of 1973. Petitioners allege that the overall effect of the proposed rescheduling of deliveries will be to the benefit of both distribution companies, and Northern Illinois and Iowa-Illinois allege that the subject rescheduling will not result in any increase in the combined annual takes by Iowa-Illinois and Northern Illinois from Natural.

Iowa-Illinois requests a statement by the Commission that its participation in the proposed rescheduling of takes described above will not subject it to Federal Power Commission gas tariff regulation and Northern Illinois requests a statement continuing its exempt status under section 1(c) of the Natural Gas Act, despite its participation in the proposed rescheduling.

It appears reasonable and consistent with the public interest in this case to prescribe a period shorter than 15 days for the filing of protests and petitions to intervene. Therefore, any person desiring to be heard or to make any protest with reference to said petition to amend should on or before June 8, 1973, file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10). All protests filed with the Commisson 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.

MARY B. KIDD,
*Acting Secretary.*

[FR Doc.73-10821 Filed 5-30-73;8:45 am]

[Docket No. CP73-294]

## IROQUOIS GAS CORP. ET AL.

### Notice of Application

MAY 23, 1973

Take notice that on May 2, 1973, Iroquois Gas Corp., 10 Lafayette Square, Buffalo, N.Y. 14203, Pennsylvania Gas Co., 213 Second Avenue, Warren, Pa. 16365, United Natural Gas Co., 308 Seneca Street, Oil City, Pa. 16301, and NFG Gas Corp., 10 Lafayette Square, Buffalo, N.Y. 14203 (Applicants), filed an application in docket No. CP73-294 pursuant to sections 7 (b) and (c) of the Natural Gas Act for permission and approval to abandon certain facilities and for a certificate of public convenience and necessity authorizing the acquisition and operation of these same facilities, all as more fully set forth in the application on file with the Commission and open to public inspection.

Applicants allege that they are in the process of a corporate simplification with three steps. In the first step, according to Applicants, NFG Gas Corp. (National-NY) will merge National Fuel Gas Co. (National-NJ). In the second step the gas distribution property, intrastate transmission, and other general plant facilities of Iroquois Gas Corp. (Iroquois), Pennsylvania Gas Co. (Penn Gas), and United Natural Gas Co. (United), will be acquired by National-NY to complete the transfer of these and certain other assets of Penn Gas and United to National-NY. Applicants seek permission and approval for the abandonment and a certificate for the acquisition of facilities. Applicants state that the third step of the corporate simplification will be the creation of an integrated gas supply network for the newly created National-NY distribution system by the merger of the remaining properties of Penn Gas and Iroquois into United, which will be a wholly owned subsidiary of National-NY operatng with

a new name, National Fuel Gas Corp. Applicants seek permission and approval for Iroquois and Penn Gas to abandon their remaining facilities to United and authorization for United to acquire these facilities.

Applicants state that the consideration that Iroquois, Penn Gas, and United will receive in step two will be in each case equal to the original cost of the assets net of accumulated depreciation.

Applicants allege that there will be no curtailment of services and no jurisdictional facilities will be constructed in order to carry out the corporate simplification with the exception of approximately 83 measuring and regulating stations on existing United pipelines and approximately 35 stations on Iroquois pipelines.

Concurrently with the instant application, Applicants have petitioned the Commission for a waiver of the fees required by § 159.2 of the regulations under the Natural Gas Act (18 CFR 159.2) since the abandonments and acquisitions are part of a corporate simplification, no new construction is involved, no new facilities will be acquired, and the facilities are presently installed and operated by individual subsidiary companies.

Any person desiring to be heard or to make any protest with reference to said application should on or before June 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 a grant of the certificate and 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 Applicants to appear or be represented at the hearing.

MARY B. KIDD,
*Acting Secretary.*

[FR Doc.73-10830 Filed 5-30-73;8:45 am]

[Docket No. CI73-555]

## McCULLOCH OIL CORP. OF TEXAS

### Notice of Extension of Time

MAY 23, 1973.

On May 18, 1973, McCulloch Oil Corp. requested an extension of the procedural dates of the order issued May 16, 1973, in the above matter. The request states that El Paso agreed with the request.

Upon consideration, notice is hereby given that the date for filing evidence is extended to and including June 5, 1973. The hearing will be held at 10 a.m., e.d.t., on June 11, 1973, as previously scheduled.

MARY B. KIDD,
*Acting Secretary.*

[FR Doc.73-10833 Filed 5-30-73;8:45 am]

[Docket No. CI73-755]

## MIDWEST OIL CORP.

### Notice of Application

MAY 23, 1973.

Take notice that on May 7, 1973, Midwest Oil Corp. (Applicant), 1700 Broadway, Denver, Colo. 80202 filed in docket No. CI73-755 an application pursuant to section 7(c) of the Natural Gas Act and § 2.75 of the Commission's general policy and interpretations (18 CFR 2.75) for a certificate of public convenience and necessity authorizing the sale for resale and delivery of natural gas in interstate commerce to Sea Robin Pipeline Co. (Sea Robin) from block 225, Ship Shoal Area, offshore Louisiana, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicant proposes under the optional gas pricing procedure to sell natural gas to Sea Robin at an initial price of 35c/M $ft^3$ at 15.025 $lb/in^2a$, subject to upward and downward Btu adjustment, pursuant to a gas purchase and sales agreement dated July 7, 1972. The said agreement provides for 2.5c/M $ft^3$ price escalations every 36 months, for reimbursement to the Applicant for any new or increased taxes, for seller to pay 0.02c/M $ft^3$ per mile of transportation of plant shrinkage volumes and 20c/bbl for transportation of liquids and for a contract term of 20 years. Applicant also requests per-granted abandonment authorization.

Applicant states that it has received authorization to make the subject sale in docket No. CI72-181, but that it has not commenced deliveries of gas under that certificate. Applicant further states that at the time of its certificate application in docket No. CI72-181, the optional gas pricing procedure was not available.

Applicant believes that the proposed sale of gas will assist in assuring that adequate supplies of gas to meet demands of consumers reach Sea Robin and its customers, United Gas Pipe Line Co. and Southern Natural Gas Co., who have been forced to curtail deliveries of gas to their customers. Applicant asserts that the assurance of the instant long-term supply of gas produced domestically and delivered at the instant contract prices is beneficial to consumers faced with the prospect of paying in excess of $1 (initial price) for gas imported from countries with uncertain political futures, or transported over long distances from Alaska. Applicant further asserts that recently executed contracts for the sale of gas in the same area for leases of the same date call for higher prices in the neighborhood of 45 to 50c/M $ft^3$. Applicant also notes that recently negotiated intrastate contracts in southern Louisiana and in other areas call for even higher prices. Applicant alleges that the Commission's staff report attached to the notice of proposed ruling in docket No. R-389-B supports the instant contract prices as it found that the cost of finding and producing nonassociated gas is between 34.68 and 38.26c/M $ft^3$ nationwide.

Any person desiring to be heard or to make any protest with reference to said application should on or before June 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). 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 the Commission's rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Power Commission by sections 7 and 15 of the Natural Gas Act and the Commission's rules of practice and procedure, a hearing will be held without further notice before the Commission on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

MARY B. KIDD,
*Acting Secretary.*

[FR Doc.73-10831 Filed 5-30-73;8:45 am]

[Docket No. CI73-755]

## MIDWEST OIL CORP.

### Notice of Application

MAY 23, 1973.

Take notice that on May 7, 1973, Midwest Oil Corp. (Applicant), 1700 Broadway, Denver, Colo. 80202 filed in docket No. CI73-755 an application pursuant to section 7(c) of the Natural Gas Act and

§ 2.75 of the Commission's general policy and interpretations (18 CFR 2.75) for a certificate of public convenience and necessity authorizing the sale for resale and delivery of natural gas in interstate commerce to Sea Robin Pipeline Co. (Sea Robin) from block 225, Ship Shoal Area, offshore Louisiana, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicant proposes under the optional gas pricing procedure to sell natural gas to Sea Robin at an initial price of 35c/M $ft^3$ at 15.025 lb/$in^2a$, subject to upward and downward Btu adjustment, pursuant to a gas purchase and sales agreement dated July 7, 1972. The said agreement provides for 2.5c/M $ft^3$ price escalations every 36 months, for reimbursement to the Applicant for any new or increased taxes, for seller to pay 0.02c/M $ft^3$ per mile of transportation of plant shrinkage volumes and 20 c/bbl for transportation of liquids and for a contract term of 20 years. Applicant also requests per-granted abandonment authorization.

Applicant states that it has received authorization to make the subject sale in docket No. CI72-181, but that it has not commenced deliveries of gas under that certificate. Applicant further states that at the time of its certificate application in docket No. CI72-181, the optional gas pricing procedure was not available.

Applicant believes that the proposed sale of gas will assist in assuring that adequate supplies of gas to meet demands of consumers reach Sea Robin and its customers, United Gas Pipe Line Co. and Southern Natural Gas Co., who have been forced to curtail deliveries of gas to their customers. Applicant asserts that the assurance of the instant long-term supply of gas produced domestically and delivered at the instant contract prices is beneficial to consumers faced with the prospect of paying in excess of $1 (initial price) for gas imported from countries with uncertain political futures, or transported over long distances from Alaska. Applicant further asserts that recently executed contracts for the sale of gas in the same area for leases of the same date call for higher prices in the neighborhood of 45 to 50c/M $ft^3$. Applicant also notes that recently negotiated intrastate contracts in southern Louisiana and in other areas call for even higher prices. Applicant alleges that the Commission's staff report attached to the notice of proposed ruling in docket No. R-389-B supports the instant contract prices as it found that the cost of finding and producing nonassociated gas is between 34.68 and 38.26c/M $ft^3$ nationwide.

Any person desiring to be heard or to make any protest with reference to said application should on or before June 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). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Power Commission by sections 7 and 15 of the Natural Gas Act and the Commission's rules of practice and procedure, a hearing will be held without further notice before the Commission on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

MARY B. KIDD,
*Acting Secretary.*

[FR Doc.73-10832 Filed 5-30-73;8:45 am]

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[Dockets Nos. CP72-233, etc.]

## NATURAL GAS PIPE LINE CO. OF AMERICA AND TEXACO INC.

### Order Granting Certificates of Public Convenience and Necessity, Accepting Rate Schedules for Filing, Granting Interventions, Cosolidating Proceedings, Setting Hearing, and Establishing Procedures

MAY 23, 1973.

The above proceeding involves a transaction by which an interstate pipeline company requests authorization from the Commission, inter alia, to transport natural gas from producing wells to gas consuming facilities of a petroleum company for its own use. The basic agreement by the producer is to sell 80 percent of gas production to the pipeline and an agreement by the pipeline to transport the other 20 percent of production for the producer's own use. The instant proceeding also involves the transportation of natural gas from the Federal domain to an onshore location.

On March 29, 1972, Natural Gas Pipe Line Co. of America (Natural) filed an application in docket No. CP72-233 for a certificate of public convenience and necessity to construct and operate pipeline facilities including a 16-in-diameter pipeline extending approximately 27 mi from Natural's gulf coast pipeline at a point near the town of Sabine Pass, Tex., to Texaco Inc.'s production platform situated in the southwest quarter of High Island Block 71, offshore Texas. The proposed facility will extend for 5.7 mi onshore and 21 mi offshore, having a design day capacity estimated at 58,329 M $ft^3$/d. Total estimated cost of construction is $5,959,650. Natural proposes to attach certain natural gas reserves of Texaco in block 71, 72, 87, and 88, High Island area, offshore Texas (hereinafter referred to as Block 88 Field). Natural is not proposing any new or additional markets. The purpose of this proposal is to maintain supplies for service to existing markets. The design, operating, testing, and inspection procedures will conform to Federal regulations, title 49, part 192 and to the requirements and orders of the U.S. Department of Interior Geological Survey.

On July 17, 1972, Natural filed an application in docket No. CP73-15 for a certificate of public convenience and necessity for the transportation of the maximum 10,000 M $ft^3$/d of natural gas for Texaco (14.65 lb/$in^2a$, 60° F and heating value of 1,000 Btu per cubic foot). Natural proposes to transport gas for Texaco from the reserves of Texaco not dedicated to Natural in the companion application in docket No. CI72-677, covering reserves owned and controlled by Texaco in the Block 88 Field, High Island area, offshore Texas. The proposed transportation will originate offshore Texas and will move through the facilities proposed in docket No. CP72-233; thereafter, move into the gulf coast line of Natural, which begins in south Louisiana and the gulf coast of Texas and terminates at points at or near Chicago, Ill. Natural proposes to deliver the Texaco transportation volumes to Northern Illinois Gas Co., at an existing delivery point designated as Station No. 233, or at other mutually agreeable points of delivery in the Chicago area. Natural states it requires the construction of no additional facilities other than those proposed in docket No. CP72-233 to carry out the proposed transportation for Texaco to the Chicago area. It is proposed that Texaco will pay a two part demand-commodity rate based on Natural's FPC Gas Rate Schedule DMQ-1 rates in effect from time to time. Briefly, the demand charge for Texaco will be the same as rate schedule DMQ-1 demand charge; the commodity charge is the rate schedule DMQ commodity charge less Natural's average cost of purchased gas, plus an additional charge which varies with the load factor utilized by Texaco for its proposed transportation. A minimum annual bill is also applicable to the proposed transportation service. The record in the hearing hereinafter ordered should demonstrate whether the proposed rate is required by the public convenience and necessity.

Notice of the application was issued on July 24, 1972. Petitions to intervene and notices of intervention were filed in docket No. CP73-15 as follows:

*Names and dates*

Texaco Inc., July 31, 1972.
Public Service Commission of New York, August 2, 1972.
Mobil Oil Corp., August 15, 1972.
Consolidated Edison Co. of New York, August 15, 1972.
Northern Illinois Gas Co., August 15, 1972.
Associated Gas Distributors, August 15, 1972.

A request for formal hearing has been submitted. Petitioners raise various issues as to the use of the proposed transportation volumes for direct industrial consumption and whether offshore Federal domain gas should be transported for specific customers during a period of time in which only limited amounts of natural gas are available to the interstate market and curtailments of existing contract demands are required of deliveries to distributors. Northern Illinois Gas Co., supports the proposed transportation as its effectuation will permit Northern Illinois to terminate an existing sales contract with Texaco.

The proposed transportation by Natural for Texaco is pursuant to an agreement dated February 29, 1972, which has a term of 10 years from the date of initial transportation and thereafter year to year until canceled by either party upon 1 year's written notice thereafter, subject to the possibility that Natural may be required in the future to construct additional mainline capacity, and in such event Texaco will be required to elect that either the term of the agreement will be extended for 20 years or that the entire agreement is canceled. The terms of the agreement impose additional potential costs on Texaco in the event that Natural constructs additional mainline capacity on or after December 1, 1974, and Texaco elects to continue the transportation agreement for a 20-year term following the installation of additional mainline capacity. Texaco is permitted to reduce the contract transportation quantity, provided that such reduction is offset by Natural's ability to contract for the sale or transportation of such capacity to another party. The proposed transportation is not subject to interruption or curtailment except for force majeure.

On April 21, 1972, Texaco Inc., filed an application in docket No. CI72-677 for a certificate of public convenience and necessity for the sale of natural gas from block 88 Field, High Island area, offshore Texas to Natural. Pursuant to a gas sales contract dated February 29, 1972, Texaco's total price including all adjustment tax reimbursements would be 32.6c/M ft³ (14.65 lb/in²a). Texaco states that it is willing to accept a certificate at 24c/M ft³. Texaco, in the gas sales contract with Natural, has withdrawn from sale and reserved for its own use (or for that of an affiliate) a quantity of gas up to 20 percent of the total gas reserves dedicated in blocks 71, 72, 87, and 88, High Island area, offshore Texas.

On October 2, 1972, Texaco filed an application in docket No. CI73-231 for a limited-term certificate of public convenience and necessity, providing for pregranted abandonment, by which Texaco proposes to sell its reserved gas volumes from the Block 88 Field, High Island area, offshore Texas at 35c/M ft³ plus 0.805c/M ft³ upward British thermal unit adjustments (14.65 lb/in²a) to Natural for a 1-year term from the date of initial delivery but not later than April 1, 1974, authorizing Texaco to sell up to 12,000 M ft³ per day. Notice of the application was issued on October 6, 1972. On November 17, 1972, petitions to intervene were filed by Northern Illinois Gas Co., and by Natural Gas Pipeline on October 3, 1972. Texaco has agreed to an interim 1-year sale of reserved gas volumes to Natural while the transportation issue is being resolved, in order to permit Natural to construct the facilities and for Texaco's sale of natural gas to commence. Furthermore, these interim arrangements permit Texaco to be in a position to exercise its rights to transport liquid hydrocarbons onshore and process the gas for extraction of specified lighter hydrocarbons. Texaco's request for transportation of gas by Natural to the Chicago area represents an asserted diversion of gas otherwise available from the offshore area for sales to the interstate market.

On October 3, 1972, Natural filed a statement requesting expedited consideration by the Commission of the proceedings at docket Nos. CP72-233, CP73-15, CI72-677, and CI73-231. On September 22, 1972, Texaco and Natural agreed that the transportation agreement between the parties and the reservation of gas reserves by Texaco in the gas purchase contract dated February 29, 1972, would be modified, and they have agreed on a temporary alternative arrangement by which Texaco will sell on a limited term basis its reserved volumes of gas pending the receipt of a permanent certificate by Natural in docket No. CP73-15, based on said modifications. Natural requests that the Commission promptly issue permanent certificates in docket No. CP72-233 to construct and operate facilities and to Texaco in docket Nos. CI72-677 and CI73-231 for sales of gas to Natural.

The above-listed four dockets involve common questions of fact and law which should be decided upon a consolidated record. In order to permit Natural to construct the necessary facilities and to permit Texaco to initiate sales, appropriate certificates will be issued herein while at the same time permitting the contested issues to proceed to a formal hearing for determination of whether Texaco's reserved gas volumes may be transported from the Federal domain, offshore Texas, to the Chicago area for consumption in Texaco's refinery, and all subordinate issues related thereto including the appropriateness of the proposed transportation rate schedule of Natural.

In *Chandeleur Pipeline Company*, Opinion No. 560, 42 FPC 20 (1969), remanded, *Public Service Commission* v. *FPC*, 436 F. 2d 904 (D.C. Cir. 1970), Opinion No. 560-A, 44 FPC 1747 (1970), affirmed 463 F. 2d 824 (D.C. Cir. 1972), the Commission issued a certificate authorizing the transportation of an additional 85,000 M ft³/d from offshore Louisiana to the refinery of Standard Oil Co., of California of natural gas for its own use. In *Chandeleur*, the Commission was concerned with the transportation of natural gas by a producer through its company owned facilities from gas reserves in the Gulf of Mexico directly to its own refinery. In the instant proceeding, Texaco seeks to have gas, which it has reserved out of a gas purchase contract, transported through existing or augmented facilities of an interstate pipeline company to its plants for its own consumption or use. Distribution company interveners appear to object to the proposed transportation of natural gas by the interstate pipeline company for the producer's own use on the ground that such direct transportation deprives them of needed gas supplies for retail distribution. It is necessary, therefore, that the applicants and interveners, inter alia, present evidence of the end-uses to which the proposed transportation gas will be put and the availability of alternative fuels and alternative means, in order to adequately evaluate, on a current basis, whether the Commission should approve the transportation of gas for the producer's own uses. It will also be necessary for the applicants and interveners to present evidence of the current market and gas supply conditions with which they are faced, and address themselves to such other issues as were raised in *Chandeleur*.

On June 15, 1972, Northern Illinois Gas Co. submitted information concerning its proposed transportation of the Texaco volumes from the point of receipt from Natural and the proposed delivery to Texaco, at its Rockport refinery in the State of Illinois. Northern Illinois requests that the Commission confirm that the proposed transportation of gas by it for Texaco (if ultimately certificated as to Natural) will not affect its current exemption pursuant to section 1(c) of the act, issued in docket No. G-10632 on July 25, 1956. The proposed transportation will be pursuant to a rate schedule to be filed and approved by the Illinois Commerce Commission. The Northern Illinois-Texaco transportation agreement involves the interstate transportation of gas by Northern Illinois. However, since none of the gas received by Northern Illinois in the State of Illinois will be delivered, sold, or consumed outside Illinois, either directly or by displacement, section 1(c) of the act allows the Illinois commission to regulate the Texaco-Northern Illinois transportation transaction. State commissions may regulate interstate transportation so long as gas received in that State is consumed in that State. The letter and flow diagram of Northern-Illinois show that the Texaco gas will not be consumed outside the State of Illinois. Therefore, the exemption issued to Northern-Illinois will not be affected by the proposed transportation.

A draft environmental statement was issued and on March 26, 1973, a notice of its availability was issued by the Secretary. Comments were received from State and Federal agencies, which are incorporated in the final environmental impact statement issued on May 1, 1973. The final statement adequately resolves all environmental issues involved in the proposed pipeline construction by Natural. The Commission incorporates the

final statement as part of its action herein.[1]

At the hearing held on May 16, 1973, the Commission on its own motion received and made a part of the record in this proceeding all evidence, including the applications in dockets Nos. CP72-233, CI72-677, and CI73-231, and exhibits thereto, submitted in support of the authorizations sought herein, and upon consideration of the record,

*The Commission finds*

(1) Texaco, Inc., should be granted certificates of public convenience and necessity for the sales of natural gas to Natural.

(2) Dockets Nos. CP72-233, CP73-15, CI72-677, and CI73-231 should be consolidated for hearing and decision as they involve common questions of fact and law.

(3) Natural Gas Pipeline Co., a Delaware corporation, having its principal place of business in Chicago, Ill., is a natural-gas company within the meaning of the Natural Gas Act, as heretofore found by the Commission in its order issued October 13, 1942, in docket No. G-235 (3 FPC 830).

(4) The facilities of Natural hereinbefore described, as more fully described in the application in this proceeding, as supplemented, are to be used in the transportation and sale of natural gas in interstate commerce, subject to the jurisdiction of the Commission and the construction and operation thereof by Natural is 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 perform the services proposed and conform to the provisions of the Natural Gas Act and the requirements, rules, and regulations of the Commission thereunder.

(6) The construction and operation of the proposed facilities by Natural is required by the public convenience and necessity and a certificate therefor should be issued as hereinafter ordered and conditioned upon applicants' compliance with all applicable Commission regulations under the Natural Gas Act and particularly the general terms and conditions set forth in part 154 and § 157.20 (a), (b), (c)(3), (c)(4), (e), (f), and (g) of the Commission's regulations.

(7) Texaco is or will be engaged in the sale of natural gas in interstate commerce for resale for ultimate public consumption subject to the jurisdiction of the Commission, and is or will, therefore, be a natural-gas company within the meaning of the Natural Gas Act upon the commencement of service under the authorizations hereinafter granted.

(8) The sales of natural gas hereinbefore described, as more fully described in the applications in this proceeding, will be made in interstate commerce subject to the jurisdiction of the Commission; and such sales by Texaco together with the construction and operation of any facilities subject to the jurisdiction of the Commission necessary therefor, are subject to the requirements of subsections (c) and (e) of section 7 of the Natural Gas Act.

(9) The sales of natural gas by Texaco together with the construction and operation of any facilities subject to the jurisdiction of the Commission necessary therefor are required by the public convenience and necessity; and certificates therefor should be issued as hereinafter ordered and conditioned.

(10) It is necessary and appropriate in carrying out the provisions of the Natural Gas Act that the FPC gas rate schedules and supplements related to the authorizations hereinafter granted should be accepted for filing.

*The Commission orders*

(A) A certificate of public convenience and necessity is issued to Natural in docket No. CP72-233 authorizing the construction and operation of facilities required for purchase and receipt of gas from Texaco upon the following conditions:

(1) That Natural comply with part 154 and § 157.20 (a), (b), (c)(3), (c)(4), (e), (f) and (g) of the Commission's regulations.

(2) Construction be completed and operations commenced within 12 months from date of this order.

(3) The granting of this certificate is without prejudice to any of the issues to be resolved in the hearings in CP72-233 et al.

(4) An appropriate portion of the proposed facilities will not be included in Natural's rate base in any future rate proceeding in the event the facility is not fully used or useful as a result of ultimate determination by the Commission after hearing in docket No. CP72-233 et al.

(5) That Texaco accepts the conditioned certificates issued in dockets Nos. CI72-677 and CI73-231.

(B) A certificate of public convenience and necessity be issued to Texaco in docket No. CI72-677 on condition that:

(1) The total initial rate be 24 cents (14.65lb/in²a) as adjusted for quality pursuant to opinion No. 595 and opinion No. 595-A and subject to any further orders issued thereunder, but not to exceed the rate provided in the related rate schedule.

(2) There be a filing, within 90 days from the dates of initial delivery, of three copies of a rate schedule-quality statement as specified by ordering paragraph (D) of the Commission's opinion No. 595.

(3) The transportation of liquids and liquefiable hydrocarbons is subject to § 2.71 of the Commission's statements of general policy.

(4) In the event Texaco exercises its option to have Natural transport gas reserved for its own use, after issuance of an appropriate certificate to Natural by the Commission, it will be necessary for Texaco to submit proposed rate schedule supplements, at least 30 days prior to the effective dates, notifying the Commission that Texaco has exercised such option and setting forth the conditions and details of contemplated action.

(5) The proposed rate schedule of Texaco is accepted for filing and will be effective on the date of initial delivery. An appropriate filing by the producer will be made to advise the Commission of initiation of service hereunder within 10 days therefrom.

(6) Texaco's rate schedule will be designated as "R.S. No. 483" and "Supp. No. 1."

(7) Section 154.93(b-1) of the Commission's regulations is waived to permit the inclusion in the related rate schedule of the contractual provision for rate increases to a higher rate found to be proper by hearing, rulemaking, or a Commission approved settlement.

(C)(1) A certificate of public convenience and necessity is issued authorizing Texaco (Applicant), in docket No. CI73-231 to sell natural gas in interstate commerce to Natural at the rate of 35c/M ft³ at 14.65 lb/in²a for 1 year from the date of initial deliveries or until April 1, 1974, whichever is earlier, together with the construction and operation of any facilities subject to the jurisdiction of the Commission necessary therefor, upon the terms and conditions of this order and specifically limited to such sale and facilities.

(2) The Commission specifically waives its accounting and reporting requirements by Applicant with respect to the subject sale; however, Applicant shall report to the Commission the volume of gas sold within 30 days after deliveries terminate.

(3) Applicant shall abandon the subject sale upon the termination of the certificate issued herein.

(4) During the term of the sale authorized herein, Natural shall make no new direct interruptible sales from its system.

(5) Applicant's letter agreement dated September 20, 1972, with Natural is accepted for filing effective on the date of initial delivery, and is designated as Texaco, Inc., FPC Gas Rate Schedule No. 484, Texaco shall advise the Commission in writing of the date of initial delivery within 10 days thereof.

(D) The applications listed at the head of this order are hereby consolidated for hearing and decision. Upon acceptance of conditioned certificates as issued above to Natural and Texaco, dockets Nos. CI72-677 and CI73-231 shall be severed from the consolidated proceeding.

(E) The petitioners named above are hereby permitted to intervene in these

[1] The Commission has also taken into consideration the comments received subsequent to the close of the review period for draft environmental statement of the U.S. Department of Commerce, filed May 1 and 14, 1973; Texas Highway Department, filed Apr. 26, 1973; Texas Water Rights Commission, filed May 3, 1973; U.S. Environmental Protection Agency, filed Apr. 30, 1973; U.S. Department of Agriculture, filed May 3, 1973; U.S. Department of the Army, Galveston District, filed May 3, 1973; and U.S. Department of Interior, filed May 17, 1973. These comments do not require any further action by the Commission.

proceedings, subject to the rules and regulations of the Commission: *Provided*, That the participation of such interveners shall be limited to matters affecting rights and interests specifically set forth in their respective petitions to intervene and that the admission of such interveners shall not be construed as recognition by the Commission that they, or any of them, might be aggrieved because of any order or orders issued by the Commission in this proceeding.

(F) Pursuant to authority conferred on the Federal Power Commission by the Natural Gas Act and the Commission's regulations under the Natural Gas Act, a public hearing will commerce on June 19, 1973, at 10 a.m., e.d.t., in a hearing room of the Federal Power Commission, 825 North Capitol Street NE., Washington, D.C. 20426, respecting the matters set forth above and more fully set forth in the applications in these dockets and designated as Natural Gas Pipe Line Co. of America, docket No. CP72-233, et al.

(G) Applicants and persons in support of the applications shall serve prepared testimony in support thereof, including prepared testimony of witnesses and exhibits, on the Office of the Administrative Law Judges, the Commission's staff and every party to this proceeding on or before June 4, 1973.

(H) All applicants and interveners herein may serve answering evidence to (G) above, including prepared testimony of witnesses and exhibits, in the same manner as applicants above, not later than June 14, 1973.

(I) An administrative law judge to be hereinafter designated by the Chief Administrative Law Judge shall preside at the hearing and, in this discretion, shall control the proceedings thereafter.

By the Commission.

[SEAL] MARY B. KIDDS,
*Acting Secretary.*

[FR Doc.73-10825 Filed 5-30-73;8:45 am]

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[Dockets Nos. E-7737, E-7739]

## ORANGE & ROCKLAND UTILITIES, INC. AND ROCKLAND ELECTRIC CO.

### Notice Deferring Procedural Dates

MAY 23, 1973.

A notice was issued on March 27, 1973, extending the time and postponing the prehearing conference. On April 15, 1973, Orange & Rockland Utilities, Inc., filed an offer of settlement in docket No. E-7737. On March 1, 1973, Rockland Electric Co., filed an offer of settlement in docket No. E-7739.

Upon consideration, notice is hereby given that the procedural dates are deferred pending further order of the Commission in the above matter.

MARY B. KIDD,
*Acting Secretary.*

[FR Doc.73-10834 Filed 5-30-73;8:45 am]

[Docket No. CP73-299]

## TRANSCONTINENTAL GAS PIPE LINE CORP.

### Notice of Application

MAY 23, 1973.

Take notice that on May 8, 1973, Transcontinental Pipe Line Corp. (Applicant), P.O. Box 1396, Houston, Tex. 77001, filed in docket No. CP73-299 an application pursuant to section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the construction and operation of certain natural gas facilities, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicant proposes to construct and operate approximately 18.16 miles of 16-inch pipeline and a gathering meter and regulating station, all on its southeast gathering system.

Applicant's proposed pipeline will extend from Applicant's block 129 "A" platform to the "C" platform of Amoco Production Co. (Amoco) in block 196, of the block 205 field, Eugene Island area, offshore Louisiana, and will replace an existing 10-inch lateral which is fully loaded and will not handle the expected 75,000 M $ft^3/d$ of natural gas to be produced and sold by Amoco to Applicant by mid-1975.

Applicant estimates the cost of the proposed facilities, which will include a meter and regulator station at the block 196 location, to be $4,735,000 which will be initially financed with short-term loans and cash, with permanent financing to be considered at a later date.

Any person desiring to be heard or to make any protest with reference to said application should on or before June 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 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.73-10838 Filed 5-30-73;8:45 am]

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[Docket No. RP72-99]

## TRANSCONTINENTAL GAS PIPE LINE CORP.

### Order Denying Motion for Extension

MAY 23, 1973.

This proceeding arises out of Transcontinental Gas Pipe Line Corp. (Transco) filing on May 17, 1971, of tariff changes pursuant to Order No. 431 in order to effectuate a gas curtailment policy in the event of a gas shortage. By order of November 15, 1971, in docket No. RP71-118, the Commission approved an interim curtailment plan effective for the period November 16, 1971, through November 15, 1972, and provided that Transco file a permanent curtailment plan, which it filed on January 17, 1972, in this docket. The Commission suspended this filing and provided for a hearing. However, after discussions between Transco, its customers and the staff an interim settlement agreement to cover the period November 16, 1972, through November 15, 1973, was arrived at which interim settlement agreement was approved by this Commission by order of November 15, 1972. This most recent interim settlement agreement provided inter alia, that:

> Transco shall file a curtailment plan with the Commission not later than May 1, 1973, to become effective, after suspension, on November 16, 1973.[1]

On May 1, 1973, Transco filed a "Motion for One-Year Extension of Interim Curtailment Plan" and stated that:

> This motion constitutes Transco's filing of a curtailment plan in accordance with Article VII of the Settlement Agreement. * * *

Transco's motion for a 1-year extension of its interim curtailment plan does not constitute the filing of a curtailment plan with the Commission. While Transco states that it is presently preparing to file a curtailment plan no explanation is given why such curtailment plan was not filed, as it should have been, on May 1, 1973. Accordingly, Transco's

[1] Article VII, p. 6 of interim settlement agreement. See article X, p. 8 of interim settlement agreement.

motion for a 1-year extension of its interim curtailment plan is denied and Transco is hereby directed to make an appropriate curtailment plan filing on or before July 1, 1973.

We are sure that Transco will give consideration to order 467-B in deciding whether or not to tender revised substitute tariff sheets which conform to the curtailment priorities and procedures outlined in that order, and which will govern future curtailments. We have stated as a matter of policy, that curtailments under any plan not in conformity with order 467-B may be found to be discriminatory or preferential, and Transco undoubtedly recognizes the risks attendant to curtailing under any plan which does not conform to order 467-B. If the provisions of Transco's curtailment plan to be filed on or before July 1, 1973, are found by the Administrative Law Judge or the Commission to be violative of section 4, the Commission is fully empowered to require such filings as are necessary to make Transco's curtailment practices just and reasonable, nonpreferential, and nondiscriminatory.

*The Commission finds*

Transco's motion seeking a 1-year extension of its interim curtailment plan must be denied because such an extension does not constitute the filing of a curtailment plan with the Commission.

*The Commission orders*

(A) Transco's motion for a 1-year extension of its interim curtailment plan filed on May 1, 1973, is hereby denied.

(B) Transco shall file an appropriate curtailment plan on or before July 1, 1973.

By the Commission.

[SEAL] MARY B. KIDD,
*Acting Secretary.*

[FR Doc.73-10837 Filed 5-30-73;8:45 am]

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[Project No. 20]

## UTAH POWER & LIGHT CO.

### Notice of Application for New Major License

MAY 23, 1973.

Public notice is hereby given that an application for new major license (relicense), was filed June 26, 1970, under the Federal Power Act (16 U.S.C. 791a-825r) by the Utah Power & Light Co. (correspondence to: Mr. Robert B. Porter, P.O. Box 899, Salt Lake City, Utah 84110; with copies to Mr. Lee S. Sherline, 1701 K Street NW., suite 406, Washington, D.C. 20006, and Mr. S. B. Baucom, P.O. Box 899, Salt Lake City, Utah 84110), licensee for soda project No. 20 which is located on the Bear River in Caribou County, Idaho. The cities of Pocatello and Idaho Falls, Idaho and Logan, and Ogden, Utah are within a radius of approximately 100 miles of the project.

The project's current license expires July 4, 1973.

The project has an installed capacity of 14,000 kW (20,000 hp) and consists of (1) a concrete gravity overflow dam 430 feet long with a maximum height of 103 feet, comprising (a) a controlled spillway section containing three 30 x 14 feet radial gates, (b) a center section 117 feet in length consisting of an intake structure and powerhouse containing two 7,000 kW units, and (c) a gravity section 210 feet long; (2) an earthern dike 60 feet long and 28 feet high connecting the left end of the spillway to the left abutment; (3) a reservoir with storage capacity of 16,300 acre-feet, and (4) all other facilities and interests appurtenant to operation of the project.

Applicant estimates its net investment in the project to be $2,491,858.61; the project's fair value to be $5,869,700; annual State and local taxes paid to be $55,000; and severance damages in the event of takeover to be $5 million.

The application states that recreational facilities at the project consist of: (1) A boat launching ramp and access ramp and access road maintained by the applicant; (2) a picnic and camping area with boat launching ramp maintained by the Soda Springs Junior Chamber of Commerce; (3) a boat launching ramp and parking area maintained by the Idaho Fish and Game Department; (4) a marina with attendant facilities maintained on project land by a lessee, and (5) an easement to the Idaho Highway Department for the purpose of preserving and enhancing a stand of a rare specie of limber pine.

The project output is integrated into applicants interconnected transmission and distribution system.

Any person desiring to be heard or to make protest with reference to said application, should on or before July 20, 1973, file with the Federal Power Commission, Washington, D.C. 20426, petitions to intervene, or protests in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to a proceeding. Persons wishing to become parties to a proceeding or to participate as a party in any hearing therein must file petitions to intervene in accordance with the Commission's rules.

The application is on file with the Commission and is available for public inspection.

MARY B. KIDD,
*Acting Secretary.*

[FR Doc.73-10824 Filed 5-30-73;8:45 am]

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[Docket No. E-8158]

## WISCONSIN POWER & LIGHT CO.

### Extension of Time

MAY 23, 1973.

On May 21, 1973 and May 22, 1973, the attorneys for the Municipal Wholesale Power Group and attorney for the five W-2 customers of Wisconsin Power & Light Co., respectively, filed requests for an extension of time fixed in the notice issued May 10, 1973 within which to file protests or petitions to intervene.

Upon consideration, notice is hereby given that the time is extended to and including June 5, 1973, within which to file protests or petitions to intervene in the above matter.

MARY B. KIDD,
*Acting Secretary.*

[FR Doc.73-10835 Filed 5-30-73;8:45 am]

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[Docket No. E-8157]

## WISCONSIN PUBLIC SERVICE CORP.

### Extension of Time

MAY 23, 1973.

On May 21, 1973, an attorney for six customers of Wisconsin Public Service Corp. filed a request for an extension of the time fixed in the notice issued May 9, 1973 within which to file petitions to intervene in the above matter.

Upon consideration, notice is hereby given that the time is extended to and including June 5, 1973, within which to file protests or petitions to intervene.

MARY B. KIDD,
*Acting Secretary.*

[FR Doc.73-10836 Filed 5-30-73;8:45 am]

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[Dockets Nos. G-12094 et al.]

## MOBIL OIL CORP. ET AL.

### Notice of Applications for Certificates, Abandonment of Service and Petitions To Amend Certificates [1]

MAY 18, 1973.

Take notice that each of the applicants listed herein has filed an application or petition pursuant to section 7 of the Natural Gas Act for authorization to sell natural gas in interstate commerce or to abandon service as described herein, all as more fully described in the respective applications and amendments which are on file with the Commission and open to public inspection.

Any person desiring to be heard or to make any protest with reference to said applications should on or before June 11, 1973, file with the Federal Power Commission, Washington, D.C. 20426, petitions to intervene or protests in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Persons wishing to become parties to a proceeding or to participate as a party in any hearing therein must file petitions to intervene in accordance with the Commission's rules.

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 all applications in which no petition to intervene is filed within the time required herein if the Commission on its

[1] This notice does not provide for consolidation for hearing of the several matters covered herein.

Commission's rules of practice and procedure a hearing will be held without further notice before the Commission on all applications in which no petition to intervene is filed within the time required herein if the Commission on its own review of the matter believes that a grant of the certificates or the authorization for the proposed abandonment is required by the public convenience and necessity. Where a petition for leave to intervene is timely filed, or where the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for applicants to appear or be represented at the hearing.

KENNETH F. PLUMB,
*Secretary.*

| Docket No. and date filed | Applicant | Purchaser and location | Price per thousand cubic feet | Pressure base |
|---|---|---|---|---|
| G-12994 D 4-30-73 | Mobil Oil Corp., 3 Greenway Plaza East, suite 800, Houston, Tex. 77046. | Southern Natural Gas Co., Gwinville Field, Jefferson Davis County, Miss. | Depleted | |
| CI64-481 D 5-7-73 | Pioneer Production Corp. (Operator), P.O. Box 2542, Amarillo, Tex. 79105. | Northern Natural Gas Co., Mammoth Creek North Field, Lipscomb County, Tex. | Depleted | |
| CI64-679 D 5-4-73 | LVO Corp., P.O. Box 2848, Tulsa, Okla. 74101. | Kansas-Nebraska Natural Gas Co., Inc., Bradshaw Field, Hamilton County, Kans. | (1) | |
| CI65-309 D 5-4-73 | Texaco, Inc., P.O. Box 2420, Tulsa, Okla. 74102. | Natural Gas Pipeline Co. of America, Northwest Quinlan Field, Woodward County, Okla. | (1) | |
| CI67-119 D 5-7-73 | Pioneer Production Corp. | Panhandle Eastern Pipe Line Co., acreage in Ellis County, Okla. | Depleted | |
| CI69-638 D 5-4-73 | Mobil Oil Corp. | Transwestern Pipeline Co., Rock Tank Field, Eddy County, N. Mex. | (2) | |
| CI73-730 (CI69-578) F 4-26-73 | Herman Geo. Kaiser (Operator), et al. (successor to Exxon Corp.), 4120 East 51st St., Tulsa, Okla. 74135. | Panhandle Eastern Pipeline Co., Mocane-Laverne Field, Beaver County, Okla. | [3] 22.3665 | 14.65 |
| CI73-731 (G-15714) F 4-26-73 | do | Transwestern Pipe Line Co., Frass Field, Lipscomb County, Tex. | [3] 20.0 | 14.65 |
| CI73-734 A 4-30-73 [4] | Hassie Hunt Trust, 1401 Elm St., Dallas, Tex. 75202. | Michigan Wisconsin Pipe Line Co., West Cameron Area, offshore Louisiana. | [3] 32.0 | 15.025 |
| CI73-735 A 4-30-73 [5] | Hunt Petroleum Corp., 1401 Elm St., Dallas, Tex. 75202. | Michigan Wisconsin Pipe Line Co., West Cameron Area, offshore Louisiana. | [3] 32.0 | 15.025 |
| CI73-737 (CI67-152) F 4-30-73 | Herman Geo. Kaiser (Operator) et al. (successor to Sun Oil Co., 4120 East 51st St., Tulsa, Okla. 74135. | Panhandle Eastern Pipeline Co., South Peek Field, Ellis County, Okla. | [3] 21.30282 | 14.65 |
| CI73-739 A 5-2-73 | Hunt Petroleum Corp. | Michigan Wisconsin Pipe Line Co., Eugene Island Area, offshore Louisiana. | [3] 32.0 | 15.025 |
| CI73-740 A 5-2-73 | Hunt Oil Co., 1401 Elm St., Dallas, Tex. 75202. | do | [3] 32.0 | 15.025 |
| CI73-741 (G-7004) F 4-26-73 | Zenith Exploration Co. (successor to Pennzoil Co.), 10 East Beau St., Washington, Pa. 15301. | Consolidated Gas Supply Corp., Steele District, Wood County, W. Va. | 30.0 | 15.325 |
| CI73-743 (CI61-723) F 4-27-73 | PDI, Inc. (successor to Exxon Corp.), 510 Hightower Bldg., Oklahoma City, Okla. 73102. | Natural Gas Pipeline Co. of America, acreage in Beaver County, Okla. | [7] 25.0 | 14.65 |
| CI73-744 A 4-30-73 | Continental Oil Co., P.O. Box 2197, Houston, Tex. 77001. | Tennessee Gas Pipeline Co., acreage in offshore Louisiana. | [8] 45.0 | 15.025 |
| CI73-753 (G-13339) B 5-3-73 | Mobil Oil Corp., 3 Greenway Plaza East, suite 800, Houston, Tex. 77046. | Arkansas Louisiana Gas Co., Colquitt Field, Claiborne Parish, La. | Depleted | |
| CI73-754 A 5-7-73 | Anadarko Production Co., P.O. Box 9317, Fort Worth, Tex. 76107. | Northern Natural Gas Co., Bear Paw Arch Area, Hills County, Mont. | [3] 23.5 | 14.65 |
| CI73-756 A 5-7-73 | Shell Oil Co., 1 Shell Plaza, P.O. Box 2463, Houston, Tex. 77001. | El Paso Natural Gas Co., Bisti Field, San Juan County, N. Mex. | [3] 28.0 | 15.025 |

[1] Certain leases have expired or been released.
[2] Lease expired.
[3] Including British thermal unit adjustment.
[4] Applicant states that the instant application is identical to its application filed in docket No. CI72-542, except that the contract dated Sept. 21, 1972, related to the instant application, dedicates additional reserves which underlie the same lands and leaseholds in the contract dated Nov. 4, 1971, related to the former application.
[5] Subject to upward and downward British thermal unit adjustment.
[6] Applicant states that the instant application is identical to its application filed in docket No. CI72-543, except that the contract dated Sept. 22, 1972, related to the instant application, dedicates additional reserves which underlie the same lands and leaseholds in the contract dated Nov. 4, 1971, related to the former application.
[7] Subject to downward British thermal unit adjustment.
[8] Applicant is willing to accept a certificate at an initial rate of 26 cents, subject to upward and downward British thermal unit adjustment; however, the contract price is 45 cents.

Filing code: A—Initial service.
B—Abandonment.
C—Amendment to add acreage.
D—Amendment to delete acreage.
E—Succession.
F—Partial succession.

[FR Doc.73-10671 Filed 5-30-73;8:45 am]

[Dockets Nos. RI73-289, etc.]

## PHILLIPS PETROLEUM CO. ET AL.

### Order Providing for Hearing on and Suspension of Proposed Changes in Rates, and Allowing Rate Changes To Become Effective Subject to Refund [1]

MAY 10, 1973.

Respondents have filed proposed changes in rates and charges for jurisdictional sales of natural gas, as set forth in appendix A hereof.

The proposed changed rates and charges may be unjust, unreasonable, unduly discriminatory, or preferential, or otherwise unlawful.

*The Commission finds*

It is in the public interest and consistent with the Natural Gas Act that the Commission enter upon hearings regarding the lawfulness of the proposed changes, and that the supplements herein be suspended and their use be deferred as ordered below.

*The Commission orders*

(A) Under the Natural Gas Act, particularly sections 4 and 15, the regulations pertaining thereto (18 CFR, ch. I), and the Commission's rules of practice and procedure, public hearings shall be held concerning the lawfulness of the proposed changes.

(B) Pending hearings and decisions thereon, the rate supplements herein are suspended and their use deferred until date shown in the "Date suspended until" column. Each of these supplements shall become effective, subject to refund, as of the expiration of the suspension period without any further action by the respondent or by the Commission. Each respondent shall comply with the refunding procedure required by the Natural Gas Act and § 154.102 of the regulations thereunder.

(C) Unless otherwise ordered by the Commission, neither the suspended supplements, nor the rate schedules sought to be altered, shall be changed until disposition of these proceedings or expiration of the suspension period, whichever is earlier.

By the Commission.

[SEAL] KENNETH F. PLUMB,
*Secretary.*

[1] Does not consolidate for hearing or dispose of the several matters herein.

APPENDIX A

| Docket No. | Respondent | Rate schedule No. | Supplement No. | Purchaser and producing area | Amount of annual increase | Date filing tendered | Effective date unless suspended | Date suspended until— | Cents per thousand cubic feet[1] Rate in effect | Cents per thousand cubic feet[1] Proposed increased rate | Rate in effect subject to refund in dockets No. |
|---|---|---|---|---|---|---|---|---|---|---|---|
| RI73-298.. | Phillips Petroleum Co..... | 483 | [2] 6 | El Paso Natural Gas Co. (Goldsmith Plant, Ector County, Tex., Permian Basin). | $20,764 | 4-13-73 | ..... | 7- 2-72 | [3] 24.85 | [3] 25.20 | RI72-247. |
| RI73-299.. | Cabot Corp..... | 96 | 6 | El Paso Natural Gas Co., (Gomez Field, Pecos County, Tex.) (Permian Basin). | 883 | 4-16-73 | ..... | 6-17-73 | 17.5656 | 18.5694 | RI171-421. |

[1] Unless otherwise stated, the pressure base is 14.65 lb/in²a.
[2] Not applicable to sales under supplement No. 4.
[3] Subject to quality adjustments.

The proposed increases of Phillips Petroleum and Cabot Corp. exceed the applicable area ceiling rates, but do not exceed the rate limit for 1-day suspension, and, therefore, they are suspended for 1 day from the expiration of the 60-day-notice period or from the contractually due date, whichever is later.

The producers' proposed increased rates and charges exceed the applicable area price levels for increased rates as set forth in the Commission's statement of general policy No. 61-1, as amended (18 CFR, ch. I, part 2, § 2.56).

The rate increases granted in these cases have been reviewed in the light of and are consistent with the Economic Stabilization Act of 1970, as amended, Executive Order No. 11695, and the rules and regulations issued thereunder.

[FR Doc.73-10670 Filed 5-25-73;8:45 am]

## FEDERAL RESERVE SYSTEM

### FIDELITY CORP.

#### Formation of One-Bank Holding Company

Fidelity Corp., Burke, S. Dak., has applied for the Board's approval under section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1)) to become a bank holding company through acquisition of 98 percent or more of the voting shares of Burke State Bank, Burke, S. Dak. The factors that are considered in acting on the application are set forth in section 3(c) of the act (12 U.S.C. 1842(c)).

The application may be inspected at the office of the Board of Governors or at the Federal Reserve Bank of Minneapolis. Any person wishing to comment on the application should submit his views in writing to the Reserve Bank to be received not later than June 15, 1973.

Board of Governors of the Federal Reserve System, May 23, 1973.

[SEAL] CHESTER B. FELDBERG,
*Assistant Secretary of the Board.*

[FR Doc.73-10793 Filed 5-30-73;8:45 am]

### FIDELITY UNION BANCORPORATION

#### Acquisition of Bank

Fidelity Union Bancorporation, Newark, N.J., has applied for the Board's approval under section 3(a)(3) of the Bank Holding Company Act (12 U.S.C. 1842(a)(3)) to acquire 100 percent of the voting shares (less directors' qualifying shares) of Fidelity Union Trust Co., National Association, Morristown, N.J., a proposed new bank. The factors that are considered in actng on the application are set forth in section 3(c) of the act (12 U.S.C. 1842(c)).

The application may be inspected at the office of the Board of Governors or at the Federal Reserve Bank of New York. Any person wishing to comment on the application should submit his views in writing to the Reserve Bank to be received not later than June 18, 1973.

Board of Governors of the Federal Reserve System, May 23, 1973.

[SEAL] CHESTER B. FELDBERG,
*Assistant Secretary of the Board.*

[FR Doc.73-10794 Filed 5-30-73;8:45 am]

### FINANCIAL DATA SYSTEMS, INC.

#### Formation of Bank Holding Co.

Financial Data Systems, Inc., Detroit, Mich., has applied for the Board's approval under section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1)) to become a bank holding company through acquisition of 39 percent of the common shares and 54 percent of the preferred shares of Bank of the Commonwealth, Detroit, Mich. The factors that are considered in acting on the application are set forth in section 3(c) of the act (12 U.S.C. 1842(c)).

The application may be inspected at the office of the Board of Governors or at the Federal Reserve Bank of Chicago. Any person wishing to comment on the application should submit his views in writing to the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551, to be received not later than June 20, 1973.

Board of Governors of the Federal Reserve System, May 24, 1973.

[SEAL] CHESTER B. FELDBERG,
*Assistant Secretary of the Board.*

[FR Doc.73-10796 Filed 5-30-73;8:45 am]

### FIRST & MERCHANTS CORP.

#### Acquisition of Bank

First & Merchants Corp., Richmond, Va., has applied for the Board's approval under section 3(a)(3) of the Bank Holding Company Act (12 U.S.C. 1842(a)(3)) to acquire 100 percent of the voting shares (less directors' qualifying shares) of First & Merchants National Bank of Tidewater, Chesapeake, Va. The factors that are considered in acting on the application are set forth in section 3(c) of the act (12 U.S.C. 1842(c)).

The application may be inspected at the office of the Board of Governors or at the Federal Reserve Bank of Richmond. Any person wishing to comment on the application should submit his views in writing to the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551, to be received not later than June 19, 1973.

Board of Governors of the Federal Reserve System, May 23, 1973.

[SEAL] CHESTER B. FELDBERG,
*Assistant Secretary of the Board.*

[FR Doc.73-10795 Filed 5-30-73;8:45 am]

## INTERIM COMPLIANCE PANEL (COAL MINE HEALTH AND SAFETY)

### CONSOLIDATED COAL CO. ET AL.

#### Applications for Renewal Permits; Opportunity for Public Hearing

Applications for Renewal Permits for Noncompliance with the Interim Mandatory Dust Standard (2 mg/m³) have been received as follows:

(1) ICP Docket No. 20160, Consolidation Coal Co., Blacksville No. 2 Mine, USBM ID No. 46 01968 0, Wana, W. Va.: Section ID No. 020 (3-A):

(2) ICP Docket No. 20235, Zeigler Coal Co., Zeigler No. 4 Mine, USBM ID No. 11 00627 0, Johnson City, Ill.
- Section ID No. 015-1 (Unit #2 1-2-3-4 North East off the Main North).
- Section ID No. 016-1 (Unit #4 5-6-7-8 North East Entries off Main North).

(3) ICP Docket No. 20474, United States Steel Corp., Geneva Coal Mine, USBM ID No. 42 00100 0, Dragerton, Utah:
- Section ID No. 019 (1 East Slope, 3 Level North).
- Section ID No. 012 (2d East Slope—3 Level North).
- Section ID No. 015 (3d East Slope—4 Right—3 Level North).
- Section ID No. 015 (3d East Slope—5 Left—3 Level North).
- Section ID No. 016 (2 West—3 Left—3 Level South).
- Section ID No. 007 (2 West—4 Left—3 Level South).

In accordance with the provisions of section 202(b)(4) (30 U.S.C. 842(b)(4)) of the Federal Coal Mine Health and Safety Act of 1969 (83 Stat. 742 et seq., Public Law 91-173), notice is hereby given that requests for public hearing as to an application for renewal may be filed by June 15, 1973. Requests for public hearing must be filed in accordance with 30 CFR part 505 (35 FR 11296, July 15, 1970), as amended, copies of

which may be obtained from the panel on request.

A copy of the application is available for inspection and requests for public hearing may be filed in the office of the correspondence control officer, Interim Compliance Panel, room 800, 1730 K Street NW., Washington, D.C. 20006.

GEORGE A. HORNBECK,
*Chairman,*
*Interim Compliance Panel.*

MAY 24, 1973.

[FR Doc.73-10758 Filed 5-30-73;8:45 am]

## NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES

### PUBLIC MEDIA ADVISORY PANEL

#### Notice of Meeting

Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Public Law 92-463), notice is hereby given that a closed meeting of the Public Media Advisory Panel to the National Endowment for the Arts will be held at 9 a.m. on May 30, in 1973, in New York City.

This meeting is for the purpose of Council review, discussion, and evaluation of grant applications. It has been determined by the Chairman in accordance with section 10(d) of the act, that the meeting involves matters exempt from the requirements of public disclosure under the provisions of the Freedom of Information Act (5 U.S.C. 552 (b)).

Further information with reference to this meeting can be obtained from Mrs. Eleanor A. Snyder, advisory committee management officer, National Endowment for the Arts, 806 15th Street NW., Washington, D.C. 20506, or call area code 202-382-2854.

PAUL BERMAN,
*Director of Administration, National Foundation on the Arts and the Humanities.*

[FR Doc.73-10810 Filed 5-30-73;8:45 am]

## NATIONAL SCIENCE FOUNDATION

### ADVISORY PANEL FOR MATHEMATICAL SCIENCES

#### Notice of Meeting

Pursuant to the Federal Advisory Committee Act (Public Law 92-463) notice is hereby given that a meeting of the Advisory Panel for Mathematical Sciences will be held at 9 a.m. on June 7 and 8, 1973, in room 621 at 1800 G Street NW., Washington, D.C. 20550. The purpose of this panel is to provide advice and recommendations (a) concerning the impact of the NSF support of mathematical sciences; and (b) as part of the review and evaluation process for specific proposals and projects.

The agenda for this meeting shall include (open portions identified in parentheses):

JUNE 7 SESSION

MORNING

OPEN TO THE PUBLIC

9:00—Introductions and opening remarks—section head, Mathematical Sciences Section.
9:15—Discussion of fiscal year 1974 budget—division director, Division of Mathematical and Physical Sciences.
9:45—Discussion of the NSF Director's New Science Advisory Role—division director, Division of Mathematical and Physical Sciences.
10:00—Coffee break.
10:15—Discussion of the Davis bill and its modifications—head, Congressional Liaison Office.
10:30—Discussion of Section activities—section head, Mathematical Sciences Section.
—Analysis of fiscal year 1973 grants.
—Graduate Student Support.
12:00—Recess for lunch.

AFTERNOON

(OPEN TO THE PUBLIC)

1:30—Discussion of the Regional Conferences Program—section head, Mathematical Sciences Section.
2:00—Discussion of a tentative programs for the support of research monographs—Mathematical Sciences Section staff.
2:45—Presentation on recent developments in selected areas of the mathematical sciences—Drs. Gerald J. Lieberman and James H. Wells (panel members).
4:15—Suggestions for new panel members and for date of next panel meeting—panel and staff.
5:00—Adjournment.

JUNE 8 SESSION

9:00—The agenda for this portion of the meeting will be devoted to the review of specific research proposals.
12:00—Adjournment.

Where specified in the agenda, the meeting will be open to the public on a space available basis. Individuals who plan to attend should notify Dr. William H. Pell by telephone, 202-632-7377 or by mail, room 302, 1800 G Street NW., Washington, D.C. 20550, no later than close of business on June 6, 1973. The June 8 session of the meeting is concerned with matters which are within the exemptions of the Freedom of Information Act, 5 U.S.C. 552(b), and will not be open to the public in accordance with the determination by the Director of the National Science Foundation dated January 15, 1973, pursuant to the provisions of section 10(d) of the Federal Advisory Committee Act.

For further information concerning this panel, contact Dr. William H. Pell, Section Head, Mathematical Sciences Section, room 302, 1800 G Street NW., Washington, D.C. 20550. Summary minutes relative to the open portion of this meeting may be obtained by contacting the Management Analysis Office, room K-720, 1800 G Street NW., Washington, D.C. 20550.

J. E. KIRSCH,
*Acting Assistant Director for Administration.*

MAY 25, 1973.

[FR Doc.73-10806 Filed 5-25-73;2:28 pm]

### ADVISORY PANEL FOR COMPUTER SCIENCE AND ENGINEERING, ET AL.

#### Notice of Meeting

Pursuant to the Federal Advisory Committee Act (Public Law 92-463) notice is hereby given that a meeting of the Advisory Panel for Computer Science and Engineering will be held at 9:30 a.m. on June 8, 1973, and at 9 a.m. on June 9, 1973, in room 650, at 1800 G Street NW., Washington, D.C. 20550.

The purpose of this panel is to provide advice and counsel concerning the status and new direcctions of computer science and engineering research.

The agenda for this meeting shall include:

JUNE 8 SESSION

MORNING

9:30—Welcome and opening remarks—Deputy Assistant Director for Research and Head, Office of Computing Activities.
9:50—Review of the fiscal year 1973 activities of the Theoretical Computer Science, Software and Programing Systems, and Computer Systems Design Programs—NSF Program Directors.
12:00—Recess for lunch.

AFTERNOON

1:00—Panel discussion of factors influencing computer science research and their trends.
4:30—Adjournment.

JUNE 9 SESSION

9:00—Panel discussion of promising research areas in computer science as observed by panel members.
11:00—Panel discussion of the priorities of long term research areas and appropriate goals.
1:00—Adjournment.

The meeting will be open to the public on a space available basis and individuals who plan to attend should notify Dr. Thomas A. Keenan, acting section head, Computer Science and Engineering Section by telephone, 202-632-7346 or by mail, room 648, 1800 G Street NW., Washington, D.C. 20550, not later than close of business on June 6, 1973. For further information concerning this panel, contact Dr. Thomas A. Keenan, acting section head, Computer Science and Engineering Section, room 648, 1800 G Street NW., Washington, D.C. 20550. Summary minutes of this meeting may be obtained by contacting the Management Analysis Office, room K-720, 1800 G Street NW., Washington, D.C. 20550.

Pursuant to the Federal Advisory Committee Act (Public Law 92-463) notice is hereby given that a meeting of the Advisory Panel for Oceanography will be held at 9 a.m. on June 6, 1973, and at 8:30 a.m. on June 7, 1973, at 1800 G Street NW., Washington, D.C. 20550 (meeting room locations are indicated in the agenda, below). The purpose of this panel is to provide advice and recommendations: (a) Concerning the impact of NSF support of oceanography, and (b) as part of the review and evaluation process for specific proposals and projects.

The agenda for this meeting shall include (open portion identified in parentheses):

JUNE 6 SESSION

9:00—Review and evaluation of specific research proposals—rooms 517 and 321.

JUNE 6 SESSION

8:30—Review and evaluation of specific research proposals—rooms 517 and 321.
3:00—Panel discussion of the following topics—room 321 (open to the public):
Program statistics.
Ship support problems.
Other business.
5:00—Adjournment.

Where specified in the agenda, the meeting will be open to the public on a space-available basis. The remainder of the meeting is concerned with matters which are within the exemptions of the Freedom of Information Act, 5 U.S.C. 552(b), and will not be open to the public in accordance with the determination by the Director of the National Science Foundation dated January 15, 1973, pursuant to the provisions of section 10(d) of the Federal Advisory Committee Act.

For further information concerning this panel, contact Dr. Carl J. Lorenzen, Acting Head, Oceanography Section, room 317, 1800 G Street, NW., Washington, D.C. 20550. Summary minutes relative to the open portion of this meeting may be obtained by contacting the Management Analysis Office, room K-720, 1800 G Street, NW., Washington, D.C. 20550.

Pursuant to the Federal Advisory Committee Act (Public Law 92-463) notice is hereby given that a meeting of the Advisory Panels for Developmental Biology and Genetic Biology will be held at 9 a.m. on June 7, 8, and 9, 1973, at 1800 G Street NW., Washington, D.C. 20550. Specific meeting room numbers are indicated in the agenda, below. The purpose of each of these panels is to provide advice and recommendations: (a) Concerning the impact of NSF support of developmental biology and genetic biology; and (b) as part of the review and evaluation process for specific research proposals and projects.

The agenda for this meeting shall include (open portion identified in parentheses):

JUNE 7 SESSION—ROOM 545

PANELS ASSEMBLED IN JOINT SESSION (OPEN TO THE PUBLIC)

9:00—Panel discussion of the following topics:
- The proposal review process.
- Current and future areas of program emphasis in developmental and genetic biology.
- Research and research-related programs.
- Current budgets and the budgetary outlook.

12:00—Recess for lunch.

1:30—Continuation of panel discussion of the following topics:
- Identification of the Nation's needs in biology.
- Strategy for maintaining needed manpower.

5:00—Adjournment.

JUNE 8 AND 9 SESSIONS

Panels to reassemble individually in the following meeting rooms:

Advisory Panel for Developmental Biology—room 621.

Advisory Panel for Genetic Biology—room 321.

The agenda for each of these sessions of the meeting will be devoted to the review and evaluation of specific research proposals and projects.

Where specified in the agenda, the meeting will be open to the public on a space-available basis. The remainder of the meeting is concerned with matters which are within the exemptions of the Freedom of Information Act, 5 U.S.C. 552(b), and will not be open to the public in accordance with the determination by the Director of the National Science Foundation dated January 15, 1973, pursuant to the provisions of section 10(d) of the Federal Advisory Committee Act.

For further information concerning the Advisory Panels for Developmental Biology and Genetic Biology, contact Dr. Herman W. Lewis, Section Head, Cellular Biology Section, room 326, 1800 G Street NW., Washington, D.C. 20550. Summary minutes relative to the open portion of this meeting may be obtained by contacting the Management Analysis Office, room K-720, 1800 G Street NW., Washington, D.C. 20550.

T. E. JENKINS,
*Assistant Director for Administration.*

MAY 23, 1973.

[FR Doc.73-10806 Filed 5-25-73;3:52 p.m.]

## OFFICE OF ECONOMIC OPPORTUNITY

### FINANCIAL ASSISTANCE TO COMMUNITY ACTION PROGRAM

#### Elimination of Certain Restrictions

From January 29, 1973, to date, section 221 grants have been made which contained provisions indicating a restriction to phase-out purposes.

All such restrictions whether by special condition, or by incorporation of an applicable OEO instruction, or by legend on the face of the statement of grant, OEO Form 314, or otherwise, unless imposed in individual cases pursuant to suspension, termination or refusal to refund proceedings based on cause, are hereby eliminated.

The effect of this action will be to allow otherwise lawful section 221 activities described in the OEO Form 419 contained in the application for such grant unless instructions to discontinue such activities have been given apart from the general phase out activities described in the memorandum of the regional directors of January 29, 1973.[1] It will eliminate the terminal date contained in column 12 and substitute in column 13 the corresponding planned minimum number of months funding provided. This period of funding will not be modified prior to the expiration of the funding period.

Funds awarded under program account 01 should be redistributed by the grantee to specific program accounts in proportion to the distribution of section 221 funds contained in the previous grant action. Generally this will mean dividing the 01 account between 01 and 05. The distribution should be specifically reported in the new financial report of the grantee. In case of doubt, the grantee should consult the funding office.

This action will eliminate the special conditions imposed by OEO Instruction 6730-3[2] but will include and be conditioned on the continued effectiveness of the grant conditions contained in the most recent prior grant action to the grantee.

Non-Federal share was waived for terminal grants made during this period. This waiver of non-Federal share was dependent on the terminal character of the grant; it will be effective through April 30, 1973. Normal non-Federal share requirements will be applicable for the period after May 1, 1973, on the basis of the average monthly funding level of the grant action. For example, if a 6-month grant was made April 1 for $300,000, to a grantee normally required to supply 20 percent non-Federal share, the monthly funding level is $50,000. The non-Federal share requirement shall be based on 5 months at $50,000 or $250,000, and will therefore be $62,500.

This notice is self-effectuating and is not conditioned on the prior submission of any documentation to OEO grantees.

(Sec. 221, 42 U.S.C. 2808, 81 Stat. 696; sec. 602, 42 U.S.C. 2942; 98 Stat. 528.)

CHARLES MCMILLAN,
*Deputy Assistant for Regional and Community Action Operations.*

Approved by:

HOWARD PHILLIPS,
*Acting Director.*

[FR Doc.73-10817 Filed 5-30-73;8:45 am]

[1] Not filed with the Office of Federal Register.

[2] *Ibid.*

## SMALL BUSINESS ADMINISTRATION

[Disaster Loan Area 985]

### HAWAII

#### Disaster Relief Loan Availability

As a result of the President's declaration of the State of Hawaii as a major disaster area following an earthquake beginning on or about April 26, 1973, applications for disaster relief loans will be accepted by the Small Business Administration from earthquake victims in the following county: Hawaii.

Applications may be filed at the:

Small Business Administration, District Office, 1149 Bethel Street, room 402, Honolulu, Hawaii 96813.

and at such temporary offices as are established. Such addresses will be announced locally. Applications will be processed under the provisions of Public Law 93-24.

Applications for disaster loans under this announcement must be filed not later than July 16, 1973.

Dated May 21, 1973.

THOMAS S. KLEPPE,
*Administrator.*

[FR Doc.73-10786 Filed 5-30-73;8:45 am]

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[Disaster Loan Area 966; Amendment 3]

### MISSISSIPPI

#### Disaster Relief Loan Availability

As a result of the President's declaration of the State of Mississippi as a major disaster area following heavy rains and

flooding which began on or about March 14, 1973, applications for disaster relief loans will be accepted by the Small Business Administration from flood victims in the following additional counties: Amite, Clarke, Coahoma, De Soto, Franklin, Jones, Marion, Panola, Pike, Quitman, Simpson, Tate, Tunica. (See 38 FR 8700 and 38 FR 9626.)

Applications may be filed at the:

Small Business Administration, District Office, Petroleum Building, Pascagoula and Amite Streets, Jackson, Miss. 39205.

and at such temporary offices as are established. Such addresses will be announced locally. Applications will be processed under the provisions of Public Law 92-385.

Applications for disaster loans under this announcement must be filed not later than July 11, 1973.

Dated May 21, 1973.

THOMAS S. KLEPPE,
*Administrator.*

[FR Doc.73-10787 Filed 5-30-73;8:45 am]

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[Disaster Loan Area 984]

### NEW MEXICO

#### Disaster Relief Loan Availability

As a result of the President's declaration of the State of New Mexico as a major disaster area following severe storms, snowmelt and flooding beginning on or about March 23, 1973, applications for disaster relief will be accepted by the Small Business Administration from flood victims in the following counties: Colfax, Harding, Mora, McKinley, San Miguel, Sandoval, Taos, Union, and Valencia.

Applications may be filed at the:

Small Business Administration, District Office, 5000 Marble Avenue NE., Patio Plaza Building, Albuquerque, N. Mex. 87110.

and at such temporary offices as are established. Such addresses will be announced locally. Applications will be processed under the provisions of Public Law 92-385.

Applications for disaster loans under this announcement must be filed not later than July 16, 1973.

Dated May 18, 1973.

THOMAS S. KLEPPE,
*Administrator.*

[FR Doc.73-10788 Filed 5-30-73;8:45 am]

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[License Application No. 05/05-5094]

### INDEPENDENCE CAPITAL FORMATION, INC.

#### Application for a License as a Small Business Investment Company

An application for a license to operate as a small business investment company under the provisions of section 301(d) of the Small Business Investment Act of 1958, as amended (15 U.S.C. 661 et seq.), has been filed by Independence Capital Formation, Inc. (applicant), with the Small Business Administration (SBA) pursuant to 13 CFR 107.102 (1973).

The officers and directors of the applicant are as follows:

Walter M. McMurtry, Jr., chairman, director, 1501 Balmoral, Detroit, Mich. 48235.
Hawkins Steele, treasurer, director, 736 Pallister, Detroit, Mich. 48202.
Dyctis J. Moses, Jr., secretary, director, 1111 West Canfield, Detroit, Mich. 48201.
John Tower, director, 61 Colorado, Highland Park, Mich. 48203.
Dr. Karl Gregory, director, 1331 Balmoral, Detroit, Mich. 48235.
Wallace Williams, director, 588 Executive Plaza, Detroit, Mich. 48226.
John Tyler, director, 2320-22 Guardian Building, Detroit, Mich. 48226.
Samuel Greenawault, director, 500 Griswold, Detroit, Mich. 48226.
Richard Cornwall, director, 530 North Water Street, Milwaukee, Wis. 53403.
Mark Rollinson, director, 1019 19th Street NW., Washington, D.C. 20036.

The applicant, a Michigan corporation, with its principal place of business located at 6072 14th Street, Detroit, Mich. 48202, will begin operations with a combined paid-in capital and paid-in surplus of $1,032,293, derived from the sale of 30,000 shares of common stock, to the inner-city business improvement forum, a nonprofit Michigan corporation located at the same address as the applicant, and funded in part by grants from the Ford Foundation, and the Office of Economic Opportunity.

According to the company's stated investment policy, its investments will be made solely in small business concerns which will contribute to a well-balanced national economy by facilitating ownership in such concerns by persons whose participation in the free enterprise system is hampered because of social or economic disadvantages.

Matters involved in SBA's consideration of the applicant include the general business reputation and character of the proposed owner and management, and the probability of successful operation of the applicant under that management, including adequate profitability and financial soundness in accordance with the Small Business Investment Act and the SBA rules and regulations.

Any person may, on or before June 15, 1973, submit to SBA written comments on the proposed licensee. Any such communication should be addressed to the Deputy Associate Administrator for Investment, Small Business Administration, 1441 L Street NW., Washington, D.C. 20416.

A copy of this notice shall be published in a newspaper of general circulation in Detroit, Mich.

Dated May 21, 1973.

JAMES THOMAS PHELAN,
*Deputy Associate Administrator for Investment.*

[FR Doc.73-10789 Filed 5-30-73;8:45 am]

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## TARIFF COMMISSION

[TEA-W-201]

### WINCHELL SHOE CO. INC.

#### Workers' Petition for Determination; Notice of Investigation

On the basis of a petition filed under section 301(a)(2) of the Trade Expansion Act of 1962, on behalf of the former workers of the Winchell Shoe Co., Inc., Natick, Mass., the U.S. Tariff Commission, on May 25, 1973, instituted an investigation under section 301(c)(2) of the act to determine whether, as a result in major part of concessions granted under trade agreements, articles like or directly competitive with footwear for men (of the types provided for in items 700.26, 700.27, 700.29, and 700.35 of the tariff schedules of the United States) produced by said firm are being imported into the United States in such increased quantities as to cause, or threaten to cause, the unemployment or underemployment of a significant number or proportion of the workers of such firm or an appropriate subdivision thereof.

The optional public hearing afforded by law has not been requested by the petitioners. Any other party showing a proper interest in the subject matter of the investigation may request a hearing, provided such request is filed on or before June 11, 1973.

The petition filed in this case is available for inspection at the Office of the Secretary, U.S. Tariff Commission, Eighth and E Streets NW., Washington, D.C., and at the New York City office of the Tariff Commission located in room 437 of the Customhouse.

By order of the Commission.

Issued May 25, 1973.

[SEAL] KENNETH R. MASON,
*Secretary.*

[FR Doc.73-10864 Filed 5-30-73;8:45 am]

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## DEPARTMENT OF LABOR

### Office of the Secretary

### ROSE-BRO SHOE CO., INC., BOSTON, MASS.

#### Notice of Certification of Eligibility of Workers to Apply for Adjustment Assistance

*Correction*

In FR Doc. 73-10021 appearing at page 13406 in the issue for Monday, May 21, 1973, the first line of the certification reading "All hourly and piecework employees of", should read "All hourly, piecework and salaried employees of".

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## INTERSTATE COMMERCE COMMISSION

[Notice 263]

### ASSIGNMENT OF HEARINGS

MAY 25, 1973.

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 106497 sub 68, Parkhill Truck Co., continued to August 7, 1973, at the Offices of the Interstate Commerce Commission, Washington, D.C.

MC-113678 sub 442, Curtis, Inc., MC-115841 sub 412, Colonial Refrigerated Trans, MC-117883 sub 158, Subler Transfer, Inc., is continued to July 9, 1973 (1 week), at the Philadelphia Sheraton Hotel, 1725 John F. Kennedy Boulevard, Philadelphia, Pa.

MC 101474 sub 23, Red Top Trucking Co., Inc., now assigned June 12, 1973, at Chicago, Ill., is cancelled and the application is dismissed.

MC-83539 sub 323, C. & H. Transportation Co., Inc., is continued to June 26, 1973, at the Offices of the Interstate Commerce Commission, Washington, D.C.

AB-7 sub 6, Chicago, Milwaukee, St. Paul, and Pacific Railroad Co., abandonment between Isinours Junction and Caledonia, Fillmore, and Houston Counties, Minn., now assigned June 21, 1973, at Caledonia, Minn., will be held at the Sprague National Bank, McPhail Room, 102 East Main Street, instead of Courtroom, Houston County Courthouse.

MC-126625 sub 13, Murphy Surf-Air Trucking Co., Inc., now assigned June 15, 1973, at New Orleans, La., is postponed indefinitely.

W-552-15, American Commercial Barge Line Co., W-654-6, Warrior & Gulf Navigation Co.—Extension—Tug & Barge, Chickasaw, Ala., now assigned May 30, 1973, at Washington, D.C., is postponed to July 12, 1973, at the offices of the Interstate Commerce Commission, Washington, D.C.

[SEAL] JOSEPH M. HARRINGTON,
*Acting Secretary.*

[FR Doc.73-10840 Filed 5-30-73;8:45 am]

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[Notice 12]

## MOTOR CARRIER ALTERNATE ROUTE DEVIATION NOTICES

MAY 25, 1973.

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 Passengers, 1969 (49 CFR 1042.2(c)(9)) and notice thereof to all interested persons is hereby given as provided in such rules (49 CFR 1042.2(c)(9).

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 1042.2(c)(9)) 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 PASSENGERS

No. MC-1515 (deviation No. 651), GREYHOUND LINES, INC. (Western Division), 371 Market Street, San Francisco, Calif. 94106, filed May 9, 1973. Carrier's representative: R. M. Hannon, same address as applicant. Carrier proposes to operate as a *common carrier*, by motor vehicle, of *passengers and their baggage*, and *express and newspapers* in the same vehicle with passengers, over a deviation route as follows: Between Council Bluffs, Iowa, and St. Joseph, Mo., over Interstate Highway 29, for operating convenience only. The notice indicates that the carrier is presently authorized to transport passengers and the same property, over pertinent service routes as follows: (1) from the Wyoming-Nebraska State line over U.S. Highway 30 to Fremont, thence over U.S. Highway 275 to Omaha, thence over U.S. Highway 6 to the Nebraska-Iowa State Line, (2) from the Nebraska-Iowa State line at Council Bluffs, Iowa, over U.S. Highway 6 to the Iowa-Illinois State line, at Davenport, Iowa, (3) from Omaha, Nebr., over U.S. Highway 75 to junction unnumbered highway northwest of Plattsmouth, thence over unnumbered highway to Plattsmouth, thence over U.S. Highway 34 to junction U.S. Highway 75, southwest of Plattsmouth, thence over U.S. Highway 75 to junction U.S. Highway 73 north of Dawson, thence over U.S. Highway 73 to the Nebraska-Kansas State line south of Falls City, (4) from the Nebraska-Kansas State line south of Falls City, Nebr., over U.S. Highway 73 to Hiawatha, Kans., thence over U.S. Highway 36 to the Kansas-Missouri State line, west of St. Joseph, Mo., and (5) from the Kansas-Missouri State line west of St. Joseph, Mo., over U.S. Highway 36 to St. Joseph, thence over Business Loop Interstate Highway 29 to junction Missouri Highway 371, thence over Missouri Highway 371 to Platte City, thence over U.S. Highway 71 to junction Business Route U.S. Highway 71, thence over Business Route U.S. Highway 71 to Kansas City, Mo., and return over the same routes.

No. MC-1515 (deviation No. 652), GREYHOUND LINES, INC. (Eastern Division), 1400 West Third Street, Cleveland, Ohio 44113, filed May 10, 1973. Carrier proposes to operate as a *common carrier*, by motor vehicle, of *passengers and their baggage, and express and newspapers* in the same vehicle with passengers, over a deviation route as follows: From junction Indiana Highway 37 and Bluff Road, approximately one-half mile south of Glenns Valley, Ind., over Indiana Highway 37 to junction Interstate Highway 465, thence over Interstate Highway 465 to junction Harding Street, thence over Harding Street to Indianapolis, Ind., and return over the same route, for operating convenience only. The notice indicates that the carrier is presently authorized to transport passengers and the same property, over a pertinent service route as follows: From Paoli, Ind., over Indiana Highway 37 via Bedford to junction unnumbered highway (formerly portion Indiana Highway 37) one-half mile north of the north city limits of Bloomington, Ind., thence over unnumbered highway via Dolan and Hindustan, to junction Indiana Highway 37, approximately 3 miles south of Martinsville, Ind., thence over Indiana Highway 37 to junction Bluff Road (formerly Indiana Highway 37), about one-half mile south of Glenns Valley, Ind., thence over Bluff Road to Indianapolis, Ind., and return over the same route.

No. MC-1515 (deviation No. 653), GREYHOUND LINES, INC. (Eastern Division), 1400 West Third Street, Cleveland, Ohio 44113, filed May 10, 1973. Carrier proposes to operate as a *common carrier*, by motor vehicle, of *passengers and their baggage*, and *express and newspapers* in the same vehicle with passengers, over deviation routes as follows: (1) from junction Interstate Highway 77 and Rockside Road in Independence, Ohio, over Interstate Highway 77 to Akron, Ohio, and (2) from Akron, Ohio, over Interstate Highway 77 to junction Ohio Highway 18, and return over the same routes, for operating convenience only. The notice indicates that the carrier is presently authorized to transport passengers and the same property, over a pertinent service route as follows: From Cleveland, Ohio, over the Willow Freeway to junction U.S. Highway 21 at Rockside Road, thence over U.S. Highway 21 to junction Cleveland-Massillon Road (formerly U.S. Highway 21), thence over Cleveland-Massillon Road to junction Ohio Highway 176, thence over Ohio Highway 176 to junction Ohio Highway 18, thence over Ohio Highway 18 to Akron, Ohio, and return over the same route.

No. MC-109780 (deviation No. 44), CONTINENTAL TRAILWAYS, INC., 300 South Broadway Avenue, Wichita, Kans. 67201, filed May 3, 1973. Carrier proposes to operate as a *common carrier*, by motor vehicle, of *passengers and their baggage*, and *express* and *newspapers* in the same vehicle with passengers, over a deviation route as follows: From Fort Smith, Ark., over U.S. Highway 64 to junction interchange with Interstate Highway 540, thence over Interstate Highway 540 to interchange with Interstate Highway 40, thence over Interstate Highway 40 to interchange with U.S. Highway 64 located approximately 6 miles west of Fort Smith, Ark. and return over the same route, for operating convenience only. The notice indicates that the carrier is presently authorized to transport passengers and the same property, over a pertinent service route as follows: From Tulsa, Okla., over U.S. Highway 64 via Muskogee, Warner, and Gore, Okla., to Fort Smith, Ark., and return over the same route.

By the Commission.

[SEAL] JOSEPH M. HARRINGTON,
*Acting Secretary.*

[FR Doc.73-10842 Filed 5-30-73;8:45 am]

[Notice 19]

## MOTOR CARRIER ALTERNATE ROUTE DEVIATION NOTICES

MAY 25, 1973.

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–1824 (deviation No. 15), PRESTON TRUCKING COMPANY, INC., 151 Easton Boulevard, Preston, Md. 21655, filed May 10, 1973. Carrier's representative: Frank V. Klein, same address as applicant. Carrier proposes to operate as a *common carrier*, by motor vehicle, of *general commodities*, with certain exceptions, over a deviation route as follows: From junction U.S. Highway 11 and Pennsylvania Highway 309, over Pennsylvania Highway 309 to junction U.S. Highway 6, thence over U.S. Highway 6 to junction U.S. Highway 220, thence over U.S. Highway 220 to junction New York Highway 17, thence over New York Highway 17 to junction U.S. Highway 15, and return over the same route, for operating convenience only. The notice indicates that the carrier is presently authorized to transport the same commodities, over pertinent service routes as follows: (1) from Lemoyne, Pa., over U.S. Highway 15 to Rochester, N.Y., (2) from Lemoyne, Pa., over U.S. Highway 11 to Syracuse, N.Y., and (3) from junction U.S. Highway 11 and 20 over U.S. Highway 20 to junction U.S. Highway 15, and return over the same routes.

No. MC–29647 (deviation No. 5), CHARLTON BROS. TRANSPORTATION CO., INC., 552 Jefferson Street, Hagerstown, Md. 21740, filed May 9, 1973. Carrier proposes to operate as a *common carrier*, by motor vehicle, of *general commodities*, with certain exceptions, over deviation routes as follows: (1) From Baltimore, Md., over Interstate Highway 95 to junction Interstate Highway 495 near Washington, D.C., thence over Interstate Highway 495 to junction Interstate Highway 66 near Fairfax, Va., thence over Interstate Highway 66 to junction Virginia Highway 55, thence over Virginia Highway 55 to Front Royal, Va., and (2) from Baltimore, Md., over Interstate Highway 70N to Frederick, Md., thence over U.S. Highway 340 to Front Royal, Va., and return over the same routes, for operating convenience only. The notice indicates that the carrier is presently authorized to transport the same commodities, over a pertinent service route as follows: From Baltimore, Md., over U.S. Highway 40 to Frederick, Md., thence over U.S. Highway 340 via Charles Town, W. Va., to junction Virginia Highway 7, thence over Virginia Highway 7 to Winchester, Va., thence over U.S. Highway 522 to Front Royal, Va., and return over the same route.

No. MC–43421 (deviation No. 33), DOHRN TRANSFER COMPANY, P.O. Box 1237, Rock Island, Ill. 61202, filed May 3, 1973. Carrier's representative: Edward G. Bazelon, 39 South La Salle Street, Chicago, Ill. 60603. Carrier proposes to operate as a *common carrier*, by motor vehicle, of *general commodities*, with certain exceptions, over a deviation route as follows: From Lafayette, Ind., over U.S. Highway 231 to junction U.S. Highway 40, and return over the same route, for operating convenience only. The notice indicates that the carrier is presently authorized to transport the same commodities, over pertinent service routes as follows: (1) from Chicago, Ill., over U.S. Highway 41 via St. John, Ind., to junction Indiana Highway 8, thence over Indiana Highway 8 to Crown Point, Ind., thence over U.S. Highway 231 (formerly Indiana Highway 53) to Montmorenci, Ind., thence over U.S. Highway 52 to Indianapolis, Ind., and (2) from St. Louis, Mo., over U.S. Highway 40 to Indianapolis, Ind., and return over the same route.

No. MC–63562 (deviation No. 4), BN TRANSPORT INC., 796 South Pearl Street, Galesburg, Ill. 61401, filed May 7, 1973. Carrier's representative: Larry J. Schwarz, same address as applicant. Carrier proposes to operate as a *common carrier*, by motor vehicle, of *general commodities*, with certain exceptions, over deviation routes as follows: (1) from Kansas City, Mo., over city streets to junction Interstate Highway 70, thence over Interstate Highway 70 to Denver, Colo., and (2) from Kansas City, Mo., over U.S. Highway 24 to junction U.S. Highway 75, thence over U.S. Highway 75 to junction Interstate Highway 70 at Topeka, Kans., thence over Interstate Highway 70 to Denver, Colo., and return over the same routes, for operating convenience only. The notice indicates that the carrier is presently authorized to transport the same commodities, over pertinent service routes, as follows: (1) from Denver, Colo., over U.S. Highway 6 to McCook, Nebr., (2) from Denver, Colo., over U.S. Highway 85 to Greeley, Colo., thence over U.S. Highway 34 to McCook, Nebr., (3) from Omaha, Nebr., over U.S. Highway 6 to junction unnumbered highway about 4 miles southwest of Atlanta, Nebr., thence over unnumbered highway via Mascot to Oxford, Nebr., thence over U.S. Highway 135 (formerly Nebraska Highway 3), via Edison, Nebr., to junction U.S. Highway 6, thence over U.S. Highway 6 to McCook, Nebr., (4) from Lincoln, Nebr., over U.S. Highway 77 to Beatrice, Nebr., thence over U.S. Highway 136 (formerly Nebraska Highway 3) via Alma to Orleans, Nebr., thence over Nebraska Highway 89 to junction U.S. Highway 83, thence over U.S. Highway 83 to Oberlin, Kans., thence over U.S. Highway 36 via Atwood to St. Francis, Kans., (5) from Alma, Nebr., over U.S. Highway 383 to Almena, Kans., (6) from Almena, Kans., over U.S. Highway 383 to Norton, Kans., thence over U.S. Highway 36 to Oberlin, Kans., (7) from Kansas City, Mo., over U.S. Highway 69 to Des Moines, Iowa, (8) from Denver, Colo., over U.S. Highway 36 to St. Francis, Kans., (9) from St. Joseph, Mo., over U.S. Highway 36 to junction U.S. Highway 383, east of Norton, Kans., (10) from Kansas City, Mo., over U.S. Highway 71 to junction City U.S. Highway 71, thence over City U.S. Highway 71 to St. Joseph, Mo., thence over U.S. Highway 36 to Jacksonville, Ill., and (11) from Chicago, Ill., over U.S. Highway 34 to junction Illinois Highway 65, thence over Illinois Highway 65 to Aurora, Ill., thence over Illinois Highway 31 to junction U.S. Highway 34 (also from junction U.S. Highway 34 and Illinois Highway 65 over U.S. Highway 34 to junction Illinois Highway 31), thence over U.S. Highway 34 to Glenwood, Iowa, thence over U.S. Highway 275 to junction Iowa Highway 375, thence over Iowa Highway 375 to Council Bluffs, Iowa, thence over U.S. Highway 6 to Omaha, Nebr., and return over the same routes.

No. MC–112713 (deviation No. 21), YELLOW FREIGHT SYSTEM, INC., 10990 Roe Avenue, Shawnee Mission, Kans. 66207, filed May 3, 1973. Carrier proposes to operate as a *common carrier*, by motor vehicle, of *general commodities*, with certain exceptions, over a deviation route as follows: From Nashville, Tenn., over Interstate Highway 40 to junction U.S. Highway 266 near Warner, Okla., thence over U.S. Highway 266 to junction U.S. Highway 69 and Interstate Highway 40 near Checotah, Okla., and return over the same route, for operating convenience only. The notice indicates that the carrier is presently authorized to transport the same commodities, over pertinent service routes as follows: (1) From St. Louis, Mo., across the Mississippi River to East St. Louis, Ill., thence over Illinois Highway 13 to Belleville, Ill., thence over Illinois Highway 15 to Mount Vernon, Ill., thence over U.S. Highway 460 to junction Illinois Highway 142, thence over Illinois Highway 142 to junction Illinois Highway 13, thence over

Illinois Highway 13 to Shawneetown, Ill., thence across the Ohio River to Blackburn, Ky., thence over Kentucky Highway 56 to junction Alternate U.S. Highway 41, thence over Alternate U.S. Highway 41 to junction U.S. Highway 41, thence over U.S. Highway 41 to Hopkinsville, Ky. (also from Mount Vernon, Ill., over U.S. Highway 460 via McLeansboro, Ill., to Carmi, Ill., thence over Illinois Highway 1 to Crossville, Ill., thence over U.S. Highway 460 to Evansville, Ind., thence over U.S. Highway 41 to Hopkinsville, Ky.), thence over Alternate U.S. Highway 41 to Nashville, Tenn., (2) from St. Louis, Mo., over U.S. Highway 66 to junction U.S. Highway 63 (formerly U.S. Highway 66) near Rolla, Mo., thence over U.S. Highway 63 to Rolla, thence over unnumbered highway (formerly U.S. Highway 66) to junction U.S. Highway 66, thence over U.S. Highway 66 to junction unnumbered highway (formerly U.S. Highway 66) near Waynesville, Mo., thence over unnumbered highway to Waynesville, thence over Missouri Highway 17 (formerly U.S. Highway 66) to junction U.S. Highway 66, thence over U.S. Highway 66, thence over U.S. High-U.S. Highway 66 to junction unnumbered highway (formerly U.S. Highway 66) near Conway, Mo., thence over unnumbered highway via Conway to junction U.S. Highway 66, thence over U.S. Highway 66 to Baxter Springs, Kans., (3) from Kansas City, Mo., over U.S. Highway 69 to junction Kansas Highway 26, thence over Kansas Highway 26 to junction U.S. Highway 66, thence over U.S. Highway 66 to junction Oklahoma Highway 66 (formerly U.S. Highway 66) near Edmond, Okla., thence over Oklahoma Highway 77 (formerly U.S. Highway 66) to Oklahoma City, Okla., thence over U.S. Highway 77 to Dallas, Tex., thence over U.S. Highway 75 to Houston, Tex., and (4) from Vinita, Okla., over U.S. Highway 69 to Atoka, Okla., thence over U.S. Highway 75 to Dallas, Tex., and return over the same routes.

By the Commission.

[SEAL] JOSEPH M. HARRINGTON,
*Acting Secretary.*

[FR Doc.73-10843 Filed 5-30-73;8:45 am]

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[Notice 41]

## MOTOR CARRIER APPLICATIONS AND CERTAIN OTHER PROCEEDINGS

MAY 25, 1973.

The following publications (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 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 by the Commission.

### MOTOR CARRIERS OF PROPERTY

#### APPLICATIONS ASSIGNED FOR ORAL HEARINGS

No. MC 115331 (sub-No. 345), filed April 30, 1973. Applicant: TRUCK TRANSPORT, INC., 1931 North Geyer Road, St. Louis, Mo. 63131. Applicant's representative: J. R. Ferris, 230 St. Clair Avenue, East St. Louis, Ill. 62201. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Compounded oils and greases, lubricating greases, and petroleum and petroleum products*, as described in appendix XIII to the report in "Descriptions in Motor Carrier Certificates, 61 M.C.C. 209, in packages or containers only, (2) *such materials and supplies as are used in automotive service centers* when transported with commodities in (1) above, from Cincinnati, Ohio, to points in Illinois (except Chicago and points in the Chicago, Ill., commercial zone), Indiana (except Indianapolis and points in Indiana in the commercial zone of Chicago, Ill.), Iowa, Kansas (except Kansas City, Kans.), Minnesota, Missouri (except St. Louis and Kansas City and their respective commercial zones), Nebraska, North Dakota, South Dakota, and Wisconsin (except Milwaukee and points in the Milwaukee, Wis. commercial zone), restricted in parts (1) and (2) above to shipments originated by Union Oil Co. of California at Cincinnati, Ohio and destined to points in the above-named destination States, and (3) *empty petroleum containers*, between points in the above-named States.

NOTE.—Common control may be involved. Applicant states that the requested authority cannot be tacked with its exising authority.

*HEARING:* June 11, 1973, at 9:30 a.m. d.s.t. (or 9:30 a.m. U.S. standard time, if that time is observed), in room 2, State Office Building, 65 South Front Street, Columbus, Ohio.

No. MC 59354 (sub-No. 14) (republication), filed August 28, 1972, and published in the FEDERAL REGISTER of September 21, 1972, and republished this issue. Applicant: G. R. PITMAN TRUCKING CO., INC., Hillsboro, Ind. 67949. Applicant's representative: Kenneth F. Dudley, 611 Church Street, P.O. Box 279, Ottumwa, Iowa 52501. An order of the Commission, Review Board No. 3, dated May 4, 1973, and served May 16, 1973, finds that operation by applicant, in interstate or foreign commerce, as a *contract carrier*, by motor vehicle, over irregular routes, (1) of *iron and steel articles* from the facilities of Keystone Steel & Wire Co., at Chicago Heights and Peoria, Ill., to points in Arkansas, Colorado, Indiana, Iowa, Kansas, Kentucky, Michigan, Minnesota, Missouri, Nebraska, North Dakota, Ohio, Oklahoma, South Dakota, Texas, West Virginia, and Wisconsin, and that portion of Pennsylvania on and west of U.S. Highway 219, restricted to the transportation of shipments originating at the facilities of Keystone Steel & Wire Co., at Chicago Heights and Peoria, Ill., and (2) of *materials, equipment and supplies* used in the manufacture, processing, sale and distribution of iron and steel articles (except commodities in bulk), from points in Arkansas, Colorado, Indiana, Iowa, Kansas, Kentucky, Michigan, Minnesota, Missouri, Nebraska, North Dakota, Ohio, Oklahoma, South Dakota, Texas, West Virginia, and Wisconsin, and that portion of Pennsylvania on and west of U.S. Highway 219, to the facilities of Keystone Steel & Wire Co., at Chicago Heights and Peoria, Ill., restricted to the transportation of shipments destined to the facilities of Keystone Steel & Wire Co., at Chicago Heights and Peoria, Ill., under a continuing contract or contracts, with Keystone Steel & Wire Co., of Peoria, 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 107006 (notice of filing of petition for territorial expansion of a destination point), filed April 18, 1973. Petitioner: THOMAS KAPPEL, INC., 2925 Columbus Avenue, Springfield, Ohio 45503. Petitioner's representative: James R. Stiverson, 50 West Broad Street, Columbus, Ohio 43215. Petitioner presently holds a motor *contract carrier* permit in No. MC 107006, issued May 25, 1949, authorizing operations, as pertinent, over irregular routes, of *steel bars, steel wire mesh, steel channels, and steel fence posts*, from Marion, Ohio, to points in Indiana, those in Kentucky on and north of a line beginning at the Missouri-Kentucky State line and extending along U.S. Highway 62 to Versailles, Ky., and thence along U.S. Highway 60 to the Kentucky-West Virginia State line, those in West Virginia on and west of U.S. Highway 19, and those in Michigan on and south of a line beginning at Grand Haven and extending along Michigan Highway 104 to junction U.S. Highway 16, thence along U.S. Highway 16 to Grand Rapids, and thence along Michigan Highway 21 to Port Huron.

By the instant petition, petitioner seeks to expand its destination point to provide service encompassing the entire Lower Peninsula of Michigan in lieu of its authority to serve approximately two-thirds of the Lower Peninsula. Any persons desiring to participate 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.

No. MC 119761 (notice of filing of petition to remove a restriction), filed April 23, 1973. Petitioner: RONALD FITZGERALD, doing business as G. & M. CARRIERS, Box 447, Sabin, Minn. 56580. Petitioner's representative: James B. Hovland, 425 Gate City Building, Fargo, N. Dak. 58102. Petitioner presently holds motor *common carrier* authority pursuant to corrected order No. MC–FC–73956, dated January 18, 1973, and served March 2, 1973, authorizing transportation, (A) over regular routes, of (1) *malt beverages*, from Milwaukee, and La Crosse, Wis., to Fargo, N. Dak., serving the intermediate and off-route points of St. Paul, Minneapolis, Mankato, and Moorhead, Minn., and Mayville, N. Dak., as follows: (a) From Milwaukee over U.S. Highway 16 to Tomah, Wis., thence over U.S. Highway 12 to St. Paul, Minn., and thence over U.S. Highway 10 to Fargo; and (b) from La Crosse over U.S. Highway 61 to St. Paul, Minn., and thence over U.S. Highway 52 to Fargo; (2) *empty malt-beverage containers*, from Fargo, N. Dak., to Milwaukee and La Crosse, Wis., serving the intermediate and off-route points of Mayville, N. Dak., and Moorhead, Mankato, Minneapolis, and St. Paul, Minn.; (3) *floor sweeping compounds*, from St. Paul, Minn., to Fargo, N. Dak., serving no intermediate points, but serving the off-route point of Minneapolis, Minn.; from St. Paul over the above-specified routes to Fargo, and return over the same routes with no transportation for compensation except as otherwise authorized; (4) *lubricating oil*, from La Crosse, Wis., and Duluth, Minn., to Fargo, N. Dak., serving the intermediate and off-route points of St. Paul and Minneapolis, Minn., restricted to pickup only, and Moorhead, Minn., restricted to delivery only, as follows:

(a) From La Crosse over the above-specified route to Fargo, and return over the same route with no transportation for compensation except as otherwise authorized; (b) from Duluth over U.S. Highway 210 to Motley, Minn., thence over U.S. Highway 10 to Fargo, and return over the same route with no transportation for compensation except as otherwise authorized; and (5) *sugar*, from Duluth, Minn., to Grand Forks, N. Dak., serving no intermediate points: From Duluth over U.S. Highway 2 to Grand Forks, and return over the same route with no transportation for compensation except as otherwise authorized; and (B) over irregular routes, of (1) *malt beverages*, (a) from Duluth, Minneapolis, and St. Paul, Minn., to Grand Forks, N. Dak.; and (b) from Duluth, Minn., to Fargo, N. Dak.; and (2) *empty malt-beverage containers*, from the destination points specified immediately above, to their respective origin points, restricted so that no single portion of the authority contained under the irregular routes in B (1) and (2) above shall be tacked or joined, directly or indirectly, with any other authority contained above for the purpose of performing any through service; and (3) *malt beverages*, (a) from La Crosse, Wis., to Breckenridge and Detroit Lakes, Minn., with no transportation for compensation on return except as otherwise authorized; (b) from Milwaukee, Wis., to Detroit Lakes, Minn., and Wahpeton, N. Dak., with no transportation for compensation on return except as otherwise authorized; and (c) from Sheboygan, Wis., to Fargo, N. Dak., with no transportation for compensation on return except as otherwise authorized. By the instant petition, petitioner seeks to remove the irregular route restriction on the authority in numbers (B) (1) and (2) above in order that this irregular-route authority may be tacked with certain portions of the above-described regular-route authority to enable petitioner to perform a through service from Milwaukee and La Crosse, Wis., over St. Paul, Minn., to Grand Forks, N. Dak., and return with empty containers. Any interested person or persons desiring to participate 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.

No. MC 124679 (sub-No. 17) (notice of filing of petition to add a commodity), filed February 7, 1973. Petitioner: C. R. ENGLAND & SONS, INC., 975 West 2100 South Street, Salt Lake City, Utah 84119. Petitioner's representative: Daniel B. Johnson, 716 Perpetual Building, 1111 E Street, NW., Washington, D.C. 20004. Petitioner presently holds a motor *common carrier* certificate in No. MC–124679 (sub-No. 17) issued August 12, 1970, authorizing, as pertinent, transportation, over irregular routes, of *meats, meat products, and meat byproducts* (except lard and lard compounds) as described in section A of appendix I to the report in "Descriptions in Motor Carrier Certificates," 61 M.C.C. 209 and 766, in vehicles equipped with mechanical refrigeration, from Philadelphia, Pa., to points in New York, Connecticut, Rhode Island, Massachusetts, Maine, New Hampshire, Vermont, and Erie County, Pa., with no transportation for compensation on return except as otherwise authorized. By the instant petition, petitioner seeks to add the commodity frozen bakery products, from Pennsauken, N.J. (a point within the Philadelphia, Pa., commercial zone), to those destination States named above. Any interested person or persons desiring to participate 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.

No. MC 126458 and (sub-Nos. 2 and 4) (notice of filing of petition to add shippers), filed April 23, 1973. Petitioner: ASCENZO & SONS, INC., 535 Brush Avenue, Bronx, N.Y. 10465. Petitioner's representative: Morton E. Kiel, 140 Cedar Street, New York, N.Y. 10006. Petitioner presently holds motor *contract carrier* permits in No. MC–126458 and (sub-Nos. 2 and 4) issued April 28, 1972, September 26, 1971, and October 10, 1972, respectively, authorizing transportation, over irregular routes, as follows: (1) In No. MC–126458—*iron and steel, and iron and steel articles*, as described in appendix V to the report in "Descriptions in Motor Carrier Certificates," 61 M.C.C. 209, from points in the New York, N.Y., commercial zone, as defined by the Commission, to points in Connecticut, Delaware, Maine, Maryland, Massachusetts, New Hampshire, New Jersey, New York, Pennsylvania, Rhode Island, Vermont, Virginia, West Virginia, and the District of Columbia, with no transportation for compensation on return except as otherwise authorized, under a continuing contract, or contracts, with Concord Steel Corp., of New York, N.Y., and North Atlantic Steel & Construction Materials Corp., of Great Neck, Long Island, N.Y., and Baron Steel Co., of Bronx, N.Y.; (2) In No. MC–126458 (sub-No. 2)—*iron and steel articles*, as described in appendix V to the report in "Descriptions in Motor Carrier Certificates," 61 M.C.C. 209, 276, from Philadelphia, Pa., to those destination States named in (1) above, with no transportation for compensation on return except as otherwise authorized, under a continuing contract, or contracts, with Nasco Steel, Inc., of Philadelphia, Pa.; and (3) In No. MC–126458 (sub-No. 4)—*steel beams*, from Bridgeport and New Haven, Conn., to points in Connecticut, Rhode Island, Massachusetts, New Jersey, New York, and Pennsylvania, with no transportation for compensation on return except as otherwise authorized, under a continuing contract, or contracts, with British Steel Corp., Inc., of Houston, Tex. By the instant petition, petitioner seeks to add two additional shippers to the above-described authority in the following manner: (a) In Nos. (1), (2), and (3) above petitioner seeks to add the contracting shipper of Taft Steel, Inc., of New York, N.Y.; and (b) in Nos. (1) and (2) above petitioner seeks to add the contracting shipper of Cosid, Inc., of New York, N.Y. Any interested person or persons desiring to participate 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.

## WATER CARRIER PETITIONS

No. W–1249 (sub-No. 1) (notice of filing of petition to amend restriction), filed April 23, 1973. Petitioner: BROWNVILLE DEVELOPMENT CO., a corporation, Box 43, Brownville, Nebr. 68321. Petitioner's representative: A. J. Swanson, 521 South 14th Street, P.O. Box 80806, Lincoln, Nebr. 68501. Petitioner

presently holds a *water common carrier* certificate in No. W-1249 (sub-No. 1) issued March 27, 1973, authorizing transportation in interstate or foreign commerce, by self-propelled vessels, during the season between and including March and November, of *passengers*, between points along the Missouri River between the U.S. Highway 30 bridge near Blair, Nebr., and Leavenworth, Kans., inclusive; restricted to the transportation of passengers originating and terminating their journeys at points or ports between and including Bellevue, Nebr., and St. Joseph, Mo. By the instant petition, petitioner seeks to amend its restriction as described above to also authorize the transportation of passengers originating and terminating their journeys between and including Omaha, Nebr., and St. Joseph, Mo., by deletion of "Bellevue, Nebr." and substituting in lieu thereof, "Omaha, Nebr.". Any interested person or persons desiring to participate 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.

APPLICATION FOR CERTIFICATE OR PERMIT WHICH ARE TO BE PROCESSED CONCURRENTLY WITH APPLICATION UNDER SECTION 5 GOVERNED BY SPECIAL RULE 240 TO THE EXTENT APPLICABLE

No. MC 60580 (sub-No. 29), filed April 17, 1973. Applicant: MAISLIN TRANSPORT CORP., 1314 Irving Street, Allentown, Pa. 18103. Applicant's representative: Charles Ephraim, 1250 Connecticut Avenue NW., suite 600, Washington, D.C. 20036. Authority sought to operate as a *common carrier*, by motor vehicle, over regular and irregular routes, transporting: *General commodities* (except those of unusual value, classes A and B explosives, livestock, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), regular routes: (A) (1) between New York and Watertown, N.Y., serving the intermediate points of Binghamton and Syracuse, N.Y.; from New York via the Holland Tunnel to Jersey City, N.J., thence over U.S. Highway 1 to junction New Jersey Highway 3, thence over New Jersey Highway 3 to junction New Jersey Highway 17, thence over New Jersey Highway 17 to the New Jersey-New York State line, thence over New York Highway 17 to Binghamton, N.Y., thence over U.S. Highway 11 via Syracuse, N.Y., to Watertown, and return over the same route; (2) between the junction of New Jersey Highway 17 and U.S. Highway 46, and Binghamton, N.Y., over an alternate route for operating convenience only, in connection with carrier's regular-route operation authorized above, serving no intermediate points and with service at the junction of New Jersey Highway 17 and U.S. Highway 46 for purpose of joinder only; from the junction of New Jersey Highway 17 and U.S. Highway 46 over U.S. Highway 46 via Dover and Hackettstown, N.J., to the New Jersey-Pennsylvania State line, thence over U.S. Highway 611 via Stroudsburg and Tobyhanna, Pa., to Scranton, Pa., thence over U.S. Highway 11 via New Milford, Pa., to Binghamton, and return over the same route; (3) between Syracuse and Rochester, N.Y., over an alternate route for operating convenience only, in connection with carrier's regular-route operation, serving no intermediate points and with service at Syracuse and Rochester, N.Y., for the purpose of joinder only; from Syracuse over New York Highway 5 to junction New York Highway 31B to junction New York Highway 31, thence over New York Highway 31 to Rochester, N.Y., and return over the same route; (4) between Buffalo and Rochester, N.Y., over an alternate route, for operating convenience only, in connection with carrier's regular-route operation, serving no intermediate points and with service at Buffalo and Rochester, N.Y. for the purpose of joinder only; from Buffalo over New York Highway 5 to Batavia, N.Y., thence over New York Highway 33 to Rochester, N.Y., and return over the same route.

(B) (1) *General commodities* (except those of unusual value, high explosives, household goods as defined by the Commission, commodities requiring special equipment, and commodities in bulk); irregular route: (a) Between points in New Jersey and New York within 25 miles of the City Hall, New York, N.Y.; (b) between points in New Jersey and New York within 25 miles of the City Hall, New York, N.Y., on the one hand, and, on the other, Oyster Bay, Ossining, and Peekskill, N.Y.; and (2) *general commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), between Buffalo, N.Y., on the one hand, and, on the other, those ports of entry on the United States-Canada boundary line located at Buffalo and Lewiston, N.Y. Restriction: The service authorized in (2) above is restricted to the transportation of traffic originating at, or destined to, points in Canada.

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 a restricted grant of authority. The instant application is a matter directly FEDERAL REGISTER issue of May 9, 1973. Applicant seeks no duplicating authority. If a hearing is deemed necessary, applicant requests it be held at Washington, D.C.

APPLICATIONS UNDER SECTIONS 5 AND 210a(b)

The following applications are governed by the Interstate Commerce Commission's Special Rules governing notice of filing of applications by motor carriers of property or passengers under sections 5(a) and 210a(b) of the Interstate Commerce Act and certain other proceedings with respect thereto. (49 CFR 1.240).

MOTOR CARRIERS OF PROPERTY

No. MC-F-11772 (sub-No. 3). Application under section 5(1) of the Interstate Commerce Act for approval of an agreement between common carriers for the pooling of traffic. Applicants: T.I.M.E.-DC, INC., P.O. Box 2550, Lubbock, Tex. 79408 (MC-35320) with 13 carriers, namely, B & H FREIGHT LINE, P.O. Box 354, Harrisonville, Mo. 64701 (MC-61129), BEAUFORT TRANSFER CO., P.O. Box 151, Gerald, Mo. 63037 (MC-78400), CLINTON TRUCK LINES, INC., 906 South Orchard, Clinton, Mo. 64735 (MC-125117), DODDS TRUCK LINE, INC., West Plains, Mo. 65775 (MC-99798), HIGHWAY TRANSPORTATION CO., INC., 205 North Carson, Saint James, Mo. 65559 (MC-108295), HILL TRUCK LINE, Box 96, Adrian, Mo. 64720 (MC-52824), HUMANSVILLE TRUCK LINE, INC., Route 2, Box 8, Humansville, Mo. 65674 (MC-52642), MAIN LINE HAULING CO., INC., P.O. Box C, St. Clair, Mo. 63077 (MC-120181), MARSHFIELD DRAYAGE CO., 302 West Second Marshfield, Mo. 65706 (MC-121631), OZARK TRANSFER CO., P.O. Box 294, Ozark, Mo. 65721 (MC-14768), RENZ TRUCK LINES, INC., 231 Walnut, Pacific, Mo. 63069 (MC-1753), SOUTHERN MISSOURI FREIGHT, INC., 1101 West Pacific, Springfield, Mo. 65803 (MC-129207), and WALL TRUCK LINE, INC., P.O. Box 26, Holden, Mo. 64040 (MC-547), seeks to enter into an agreement for the pooling of service to and from points in Archie, Bolivar, Bourbon, Branson, Brighton, Butler, Camp Clark, Clinton, Cockrell, Collins, Creighton, Cuba, Deepwater, Dunnegan, Eight Mile, Elm, Eureka, Fairplay, Fanning, Fort Leonard Wood, Garden City, Grays Summit, Halltown, Harrisonville, Hartwell, Hazelgreen, Highlandville, Hollister, Hooker, Horton, Humansville, Irwin, Lamar, Lebanon, Lone Jack, Lowry City, Marshfield, Milo, Osceola, Ozark, Pacific, Panama, Passaic, Peculiar, Phillipsburg, Pittsville, Post Oak, Quarles, Rich Hill, Rolla, Rosati, St. Clair, St. James, Selmore, Sheldon, Spokane, Stanton, Sullivan, Table Rock, Urich, Vista, and Waynesville, Mo. Attorney: Walter N. Bieneman, Suite 1700 One Woodward Avenue, Detroit, Mich. 48226. T.I.M.E.-DC, INC., is authorized to operate as a common carrier in Texas, Oklahoma, Arkansas, Tennessee, Missouri, and Kansas.

No. MC-F-11876. Authority sought for purchase by BURGMEYER BROS., INC., 50 North Fifth Street, Reading, Pa. 19603, of a portion of the operating rights and property of BRADY MOTORFRATE, INC., 2150 Grand Avenue, Des Moines, Iowa 50312, and for acquisition by HERBERT GROSS, and NICHOLAS SANTILLI, both of Reading, Pa. 19603, of control of such rights and property through the purchase. Applicants' attorneys: David G. Macdonald, suite 502, Solar Building, 1000 16th Street NW., Washington, D.C. 20036, Theodore P. Halperin, 18 East 48th Street, New York, N.Y. 10017, and Eugene T. Liipfert, suite 1100, 1660 L Street NW., Washington,

D.C. 20036. Operating rights sought to be transferred: (A) *General commodities*, with exceptions, as a *common carrier*, over regular routes, serving various intermediate and off-route points; (B) between Pittsburgh, Pa., and Baltimore, Md., serving all intermediate points in Pennsylvania, and Hagerstown, and Frederick, Md., between Frederick, and Baltimore, Md., for operating convenience only, serving no intermediate points, between Pittsburgh, Pa., and New York, N.Y., serving all intermediate points between Pittsburgh, and Armagh, Pa., including Armagh, and all intermediate points in New Jersey, between Somerville, and Newark, N.J., serving all intermediate points, between Breezewood, and Harrisburg, Pa., for operating convenience only, serving no intermediate points, between Chambersburg, Pa., and Elizabeth, N.J., serving all intermediate points in New Jersey, but with no service at Chambersburg, between Philadelphia, Pa. and Newark, N.J., serving all intermediate points in New Jersey, but with no service at Philadelphia, between Pittsburgh, Pa., and Albany, N.Y., serving all intermediate points in New York, and the off-route points of Fulton, Oakfield, and Oswego, N.Y., between Silver Creek, and Albany, N.Y., serving all intermediate points, between Frederick, and Baltimore, Md., serving all intermediate points, between Armagh, and Bedford, Pa., serving all intermediate points, between Harrisburg, Pa., and Baltimore, Md., for operating convenience only, serving no intermediate points, between Westfield, and Troy, N.Y., serving all intermediate points, and the off-route point of Hammondsport, N.Y., between Pittsburgh, Pa., and Chicago, Ill., serving no intermediate points, between Fremont, Ohio, and Chicago, Ill., for operating convenience only, serving no intermediate points, between Pittsburgh, Pa., and Chicago, Ill., serving no intermediate points, between Pittsburgh, Pa., and Deerfield, Ohio, for operating convenience only, serving no intermediate points between Akron, and Van Wert, Ohio, for operating convenience only, serving no intermediate points, between Jersey City, N.J., and Albany, N.Y., serving all intermediate points, between New York, and Albany, N.Y., serving all intermediate points, with restrictions, between Lewistown, Pa., and Syracuse, N.Y., serving all intermediate points in New York, but with no service at Lewistown, between Binghamton, and Utica, N.Y., serving all intermediate points, between Hollidaysburg, Pa., and Waverly, N.Y., serving no intermediate points, between Horseheads, and Cortland, N.Y., serving all intermediate points, between Jasper, and East Avon, N.Y., serving all intermediate points, between Butler, and Ebensburg, Pa., serving all intermediate points between Butler, and Indiana, Pa., including Indiana, but with no service at Ebensburg, between McConnellsville, N.Y., and North Bay, and Sylvan Beach, N.Y., serving all intermediate points, between Camden, N.Y., and Utica, N.Y., serving all intermediate points, and the off-route points of Florence, N.Y., and C.C.C. Camp No. S–113, located 6 miles southeast of Camden;

(C) Between Philadelphia, Pa., and Trenton, N.J., serving various intermediate and off-route points, with restriction, between Philadelphia, and Scranton, Pa., serving no intermediate points for joinder or otherwise, and serving Scranton for joinder only with carrier's authorized regular-route operations herein via Scranton, restricted to the transportation of shipments moving between Philadelphia, Pa., and Syracuse, N.Y., between Lyons, N.Y., and Harrisburg, Pa., serving no intermediate points for joinder or otherwise, and serving Harrisburg for joinder only with carrier's authorized regular-route operations herein between Baltimore, Md., and Harrisburg, Pa., restricted to the transportation of shipments moving between Baltimore, Md., and Rochester, N.Y., between junction U.S. Highways 23, and 6, and Ohio Highway 18, and U.S. Highway 224, serving no intermediate points, and serving the termini for the purpose of joinder only, between junction U.S. Highways 119 and 322, near Du Bois, Pa., and Lewistown, Pa., serving no intermediate points, and serving the termini for the purpose of joinder only, between junction New York Highways 31 and 38, at or near Port Byron, N.Y., and Auburn, N.Y., serving no intermediate points, and serving the junction of New York Highways 31 and 38 for the purpose of joinder only, between Homer, N.Y., and junction New York Highway 41, and U.S. Highway 20, near Skaneateles, N.Y., serving no intermediate points, and serving junction New York Highway 41, and U.S. Highway 20, for the purpose of joinder only, between Waverly, and Ithaca, N.Y., serving no intermediate points, between Corning, and Batavia, N.Y., serving no intermediate points, between Butler, and North East, Pa., serving no intermediate points, and with service at termini for the purpose of joinder only, in connection with carrier's regular-route operations authorized in (B) herein between Pittsburgh, Pa., and Albany, N.Y., and between Pittsburgh, Pa., and Deerfield, Ohio, between junction U.S. Highway 22 and U.S. Highway 119 (near Blairsville, Pa.), and Big Tree, N.Y., serving no intermediate points in connection with carrier's regular-route operations authorized in (B) herein between Pittsburgh, Pa., and New York, N.Y., and between Pittsburgh, Pa., and Albany, N.Y., with restriction; over one alternate route for operating convenience only; *plate glass*, serving various off-route points; *general commodities*, with exceptions, over irregular routes, between Chicago, and Chicago Heights, Ill., between points in Oneida County, N.Y., between points in Oneida County, on the one hand, and, on the other, Altmar, Syracuse, and Williamstown, N.Y.; *meats, meat products, and meat byproducts, and articles distributed by meat packinghouses*, as described in sections A and C of appendix I to the report in "Descriptions in Motor Carrier Certificates" 61 M.C.C. 209 and 766, except hides, and commodities in bulk, from the plantsite and storage facilities utilized by Wilson & Co., Inc., at or near Logansport, Ind., to points in New Jersey, New York, and Pennsylvania, with restriction. Vendee is authorized to operate as a *common carrier*, in New Jersey, New York, Connecticut, Massachusetts, Rhode Island, and Pennsylvania. Application has been filed for temporary authority under section 210a(b).

No. MC–F–11877. Authority sought for merger by CAMPBELL SIXTY-SIX EXPRESS, INC., 2333 East Trafficway, P.O. Box 807, Springfield, Mo. 65801, of the operating rights and property of REPUBLIC TRUCK LINES, INC., also of Springfield, Mo. 65801, and for acquisition by FRANK G. CAMPBELL, of Springfield, Mo. 65801, of control of such rights and property through the transaction. Applicants' attorney: Phineas Stevens, P.O. Box 22567, Jackson, Miss. 39205. Operating rights sought to be merged: *General commodities*, excepting among others classes A and B explosives, household goods, and commodities in bulk, as a *common carrier*, over regular routes, between Dallas, Tex., and Fort Worth, Tex., serving no intermediate points, between Wichita Falls, and Stephenville, Tex., serving various intermediate and off-route points, between Santo, and Fort Worth, Tex., serving various intermediate and off-route points, between Stephenville, and Fort Worth, Tex., between Stephenville, and Wichita Falls, Tex., between Wichita Falls, Tex., and Wichita Falls Airport and Sheppard Air Force Base, Tex., serving all intermediate points, between Fort Worth, and Dallas, Tex.; *general commodities*, excepting among others, classes A and B explosives, household goods, and commodities in bulk, over regular, and irregular routes, from Houston, Tex., to points in Texas, serving no intermediate points; over one alternate route for operating convenience only; *cotton*, from points in Texas to Galveston, Tex., serving no intermediate points, with restriction. CAMPBELL SIXTY-SIX EXPRESS, INC., is authorized to operate as a common carrier in Missouri, Kansas, Illinois, Oklahoma, Arkansas, Tennessee, Texas, Mississippi, Alabama, Louisiana, Georgia, Wisconsin, and Indiana. Application has not been filed for temporary authority under section 210a(b).

NOTE.—Pursuant to order dated January 14, 1972, in No. MC–F–11014 transferee acquired control of transferor.

No. MC–F–11878. Authority sought for purchase by JOHN N. BROCKLESBY TRANSPORT, LTD., 11175 Parkway Boulevard, Montreal, 437 Quebec, Canada, of the operating rights of SICOTTE TRANSPORTS, LTD., 1025 Ottawa Street, Montreal, Quebec, Canada, and for acquisition by CANADA STEAMSHIP LINES LTD., 759 Victoria Square, Montreal, Quebec, Canada, of control of such rights through the purchase. Applicants' attorney: S. Harrison Kahn,

suite 733 Investment Building, Washington, D.C. 20005. Operating rights sought to be transferred: *Commodities*, the transportation of which because of size or weight requires the use of special equipment (except motor vehicles) as a *common carrier*, over irregular routes, between ports of entry on the United States-Canada boundary line at or near Morses Line, West Berkshire, Richford, East Richford, North Troy, Beebe Plain, Derby Line, High Gate Springs, and Norton, Vt., Beecher Falls and Scott Bog, N.H., and Fort Covington, Trout River, Mooers Forks, Champlain, and Rouses Point, N.Y., on the one hand, and, on the other, points in Maine, New Hampshire, Vermont, Connecticut, Rhode Island, and New York; *cement*, in bulk, in tank vehicles, from ports of entry on the United States-Canada boundary line at or near Morses Line, West Berkshire, Richford, East Richford, North Troy, Beebe Plain, Derby Line, High Gate Springs, and Norton, Vt., Beecher Falls and Scott Bog, N.H., and Fort Covington, Trout River, Mooers Forks, Champlain, and Rouses Point, N.Y., to certain specified points in Vermont, New Hampshire, and New York; *cement*, in bags, over irregular routes, from ports of entry on the United States-Canada boundary line at or near Morses Line, West Berkshire, Richford, East Richford, North Troy, Beebe Plain, Derby Line, High Gate Springs, and Norton, Vt., Beecher Falls and Scott Bog, N.H., and Fort Covington, Trout River, Mooers Forks, Champlain, and Rouses Point, N.Y., to certain specified points in Vermont, New Hampshire, and New York. Vendee holds no authority from this Commission. However, he is affiliated with KINGSWAY TRANSPORTS, LTD., 123 Rexdale Boulevard, Rexdale, Ontario, Canada, which is authorized to operate as a *common carrier*, in New Jersey, New York, Michigan, and Ohio. Application has not been filed for temporary authority under section 210a(b).

No. MC-F-11879. Authority sought for purchase by STEVENS TRUCKLINE, INC., a noncarrier, of a portion of the operating rights of STEVENS EXPRESS, INC., and for acquisition by O. J. STEVENS, JR., all of 502 North Main Street, Hutchinson, Kans. 67501, of control of such rights through the purchase. Applicants' attorney: Warren A. Goff, 2008 Clark Tower, 5100 Poplar Avenue, Memphis, Tenn. 38137. Operating rights sought to be transferred: *Agricultural machinery and parts*, as a *common carrier* over irregular routes, between Oskaloosa, Kans., and Kansas City, Mo.; *agricultural machinery and parts*, and *agricultural implements and parts*, between Independence, Mo., and Oskaloosa, Kans.; *feed*, from Kansas City, Kans., and Kansas City, Mo., to Lawrence and Lecompton, Kans.; *livestock*, between Kansas City, Kans., and Kansas City, Mo., on the one hand, and, on the other, Lawrence, Kans., and points within 18 miles of Lawrence; *livestock agricultural implements and parts, twine, farm machinery and parts, feed, seed, fencing, building and roofing material*, between Tecumseh, Kans., and points within 16 miles thereof, on the one hand, and, on the other, Kansas City, Kans., and Kansas City, Mo.; *livestock, agricultural machinery and parts, agricultural implements and parts, binder twine, agricultural commodities, feed, fencing and building materials, bale ties, fertilizer, filling station equipment, plumbing and heating supplies and equipment, containers* for petroleum products, and petroleum products in containers, between North Kansas City, Mo., and Oskaloosa, Kans.; *telephone poles*, and *electrical equipment and supplies* used in telephone construction work, between Kansas City, Mo., and points in Kansas, between points in Kansas; *tractors* and *farm implements*, from Kansas City, Kans., and Kansas City, Mo., to Lawrence, Kans. Application has not been filed for temporary authority under section 210a(b).

No. MC-F-11880. Authority sought for purchase by REDDAWAY'S TRUCK LINE, 4000 NE. Clackamas River Drive, Oregon City, Oreg. 97045, of the operating rights and certain property of SALEM NAVIGATION CO., 1480 Oak Street SE., Salem, Oreg. 97308, and for acquisition of such rights and property by Bill Call, 4000 NE. Clackamas River Drive, Oregon City, Oreg. 97045, through the purchase. Applicants' attorney: Lawrence V. Smart, Jr., 419 NW. 23d Avenue, Portland, Oreg. 97210. Operating rights sought to be transferred: *General commodities*, excepting among others, classes A and B explosives, commodities in bulk, commodities requiring special equipment, and those injurious or contaminating to other lading, as a *common carrier*, over regular routes, between Salem, Oreg., and Vancouver, Wash., serving the intermediate points of Woodburn, Hubbard, Aurora, Canby, Oregon City, and Portland, Oreg. Vendee is authorized to operate as a *common carrier* in Oregon. Application has not been filed for temporary authority under section 210a(b).

No. MC-F-11881. Authority sought for control by LOOMIS CORP., 55 Battery Street, Seattle, Wash. 98121, of (A) LINCOLN MOVING AND STORAGE CO., INC., 1924 Fourth Avenue South, Seattle, Wash. 98134, and (B) ALASKA-ORIENT VAN SERVICE, INC., 1924 Fourth Avenue South, Seattle, Wash. 98134, and for acquisition by WALTER F. LOOMIS AND CHARLES W. LOOMIS, both of 55 Battery Street, Seattle, Wash. 98121, of control of LINCOLN MOVING AND STORAGE CO., INC., and ALASKA-ORIENT VAN SERVICE, INC., through the acquisition by LOOMIS CORP. Applicants' attorney: George H. Hart, 1100 IBM Building, Seattle, Wash. 98101. Operating rights sought to be controlled: (A) LINCOLN: *Used household goods*, as a *common carrier*, over irregular routes, between points in King, Pierce, Snohomish, Kitsap, and Thurston Counties, Wash., restricted to the transportation of traffic having a prior or subsequent movement in containers, beyond the points authorized, and restricted to the performance of pickup and delivery service in connection with packing, crating, and containerization or unpacking, uncrating, and decontainerization of such traffic. (B) ALASKA-ORIENT: *Household goods* as defined by the Commission, as a *common carrier*, over irregular routes, between points in Alaska, except those east of an imaginary line constituting a southward extension of the United States-Canada boundary line (Alaska-Yukon Territory). LOOMIS CORP. holds no authority from this Commission. However, it is affiliated with LOOMIS ARMORED CAR SERVICE, INC., 55 Battery Street, Seattle, Wash. 98121, which is authorized to operate as a *common carrier* in Washington, Idaho, Minnesota, South Dakota, Oregon, California, Nevada, Colorado, Montana, and Utah. Application has not been filed for temporary authority under section 210a(b).

No. MC-F-11882. Authority sought for purchase by CLARK TRANSFER, INC., Route 130 and Dulty Lane (P.O. Box 190), Burlington, N.J. 08016, of a portion of the operating rights of ROBERTS CARTAGE CO., 3200 South Archer Avenue, Chicago, Ill. 60608, and for acquisition by Sylvia Molitch and Matthew Molitch, both of P.O. Box 190, Burlington, N.J. 08016, of control of such rights through the purchase. Applicants' attorney: Axelrod, Goodman, Steiner & Bazelon, 39 South La Salle Street, Chicago, Ill. 60603. Operating rights sought to be transferred: *Store, restaurant, and bar fixtures and equipment, uncrated*, as a *common carrier*, over irregular routes, between Chicago, Ill., on the one hand, and, on the other, all points and places in the United States; and *store fixtures*, over irregular routes, from Chicago, Ill., to points and places in Illinois, Wisconsin, Minnesota, Iowa, Nebraska, Missouri, Indiana, Michigan, Ohio, Pennsylvania, New York, West Virginia, Tennessee, and Kentucky. Vendee is authorized to operate as a *common carrier* in Delware, District of Columbia, Connecticut, Maryland, Massachusetts, New Hampshire, New Jersey, New York, North Carolina, Maine, Pennsylvania, Rhode Island, Virginia, Vermont, and West Virginia. Application has been filed for temporary authority under section 210a(b).

No. MC-F-11883. Authority sought for purchase by LIGON SPECIALIZED HAULER, INC., P.O. Box "L", Madisonville, Ky. 42431, of a portion of the operating rights and certain property of BUCKNER TRUCKING, INC., P.O. Box 23234, Houston, Tex. 77028, and for acquisition by HERBERT ARNOLD LIGON, JR., of Madisonville, Ky. 42431, of control of such rights and property through the purchase. Applicants' attorney: Ronald E. Butler, P.O. Box "L", Madisonville, Ky. 42431. Operating rights sought to be transferred: *Iron and steel articles*, as described in appendix V to the report in "Descriptions in Motor Carrier Certificates," 61 M.C.C.

209 and 766, as a *common carrier*, over irregular routes, from Houston, Tex., to points in Arkansas, Kansas, Louisiana, Oklahoma, and Texas; *lumber*, from points in Bradley, Ashley, and Drew Counties, Ark., to points in Mississippi, Missouri, Texas, Oklahoma, Kansas, and a described area of Tennessee; between points in Bradley County, Ark., on the one hand, and, on the other, points in Louisiana; from Crossett, Fordyce, Hamburg, Hermitage, and Warren, Ark., to points in North Carolina and South Carolina; from Greenville, Miss., to points in Bradley County, Ark.; and from points in Pulaski, Cleveland, Dallas, Ouachita, Calhoun, and Union Counties, Ark., to points in Mississippi; *parts of sawmill, dry kiln, and planing mill machinery*, between points in Bradley County, Ark., on the one hand, and, on the other, points in Louisiana, Mississippi, Missouri, Oklahoma, Texas, and Tennessee. Vendee is authorized to operate as a *common and contract carrier*, in Alabama, Arkansas, Colorado, Connecticut, Delaware, Florida, Georgia, Illinois, Indiana, Iowa, Kentucky, Kansas, Louisiana, Missouri, Massachusetts, Michigan, Mississippi, Minnesota, North Carolina, North Dakota, Nebraska, New Jersey, New York, Ohio, Oklahoma, Pennsylvania, Rhode Island, South Dakota, South Carolina, Texas, Tennessee, West Virginia, and Wisconsin. Application has been filed for temporary authority under section 210a(b).

No. MC–F–11884. Authority sought for purchase by OVERNITE TRANSPORTATION CO., 1100 Commerce Road, Richmond, Va. 23209, of the operating rights and certain property of BARDSTOWN TRANSFER LINE, INC., 116 West Stephen Foster Avenue, Bardstown, Ky. 40004, and for acquisition by J. H. COCHRANE, also of Richmond, Va. 23209, of control of such rights and property through the purchase. Applicants' attorneys: Eugene T. Liipfert, 1660 L Street NW., Washington, D.C. 20036, and Rudy Yessin, 314 Wilkinson Street, Frankfort, Ky. 40601. Operating rights sought to be transferred: *General commodities*, except those of unusual value, and except dangerous explosives, household goods as defined in "Practices of Motor Common Carriers of Household Goods," 17 M.C.C. 467, commodities in bulk, and those requiring special equipment, as a *common carrier* over regular routes, between Bardstown, Ky., and Athertonville, Ky.; between Springfield, Ky., and Louisville, Ky.; between Bardstown, Ky., and Deatsville, Ky.; *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, over regular routes, between Deatsville, Ky., and Louisville, Ky., serving the intermediate points of Lotus, Ky.; and between Athertonville, Ky., and Louisville, Ky., as an alternate for operating convenience only, serving no intermediate points: *General commodities*, except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, commodities requiring special equipment, malt, and barrels, over regular routes, between Bardstown, Ky., and Smith's Switch, Ky., serving no intermediate points. Vendee is authorized to operate as a *common carrier* in Alabama, Florida, Georgia, North Carolina, Kentucky, Ohio, South Carolina, Tennessee, Virginia, and West Virginia. Application has been filed for temporary authority under section 210a(b).

No. MC–F–11885. Authority sought for control by UNITED TRUCK SERVICE, 2800 West Bayshore Road, Palo Alto, Calif. 94303, of EPHRAIM FREIGHTWAYS, INC., 1385 Umatilla Street, Denver, Colo. 80204, and for acquisition by O.N.C. FREIGHT SYSTEMS, ROCOR INTERNATIONAL, DAVID P. ROUSH, and DIANE G. ROUSH, all of 2800 West Bayshore Road, Palo Alto, Calif. 94303, of control of EPHRAIM FREIGHTWAYS, INC., through the acquisition. Applicants' attorney: Roland Rice, 1111 E Street NW., suite 618, Washington, D.C. 20004. Operating rights sought to be controlled: *Films* and *articles associated with the exhibition of motion pictures*, as described in "Descriptions in Motor Carrier Certificates," 61 M.C.C. 209 and 766, as a *common carrier*, over regular routes, between Denver, Colo., and Grand Junction, Colo., serving certain intermediate points; *general commodities*, except those of unusual value, classes A and B explosives, livestock, household goods as defined by the Commission, commodities in bulk, and commodities requiring special equipment, over regular routes, between Denver, Colo., and Lamar, Colo.; between Denver, Colo., and Lamar, Colo., as alternate routes for operating convenience only; between Lamar, Colo., and Holly, Colo.; and between Pueblo, Colo., and Walsenburg, Colo. UNITED TRUCK SERVICE is authorized to operate as a *common carrier* in California. Application has been filed for temporary authority under section 210a(b).

No. MC–F–11886. Authority sought for purchase by PRESTON TRUCKING CO., INC., 151 Easton Boulevard, Preston, Md. 21655, of the operating rights of KIRBY TRANSFER & STORAGE CORP., 80 26th Street, Pittsburgh, Pa. 15222, and for acquisition by A. T. BLADES, T. E. FLETCHER, JR., A. F. SISK, JR., all of Preston, Md. 21655, and M. G. PEIRCE, of Easton, Md. 21655, of control of such rights through the purchase. Applicants' attorney: Arthur J. Diskin, 806 Frick Building, Pittsburgh, Pa. 15219. Operating rights sought to be transferred: *General commodities*, excepting among others, classes A and B explosives, household goods as defined by the Commission, commodities requiring special equipment, other than refrigeration, as *common carrier*, over irregular routes, between Pittsburgh, Pa., and points within 10 miles of Pittsburgh, on the one hand, and, on the other, points in that part of Pennsylvania beginning at the Pennsylvania-Ohio State line, and extending along U.S. Highway 422 to Indiana, thence along U.S. Highway 119 to New Alexandria, thence along Pennsylvania Highway 981 to junction U.S. Highway 30, thence along U.S. Highway 30 to Greensburg, thence along U.S. Highway 119 to Uniontown, thence along U.S. Highway 40 to Washington, and thence along Pennsylvania Highway 844 (formerly Pennsylvania Highway 31) to the Pennsylvania-West Virginia State line, including points on the indicated portions of the highways specified. Vendee is authorized to operate as a *common carrier* in Connecticut, Delaware, District of Columbia, Maine, Maryland, Massachusetts, New Hampshire, New Jersey, New York, North Carolina, Ohio, Pennsylvania, Rhode Island, Virginia, Vermont, and West Virginia. Application has not been filed for temporary authority under section 210a(b).

By the Commission.

[SEAL] JOSEPH M. HARRINGTON,
*Acting Secretary.*

[FR Doc.73–10847 Filed 5–30–73;8:45 am]

## MOTOR CARRIER INTRASTATE APPLICATIONS

MAY 25, 1973.

The following applications for motor common carrier authority to operate in intrastate commerce seek concurrent motor carrier authorization in interstate or foreign commerce within the limits of the intrastate authority sought, pursuant to section 206(a)(6) of the Interstate Commerce Act, as amended October 15, 1962. These applications are governed by special rule 1.245 of the Commission's rules of practice, published in the FEDERAL REGISTER, issue of April 11, 1963, page 3533, which provides, among other things, that protests and requests for information concerning the time and place of State Commission hearings or other proceedings, any subsequent changes therein, any other related matters shall be directed to the State Commission with which the application is filed and shall not be addressed to or filed with the Interstate Commerce Commission.

California docket No. 53920, filed March 26, 1973. Applicant: THERMAL FRESH EXPRESS, INC., 17939 Lamson Road, Castro Valley, Calif. 94546. Applicant's representative: Marquam C. George, 401 South Hartz Avenue, Danville, Calif. 94526. Certificate of public convenience and necessity sought to operate a freight service as follows: Transportation of *candy*, as defined in the Current National Motor Freight Classification in the Candy Group—items 39900 through items 40100; *cough drops*, as defined in item 58730; *candied fruit peel*, as defined in item 73340; and *nuts*, as defined in item 141760; over the routes and between the following points and places: (a) Between and including San Francisco and Salinas and all points and places on and within 10 miles laterally of U.S. Highway 101; (b) between

and including Salinas and Monterey and all points and places on and within 10 miles laterally of State Highway 68; (c) between and including Oakland and Santa Cruz and all points and places within 10 miles laterally of Interstate 680 and State Highway 17; (d) between and including Santa Cruz and Monterey and all points and places on and within 10 miles laterally of State Highway 1; (e) between and including San Francisco and Sacramento and all points and places on and within 15 miles laterally of Interstate 80, and including a radius of 30 miles from Sacramento; (f) between and including Sacramento and Fresno and all points and places on and within 30 miles laterally of U.S. Highway 99; (g) between and including San Francisco and Manteca and all points and places on and within 30 miles laterally of Interstate Highway 580, State Highway 120, and Interstate Highway 205; (h) between all points and places within the county of Contra Costa: (i) between any and all points set forth in (a) through (h), inclusive; and (j) for operating convenience only, all roads, streets, and highways connecting the above points and routes. Intrastate, interstate, and foreign commerce authority sought.

Hearing: Date, time, and place not shown. Requests for procedural information including the time for filing protests concerning this application should be addressed to the California Public Utilities Commission, State Building, Civic Center, San Francisco, Calif. 94102, and should not be directed to the Interstate Commerce Commission.

California docket No. 54033, filed May 15, 1973. Applicant: BIG PINE TRUCKING CO., INC., Route 4, Box 1, Bishop, Calif. 93514. Applicant's representative: Michael J. Stecher, 140 Montgomery Street, San Francisco, Calif. 94104. Certificate of public convenience and necessity sought to operate a freight service as follows: Transportation of *general commodities*, with exceptions hereinafter noted, between Los Angeles and within 10 miles thereof and Orange County, on the one hand, and, on the other hand, (1) all points and places on State Highway 14 from Los Angeles to its junction with U.S. Highway 395; (2) all points and places on State Highway 138 from Palmdale to Pearblossom; (3) all points and places on State Highway 58 from Mojave to its intersection with U.S. Highway 395; (4) all points and places on U.S. Highway 395 from its intersection with State Highway 58 to its intersection with the California-Nevada State line; and (5) all points and places on State Highway 178 from Inyokern to Trono, Calif., serving all points and places on and within 15 miles literally of the aforenamed routes. Applicant may make use of any street, road, highway, ferry, or toll bridge necessary or convenient for the purpose of performing the service herein authorized. Applicant shall not transport any shipments of:

(1) Used household goods and personal effects not packed in accordance with the crated property requirements set forth in 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, oxen, pigs, sheep, sheep camp outfits, sows, steers, stags, or swine; (4) liquids, compressed gases, commodities in semiplastic form and commodities in suspension in liquids in bulk, in tank trucks, tank trailers, tank semitrailers or a combination of such highway vehicles; (5) commodities when transported in bulk in dump trucks or dump trailers, dump semitrailers, including hopper type vehicles, or a combination of such highway vehicles; (6) commodities when transported in motor vehicles equipped for mechanical mixing in transit; (7) logs; (8) explosives as described in and subject to the regulations of Motor Carriers Explosives and Dangerous Articles Tariff No. 13, H. S. Sonnenberg, issuing officer; (9) trailer coaches or campers; and (10) portland or similar cements, either alone or in combination with lime or powdered limestone by highway vehicle or vehicles loaded substantially to capacity. Intrastate, interstate and foreign commerce authority sought.

Hearing: Date, time, and place not shown. Requests for procedural information, including the time for filing protests concerning this application, should be addressed to the California Public Utilities Commission, State Building, Civic Center, 455 Golden Gate Avenue, San Francisco, Calif. 94102, and should not be directed to the Interstate Commerce Commission.

California docket No. 54034, filed May 15, 1973. Applicant: MILTON'S EXPRESS, INC., 1130 East Fifth Street, Los Angeles, Calif. 90013. Applicant's representative: Donald Murchison, 9454 Wilshire Boulevard, Suite 400, Beverly Hills, Calif. 90212. Certificate of public convenience and necessity sought to operate a freight service as follows: Transportation of *commodities requiring the use of special refrigeration or temperature control* in specially designed and constructed equipment, between, (1) all points and places in Los Angeles basin territory as described in note A; (2) all points and places in the Los Angeles basin territory on the one hand, and, all points and places in the San Diego territory, as described in note B, on the other hand; via Interstate Highways 5 and 15, U.S. Highway 395, and State Highways 76 and 78; (3) all points and places in the Los Angeles basin territory, on the one hand, and, Calexico, on the other hand, via U.S. Highway 60, Interstate Highway 10 and State Highways 86 and 111; (4) all points and places in the Los Angeles basin territory, on the one hand, and, Paso Robles and Morro Bay, on the other hand, via U.S. Highway 101, and State Highways 1, 23, 41, 118, 126, 150, 154, 166, and 246; (5) all points and places in the Los Angeles basin territory, on the one hand, and, Madera, on the other hand, via Interstate Highway 5, and State Highways 14, 58, 43, 63, 65, 180, 99, and 198; (6) all points and places in the Los Angeles basin territory, on the one hand, and, Barstow, on the other hand, via U.S. Highway 66 and/or Interstate 15; (7) serving also, all intermediate points along said routes and also off-route points within 15 miles of said routes; (8) service may be performed over all accessible public highways, between all of said termini, intermediate and off-route points, in combination one with the other; and (9) through routes and joint rates may be established between any and all points described above, in connection with other certificated carriers at convenient points of interchange.

NOTE A.—LOS ANGELES BASIN TERRITORY includes that area embraced by the following boundary: Beginning at the point the Ventura County-Los Angeles County boundary line intersects the Pacific Ocean; thence northeasterly along said county line to the point it intersects State Highway No. 118, approximately 2 miles west of Chatsworth; easterly along State Highway No. 118 to Sepulveda Boulevard; northerly along Sepulveda Boulevard to Chatsworth Drive; northeasterly along Chatsworth Drive to the corporate boundary of the city of San Fernando; westerly and northerly along said corporate boundary to McClay Avenue; northeasterly along McClay Avenue and its prolongation to the Los Angeles National Forest boundary; southeasterly and easterly along the Angeles National Forest and San Bernardino National Forest boundary to the county road known as Mill Creek Road; westerly along Mill Creek Road to the county road 3.8 miles north of Yucaipa; southerly along said county road to and including the unincorporated community of Yucaipa; westerly along Redlands Boulevard to U.S. Highway No. 99; northwesterly along U.S. Highway No. 99 to the corporate boundary of the city of Redlands; westerly and northerly along said corporate boundary to Brookside Avenue; westerly along Brookside Avenue to Barton Avenue; westerly along Barton Avenue and its prolongation to Palm Avenue, westerly along Palm Avenue to La Cadena Drive; southwesterly along La Cadena Drive to Iowa Avenue; southerly along Iowa Avenue to U.S. Highway No. 60; southwesterly along U.S. Highways Nos. 60 and 395 to the county road approximately 1 mile north of Perris; easterly along said county road via Nuevo and Lakeview to the corporate boundary of the city of San Jacinto; easterly, southerly and westerly along said corporate boundary to San Jacinto Avenue; southerly along San Jacinto Avenue to State Highway No. 74; westerly along State Highway No. 74 to the corporate boundary of the city of Hemet; southerly, westerly and northerly along said corporate boundary to the rights of way of the Atchison, Topeka & Santa Fe Railway Co.; southwesterly along said right of way to Washington Avenue; southerly along Washington Avenue, through and including the unincorporated community of Winchester to Benton Road; westerly along Benton Road to the county road intersecting

U.S. Highway No. 395, 2.1 miles north of the unincorporated community of Temecula; southerly along said county road to U.S. Highway No. 395; southeasterly along U.S. Highway 395 to the Riverside County-San Diego County boundary lines; westerly along said boundary line to the Orange County-San Diego County boundary lines; southerly along said boundary line to the Pacific Ocean; northwesterly along the shoreline of the Pacific Ocean to point of beginning.

NOTE B.—SAN DIEGO TERRITORY includes that area embraced by the following imaginary line starting at the northerly junction of U.S. Highways 101–E and 101–W (4 mi. north of La Jolla); thence easterly to Miramar on State Highway No. 395; thence southeasterly to Lakeside on the El Cajon-Ramona Highway; thence southerly to Bostonia on U.S. Highway No. 80; thence southeasterly to Jamul on State Highway No. 94; thence due south to the International Boundary Line; west to the Pacific Ocean and north along the coast to point of beginning. Intrastate, interstate and foreign commence authority sought.

*HEARING:* Date, time, and place not shown. Requests for procedural information should be addressed to the California Public Utilities Commission, State Building, Civic Center, 455 Golden Gate Avenue, San Francisco, Calif. 94102, and should not be directed to the Interstate Commerce Commission.

Florida Docket No. 73127–CCT, filed February 27, 1973. Applicant: YARN DELIVERIES, INC., 189–01 Northwest 14th Avenue, North Miami Beach, Fla. Applicant's representative: John P. Bond, 30 Giralda Avenue, Coral Gables, Fla. 33134. Certificate of public convenience and necessity sought to operate a freight service as follows: Transportation of *synthetic yarns and fibers,* and *finished and unfinished piece goods* between all points and places in Dade and Broward Counties, Fla., over irregular routes and on irregular schedules. Both intrastate and interstate authority sought.

*HEARING:* Date, time, and place not shown. Requests for procedural information should be addressed to the Florida Public Service Commission, 700 South Adams Street, Tallahassee, Fla. 32304, and should *not* be directed to the Interstate Commerce Commission.

Tennessee Docket No. MC 5286 (sub-No. 2), filed April 26, 1973. Applicant: LEXINGTON - PARIS MOTOR FREIGHT, INC., P.O. Box 439, Milan, Tenn. 38358. Applicant's representative: Walter Harwood, 1822 Parkway Towers, Nashville, Tenn. 37219. Applicant seeks modification of its Certificates Nos. 2873–A, 2873–B, 2873–F, 2873–G, and 2873–H, to read as set out below: Certificate 2873–A– Transportation of *property,* between Memphis and Centerville over Highways 1, 20, and 100, serving no intermediate points between Memphis and Jackson (but serving Jackson). Certificate 2873–B– Transportation of *property,* between Nashville and Whiteville, over Highways 100, 20, 69, 22, 5, and 15, limited so as not to authorize the transportation of local freight between Nashville and the Tennessee River and intermediate points. Certificate 2873–F– *General commodities* (except commodities in bulk, household goods and those commodities requiring special equipment), from Memphis, Tenn., over Interstate Highway No. I–40 to its intersection with Tennessee Highway No. 22, thence over Tennessee Highway 22 to its intersection with U.S. Highway 79, thence over U.S. Highway 79, to Paris, Tenn., and return over the same route, serving the intermediate point of Jackson, Tenn., certificate 2873–G– *General commodities* (except household goods and commodities in bulk), (1) between Jackson and Henderson, Tenn., over U.S. Highway 45, serving all intermediate points; (2) between Memphis and Henderson, Tenn., over Interstate Highway I–40 and U.S. Highway 45, serving all intermediate points between Jackson and Henderson, Tenn. (including Jackson); (3) between Nashville and Henderson, Tenn., over Interstate Highway I–40 and U.S. Highway 45, serving all intermediate points between Jackson and Henderson, Tenn. (including Jackson); (4) from Nashville to Pinson, Tenn., over Interstate Highway I–40 to its junction with Tennessee Highway 22, thence over Tennessee Highway 22, to its junction with Tennessee Highway 22–A, thence over Tennessee Highway 22–A to its junction with Tennessee Highway 100, thence over Tennessee Highway 100 to U.S. Highway 45, at Henderson, Tenn., thence over U.S. Highway 45 to Pinson, Tenn., and return over the same route, serving all intermediate points between Henderson and Pinson, and serving Lexington.

Certificate 2873–H–*General commodities* (except household goods, commodities in bulk and those commodities requiring special equipment), (1) from Nashville to Paris, Tenn., via Interstate 40 to its junction with Tennessee Highway 22, thence over Tennessee Highway 22 to McKenzie, Tenn., thence over U.S. Highway 79 to Paris, Tenn., then return over the same route, serving no intermediate points between Nashville and McKenzie, Tenn., (2) from Nashville to McKenzie, Tenn., via U.S. Highway 41–A to Clarksville, Tenn., thence over U.S. Highway 79 to McKenzie, and return over the same route, serving no intermediate points between Nashville and Paris, Tenn., serving Paris. All of said certificates set out above to be tacked with each other, and with carrier's other certificates, except as restricted below: Restriction: Restricted against tacking so as to provide service on traffic which originates at, is destined to or interchanged at points in Davidson County, Tenn., on the one hand, and, on the other hand, which originates at, is destined to, or interchanged at Memphis, Humboldt, Huntingdon, and points in their respective commercial zones. Intrastate, interstate and foreign commerce authority sought.

*HEARING:* August 6, 1973, in the Commission's hearing room, C1–110 Cordell Hull Building, Nashville, Tenn., at 9:30 a.m. Requests for procedural information including the time for filing protests concerning this application should be addressed to the Tennessee Public Service Commission, Cordell Hull Building, Nashville, Tenn. 37219, and should not be directed to the Interstate Commerce Commission.

Utah Docket No. 5733 (sub-No. 3), filed April 23, 1973. Applicant: LEWIS BROS. STAGES, INC., 549 West Fifth South, Salt Lake City, Utah. Applicant's representative: Irene Warr, 430 Judge Building, Salt Lake City, Utah 84111. Certificate of public convenience and necessity sought to operate a passenger service as follows: Transportation of *passengers, their baggage and personal effects and express,* between Park City, Utah, and Alta, Utah, over regular routes as follows: From Park City, Utah, via Utah Highway 224 to Kimball's Junction; thence over Interstate 80 to the mouth of Parley's Canyon; thence over Interstate 215 and Utah Highway 210 to the mouth of Little Cottonwood Canyon; thence over Utah Highway 210 to Alta, Utah, and return over the same route, serving all intermediate points. Both intrastate and interstate commerce authority sought.

*HEARING:* August 2, 1973, at Commission hearing room, 330 East Fourth South, Salt Lake City, Utah, at 10 a.m. Requests for procedural information including the time for filing protests concerning this application should be addressed to the Public Service Commission of Utah, 330 East Fourth South, Salt Lake City, Utah 84111, and should not be directed to the Interstate Commerce Commission.

By the Commission.

[SEAL] JOSEPH M. HARRINGTON,
*Acting Secretary.*

[FR Doc.73–10841 Filed 5–30–73;8:45 am]

[Notice 69]

## MOTOR CARRIER TEMPORARY AUTHORITY APPLICATIONS

MAY 24, 1973.

The following are notices of filing of application, 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, 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 pt. 1131) published in the FEDERAL REGISTER, issue of April 27, 1965, effective July 1, 1965. These rules provide that protests to the granting of an application must be filed with the field official named in the FEDERAL REGISTER publication, within 15 calendar days after the date of notice of the filing of the application is published in the FEDERAL REGISTER. One copy of such protests must be served on the applicant, or its authorized representative, if any, and the protests must certify that such service has been made. The protests must be specific as to the service which such protestant can and will offer, and must consist of a signed original and six copies.

A copy of the application is on file, and can be examined at the Office of the Sec-

retary, Interstate Commerce Commission, Washington, D.C., and also in field office to which protests are to be transmitted.

No. MC 2229 (sub-No. 176 TA), filed May 15, 1973. Applicant: RED BALL MOTOR FREIGHT, INC., P.O. Box 47407, Dallas, Tex. 75247. Applicant's representative: Douglas Anderson (same address as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *General commodities*, except those of unusual value, *livestock*, *household goods* as defined by the Commission, commodities in bulk, and those requiring special equipment, to and from the site of Tamm Hydraulics, Inc., near Balsora community over the following routes: (1) from Decatur, Tex., over U.S. Highway 380 to Bridgeport, Tex., thence over Farm-to-Market Road 920 to the site of Tamm Hydraulics, Inc., and return over the same route serving all intermediate points, (2) from Boyd, Tex., over Texas Highway 114 to Bridgeport, Tex., thence over Farm-to-Market Road 920 to the site of Tamm Hydraulics, Inc., and return over the same route serving all intermediate points, (3) from junction Texas Highway 199 and Farm-to-Market Road 920 to the site of Tamm Hydraulics, Inc., and return over the same route serving all intermediate points, for 180 days. Supporting shipper: Tamm Hydraulics, Inc., Bridgeport, Tex. Send protests to: E. K. Willis, Jr., District Supervisor, Interstate Commerce Commission, Bureau of Operations, 1100 Commerce Street, room 13C12, Dallas, Tex. 75202.

No. MC–20916 (sub-No. 11 TA), filed May 14, 1973. Applicant: John T. Sisk, Route 2, Box 182–B, Culpeper, Va. 22701. Applicant's representative: Frank B. Hand, Jr., P.O. Box 446, Winchester, Va. 22601. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Lumber*, from Cowen (Webster County), West Virginia to Orange, Va., for 180 days. Supporting shipper: Raygold Divisions, Boise Cascade Company, P.O. Box 1028, Wincester, Va. 22601. Send protests to: District Supervisor Robert D. Caldwell, Interstate Commerce Commission, Bureau of Operations, 12th Street and Constitution Avenue NW., Washington, D.C. 20423.

No. MC–21455 (sub-No. 32 TA), filed May 14, 1973. Applicant: GENE MITCHELL CO., (Iowa Corp.), 1106 Division Street, West Liberty, Iowa 52776. Applicant's representative: Kenneth F. Dudley, P.O. Box 279, Ottumwa, Iowa 52501. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Pre-cut buildings and hardware and dry materails*, used in the construction of pre-cut buildings from Schererville, Indiana, to points in Arkansas, Georgia, and Tennessee, for 180 days. Supporting shipper: Lindal Cedar Homes, Inc., Schererville, Ind. 46375. Send protests to: Transportation Specialist Herbert W. Allen, Bureau of Operations, Interstate Commerce Commission, 875 Federal Building, Des Moines, Iowa 50309.

No. MC–22195 (sub-No. 149 TA), filed May 16, 1973. Applicant: DAN DUGAN TRANSPORT CO., 41st & Grange Avenue, P.O. Box 946, Sioux Falls, S. Dak. 57101. Applicant's representative F. Fred Fischer (same address as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Liquid asphalt*, *road oils*, and *residual fuel oils*, in bulk, in tank vehicles, from the facilities of Jebro, Inc., located in the Bridgeport Industrial Park, Sioux City, Iowa to points in Iowa, Minnesota, Nebraska, and South Phillips Avenue, Sioux Falls, S. Dak 57102. Send protests to: J. L. Hammond, District Supervisor, Bureau of Operations, Interstate Commerce Commission, room 369, Federal Building, Pierre, S. Dak. 57501.

No. MC–31600 (sub-No. 665 TA), filed May 14, 1973. Applicant: P. B. MUTRIE MOTOR TRANSPORTATION, INC., Calvary Street, Waltham, Mass. 02154. Applicant's representative: David McAllister (same address as applicant). Authority sought to operate as a *common carrier, by motor vehicle, over irregular* routes, transporting: *Lead Oxide* (Litharge), in bulk, in tank vehicles, from Middletown, N.Y., to Bennington, Vermont, Middletown, Del., and Reading, Pa., for 90 days. Supporting shipper: Revere Smelting & Refining Corp., Rd # 2, Ballard Road, Middletown, N.Y. Send protests to: District Supervisor Darrell W. Hammons, Interstate Commerce Commission, 150 Causeway Street, Fifth Floor, Boston, Mass. 02114.

No. MC–52704 (sub-No. 100 TA), filed May 15, 1973. Applicant: GLENN McGLENDON TRUCKING COMPANY, INC., P.O. Drawer H, LaFayette, Ala. 36862. Applicant's representative: Robert E. Tate, P.O. Box 517, Evergreen, Ala. 36401. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Newsprint paper and groundwood paper*, from the plantsite of Bowaters Southern Paper Corp. at Calhoun, Tenn., to points in Alabama, North Carolina, South Carolina, and Virginia. (2) *Materials and supplies used in the manufacture of newsprint and groundwood papers* (except in bulk), from points in Alabama (except Shelby County, Ala.), North Carolina, South Carolina, and Virginia, to the plantsite of Bowaters Southern Paper Corp. at Calhoun, Tenn. Restriction: Restricted to traffic originating at or destined to the plantsite of Bowaters Southern Paper Corp. in Calhoun, Tenn., for 180 days. Supporting shipper: Bowaters Southern Paper Corp., Calhoun, Tenn. 37309. Send protests to: Clifford W. White, District Supervisor, Bureau of Operations, Interstate Commerce Commission, room 814, 2121 Building, Birmingham, Ala. 35203.

No. MC–88220 (sub-No. 21 TA), filed May 14, 1973. Applicant: WABASH VALLEY TRUCKING, INC., Rural Route 4, Brazil, Ind. 47834. 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: *Alcoholic malt beverages*, from the plant and warehouse sites of Anheuser-Busch, Inc., at St. Louis, Mo., to the plant and warehouse sites of B & G Distributing Co., Inc., at Brazil, Ind. *Malt beverage containers*, from the plant and warehouse sites of B & G Distributing Co., Inc., at Brazil, Ind., to the plant and warehouse sites of Anheuser-Busch, Inc., at St. Louis, Mo., for 180 days. Supporting shipper: B & G Distributing Co., Inc., 13 South Meridian Street, Brazil, Ind. 43785. Send protests to: James W. Habermehl, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 802 Century Building, 36 South Penn. Street, Indianapolis, Ind. 46204.

No. MC–96098 (sub-No. 63 TA), filed May 14, 1973. Applicant: MILTON TRANSPORTATION, INC., R.D. 1, Box 207, Milton, Pa. 17847. Applicant's representative: George A. Olsen, 69 Tonnele Avenue, Jersey City, N.J. 07306. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Paper*, from Attleboro, Mass., to points in New York, New Jersey, Pennsylvania, Ohio, and Maryland under continuing contract with St. Regis Paper Co. of New York, N.Y., for 180 days. Supporting shipper: St. Regis Paper Co., Attleboro, Mass. 02703. Send protests to: District Supervisor Robert W. Ritenour, Interstate Commerce Commission, Bureau of Operations, 508 Federal Building, P.O. Box 869, Harrisburg, Pa. 17108.

No. MC–97699 (sub-No. 37 TA) (correction), filed April 30, 1973, published FEDERAL REGISTER issue May 16, 1973, and republished as corrected this issue. Applicant: BARBER TRANSPORTATION CO., Deadwood Avenue, P.O. Drawer 2047, Rapid City, S. Dak. 57701. Applicant's representative: Leslie R. Kehl, suite 1600 Lincoln Center, 1660 Lincoln Street, Denver, Colo. 80203. The purpose of this republication is to show that the carrier seeks *common carrier* authority rather than *contract carrier* authority as previously published.

No. MC–100666 (sub-No. 244 TA), filed May 11, 1973. Applicant: MELTON TRUCK LINES, INC., P.O. Box 7666, 1129 Grimmett Drive, Shreveport, La. 71107. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Plastic pipe and fittings* from Louisville, Ky., to Colorado, Florida, Massachusetts, Michigan, Minnesota, Missouri, New Jersey, North Carolina, Ohio, Pennsylvania, and Texas, for 180 days. Supporting shipper: Celanese Piping Systems, Inc., P.O. Box 1032, Louisville, Ky. Send protests to: District Supervisor Paul D. Collins, Interstate Commerce Commission, T–9038 U.S. Postal Service Building, 701 Loyola Avenue, New Orleans, La. 70113.

No. MC–104004 (sub-No. 192 TA), filed May 15, 1973. Applicant: ASSOCIATED

TRANSPORT, INC. (Delaware corporation), 380 Madison Avenue, New York, N.Y. 10017. Applicant's representative: John P. Tynan, 65–12 69th Place, Middle Village, N.Y. 11379. Authority sought to operate as a *common carrier*, by motor vehicle, over regular routes, transporting: *General commodities*, except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment: (1) Serving the Watts Bar nuclear plant and damsite of the Tennessee Valley Authority at or near Spring City, Tenn., and points within 5 miles of said site as an off-route point in connection with applicant's authorized service route between Knoxville and Nashville, Tenn.; (2) between the Watts Bar nuclear plant and damsite of the Tennessee Valley Authority at or near Spring City, Tenn., and points within 5 miles thereof, and, Plainville, Ga., and Newport, Ky., serving the intermediate point of Chattanooga, Tenn., for the purpose of joinder only, with no service except as otherwise authorized: (a) From the Watts Bar nuclear plant and damsite of TVA over Tennessee Highway 68 to junction U.S. Highway 27, thence over U.S. Highway 27 to junction Interstate Highway 75, thence over Interstate Highway 75 to junction Georgia Highway 53, thence over Georgia Highway 53 to junction unnumbered highway (approximately 5 miles northeast of Shannon, Ga.), thence over unnumbered highway to Plainville; (b) from the Watts Bar nuclear plant and damsite of TVA over Tennessee Highway 68 to junction Tennessee Highway 58, thence over Tennessee Highway 58 to junction U.S. Highway 70 (also from the aforesaid TVA site over Tennessee Highway 68 to junction U.S. Highway 27, thence over U.S. Highway 27 to junction U.S. Highway 70) (also from the aforesaid TVA site over Tennessee Highway 58 to junction U.S. Highway 11, thence over U.S. Highway 11 to junction U.S. Highway 70), thence from the junction of U.S. Highway 70 aforesaid, over U.S. Highway 70 to junction Interstate Highway 75, thence over Interstate Highway 75 to Newport, Ky., and return over the same routes, for 180 days. The above routes tack with the existing routes of applicant in order to render service between the balance of its system in approximately 22 States on and east of the Mississippi River and the District of Columbia. Supporting shipper: Tennessee Valley Authority, attention: James J. McClister, Assistant Chief, Traffic Branch, Division of Purchasing, Chattanooga, Tenn. 37401. Send protests to: District Supervisor Stephen P. Tomany, Interstate Commerce Commission, Bureau of Operations, 26 Federal Plaza, New York, N.Y. 10007.

No. MC 107129 (sub-No. 10 TA), filed May 14, 1973. Applicant: E. K. MOTOR SERVICE, INC., 2005 North Broadway, Joliet, Ill. 60435. Applicant's representative: Tom B. Kretsinger, suite 910, Fairfax Building, 101 West 11th, Kansas City, Mo. 64105. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Building and construction materials and supplies*, from the plantsite and warehouse facilities of the Celotex Corp. at or near Wilmington, Ill., to points in Iowa, Missouri, and Wisconsin, for 180 days. Supporting shipper: The Celotex Corp., P.O. Box 22602, Tampa, Fla. 33622. Send protests to: District Supervisor R. G. Anderson, Bureau of Operations, Interstate Commerce Commission, Everett McKinley Dirksen Building, 219 South Dearborn Street, room 1086, Chicago, Ill. 60604.

No. MC–107515 (sub-No. 850 TA), filed May 14, 1973. Applicant: REFRIGERATED TRANSPORT CO., INC., P.O. Box 308, Forest Park, Ga. 30050. Applicant's representative: Richard M. Tettlebaum, suite 1600, First Federal Building, Atlanta, Ga. 30303. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Meats, meat products, and meat byproducts* (except commodities in bulk and except hides as described in section A of appendix a to the report in descriptions in motor carrier certificates, 61 MCC 209 and 766, from Bowling Green, Ky., to points in Alabama, Arkansas, Florida, Georgia, Illinois, Indiana, Louisiana, Kansas, Iowa, Michigan, Mississippi, Missouri, North Carolina, Ohio, South Carolina, Texas, Oklahoma, Wisconsin, Virginia, and West Virginia, for 180 days. Supporting shipper: Baltz Brothers Packing Co., P.O. Box 7191, 1612 Elm Hill Road, Nashville, Tenn. 37210. Send protests to: William L. Scroggs, District Supervisor, room 309, 1252 West Peachtree Street NW., Atlanta, Ga. 30309.

No. MC–114604 (sub-No. 13 TA), filed May 14, 1973. Applicant: CAUDELL TRANSPORT, INC., State Farmers Market, No. 33, Forest Park, Ga. 30050. Applicant's representative: Frank D. Hall, suite 713, 3384 Peachtree Road NE., Atlanta, Ga. 30326. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Foodstuffs*, except commodities in bulk, from the plantsites and warehouse facilities of Atlantic Refrigerated Warehouse, division of Munford, Inc., at Atlanta, Ga., and its commercial zone to points in North Carolina, Daytona Beach, Fla., and points in Florida in and north of the counties of Levy, Marion, Putnam, and Flagler, for 180 days. Supporting shipper: Atlantic Refrigerated Warehouse, Division of Munford, Inc., Atlanta, Ga. Send protests to: District Supervisor William L. Scroggs, Interstate Commerce Commission, 1252 West Peachtree Street NW., room 309, Atlanta, Ga. 30309.

No. MC–117439 (sub-No. 43 TA), filed May 10, 1973. Applicant: BULK TRANSPORT, INC., U.S. Highway 190, P.O. Box 89, Port Allen, La. 70767. Applicant's representative: John Schwab, 617 North Boulevard, Baton Rouge, La. 70802. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Mineral filler*, in bulk, from Mobile, Ala. to points in Florida, Louisiana, and Mississippi, for 180 days. Supporting shipper: Ideal Cement Co., 821 17th Street, Denver, Colo. 80202. Send protests to: Paul D. Collins, District Supervisor, Interstate Commerce Commission, T–9038 U.S. Postal Service Building, 701 Loyola Avenue, New Orleans, La. 70113.

No. MC–118831 (sub-No. 102 TA), filed May 15, 1973. Applicant: CENTRAL TRANSPORT, INC. (North Carolina corporation), P.O. Box 5044 Uwharrie Road, High Point, N.C. 27263. Applicant's representative: Richard E. Shaw (same address as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Liquid Latex*, in bulk, from Charlotte, N.C. to Johnson City, Tenn., for 180 days. Supporting shipper: General Latex and Chemical Corp. (of North Carolina), 2321 North Davidson Street (P.O. Box 5487), Charlotte, N.C. 28206. Send protests to: District Supervisor Archie W. Andrews, Bureau of Operations, Interstate Commerce Commission, P.O. Box 26896, Raleigh, N.C. 27611.

No. MC–124957 (sub-No. 6 TA), filed May 15, 1973. Applicant: KENNETH KOHLS, Box 442, Mankato, Minn. 56001. Applicant's representative: Earl Hacking, 503 11th Avenue South, Minneapolis, Minn. 55415. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Concrete pedestals, concrete manholes, concrete manhole extension sections, and concrete collars* from Winnebago, Minn., to Iowa, Nebraska, North Dakota, South Dakota, and Wisconsin, for 180 days. Supporting shipper: Elmore Concrete Products Co., Winnebago, Minn. Send protests to: District Supervisor A. N. Spath, Interstate Commerce Commission, 448 Federal Building, 110 South 4th Street, Minneapolis, Minn. 55401.

No. MC–125985 (sub-No. 15 TA), filed May 15, 1973. Applicant: AUTO DRIVEAWAY CO., 343 South Dearborn Street, Chicago, Ill. 60604. Applicant's representative: David L. Steinhagen, Auto Driveway Co., 343 South Dearborn Street, Chicago, Ill. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Motor homes*, in driveaway service, between points in Colorado, New Mexico, Nebraska, Kansas, Oklahoma, Texas, Louisiana, Arkansas, Missouri, Tennessee, Mississippi, Alabama, and Florida for 180 days. Supporting shipper: Ken Sutter, sales manager, Pace-Arrow of Texas, Inc., 1410 Millwood Road, McKinney, Tex. Send protests to: William J. Gray, Jr., District Supervisor, Interstate Commerce Commission, 219 South Dearborn Street, room 1086, Chicago, Ill. 60604.

No. MC–127505 (sub-No. 56 TA), filed May 14, 1973. Applicant: RALPH H. BOELK, doing business as R. H. Boelk Truck Lines, Route 2, Mendota, Ill. 61342. Applicant's representative: Walter J. Kobos, 1016 Kehoe Drive, St. Charles, Ill. 60174. Authority sought to operate as a *common carrier*, by motor vehicle, over

irregular routes, transporting: *Mineral wool, mineral wool products, insulating material and insulated air duct*, from Kansas City, Kans. to points in Minnesota and Wisconsin, for 180 days. Supporting shipper: Joseph V. Rossetti, C.S.G. Group of Certain-teed Products Corp., Valley Forge, Pa. 19481. Send protests to: William J. Gray, Jr., District Supervisor, Interstate Commerce Commission, 219 S. Dearborn St., room 1086, Chicago, Ill. 60604.

No. MC–127527 (sub-No. 15 TA), filed May 15, 1973. Applicant: CARL W. REAGAN, doing business as Southeast Trucking, 814 C.H. 18 R.F.D. No. 6, Ravenna, Ohio 44266. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Iron and steel articles* from Buffalo and Lackawanna, N.Y.; Sparrows Point, Md.; Johnstown, Bethlehem, Sharon, and Allegheny County, Pa.; Chicago and Sterling, Ill.; Gary, Burns Harbor, and Kokomo, Ind.; Weirton, W. Va.; Detroit, Mich. and Roanoke, Va. to Akron, Ohio, for 180 days. Supporting shipper: Summit Steel Corp., 258 Kenmore Boulevard, Akron, Ohio 44301. Send protests to: Franklin D. Bail, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 181 Federal Office Building, 1240 East Ninth Street, Cleveland, Ohio 44199.

No. MC–134713 (sub-No. 6 TA), filed May 15, 1973. Applicant: EDWARD P. HOWELL, INC., R.D. No. 6, Box 17, Elkton, Md. 21921. Applicant's representative: William P. Jackson, Jr., 919 18th Street NW., Washington, D.C. 20006. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Water*, from Poland Spring, Maine to points in the United States in and east of the States of North Dakota, South Dakota, Nebraska, Kansas, Oklahoma, and Texas: And *materials, supplies and equipment* used in the bottling and distribution of water (except in bulk), from the destination territory aforesaid to Poland Spring, Maine, under a continuing contract or contracts with Poland Spring Bottling Corp., for 180 days. Supporting shipper: Rutledge Bermingham, Jr., Poland Spring Bottling Corp., 2185 Lemoine Avenue, Fort Lee, N.J. 07024. Send protests to: William L. Hughes, District Supervisor, Interstate Commerce Commission, 814–B Federal Building, Baltimore, Md. 21201.

No. MC–135088 (sub-No. 3 TA), filed April 14, 1973. Applicant: STREETER MOVING & STORAGE CO., INC., 1951 Market Road, Columbia, S.C. 29201. Applicant's representative: D. Cravens Ravenel, P.O. Box 722, Columbia, S.C. 29202. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Used household goods*, as defined by the Commission, and *unaccompanied baggage and personal effects*, over irregular routes between points in the South Carolina counties of: Calhoun, Richland, Lexington, Saluda, Greenwood, Fairfield, Newberry, Abbeville, Laurens, Union, Chester, York, Cherokee, Spartanburg, Greenville, Anderson, Oconee, and Pickens. Restriction: The operations authorized herein are subject to the following conditions: Said operations are restricted to the transportation of traffic having a prior or subsequent movement, in containers, except as to the unaccompanied baggage and personal effects, beyond the points authorized. Said operations are restricted to the connection with packing, crating, and containerization or unpacking, uncrating, and decontainerization of such traffic, for 180 days. Supporting shipper: Department of the Army, Office of the Judge Advocate General, Department of Defense, Washington, D.C. 20310. Send protests to: E. E. Strotheid, district supervisor, Interstate Commerce Commission, 300 Columbia Building, 1200 Main St., Columbia, S.C. 29201.

No. MC–135530 (sub-No. 2 TA), filed May 15, 1973. Applicant: LAKE CENTER INDUSTRIES TRANSPORTATION, INC., 111 Market Street, Winona, Minn. 55987. Applicant's representative: Richard M. Bosard, 1160 Northwestern Bank Building, Minneapolis, Minn. 55402. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: (1) *Motor vehicle parts, electrical and electronic supplies, equipment, fittings and accessories, metals and metal products, wire and wire products* from the plantsites of Deco-West in Winona, Minn., and Stewartville, Minn., to points in Connecticut, Delaware, Illinois, Indiana, Iowa, Kentucky, Maine, Maryland, Massachusetts, Michigan, Missouri, New Jersey, New York, Ohio, Pennsylvania, Rhode Island, Texas, Virginia, West Virginia, and Wisconsin; and (2) *equipment, materials and supplies* used in manufacturing, processing or repairing of the above-described commodities, from points in Connecticut, Delaware, Illinois, Indiana, Iowa, Kentucky, Maine, Maryland, Massachusetts, Michigan, Missouri, New Jersey, New York, Ohio, Pennsylvania, Rhode Island, Texas, Virginia, West Virginia, and Wisconsin to the plantsites of Deco-West in Winona, Minn., and Stewartville, Minn., for 180 days. Supporting shipper: Lake Center Industries, Winona, Minn. 55987. Send protests to: District Supervisor A. N. Spath, Interstate Commerce Commission, Bureau of Operations, 448 Federal Building, 110 South 4th Street, Minneapolis, Minn. 55401.

No. MC–136446 (sub-No. 4 TA), filed May 15, 1973. Applicant: PRINCETON MESSENGER SERVICE, INC., Route No. 1 and Farber Road, Princeton, N.J. 08540. Applicant's representative: Joseph L. Howard, Jr., 118 North St. Asaph Street, Alexandria, Va. 22314. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Audit media* and *other business records, inter-office communications, computer printouts, magnetic tapes* and *key punch cards; legal documents, marketing* and *social research data, watches* and *clocks*, and *casings for watches* and *clocks* in passenger automobiles between points in Middlesex and Somerset Counties, N.J., on the one hand, and, on the other, New York, N.Y., for 180 days. Supporting shippers: Numerous, may be examined here at the Interstate Commerce Commission. Send protests to: Richard M. Regan, District Supervisor, Interstate Commerce Commission, 428 East State Street, room 204, Trenton, N.J. 08608.

No. MC–138375 (sub-No. 1 TA), filed May 15, 1973. Applicant: R/T TRUCKING, INC., 1853 Babcock Boulevard, Pittsburgh, Pa. 15209. Applicant's representative: Anthony J. Daood (same address as above). Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Sheet steel, in coils, steel ingots, steel scrap* and *metal alloy sheets*, from Brackenridge, Bagdad (Armstrong County), and West Leechburg, Pa. to New Castle, Ind., and return as follows: From New Castle, Ind. to Brackenridge, Bagdad (Armstrong County), West Leechburg and Sharon, Pa.; from New Castle, Ind. to Cleveland and Toronto, Ohio; from Fort Wayne, Ind. to Brackenridge, Bagdad (Armstrong County), and West Leechburg, Pa., for 180 days. Supporting shippers: Allegheny Ludlum Steel Corp., Oliver Building, Smithfield Street, Pittsburgh, Pa. 15222. Send protests to: John J. England, District Supervisor, 2111 Federal Building, 1000 Liberty Avenue, Pittsburgh, Pa. 15222.

No. MC–138678 (sub-No. 1 TA), filed May 14, 1973. Applicant: CMX, INC., 1389 South Third Street, Memphis, Tenn. 38101. Applicant's representative: A. Doyle Cloud, Jr., 2008 Clark Tower, 5100 Poplar Avenue, Memphis, Tenn. 38137. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Aluminum extrusions*, from Hernando, Miss., to Newton, Kans., and *scrap aluminum* from Newton, Kans., to Hernando, Miss., for 180 days. Supporting shipper: AMAX Aluminum Extrusion Products, Inc., Hernando, Miss. Send protests to: Floyd A. Johnson, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 933 Federal Office Building, 167 North Main Street, Memphis, Tenn. 38103.

No. MC 138699 (sub-No. 1 TA), filed May 15, 1973. Applicant: SEMPER TRUCK LINES, INC., 802 West Herndon, Pinedale, Calif. 93650. Applicant's representative: Ernest D. Salm, 8179 Havasu Circle, Buena Park, Calif. 90621. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Lumber and plywood*, from points in Oregon to points in California, for 180 days. Supporting shippers: Numerous, may be examined in ICC offices. Send protests to: District Supervisor Claud W. Reeves, Interstate Commerce Commission, Bureau of Operations, 450 Golden Gate Avenue, Box 36004, San Francisco, Calif. 94102.

No. MC–138715 TA, filed May 11, 1973. Applicant: SEA-JET TRUCKING

CORP., 4201 First Avenue, Brooklyn, N.Y. 11232. Applicant's representative: William D. Traub, 10 East 40th Street, New York, N.Y. 10016. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Such commodities* as are dealt in by manufacturers and distributors of audio and video stereo consoles, including the components, systems, materials, supplies, and equipment used in their production, between the New York, N.Y. commercial zone as defined by the Commission, Newark, N.J., Mineola and Blauvelt, N.Y., on the one hand, and, on the other, Norwich, Conn., and Lowell, Mass., and between Norwich, Conn., and Lowell, Mass., for 180 days. Supporting shipper: Wakefield Industries, Inc., John Street, Lowell, Mass. Send protests to: Marvin Kampel, District Supervisor, 26 Federal Plaza, room 1807, New York, N.Y. 10007.

WATER CARRIER APPLICATIONS

No. W-1265 (sub-No. 1 TA), filed May 10, 1973. Applicant: BIGGE DRAYAGE CO., 10700 Bigge Avenue, San Leandro, Calif. 94577. Applicant's representative: Edward J. Hegarty, 100 Bush Street, San Francisco, Calif. 94104. Authority sought to transport as a *contract carrier* by water, in interstate or foreign commerce: (1) *Commodities* which by reason of their inherent nature, or their requirement for special equipment, are incapable of transportation between the points or origin and destination by either common carrier by rail or common carrier by motor vehicle, and (2) *parts, materials, equipment, and supplies* incidental to their operation or installation when moving with the commodities described in (1) above, for 180 days. Supporting shipper: Pacific Gas and Electric Co., 77 Beale Street, San Francisco, Calif. 94105. Send protests to: A. J. Rodriquez, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 450 Golden Gate Avenue, Box 36004, San Francisco, Calif. 94102.

No. W-1268 TA, filed May 14, 1973. Applicant: ROBERT'S RIVER RIDES, INC., 62 Locust Street, Dubuque, Iowa 52001. Applicant's representative: David L. Clemens, 222 Fischer Building, Dubuque, Iowa 52001. Authority sought to operate as a *common carrier* transporting passengers as a water carrier to points on the Mississippi River, between Guttenberg, Iowa, and Bellevue, Iowa, for 180 days. Supporting shippers: Dubuque Dock Board, East Fourth Street, Dubuque, Iowa 52001, Joseph S. Pickett & Sons Brewery, Inc., doing business as Dubuque Star Brewery, East Fourth Street, Dubuque, Iowa 52001, Dubuque Chamber of Commerce, 607 Fischer Building, Dubuque, Iowa 52001. The First National Bank of Dubuque, Iowa, Seventh at Town Clock Plaza, Dubuque, Iowa 52001, John W. Law Co., 30 South Locust Street, Dubuque, Iowa 52001, John Deere Dubuque Tractor Works, Highway 386, Dubuque, Iowa 52001, Frommelt Industries, Inc., 456 Huff Street, Dubuque, Iowa 52001, W. M. Clemens, Jr., accountant, 823 Central Avenue, Dubuque, Iowa 52001, and Dubuque Industrial Bureau, 601 Fischer Building, Dubuque, Iowa 52001. Send protests to: Herbert W. Allen, Transportation Specialist, Bureau of Operations, Interstate Commerce Commission, 875 Federal Building, Des Moines, Iowa 50309.

By the Commission.

[SEAL] ROBERT L. OSWALD, *Secretary.*

[FR Doc.73-10844 Filed 5-30-73;8:45 am]

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[Notice 70]

## MOTOR CARRIER TEMPORARY AUTHORITY APPLICATIONS

MAY 24, 1973.

The following are notices of filing of application, 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, 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 1131), published in the FEDERAL REGISTER, issue of April 27, 1965, effective July 1, 1965. These rules provide that protests to the granting of an application must be filed with the field official named in the FEDERAL REGISTER publication, within 15 calendar days after the date of notice of the filing of the application is published in the FEDERAL REGISTER. One copy of such protests must be served on the applicant, or its authorized representative, if any, and the protests must certify that such service has been made. The protests must be specific as to the service which such protestant can and will offer, and must consist of a signed original and six copies.

A copy of the application is on file, and can be examined at the Office of the Secretary, Interstate Commerce Commission, Washington, D.C., and also in field office to which protests are to be transmitted.

No. MC-8973 (sub-No. 30 TA), filed May 15, 1973. Applicant: METROPOLITAN TRUCKING, INC., 2424 95th Street, North Bergen, N.J. 07047. Applicant's representative: G. A. Olsen 69 Tonnele Avenue, Jersey City, N.J. 07306. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Lime* (except in bulk), from Devault, Pa., to points in New Jersey, Orange, Rockland, Westchester, Putnam, Sullivan, Ulster, Dutchess Counties, and New York, N.Y., and points in Fairfield County, Conn., for 180 days. Supporting shipper: Robert E. Moore, 45 Houston Road, Little Falls, N.J. 07424. Send protests to: Robert E. Johnston, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 970 Broad St., Newark, N.J. 07102.

No. MC-115955 (sub-No. 24 TA), filed May 15, 1973. Applicant: SCARI'S DELIVERY SERVICE, INC., P.O. Box 2627, Wilmington, Del. 19805. Applicant representative: Francis P. Desmond, 115 East Fifth Street, Chester, Pa. 19013. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *General commodities*, in shipments having prior or subsequent transportation via railroad trailer-on-flat-car service, between Alexandria, Va., on the one hand, and, on the other, Delaware and Philadelphia Counties, Pa., and Atlantic, Camden, Cumberland, Gloucester and Salem Counties, N.J., for 180 days. Supporting shipper: Food Fair Stores, Inc., 3175 John F. Kennedy Boulevard, Philadelphia, Pa. 19101. Send protests to: District Supervisor Peter R. Guman, 1518 Walnut Street, room 1600, Philadelphia, Pa. 19102.

No. MC-123872 (sub-No. 8 TA), filed May 17, 1973. Applicant: W & L MOTOR LINES, INC., P.O. Box 1226, Hickory, N.C. 28601. Applicant's representative: A. E. Bowman (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *New furniture*, from plantsite of Drexel Enterprises, at Woodfin, N.C. (near Asheville, N.C.), in Buncombe County, to points in California, Colorado, Iowa, Kansas, Minnesota, Nebraska, New Mexico, Oklahoma, Texas, and Wisconsin, for 180 days. Supporting shipper: Drexel Enterprises, Drexel, N.C. 28619. Send protests to: Terrell Price, 800 Briar Creek Road, room CC516, Mart Office Building, Charlotte, N.C. 28205.

No. MC-136343 (sub-No. 12 TA), filed May 14, 1973. Applicant: MILTON TRANSPORTATION, INC., P.O. Box 207, Milton, Pa. 17847. Applicant's representative: George A. Olson, 69 Tonnele Avenue, Jersey City, N.J. 07306. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Paper bags, paper boxes, and wrapping paper*, for the account of Equitable Bag Co., Inc., between Long Island City, N.Y., Moonachie, N.J., and Northern Kentucky Industrial Foundation site near Florence, Ky. *Paper bags, paper boxes, and wrapping paper*, for account of Equitable Bag Co., Inc., between Northern Kentucky Industrial Foundation site near Florence, Ky., Chicago, Ill., and Detroit, Mich., for 180 days. Supporting shipper: Equitable Bag Co., Inc., 45-50 Van Dam Street, Long Island, N.Y. 11101. Send protests to: Robert W. Ritenour, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 508 Federal Building, P.O. Box 869, Harrisburg, Pa. 17108.

No. MC-133984 (sub-No. 4 TA), filed May 14, 1973. Applicant: M. A. Poppert, doing business as Poppert Trucking Co., 401 Covina Lane, City of Industry, Calif. 90601. Applicant's representative: Jerry Solomon Berger, penthouse suite, Glendale Federal Building, 9454 Wilshire Boulevard, Beverly Hills, Calif. 90212. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Lumber, including plywood or particleboard*, from points in

Idaho, Oregon, and Washington to points in California, for 180 days. Supporting shippers: Douglas Dollar Forest Products, 2626 East Garvey Boulevard, suite 202, West Covina, Calif. 91791; Vance Lumber Co., 14720 Nelson Avenue, City of Industry, Calif. 91744; Inland Lumber Co., 21900 Main Street, Grand Terrace, Colton, Calif. 92324. Send protests to: District Supervisor Philip Yallowitz, Interstate Commerce Commission, Bureau of Operations, 300 North Los Angeles Street, room 7708, Los Angeles, Calif. 90012.

No. MC 138614 TA, filed April 16, 1973. Applicant: FRANK NEW, d.b.a.: NEW TRUCKING, Route No. 1, Stearns, Ky. 42647. Applicant's representative: George M. Catlett, suite 703–706 McClure Building, Frankfort, Ky. 40601. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Bales and/or rolls of unfinished cotton piece goods*, from State Port of Charleston, S.C., to New Haven, Mo., (2) *rolls of finished cotton piece goods*, from New Haven, Mo., to Stearns, Ky., and (3) *precut and fabricated steel tent frame tubing*, from Chicago, Ill., to Stearns, Ky., for 180 days. Supporting shipper: J. C. Agnew, president, Outdoor Venture Corp., P.O. Box 337, Stearns, Ky. 42647. Send protests to: R. W. Schneiter, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 222 Bakhaus Building, 1500 West Main Street, Lexington, Ky. 40505.

By the Commission.

[SEAL] JOSEPH M. HARRINGTON,
*Acting Secretary.*

[FR Doc.73-10345 Filed 5-30-73;8:45 am]

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[Notice 286]

## 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 pt. 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 on or before June 20, 1973. 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–74304. By order of May 22, 1973, the Motor Carrier Board approved the transfer to David J. Dugan Transport, Inc., Jefferson, Mass., of certificate of registration No. MC–121343 (sub-No. 1), issued January 28, 1964, to Ronald A. Stacy, d.b.a. Road Runner Express, Millbury, Mass., evidencing a right to engage in transportation in interstate commerce as described in certificate No. 3881 dated December 1, 1961, issued by the Masachusetts Department of Public Utilities. Arthur A. Wentzell, registered practitioner, P.O. Box 764, Worcester, Mass. 01613, representative for applicants.

No. MC–FC–74314. By order of May 22, 1973, the Motor Carrier Board approved the transfer to Osterkamp Trucking, Inc., Orange, Calif., of the operating rights in permits Nos. MC–133928 (sub-No. 1), MC–133928 (sub-No. 3), and MC–133928 (sub-No. 4), issued August 6, 1970, July 20, 1972, and June 22, 1971, respectively, to Anthony H. Osterkamp, Jr., d.b.a. Osterkamp Trucking, Orange, Calif., authorizing the transportation of gypsum, gypsum products, and building materials and supplies used in the manufacture, installation, and distribution thereof, from the plantsite of United States Gypsum Co. near Plaster City, Calif., to points in Arizona, California, Idaho, Nevada, New Mexico, Oregon, Utah, and Washington, and from points in Los Angeles County, Calif., to the above-named destination States; and agricultural field equipment and harvesting equipment, parts of agricultural field equipment and harvesting equipment, and materials and supplies used thereof, between points in California, on the one hand, and, on the other, points in Arizona, subject to restrictions. Gerod von Pahlen-Fedoroff, 9401 Wilshire Boulevard, 10th floor, Beverly Hills, Calif. 90212, attorney for applicants.

No. MC–FC–74370. By order of May 22, 1973, the Motor Carrier Board approved the transfer to James A. Cole, Lewiston, Idaho, of certificate No. MC–126023 (sub-No. 1), issued to Lyle L. Harrison, Lewiston, Idaho, authorizing the transportation of sand, gravel, and concrete, between specified counties in Idaho and Washington. James W. Givens, attorney, P.O. Box 875, Lewiston, Idaho 83501.

No. MC–FC–74380. By order of May 21, 1973, the Motor Carrier Board approved the transfer to Shaffer Travel Service, Inc., 189 Washington Avenue, Vandergrift, Pa. 15690, of Brokers Licenses Nos. MC–12832 and MC–12832 (sub-No. 1), issued to Clyde H. Shaffer, doing business as Shaffer Travel Service (above address) authorizing the holder to engage in operations as a broker in arranging for the transportation of: Passengers and their baggage, special and charter operations, beginning and ending at specified points in Pennsylvania and extending to all points in the United States, including Alaska and Hawaii.

[SEAL] JOSEPH M. HARRINGTON,
*Acting Secretary.*

[FR Doc.73-10846 Filed 5-30-73;8:45 am]

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[Ex Parte No. 261; Special Permission 70-275]

## TARIFFS AND SCHEDULES

### Order Reopening Proceeding

At a general session of the Interstate Commerce Commission held at its office in Washington, D.C., on the 27th day of April 1973.

In the matter of tariffs containing joint rates and through routes for the transportation of property between points in the United States and points in foreign countries.

Upon consideration of two prior reports herein at 337 I.C.C. 625 and 341 I.C.C. 246; and

It appearing, that in the latter report we dealt with the question of the need to promulgate general rules to cover the filing with this Commission of tariffs establishing joint rates and through routes on export and import traffic between those surface carriers subject to our jurisdiction, on the one hand, and, on the other, common carriers by water subject to the jurisdiction of the Federal Maritime Commission; and we concluded there, among other things, that there was insufficient basis for promulgating a general rule at that juncture because of the little experience we had had with such filings;

It further appearing, that more than 8 months have elapsed since the issuance of the latter report, and that additional joint international tariffs have been filed in the interval, and that both the Commission and the affected carriers have had additional opportunity to see what problems, if any, have come to light in connection with such tariff filings;

And it further appearing, that in light of the above, it would be in the public interest to reopen this proceeding on our own motion to give persons falling into one or more of the categories described below, who have already filed tariffs, and those who may wish to file tariffs, the opportunity to present their comments concerning the need, at this time, for publishing a general rule covering the filing of joint-rate, international through-route tariffs by such carriers, either as a supplement to, or in lieu of, the informal guidelines issued by the Commission's Bureau of Traffic on November 9, 1972;

*It is ordered*, That the proceeding be, and it is hereby, reopened for the limited purpose, as to parties and subject matter, set forth above;

*And it is further ordered*, That any persons falling into one or more of the categories described in appendix A hereto, who wish to offer comments with respect to the need at this time for promulgating a general rule either to supplement or replace the informal guidelines as set forth in appendix B which are presently available as guidance to cover the filing of joint international rates, shall file their statements of fact and arguments on or before June 29,

1973. Parties wishing to reply thereto shall file their statements within 15 days thereafter.

By the Commission.

[SEAL] ROBERT L. OSWALD, *Secretary.*

APPENDIX A

Parties who may file intermodal tariffs with the Interstate Commerce Commission.

Who may file:

1. The following carriers subject to the Interstate Commerce Act or their tariff publishing agents:

(a) Common carriers subject to part I.

(b) Motor common carriers subject to part II.

(c) Water common carriers subject to part III.

(d) Publishing agents for the above carriers who have complied with the appropriate tariff circular rules governing agency.

2. The Federal Maritime Commission and the following carriers subject to the jurisdiction of the Federal Maritime Commission as defined in the Shipping Act of 1916, or ocean conferences:

(a) Common carriers by water (except nonvessel operating carriers).

(b) Ocean conferences who have been designated as "agents" by carriers subject to ICC and FMC jurisdiction who have filed appropriate powers of attorney pursuant to the appropriate tariff circular rules.

APPENDIX B

GUIDELINES FOR FILING INTERMODAL TARIFFS SUBJECT TO ICC REGULATIONS CONTAINING JOINT RATES AND THROUGH ROUTES FOR THE TRANSPORTATION OF PROPERTY BETWEEN POINTS IN THE UNITED STATES AND POINTS IN FOREIGN COUNTRIES

These are guidelines for filing intermodal tariffs with the Interstate Commerce Commission and are not intended to prescribe or affect the regulations of the Federal Maritime Commission governing filing with that Commission.

Part A—Who may file:

(1) The following carriers subject to the Interstate Commerce Act or their tariff publishing agents:

(a) Railroads subject to part I.

(b) Motor common carriers subject to part II.

(c) Water common carriers subject to part III.

(d) Oil pipelines.

(e) Publishing agents for the above carriers. Agents must comply with either rule 18 of Tariff Circular No. 20 (49 CFR 1300.18), rule 8 of Tariff Circular No. 22 (49 CFR 1308.8), or rule 22 of Tariff Circular MF No. 3 (49 CFR 1307.46).

(2) The following carriers subject to the jurisdiction of the Federal Maritime Commission as defined in the Shipping Act of 1916 or ocean conferences:

(a) Common carriers by water (except nonvessel operating carriers).

(b) Ocean conferences—must be designated as an "agent" and each carrier subject to ICC and FMC jurisdiction must file a power of attorney as required by rule 18 of Tariff Circular No. 20 (49 CFR 1300.18), rule 8 of Tariff Circular No. 22 (49 CFR 1308.8), or rule 22 of Tariff Circular MF No. 3 (49 CFR 1307.46)—(see part D herein for explanation of Tariff circulars).

Part B—Requirements prior to filing a tariff:

A special permission application accompanied by an exhibit of the proposed tariff must be submitted to this Commission prior to the official tariff filing. The exhibit must include a title page, all the rules and regulations, all routes, and a sample page from the table of contents, index of commodities, and each rate section.

Do not file a tariff until you have been notified by the Special Permission Board that your application has been granted. Notification will include a special permission number to be shown on the title page of the tariff. If telephone notification is requested, the special permission application must include the area code, telephone number, and the name of the person to be notified.

If the special permission order requires changes to be made in the proposed tariff, such changes must be made before the tariff is officially filed with this Commission.

*Procedure for filing special permission applications.*—Applications for special permission to file intermodal tariffs must comply with the following tariff circular rules:

Rule 58 of Tariff Circular No. 20 (49 CFR 1300.58);

Rule 7 of Tariff Circular No. 22 (49 CFR 1308.7); and

Rule 21 of Tariff Circular MF No. 3 (49 CFR 1307.45).

Two copies of the special permission application and exhibit(s) must be submitted and accompanied by a $20 filing fee as required by ICC regulations. The special permission application must be addressed to the Office of the Secretary, Interstate Commerce Commission, Washington, D.C. 20423. Checks or money orders must be drawn to the order of the Interstate Commerce Commission.

You may include the following requests in one special permission application:

(1) Authority to file one or more tariffs with the Interstate Commerce Commission.

(2) Authority to publish a modified origin and/or destination intermediate rule(s) (see pt. D).

(3) Authority to publish a conversion-type supplement in lieu of rules for allowances, cargo administrative charge, etc. (see pt. D).

Part C—Where to file tariffs and amendments:

All tariffs and amendments to tariffs with letters of transmittals (see rule 29 of Tariff Circular No. 20 (49 CFR 1300.29); rule 9 of Tariff Circular No. 22 (49 CFR 1308.9), or rule 20(d) of Tariff Circular MF No. 3 (49 CFR 1307.44(d)) must be filed with the Interstate Commerce Commission, Washington, D.C. 20423. The mailing envelope or other outside covering should be marked to the attention of the Tariff Examining Branch.

Part D—Tariff requirements:

Intermodal tariffs which provide for the use of Interstate Commerce Commission regulated carriers in the categories listed below shall comply with all the tariff-publishing regulations shown in connection with the following category:

CATEGORY I

Rail Carriers and Oil Pipe Lines, Tariff Circular No. 20, as amended (49 CFR pt. 1300).

CATEGORY II

Water Carriers, Tariff Circular No. 22 (49 CFR pt. 1308) or if they so elect Tariff Circular No. 20 (49 CFR pt. 1300).

CATEGORY III

Motor Carriers, Tariff Circular MF No. 3, as amended (49 CFR pt. 1300).

CATEGORY IV

Combination of I and III, Tariff Circular No. 20, amended (49 CFR pt. 1300).

All tariffs shall be published, filed, and posted in conformity with all the provisions of the Interstate Commerce Act and the rules in the above-named tariff circulars. Each tariff shall include the names of all participating carriers, a description of the services to be performed by each participating carrier, and shall state the division to be received by the participating carrier which is subject to the Interstate Commerce Act for its share of the joint rate covering a through shipment. The division must be stated in a clear and definite manner and must include an orderly procedure for determining the revenue accruing to the ICC regulated carrier.

The tariff must contain an explicit statement of rates in U.S. currency, in cents, in dollars and cents, per 100 pounds, per ton of 2,000 or 2,240 pounds, or other defined unit, together with the names of other proper designation of the places from and to which they apply. Complicated plans or ambiguous terms must not be used.

If the tariff is to provide less-than-carload or less-than-containerload (LCL) or less-than-trailerload (LTL) service, such service must be clearly defined; for example, a minimum weight and/or charge should be included. Where freight is to be packed (loaded) and/or unpacked (unloaded) into or from railcars, trailers, or containers, by carrier subject to the jurisdiction of this Commission, the through joint rate must clearly state whether or not it includes such services. If the rate does not include these services then a specific charge for such services must be shown in the tariff.

Allowances, cargo administrative charges, or reductions, shall not be provided for payment to shippers or other parties for services performed by or facilities furnished by other than the carriers parties to the through transportation unless (1) such carriers by tariff publication hold themselves out to perform such services and furnish such facilities, (2) such carriers are able to perform such services and furnish such facilities upon reasonable demand, and (3) the performance for such services and furnishing of such facilities are included in the through joint rate or charge. In lieu of an allowance rule, cargo administrative charge, or reduction, we will permit the use of a conversion-type supplement to put these rate adjustments into effect. This type of supplement may only be published after special permission authority has been granted by this Commission (see Part B—*Procedures for Filing Special Permission Applications*).

If the tariff provides for the use of a specified kind of bill of lading, the tariff shall include the terms and conditions of such bill of lading. The bill of lading provisions shall distinctly separate the liability applying to the different segments—ocean and land—of the through transportation. Where carriers subject to Interstate Commerce Commission jurisdiction will originate shipments, that carrier's name shall be shown in a prominent place on the face of the bill of lading.

Part E—Statement to accompany tariff amendments filed under authority of special permission No. 73-123 (see attached and pt. I FR 14348, dated July 19, 1972).

Tariff verification statement.

—Date_____

1. (Here show name of issuing carrier or agent.)

2. All tariff changes which are published on 5 days' notice and accompany this statement are reductions either from existing commodity rates or represent newly established commodity rates which are reductions from rates on "Cargo, not otherwise specified."

3. The reduced rates shown on (here show revised page numbers and ICC number of tariff) attached hereto were not established by the issuing carrier nor by any subsidiary or affiliate thereof.

4. The proof to substantiate that the short notice changes are reductions to meet rates of direct ocean carriers which are either published in ocean carrier conference or direct ocean carrier tariffs lawfully on file with the Federal Maritime Commission and the reproductions attached hereto are either (use applicable statement) (1) tariff amendments filed on (here indicate date filed) with the Federal Maritime Commission, or (2) temporary rate filings; e.g., telegrams, letters, etc., addressed to the Federal Maritime Commission (on ocean carrier tariff pages the symbol (R) indicates a reduction). Rate circulars and rate advices to shippers which are not filed with the Federal Maritime Commission as temporary rate filings will not be accepted as proof to substantiate short notice changes as indicated above.

5. All changes being made on short notice are identified on the tariff amendments by the teardrop symbol and are being made so that the rates in tariff (here show ICC number of tariff being amended) and tariffs of direct ocean carriers lawfully on file with the Federal Maritime Commission are maintained on the same level.

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(Signed—title)

PUBLICATION OF REDUCED RATES ON SHORT NOTICE—MINIBRIDGE TARIFFS WAIVE TARIFF CIRCULAR RULES

[Special Permission 73-123]

*Order.*—At a session of the Interstate Commerce Commission, Division 2, held at its office in Washington, D.C., on the 12th day of July 1972.

By special permission application No. 4, filed by Seatrain International, S.A., for and on behalf of carriers parties to its tariffs ICC Nos. 1, 2, 1 (Seatrain Pacific, S.A., series), 3, and 2 (Seatrain Pacific, S.A., series), authority is sought under the provisions of section 6 of the Interstate Commerce Act to depart from the terms of rule 14(a) of Tariff Circular No. 20, and any other rules deemed necessary, in order to issue revised pages to the aforesaid tariffs, effective upon 1 day's notice, when said revised pages contain rate reductions to initiate new rates or meet rate reductions of competing ocean carriers whose tariffs are lawfully filed with the Federal Maritime Commission, as set forth in the application and exhibits attached thereto. A full investigation of the matters involved in the application having been made, which application is hereby referred to and made a part hereof:

*It is ordered*, That all water carriers subject to the Shipping Act of 1916, and rail and motor common carriers of property in interstate or foreign commerce subject to parts I and II of the Interstate Commerce Act, who have published or will publish intermodal (minibridge) tariffs containing joint rates and through routes for the transportation of property between points in the United States and points in foreign countries, be, and they are hereby authorized to file amendments to their respective tariffs which provide for changes in rates, charges, routes, rules, regulations, or other provisions that meet reductions or changes in rates, charges, routes, rules, regulations, or other provisions published on less than statutory notice in competing ocean carrier's all-water tariffs that are not subject to the jurisdiction of this Commission but subject to the jurisdiction of the Federal Maritime Commission, resulting in a decrease in rates and charges to the shipper, which may become effective upon 5 days' notice to this Commission and the public: *Provided*, That the carriers shall, concurrently with the filing of such amendment(s) with this Commission, include an exact copy of the competing carrier's tariff amendment(s) identifying the competing carrier or conference, together with a specific explanation of the changes being made: *And further provided*, That the competing rate sought to be met must not have been established by an ocean carrier publishing or participating in the intermodal (minibridge) tariff, or by subsidiary or affiliate thereof.

*It is further ordered*, That, the authority in this special permission is subject to the following conditions:

(1) That there will be no inconsistencies in the effective dates on the tariff publications filed jointly with the Federal Maritime Commission and the Interstate Commerce Commission.

(2) That the tariff(s) being amended contains a cargo, n.o.s. rate or similar general cargo rate, which rate would otherwise be applicable to the specific commodity from and to the same points, via the same route, and that the established specific commodity rate be equal to or lower than the previously applicable cargo, n.o.s. rate or general cargo rate.

(3) That the division, rate, or charge to be collected by the carrier(s) subject to the Interstate Commerce Act for its portion of the through service be no less than the existing division, rate or charge on the same commodity in like quantity from and to the same points and by the same route.

(4) That in the event a petition requesting suspension is received by this Commission of rate(s), charges, routes, rules, regulations, or other provisions published upon 5 days' notice under authority of this special permission, but not yet effective, the protested rate(s), charge, route, or service shall upon notification to the carrier or publishing agent from this Commission be canceled by said carrier or agent from the tariff(s) within 10 days after notification by this Commission effective upon 1 day's notice, and then may be republished without change, effective upon not less than 30 days' notice. A reduced rate that has been protested may not be republished again on 5 days' notice under the authority provided in this special permission.

This permission shall not be used as authority for filing:

(1) Tariff publications providing new or initial rates, charges, routes, rules, regulations, or other provisions on less than 30 days' notice.

(2) Tariff publications which provide new points and/or ports of origin or destination.

(3) Tariff publications which provide for the elimination or cancellation of the specific commodity, rate, charge, route, or service.

*It is further ordered*, That, publication(s) issued and filed hereunder shall bear the following notation:

"Issued on 5 days' notice; under authority of ICC permission No. 73-123."

*It is further ordered*, That, this permission does not modify any outstanding formal orders of this Commission, nor waive, except as herein authorized, any of the requirements of its rules relative to the construction and filing of tariffs, or any of the provisions of the Interstate Commerce Act, nor does it authorize the filing of any publications other than those referred to herein. This permission shall continue in force and effect to and including July 12, 1973.

*And it is further ordered*, That, notice of this order be given to Seatrain International, S.A., all other water carriers publishing joint intermodal (minibridge) tariffs, and 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, Division 2.

[SEAL] JOSEPH M. HARRINGTON,
*Acting Secretary.*

To: Seatrain International, S.A.,
Mr. J. J. Oster, Director of Pricing,
1395 Middle Harbor Road,
Oakland, Calif. 94607.

[FR Doc.73-10848 Filed 5-30-73;8:45 am]

federal register

THURSDAY, MAY 31, 1973

WASHINGTON, D.C.

Volume 38 ■ Number 104

PART II


# DEPARTMENT OF THE TREASURY

## Bureau of Alcohol, Tobacco and Firearms

■

# DISTILLED SPIRITS PLANTS

## Package Identification, Records and Reports

[T.D. ATF-4]

Title 26—Internal Revenue

CHAPTER I—INTERNAL REVENUE SERVICE, DEPARTMENT OF THE TREASURY

SUBCHAPTER E—ALCOHOL, TOBACCO AND OTHER EXCISE TAXES

[T.D. ATF-4]

# PART 201—DISTILLED SPIRITS PLANTS

## Package Identification, Records and Reports

*Background.*—The Bureau of Alcohol, Tobacco and Firearms (formerly a division of the Internal Revenue Service, but established as a full bureau pursuant to Treasury Department Order No. 221 dated June 6, 1972 (37 FR 11696)), through the cooperation of its field and national office personnel and the distilled spirits industry, made an indepth study to reevaluate the needs of the Government and industry for records and reports covering production and warehousing activities at distilled spirits plants. The regulatory changes described below are a result of that study.

MAJOR ISSUES

*Package identification system.*—Under present requirements the serial number on a barrel is used primarily as a means of identifying a specific package of spirits. This system has a number of disadvantages, one of which is the laborious and involved procedures for reflecting such identification in the records and reports. Both industry and Government felt the need of a less cumbersome system of identifying packages. This need would be met by establishing a means whereby packages could be identified by lots and, as necessary, within the lot by separate package identification. To do so it was necessary to: (1) Provide a method for uniform fill of packages, and (2) limit a lot to spirits which may be identified collectively as being within a specified class or type or other established identity. All spirits thus constituting a lot would then be considered fungible. Thus, the additional identification of each package within the lot becomes less essential.

On this basis, it is proposed to discontinue the present system of serially numbering packages of distilled spirits and in place thereof apply one number to all packages constituting a lot. Warehouse accounting would be on the basis of the number of containers in each lot rather than on the basis of each specific container identified by its individual serial number (if one is assigned). The proposed system, using numbers and letters, would identify the year, month, and date of filling; and identify the lot sequence for that date.

Depending on the methods of operations and related needs, some proprietors would wish to continue a system whereby an individual package within a lot could be further identified while others would not. Therefore, the proposed regulations would also provide for serially numbering packages within a lot and would provide for the waiver of the requirements for serial numbers. Packages of spirits within a lot would, in the case of domestic spirits, be required to be fungible with respect to date of original entry into bond, producer, rated capacity, kind, and proof. This system of package identification will provide the necessary controls relative to the storage, transfer, and withdrawal of spirits, including the ability to determine periods of storage in bond in applying the force-out provisions. In the event waiver has been granted respecting individual package serial numbers (additional to the lot identification number as discussed above) and it becomes necessary to later identify a particular package or packages, as in the case of losses, provisions would be made for such identification at the time the need was determined.

Besides simplification of the record-keeping requirements, by adopting the lot identification procedures, material benefits would accrue to proprietors utilizing pallets for storage of spirits since it would be unnecessary for them to identify the spirits on a pallet by number other than the lot number and the number of containers from that lot. Likewise, it would be unnecessary for proprietors to store containers on ricks in serial order or remove them for bottling or other purposes by serial number. Considerable labor savings would accrue as it would no longer be necessary to shift barrels back and forth in the ricks to secure packages of specified serial numbers. Instead, the proprietor could remove those of the lot, in the quantity desired, that are most convenient of access. (Secs. 201.312e, 201.513a, and 201.628a added and §§ 201.11, 201.88, 201.312b, 201.312c, 201.514, 201.516, 201.518, and 201.629 amended.)

*Uniform fill.*—Spirits stored in unlined wooden containers are subject to continuing loss due to osmosis and evaporation. The rate of the evaporation depends on the condition of the container, the temperature and humidity of the place of storage, and the length of storage. Thus, regardless of the uniformity with which unlined wooden containers may be filled, the actual contents of the containers after a period of storage is always less than the original contents and the amount of the loss from barrels in storage is subject to considerable variation. For all practical purposes, assuming some reasonable uniformity in the capacity of containers, the average content when filled to capacity is acceptable to the Government for purposes of recording production. The regulations would require that spirits in receiving tanks be gaged before and after removal of spirits and that such gages be entered in the records of the proprietor. The proprietor would be allowed to record the total of the rated capacities of the packages filled from the receiving tank as the quantity produced. In this instance, the regulations would require that rated capacities of packages be similar for a particular lot of spirits. (Secs. 201.95, 201.243, 201.269, 201.294, 201.295, 201.363, and 201.619 amended.)

*Records and reports—general.*—Basic changes have been made in requirements for acceptable style for, and preservation of, production and warehousing records. Regarding style, if proprietors' copies of prescribed forms show details to be recorded for transactions, or, if proprietors' commercial records show details to be recorded for transactions and there are no prescribed forms showing such details, such forms or records may constitute the required records. The detailed requirements for separate records for each type of distillate are being deleted. Instead, a general requirement will provide that records of production be maintained in such a manner that spirits produced may be traced through the distilling system to the mash or the other material from which produced. Regarding preservation of records, the regulations will allow maintenance of records on data processing equipment at a location other than the plant premises provided such data is retrievable within 5 business days. Daily records of production and warehousing operations must be available for inspection at the plant premises. (Secs. 201.612, 201.618, 201.622, 201.627, 201.628, 201.630, and 201.631 amended; and §§ 201.517a and 201.630b added.)

*Spirits from Puerto Rico and the Virgin Islands.*—Specific requirements are provided for separately reporting in warehouse records spirits brought into the United States from Puerto Rico and the Virgin Islands pursuant to 26 U.S.C. 5232, for consistency with present requirements for reporting imported and domestic spirits. (Sec. 201.628 amended.)

*Separate files for each kind of spirits.*—Provision is made for separate files of each kind of spirits of 190 degrees or more of proof deposited in storage tanks. This will facilitate separate reporting of vodka and gin from other spirits so deposited. (Sec. 201.628 amended.)

*Cutout records.*—Requirements for the maintenance of cutout records of packages and cases deposited in bonded storage are discontinued. Adoption of the package identification system which accounts for groups of packages rather than individual containers and the proposed uniform fill provisions reduce the significance of individual entries for each unit entered into and withdrawn from bonded storage. The use of form 1620 would be discontinued and the use of form 2630 would be greatly reduced. (Secs. 201.269, 201.271, 201.336, 201.363, 201.364, 201.368, 201.369, 201.373, 201.387, and 201.587 amended.)

*Daily reports.*—Daily reports of transactions relating to spirits bottled, strip stamps used, and withdrawals after tax determination, formerly submitted to a Government officer at the plant, are discontinued. Such information is otherwise readily available to such officers from other sources. (Secs. 201.379 and 201.632 deleted.)

*Mingling and blending procedures.*—Requirements for records regarding mingling of spirits and blending of rums and fruit brandies are simplified. The essential changes are that (1) proprietors need not submit lists of serial numbers of packages to be dumped for

mingling or blending; (2) dispositions of mingled or blended spirits must be reported on the related transaction forms; (3) at least once each calendar year, the date of original entry of mingled spirits held in tanks must be up-dated; and (4) spirits dumped for immediate removal to bottling premises need not be reported on mingling forms.

*Bottling in bond.*—Amended requirements for the use of form 1515 change its function from an application to a notice of entry for bottling spirits in bond and provide for reporting the disposition of filled cases of bottled-in-bond spirits on the form. These changes will reduce the handling of the form and, by showing dispositions on the form, provide more adequate record coverage of bottling-in-bond operations. (Secs. 201.322, 201.336, and 201.343 amended.)

*Taxable samples.*—Requirements for the reporting of taxable samples withdrawn are liberalized to provide that (1) the proprietor, rather than the assigned officer, will prepare the report; and (2) where the tax on samples is prepaid, the semimonthly report of taxable samples will show, for each prepaid sample, the serial number of the return on which prepaid. (Sec. 201.606 amended and § 201.631a added.)

*Markings on containers.*—Requirements as to marks that may be placed on the Government head or side of barrels are liberalized to allow plant proprietors to show plant control and other related data on such containers. (Sec. 201.524 amended.)

*Extension of time for filing reports.*—The requirement as to time for filing monthly, quarterly and semiannual reports is liberalized by extending the filing date from the 10th to the 15th day of the month following the close of the period for which rendered. This will allow additional time for retrieval of the information required for such reports. (Sec. 201.631 amended.)

*Tank scales.*—The limitation as to the minimum quantity of distilled spirits that may be entered into a tank scale for tax determination gauge has been liberalized. It has been established that any quantity which represents at least 5 percent of the total scale capacity can be accurately determined. (Sec. 201.247 amended.)

### Effective Date

Because it is necessary to reflect the effective date of this document in text, and to allow time for proprietors to be in a position to convert to the new system for identifying packages and keeping records, this Treasury decision is being given an effective date of July 1, 1973.

### Summary of Changes Subsequent to Notice of Proposed Rulemaking

On October 4, 1972, a notice of proposed rulemaking to amend 26 CFR part 201, as described in the previous paragraphs was published in the Federal Register (37 FR 20838). In accordance with the notice, interested persons were afforded an opportunity to submit written comments or suggestions pertaining thereto. No comments or requests for a public hearing were received; therefore, the amendments to 26 CFR part 201 are hereby adopted as published in the notice of proposed rulemaking subject to the changes set forth below:

*Conforming changes.*—Certain official titles, citations, definitions, and terms have been updated to reflect the status of the new Bureau of Alcohol, Tobacco, and Firearms, which was established as a Bureau after the notice of proposed rulemaking was drafted.

(Secs. 201.11, 201.243, 201.247, 201.269, 201.292, 201.307, 201.311, 201.312a, 201.312c, 201.336, 201.363, 201.368, 201.369, 201.373, 201.513a, 201.514, 201.551, 201.587, 201.612, 201.614, 201.628a, 201.629, 201.630, and 201.631 further amended.)

*Change required by publication of a prior Treasury decision.*—Treasury Decision ATF–1, which became effective on December 1, 1972 (after publication of this document as a notice of proposed rulemaking), changed the provisions of § 201.624 (being further changed by this document) to reflect in reports the elimination of denominational green bottle strip stamps. Those changes are reflected in this Treasury decision. (Sec. 201.624 further amended.)

*Changes involving forms and reports.*—The regulatory requirements for preparation and disposition of form 236, Transfer of Spirits or Denatured Spirits in Bond, are modified to reduce the frequency of handling of the form. To accomplish this, more detailed instructions will appear on the form and the regulations will merely provide that the form will be disposed of as provided thereon after completion of lading (or transfer by pipeline). (Sec. 201.368 further amended.)

The regulatory requirements for submission of the semimonthly report of taxable samples are changed to provide for submission of such reports on or before the third business day preceding the due date of the return on which the samples are taxpaid. This would allow time for verification of the entries on the report by a government officer. (Sec. 201.631 further amended.)

The document published as a notice of proposed rulemaking would have eliminated requirements for preparation of daily reports by proprietors but would have retained, unintentionally, the requirements for their submission. Therefore, the requirements for submission of daily reports are also eliminated. (Sec. 201.631 further amended.)

Specific changes subsequent to notice of proposed rulemaking:

1. In paragraph 1, § 201.11 is further changed by:

(a) Deleting the definitions for "Commissioner" and "Regional commissioner";

(b) Adding, in alphabetical order, a definition for "Alcohol, tobacco and firearms officer";

(c) Amending the definitions for "Application for registration," "Assigned officer," "Bonded warehouse," "Bottling in bond," "Bottling-in-bond facilities," "Director," "In bond," "Internal revenue officer," "Operating permit," "Region," "Tax gallon," "Taxes on rectified products," and "Wine spirits". As further revised, § 201.11 reads as set forth below.

2. Paragraphs 2, 4, 6, 26, 31, 54, and 65 are changed by deleting in §§ 201.88, 201.243, 201.269, 201.336, 201.363, 201.612, and 201.630, respectively, the words "internal revenue" and "Internal Revenue" wherever they appear and by inserting the words "alcohol, tobacco, and firearms".

3. Paragraph 4 is changed by striking from the third sentence of § 201.243(a) the citation "section 5001, I.R.C." and inserting instead the citation "26 U.S.C. 5001".

4. Paragraph 18 is changed by striking from the last sentence of § 201.307 the citation "section 5023, I.R.C." and inserting instead the citation "26 U.S.C. 5023".

5. Paragraph 21 is changed by striking from the first sentence of § 201.312a the citations "section 5232, I.R.C.," and "chapter 51, I.R.C.," and inserting instead the citations "26 U.S.C. 5232" and "chapter 51 of 26 U.S.C.," respectively.

5a. Paragraph 32 is changed by striking from § 201.364 the words "effective date." and inserting instead the date "July 1, 1973."

6. Paragraph 38 is changed by striking from the next to the last sentence of § 201.373 the citation "section 5234(a)(1)(C), I.R.C." and inserting instead the citation "26 U.S.C. 5234(a)(1)(C)".

7. Paragraph 50 is changed by striking in § 201.587 the citation "chapter 51, I.R.C." wherever it appears and inserting instead the citation "chapter 51 of 26 U.S.C."

8. Paragraph 63 is changed by striking in paragraph (d) of § 201.628a the citation "section 5006(b), I.R.C." and inserting instead the citation "26 U.S.C. 5006(b)".

9. Paragraphs 5, 6, 9, 20, 23, 31, 33, 34, 43, 44, 49a, 50, 55, 64, and 67 are changed by deleting in §§ 201.247, 201.269(c)(2), 201.292, 201.311, 201.312c, 201.363, 201.368(a)(2), 201.369(c), 201.513a(b)(1) and (c), 201.514(b), 201.551, 201.587, 201.614(a), (b), and (c), 201.629(e), and 201.631(a) and (b) the words "assistant regional commissioner" wherever they appear and by inserting instead the words "regional director".

10. Paragraph 33 is changed by:

(a) Striking the last sentence of paragraph (a)(1) of § 201.368 and by inserting instead a new sentence to read, "On completion of lading (or completion of transfer by pipeline), the copies of form 236 shall be disposed of as provided in the instructions on the form.";

(b) Striking the last sentence of paragraph (a)(2) of § 201.368 and by inserting instead a new sentence to read, "On completion of lading of the last truck for the day, the form 236 shall be disposed of as provided in the instructions on the form."; and

(c) Deleting from the first sentence in paragraph (a)(2) of § 201.368 the words "internal revenue".

11. In addition to the change described in paragraph 9 of this document, paragraph 43 is changed as follows:

(a) By deleting in the first sentence of § 201.513a(a) the words, "(effective

date)" and inserting instead the date "June 30, 1973";

(b) By deleting the sentence (following § 201.513a(a)(1)(iv)) which reads, "The first three lots filled into packages on March 4, 1972, would be identified as '72C04,' '72C04A,' '72C04B.' ", and inserting a new sentence to read, "The first three lots filled into packages on July 9, 1973, would be identified as '73G09,' '73G09A,' and '73G09B.' "; and

(c) By deleting in § 201.513a(a)(2) the numbers "72C04–1" and "72C04A–25" and inserting instead the numbers "'73G09–1' or '73G09A–25'."

12. In addition to the change described in paragraph 9 of this document, paragraph 44 is changed as follows:

(a) By amending the table and footnote in § 201.514(a) to read as set forth below.

(b) By deleting immediately following paragraph (b) of § 201.514 the wording of existing paragraph (c) of that section which was omitted unintentionally from the notice of proposed rulemaking. As restored, paragraph (c) reads as set forth below.

13. In addition to the changes described in paragraph 9 of this document, paragraph 55 is changed by deleting, in the first sentence of paragraph (c) of § 201.614, the word "claims" and by inserting instead the word "claim" to reflect correct language.

14. Paragraph 56 is changed by striking the words "(see for example, § 201.628a(d))" at the end of paragraph (f) of § 201.618, and by inserting instead the words "(see for example §§ 201.513a(c) and 201.628a(d))".

15. Paragraph 59 is changed by striking the language of § 201.624 and inserting in lieu thereof new language to read as set forth below.

16. Paragraph 63 is changed as follows:

(a) By deleting in the second to the last sentence of § 201.628a(d) the citation "section 5006(b), I.R.C." and inserting instead the citation "26 U.S.C. 5006(b)",

(b) By deleting in the heading and text of § 201.628a the words "(effective date)" where they appear and inserting instead the date "July 1, 1973,"; and

(c) By deleting in the first sentence of § 201.628a the words "(day before effective date)" and inserting instead the date "June 30, 1973,".

17. Paragraph 67 is changed by revising paragraph (b) of § 201.631 to read as set forth below.

This Treasury decision shall become effective on July 1, 1973.

(68A Stat. 917; 26 U.S.C. 7805)

[SEAL] REX D. DAVIS,
*Director, Bureau of Alcohol, Tobacco and Firearms.*

Approved, May 24, 1973.

BRENT F. MOODY,
*Acting Assistant Secretary.*

**§ 201.11 Meaning of terms.**

* * * * *

*Alcohol, tobacco and firearms officer.* An officer or employee of the Bureau of Alcohol, Tobacco and Firearms duly authorized to perform any function relating to the administration or enforcement of this part.

*Application for registration.* The application required under 26 U.S.C. 5171(a).

* * * * *

*Assigned officer.* The Bureau of Alcohol, Tobacco and Firearms officer assigned to duties at the plant.

* * * * *

*Bonded warehouse.* The part of the bonded premises, as described in the application for registration, in which spirits are authorized to be stored after entry for deposit in storage and prior to payment or determination of the internal revenue tax or withdrawal as provided in 26 U.S.C. 5214 or 7510.

* * * * *

*Bottling in bond.* When used in Subpart K of this part, the bottling of distilled spirits under 26 U.S.C. 5233 prior to determination of tax. When used in Subpart Na of this part, the bottling of distilled spirits in accordance with the conditions and requirements of 26 U.S.C. 5233, and under the supervision provided for in 26 U.S.C. 5202(g), but after determination of tax. When used elsewhere in this part, either act of bottling defined herein, unless otherwise specifically provided.

*Bottling-in-bond facilities.* The part of the bonded premises in which spirits are bottled in bond under 26 U.S.C. 5233, prior to tax determination.

* * * * *

*Commissioner.* [Deleted]

* * * * *

*Director.* The Director, Bureau of Alcohol, Tobacco and Firearms, the Department of the Treasury, Washington, D.C.

* * * * *

*In bond.* When used with respect to spirits (including denatured spirits) refers to such spirits possessed under bond to secure the payment of the internal revenue tax imposed by 26 U.S.C. 5001(a)(1), and in respect to which the tax imposed by such section has not been determined as provided in this part, and includes such spirits on the bonded premises of a distilled spirits plant, in transit between such premises, in transit from customs custody to such premises, and such spirits withdrawn without payment of tax under 26 U.S.C. 5214, and with respect to which relief from liability has not yet occurred under the provisions of 26 U.S.C. 5005(e)(2).

* * * * *

*Internal revenue officer.* Wherever used in this part and in chapter 51 of 26 U.S.C. shall mean the alcohol, tobacco and firearms officer as defined in this section.

* * * * *

*Lot identification.* The lot identification described in § 201.513a.

* * * * *

*Operating permit.* The document issued pursuant to 26 U.S.C. 5171(b), authorizing the person named therein to engage in the business or operation described therein.

* * * * *

*Package identification number.* The package identification number described in § 201.513a.

* * * * *

*Region.* A Bureau of Alcohol, Tobacco and Firearms region.

*Regional Commissioner.* [Deleted]

* * * * *

*Tax gallon.* The unit of measure of spirits for the imposition of tax under 26 U.S.C. 5001. When spirits are 100 degrees of proof or more at the time of tax determination, the tax is determined on a proof gallon basis. When spirits are less than 100 degrees of proof at the time of tax determination, the tax is determined on a wine gallon basis.

*Taxes on rectified products.* The taxes imposed by 26 U.S.C. 5021, 5022, and 5041 on products manufactured on bottling premises.

* * * * *

*Wine spirits.* As authorized for use in wine production by 26 U.S.C. 5373, means brandy or wine spirits produced in a distilled spirits plant (with or without the use of water to facilitate extraction and distillation) exclusively from (a) fresh or dried fruit, or their residues, (b) the wine or wine residues therefrom, or (c) special natural wine; except that where, in the production of natural wine or special natural wine, sugar has been used, the wine or the residuum thereof may not be used if the unfermented sugars therein have been refermented. Such wine spirits shall not be reduced with water from the distillation proof, nor be distilled at less than 140 degrees of proof (except that commercial brandy aged in wood for a period of not less than 2 years, and barreled at not less than 100 degrees of proof, shall be deemed wine spirits).

PAR. 2. Section 201.88 is amended to provide that, on request of an alcohol, tobacco and firearms officer, the proprietor shall furnish the location of, and the number of packages within, any particular lot of packages and to make an editorial change. As amended, § 201.88 reads as follows:

**§ 201.88 Storage rooms or buildings.**

Storage rooms or buildings provided on bonded premises for the storage of spirits in packages, cases, or similar portable approved containers shall be in the joint custody of the assigned officer and the proprietor, shall be locked with Government locks, and shall not be unlocked or remain unlocked except when such officer is on the plant premises or the premises of an adjacent bonded wine cellar. Deposits of spirits in, or removals of spirits from, such rooms or buildings in such portable containers shall be under direct supervision of assigned officers. The proprietor shall, on request of an alcohol, tobacco and firearms officer, furnish the exact locations (including the number of containers at each location) of all packages and similar portable approved containers within a given lot,

and the exact location of each case stored on the bonded premises.

(72 Stat. 1357; 26 U.S.C. 5202)

PAR. 3. Paragraph (a) of § 201.95 is amended to (1) make it clear that the proviso which permits the proof of spirits to be packaged in porous wooden packages to be adjusted to within two-tenths of a whole degree applies only to packages which are so filled for storage in the warehouse and (2) to make an editorial change. As amended, paragraph (a) reads as follows:

§ 201.95 **Adjustment of proof.**

(a) *Packages in bond.* The proof of spirits in bond (except anhydrous spirits and spirits which are less than 100° of proof) which are to be filled into packages, including consolidated packages, shall be adjusted to any desired whole degree prior to such packaging: *Provided*, That when the spirits are to be packaged in porous wooden packages for storage, the proof may be adjusted to within two-tenths of a whole degree. The proof of spirits to be withdrawn after tax determination on the basis of individual package gage shall be determined to the nearest tenth and rounded to a whole degree in accordance with the provisions of Part 186 of this chapter.

* * * * *

PAR. 4. Paragraph (a) of § 201.243 is amended to provide that tanks in the storage facilities of a bonded warehouse which are not mounted on scales may not be used for filling packages unless such tanks are covered by a certificate of approval. As amended, paragraph (a) of § 201.243 reads as follows:

§ 201.243 **Tanks.**

(a) *General.* All tanks used as receptacles for spirits (including denatured spirits) or wines shall be located, constructed, and equipped so as to be suitable for the intended purpose and to permit ready examination. An accurate means of measuring the contents of each such tank shall be provided by the proprietor; in any case where such means of measuring is not a permanent fixture of the tank, the tank shall be equipped with a fixed device which will enable the approximate contents to be determined readily. Tanks used for determining the tax imposed by 26 U.S.C. 5001 shall be mounted on scales; and in addition thereto shall be provided with another suitable device for quickly and accurately determining the contents. The proprietor shall install walkways, landings, and stairways to afford safe access to all parts of tanks where the presence of an alcohol, tobacco and firearms officer is required. Tanks may be equipped with vents, flame arresters, foam devices, or other safety devices, if the construction is such to prevent extraction of the spirits. The proprietor shall be responsible for accurate calibration of all tanks. Receiving tanks which are part of the production facilities, tanks in the storage facilities from which packages are to be filled, in the manner provided in subparagraph (2) or (3) of paragraph (c) of § 201.269 as authorized by § 201.294, and bottling tanks shall not be used until a certificate of approval, Form 244, has been attached thereto. Pursuant to tax determination, spirits in a tank may be removed from bonded premises, and received on bottling premises, in the tank in which they are contained, if (1) the bonded premises are alternated to bottling premises in the manner provided in § 201.175, (2) the tank and/or all necessary connections thereto are locked or sealed in such manner as to prevent the mingling of spirits in bond with tax determined spirits, (3) the tank is properly redesignated, and (4) the structural separation of bonded and bottling premises required by § 201.231 is maintained.

* * * * *

PAR. 8. Section 201.247 is amended to change requirements for the minimum quantities of spirits which may be weighed in a tank. As amended, § 201.247 reads as follows:

§ 201.247 **Beams or dials of scales.**

Beams or dials of scales used to weigh packages of spirits (including denatured spirits) must indicate weight in half-pound graduations: *Provided*, That scales used to weigh packages or cases designed to hold 10 wine gallons or less shall indicate weight in ounces or in hundredths of a pound. Beams or dials of tank scales used to weigh spirits (including denatured spirits) must have minimum graduations not greater than the following:

| Quantity to be weighed: | *Minimum graduation* |
|---|---|
| Not exceeding 2,000 pounds. | ½ pound. |
| Between 2,000 and 6,000 pounds. | 1 pound. |
| Between 6,000 and 20,000 pounds. | 2 pounds. |
| Between 20,000 and 50,000 pounds. | 5 pounds. |
| Over 50,000 pounds | 10 pounds. |

Except in the case of scales having a capacity of 2,000 pounds or less, the mimimum quantity which may be entered onto the weighing tank scale for gaging for tax determination shall be the greater of (a) 1,000 times the minimum graduation of the scale or (b) 5 percent of the total capacity of the weighing tank scale: *Provided*, That the weighing of lesser quantities for determination of tax may be authorized by the regional director where the beam of the scale is calibrated in ½ pound or 1 pound graduations and it is found by actual test that the scales break accurately at each graduation: *Provided further*, That lots of spirits weighing 1,000 pounds or less shall be weighed on scales having ½ pound graduations.

(72 Stat. 1320, 1358, 1391, 1395; 26 U.S.C. 5006, 5024, 5505, 5552)

PAR. 6. Section 201.269 is amended in its entirety. As amended, § 201.269 reads as follows:

§ 201.269 **Production gage.**

(a) *General.* All spirits shall be gaged (by measuring and proofing) within a reasonable time after production is completed. Except as otherwise specifically provided in this section, quantities may be determined by volume or by weight, or, when approved by the Director, by meter or other device or by other method which accurately determines the quantities. If caramel is added to brandy or rum, the proof of the spirits shall be determined after such addition. Spirits in a tank shall be gaged before and after each removal of spirits therefrom. Such gages shall be recorded by the proprietor in the records required by § 201.619.

(b) *Tax to be determined on production gage.* Tax may be determined on the basis of the production gage if:

(1) Spirits are filled by weight into wooden packages for immediate withdrawal from the production facilities, and the gage is made by an alcohol, tobacco, and firearms officer;

(2) Spirits are weighed into bulk conveyances, and the gage is made by an alcohol, tobacco, and firearms officer; or

(3) Spirits are uniformly filled by weight into metal packages, and the gage is made by the proprietor.

Production and deposit forms shall be marked "Withdraw on Original Gage."

(c) *Tax not to be determined on production gage.* If spirits are drawn from the production system into barrels, drums, or similar portable containers of the same rated capacity and such containers are filled to capacity, and the tax is not to be determined on the basis of the production gage, such gage may be made by:

(1) Weighing in a tank, converting the weight into proof gallons, and determining therefrom the average content of each container; or

(2) Measuring volumetrically, on approval by the regional director, in a calibrated tank, converting the wine gallons so determined into proof gallons, and determining therefrom the average content of each container: *Provided*, That the regional director may require the use of such meters or other measuring devices as he may deem necessary; or

(3) Converting the rated capacity into proof gallons to determine the average content of each container; or

(4) Determining by such device or method as may be approved under the provisions of paragraph (a) of this section, the total quantity filled into containers, and determining therefrom the average content of each container.

Proprietors who make production gages for containers by any of the methods prescribed in this paragraph may record the weight of such containers for commercial purposes. The proprietor shall advise the assigned officer of the rated capacities of the packages. The rated capacity of new cooperage shall be as prescribed by specifications of the manufacturer. Proprietors may assign rated capacities to used packages if they have made a physical determination of the actual capacities of a representative number of such packages, or may use the manufacturer's original ratings, if known, and if there is no evidence that a significant change in the capacities of previously rated packages has occurred.

If the assigned officer finds a significant variation between the assigned rated capacity and the actual capacity of a representative number of wooden packages, he shall not permit the proprietor to use the production method provided in subparagraph (3) of paragraph (c) of this section until the proprietor establishes and assigns a proper rated capacity to the cooperage in question. Any remnant container shall be gaged by weight, and marked as prescribed in Subpart P of this part.

(d) *Making of production gage*—(1) *By assigned officer.* The production gage shall be made by the assigned officer when spirits are to be withdrawn in approved containers other than metal packages from the production facilities on determination of tax, or when, pursuant to the proprietor's request to the assigned officer, spirits are to be withdrawn into bulk conveyances for withdrawal at a later date on determination of tax on the basis of the production gage.

(2) *By proprietor.* All production gages, other than those made under subparagraph (1) of this paragraph, shall be made by the proprietor under the direct supervision of the assigned officer: *Provided*, That when the production gage is made by the proprietor by means of meters or devices (comparable in accuracy and security to meters), approved by the Director, which enable the assigned officer to verify the accuracy of the gage, such gage shall be made under such supervision and in such manner as the Director may require.

(e) *Reports of production gage.* In computing the production gage on the basis of average content of packages as provided in paragraph (c) of this section, fractional proof gallons beyond the first decimal shall be dropped if less than 0.05 or added as 0.1 if 0.05 or more, and the average content so determined shall be used in computing the quantity produced. A separate Form 2629 shall be prepared for each lot of packages filled (see § 201.513a(b)) and for each removal by pipeline or bulk conveyance for deposit in storage facilities on the same plant premises. If spirits are to be denatured, transferred in bond, or withdrawn from bond, as authorized by this part, the report of production gage shall be made on the form required by this part to cover the transaction (accompanied by Form 2630 in the case of packages gaged for tax determination by the assigned officer). Each transaction form and Form 2630, if any, shall show:

(1) The real name (or basic operating name as provided in § 201.235) of the producer, and, if the spirits are produced under a trade name, the trade name under which produced.

(2) For each remnant container, the actual tax gallons in the container.

(72 Stat. 1357, 1358, 1362; 26 U.S.C. 5202, 5204, 5211)

PAR. 7. Section 201.271 is amended to delete the requirement that Form 2630, covering packages filled, accompany Form 2629. As amended, § 201.271 reads as follows:

**§ 201.271 Entry.**

Pursuant to the production gage, the proprietor shall make appropriate entry for (a) deposit of the spirits in storage on bonded premises, (b) withdrawal of the spirits on determination of tax, (c) withdrawal of the spirits free of tax, (d) withdrawal of the spirits without payment of tax, (e) transfer of the spirits for redistillation, or (f) immediate denaturation of the spirits. Entry for deposit in storage on the same plant premises shall be made on Form 2629. When spirits are entered for deposit in storage on another plant premises or are entered for withdrawal or redistillation, the provisions of Subpart L of this part shall be followed, and when spirits are entered for immediate denaturation, the provisions of Subpart M of this part shall be followed. The date of original entry is the date of production gage.

(72 Stat. 1362; 26 U.S.C. 5211)

PAR. 8. Paragraph (b) of § 201.291 is amended to delete the requirement for preparation of Form 2629 covering the transfer of spirits of less than 190° of proof between tanks and to provide a new requirement that Form 2323 (Form 1685 in the case of blended rums and brandies) be prepared to cover each tank in which spirits of less than 190° of proof are stored. As amended, paragraph (b) of § 201.291 reads as follows:

**§ 201.291 Receipt and storage of spirits.**

* * * * *

(b) *Tanks.* If spirits (including denatured spirits) are being deposited in a partially filled tank in the storage facilities on bonded premises, simultaneous withdrawals may not be made therefrom unless the flow of spirits both into and out of the tank is being measured by meters or other devices approved by the Director which permits a determination of the quantity being deposited and the quantity being removed. Proprietors shall prepare Form 2323 (1685 in the case of blended rums and brandies) in accordance with the instructions on the form, for each tank in which spirits of less than 190° of proof are stored. A separate Form 2323 (or 1685) shall be prepared in respect of each such tank for each deposit therein showing, as applicable, details respecting the spirits in the tank prior to the deposit, and the details respecting the spirits being deposited.

* * * * *

(72 Stat. 1356, 1357, 1362, 1366, 1398, 82 Stat. 1328; 26 U.S.C. 5201, 5202, 5211, 5212, 5231, 5601, 5232)

PAR. 9. Section 201.292 is amended to require that notation as to addition of oak chips prior to gage for withdrawal from bonded premises be made on transfer forms. As amended, § 201.292 reads as follows:

**§ 201.292 Quick-aging of spirits, addition of oak chips to spirits, and addition of caramel to brandy and rum.**

Spirits may be quick-aged by heating during storage on approval by the regional director of the proprietor's written description (in triplicate) of the process to be used. Oak chips which have not been treated with any chemical may be added to packages either prior to or after filling; if added prior to gage for withdrawal from bonded premises notation shall be made on the deposit form and, if transferred, on the transfer form. Caramel possessing no material sweetening properties may be added to rum or commercial brandy in packages or tanks. All such operations in storage facilities on bonded premises shall be pursuant to an application (in duplicate) to, and under the direct supervision of, the assigned officer.

(72 Stat. 1328, as amended, 1356, 1357; 26 U.S.C. 5025, 5201, 5202)

PAR. 10. Section 201.294 is amended to (1) require the proprietor to record tank gages involved in filling packages, and (2) make conforming and editorial changes. As amended, § 201.294 reads as follows:

**§ 201.294 Filling of packages from tanks.**

Spirits (including denatured spirits) may be drawn into packages from tanks in the storage facilities on bonded premises. The spirits in the tank shall be gaged prior to filling of packages, and when only a portion of the contents of the tank is packaged, the spirits remaining in the tank shall be again gaged and such gages shall be recorded by the proprietor in the records required by § 201.622. The provisions of § 201.269 regarding the filling of packages, the taking of production gage of packages, and the preparation of gage reports shall be applicable to the filling and gaging of packages of spirits under this section. Except in the case of spirits of 190° or more of proof, the gage report shall be noted to show the date of original entry for deposit.

(72 Stat. 1356, 1357; 26 U.S.C. 5201, 5202)

PAR. 11. Section 201.295 is amended to (1) delete the requirement for showing tare and gross weight on each new package on the deposit record and (2) make an editorial change. As amended, § 201.295 reads as follows:

**§ 201.295 Change of packages.**

Denatured spirits on bonded premises may be transferred to another package without prior approval by the assigned officer. Spirits in the storage facilities on bonded premises may be transferred from one package to another on written application (in duplicate) to, and approval of, the assigned officer. Except in the case of spirits of 190° or more of proof, each new package shall contain spirits from only one package. Packages shall be marked and branded as provided in Subpart P of this part. The proprietor shall note the record covering the deposit of the spirits in bond to show the tax gallons contained in each new package and shall furnish the assigned officer a report, in writing, of each package change and the new elements of gage. The provisions of this section do not apply when spirits are packaged subsequent to mingling.

(72 Stat. 1356, 1357; 26 U.S.C. 5201, 5202)

PAR. 12. Section 201.297 is amended to make clarifying and editorial changes. As amended, § 201.297 reads as follows:

**§ 201.297 Mingling of homogeneous spirits.**

Spirits which are homogeneous may be mingled on bonded premises for immediate withdrawal or for further storage in bond in tanks or packages. Spirits distilled at less than 190° of proof are presumed to be homogeneous if—

(a) They were produced,

(1) From the same class of materials,

(2) At approximately the same proof, and

(3) By the same proprietor (under his own or any trade name) at the same distillery, and

(b) In the case of spirits which have been stored in wooden packages so as to be in contact with the wood, they were stored in the same kind of cooperage under approximately the same conditions, and they differ in periods of such storage,

(1) Not more than 18 months in the case of spirits so stored in bond more than 8 years,

(2) Not more than 12 months in the case of spirits so stored in bond more than 4 years and not more than 8 years,

(3) Not more than 6 months in the case of spirits so stored in bond more than 2 years and not more than 4 years,

(4) Not more than 60 days in the case of spirits so stored in bond more than 1 year and not more than 2 years, or

(5) Not more than 30 days in the case of spirits so stored in bond not more than 1 year; and

(c) They do not differ in kind under the standards of identity prescribed in 27 CFR Part 5. The age of the youngest lot of spirits to be included in any mixture mingled under this section will determine the permissible variation in periods of storage. Spirits mingled under this section consisting of different distilling seasons and years may not be bottled in bond; mingled spirits which were originally produced and warehoused under different names may not be bottled in bond unless the name on the packages of such mingled spirits is the producer's real name; and mingled spirits which have been stored in tanks may not be bottled in bond unless the season of first mingling and of bottling are identical. If the mingled spirits are to be packaged, such packaging shall be conducted under the provisions of § 201.294; if so desired, the spirits may be returned to the packages from which they were dumped for mingling, or as many of such packages as are necessary.

(72 Stat. 1328, as amended 1367, as amended; 26 U.S.C. 5025, 5234)

PAR. 13. Section 201.300 is amended to require that transfer forms covering spirits transferred to another plant for redistillation be so noted. As amended, § 201.300 reads as follows:

**§ 201.300 Mingling for redistillation.**

Spirits (including denatured spirits) may be mingled on bonded premises for immediate redistillation at the same plant or at another plant in accordance with the provisions of §§ 201.272 and 201.273. If such spirits are to be redistilled at another plant the transfer form shall show that the spirits are for redistillation.

(72 Stat. 1328, as amended, 1367, as amended; 26 U.S.C. 5025, 5234)

PAR. 14. Section 201.302 is amended to (1) exempt certain spirits dumped for immediate removal from its provisions, (2) delete the requirement that the proprietor submit a list of the serial numbers of packages to be dumped, (3) provide that Form 2629 be used to reflect the mingling and repackaging of 190 proof spirits, and (4) make conforming changes. As amended, § 201.302 reads as follows:

**§ 201.302 Mingling packages of spirits.**

Before dumping packages of spirits on bonded premises for mingling (except heterogeneous spirits covered in § 201.298, other spirits dumped for immediate removal to bottling premises, and spirits of 190° or more of proof) the proprietor shall prepare Form 2323, in triplicate, in accordance with the instructions on the form and, before mingling, deliver one copy to the assigned officer. When packages of spirits of 190° or more of proof are to be mingled, the proprietor shall notify the assigned officer and shall prepare Form 2629 to reflect the dumping of the packages for mingling and, when applicable, the repackaging, of the spirits. Each package of spirits to be mingled under this subpart shall be carefully examined by the proprietor, and if any package bears evidence of loss due to theft or unauthorized voluntary destruction, or loss in excess of normal storage losses, such package shall not be dumped until released by the assigned officer. On completion of mingling of spirits other than heterogeneous spirits, other spirits dumped for immediate removal to bottling premises, and spirits of 190° or more of proof, the proprietor shall record the mingling gage on the Form 2323. Each disposition from the tank shall be recorded on the form as it occurs. When final disposition of the spirits is made (or when a new Form 2323 is prepared because of an additional mingling of spirits in the tank) the proprietor shall complete the original and the copy of Form 2323, deliver the original to the assigned officer, and retain the copy for his files.

(72 Stat. 1367, as amended; 26 U.S.C. 5234)

PAR. 15. Section 201.303 is amended to provide for updating the records covering mingled spirits and to make clarifying and editorial changes. As amended, § 201.303 reads as follows:

**§ 201.303 Determining date of original entry.**

When spirits are mingled in accordance with the provisions of § 201.301, the date of original entry for the entire lot shall be the date of original entry of the youngest spirits that were mingled. When packages of spirits are mingled as provided in § 201.297 or are blended as provided in § 201.307, the date of original entry for the entire lot shall be the date of original entry of the oldest spirits that were mingled; however, the appropriate transaction forms shall show the dates of both the oldest and the youngest spirits in the lot: *Provided*, That, when spirits so mingled are held in a tank, the proprietor shall, at least once each calendar year, reexamine the records of deposits and withdrawals for the tank for the purpose of updating, on a first-in, first-out basis, the date of the oldest spirits.

(72 Stat. 1320, 1367, as amended; 26 U.S.C. 5006, 5234)

PAR. 16. Section 201.304 is amended to limit its application to spirits of less than 190° of proof and to make clarifying changes. As amended, § 201.304 reads as follows:

**§ 201.304 Mingled spirits held in tanks.**

When spirits of less than 190° of proof are mingled in a tank in the storage facilities on bonded premises for storage therein the proprietor shall gage the spirits in the tank under the direct supervision of an assigned officer and record the mingling gage on Form 2323. Mingled spirits in tanks may be drawn into packages in accordance with § 201.294, or may be transferred in bond or withdrawn from bond in accordance with this subpart and Subpart L of this part. The date of original entry for spirits of less than 190° of proof shall be noted on the deposit forms. Eligible spirits may be added to mingled spirits already on deposit in a tank on such premises.

(72 Stat. 1367, as amended; 26 U.S.C. 5234).

PAR. 17. Section 201.305 is amended to modify the requirements for showing date of original entry of spirits after mingling, on transfer and withdrawal forms. As amended, § 201.305 reads as follows:

**§ 201.305 Withdrawal or transfer in bond of mingled spirits.**

Spirits mingled under the provisions of §§ 201.296, 201.297, and 201.301 may be transferred in bond, or withdrawn from bond for any purpose for which the spirits could have been withdrawn before mingling. Transfer and withdrawal forms, except as to spirits mingled under § 201.296, shall be noted to show the date of original entry for the spirits after mingling, determined as provided in § 201.303, and, where spirits have been stored in wooden packages and then mingled under § 201.297, the forms shall also be noted to show the earliest date of mingling.

(72 Stat. 1362, 1367, as amended; 26 U.S.C. 5212, 5234)

PAR. 18. Section 201.307 is amended to (1) deleted the requirement that proprietors furnish a list of serial numbers of packages of rums and brandies to the assigned officer prior to blending and (2) make editorial and conforming changes. As amended, § 201.307 reads as follows:

**§ 201.307 Permissible blending.**

Fruit brandies distilled from the same kind of fruit at not more than 170° of proof may, for the sole purpose of perfecting such brandies according to commercial standards, be mixed or blended with each other, or with any mixture or blend of such fruit brandies on bonded premises. Rums may, for the sole purpose of perfecting them according to commercial standards, be mixed or blended with each other, or with any mixture or blend of rums on bonded premises. Before blending such rums or brandies, the proprietor shall give notice on Form 1685, in triplicate, in accordance with the instructions on the form and deliver one copy to the assigned officer. Brandies or rums mixed or blended in accordance with this subpart may be packaged, stored, transported, transferred in bond, withdrawn free of tax, withdrawn without payment of tax, withdrawn on payment or determination of tax, or be otherwise disposed of, in the same manner as brandies or rums not mixed or blended. If brandy or rum has been mixed or blended in accordance with this subpart, the transaction form shall show such fact and whether the brandy or rum is subject to tax imposed by 26 U.S.C. 5023.

(72 Stat. 1367, as amended; 26 U.S.C. 5234)

PAR. 19. Section 201.308 is amended in its entirety. As amended, § 201.308 reads as follows:

**§ 201.308 Blending procedure.**

After giving notice on Form 1685, the proprietor shall dump the brandy or rum to be blended, and record the blending gage on the form. When the blended brandy or rum is to be packaged, such packaging shall be conducted under the provisions of § 201.294; if so desired, the brandy or rum may be returned to the packages from which it was dumped for blending, or as many of such packages as are necessary. Each disposition from the tank shall be recorded on the form as it occurs. When final disposition of the brandy or rum is made, the proprietor shall complete Form 1685, deliver the original to the assigned officer, and retain the remaining copy for his files.

(72 Stat. 1367, as amended; 26 U.S.C. 5234).

PAR. 20. Section 201.311 is amended to (1) delete the requirement for a separate record of each container sustaining a loss in bond and insert in lieu thereof provisions for recording information regarding loss and taxpayment on deposit and transfer forms, and (2) make a conforming change. As amended, § 201.311 reads as follows:

**§ 201.311 Losses in bond.**

Where a container of spirits (including denatured spirits) in bond sustains a loss in excess of normal storage or transit losses or as a result of theft or unauthorized voluntary destruction, the loss shall be determined at the time of discovery. When it appears that any container in bond has sustained a loss resulting from theft or unauthorized voluntary destruction, such loss or indication thereof shall be reported promptly by the proprietor to the assigned officer. Proprietors shall record on deposit and transfer forms for each container sustaining such a loss the container identification number, the quantity lost, and the apparent cause of the loss. If the proprietor pays the tax as provided in § 201.310, the release number and the date of the related Form 179 shall be recorded on the deposit record. Unusual losses from obvious cause other than theft or unauthorized voluntary destruction occurring or discovered at the time of withdrawal from bond or transfer in bond shall be noted on the appropriate withdrawal or transfer form in the manner prescribed above. When a loss appears to be due to theft or unauthorized voluntary destruction, the assigned officer shall place a detainer on the container unless the loss is determined at the time of a gage for withdrawal from bond and the proprietor acknowledges liability and elects to pay the tax on such loss. Where it is found that the contents of a container have been tampered with, or where a material deficiency is found without evidence of loss by leakage or casualty, or where deterioration in proof not accountable by variation in gage is disclosed, the assigned officer shall detain the package. In any case in which spirits (including denatured spirits) are lost or destroyed in bond, whether by theft or otherwise, the regional director may require the proprietor or other person liable for the tax to file a claim for relief from the tax in accordance with the applicable provisions of Subpart C of this part. Losses of spirits (including denatured spirits) sustained from the tanks and bulk conveyances in bonded warehouses shall be determined by the proprietor each time a tank or bulk conveyance is emptied and on the basis of a physical inventory at the close of each month. When the quantity lost from all the storage tanks and bulk conveyances in bonded warehouses exceeds 1 percent of the total quantity contained in the tanks and bulk conveyances during the month, or where any loss from storage tanks or bulk conveyances is due to illegal withdrawal, the loss shall be taxpaid unless a claim for remission is filed in accordance with the provisions of § 201.43 and is allowed by the regional director. If at any time any package recorded as deposited in the bonded warehouse cannot be located or otherwise lawfully accounted for, such fact shall be immediately reported to the assigned officer and a claim with respect thereto shall be filed under the provisions of § 201.43.

(72 Stat. 1323, as amended, 1375; 26 U.S.C. 5008, 5311)

PAR. 21. Section 201.312a is amended to (1) delete references to Forms 179, 236, and 2630 and insert in lieu thereof the term, "transaction forms" and (2) add a reference to § 251.173. As amended, § 201.312a reads as follows:

**§ 201.312a Transfers and withdrawals of imported spirits.**

Imported spirits transferred to internal revenue bond under 26 U.S.C. 5232 may, under the provisions of Subpart L of this part, be transferred in bond or withdrawn from bond for any purpose authorized by chapter 51 of 26 U.S.C., in the same manner as domestic distilled spirits. The rates of duty specified by the customs officer at the time of release from customs custody shall be shown on transaction forms, which shall also be marked with the designation "IMPORTED" (see § 251.173 of this chapter).

PAR. 22. Section 201.312b is amended to (1) prescribe revised requirements for markings on containers of imported spirits, and (2) make conforming changes. As amended, § 201.312b reads as follows:

**§ 201.312b Markings for containers of imported spirits.**

Each tank, bulk conveyance, or similar container in which imported spirits are transferred from customs custody to bonded premises, stored in bond, transferred in bond, or withdrawn from bond on tax determination shall be marked with the word "IMPORTED." Each package of imported spirits shall, when received on bonded premises under the provisions of § 201.312, or when filled on bonded premises, be marked with:

(a) The name of the importer;
(b) The country of origin;
(c) The kind of spirits;
(d) The package identification number;
(e) The date of original entry of the spirits, if other than the date incorporated in the lot identification;
(f) The proof; and
(g) The wine gallons of spirits in the package.

Packages of imported spirits received from customs custody or filled from storage tanks on bonded premises shall be assigned package identification numbers as provided in § 201.513a. Such numbers shall be preceded by the symbol "IMP" and the appropriate distinguishing prefix prescribed by § 201.514. The proprietor who files Form 2609 to receive packages of imported spirits under the provisions of § 201.312 shall be responsible for having the required marks placed on such packages. Package identification numbers assigned under the provisions of this section to packages of spirits received from customs custody shall be recorded on the deposit forms by the proprietor who filed the Form 2609 to receive the spirits.

(72 Stat. 1360; 26 U.S.C. 5206)

PAR. 23. Section 201.312c is amended to (1) refer to identification numbers instead of serial numbers and (2) make an editorial change. As amended, § 201.312c reads as follows:

**§ 201.312c Exceptions to specifications for package marking requirements.**

The package marks prescribed by § 201.312b shall be placed on each package of imported spirits received from customs custody in the manner required by § 201.515, except in the circumstances, and under the conditions, set out in paragraph (a) or (b) of this section.

(a) *Temporary marks.* Pursuant to written application, in triplicate, the regional director may authorize the proprietor to place the prescribed marks on each such package by temporary means, such as by use of a suitable card securely affixed to the head of the package by tacks, staples, or adhesives where, within 30 calendar days after receipt from customs custody, the temporarily marked packages will be dumped into a tank for storage or for tax determination, or will be withdrawn from bond in such packages on determination of tax for removal to, and dumping at, bottling premises on or contiguous to the distilled spirits plant at which received from customs custody. Packages not dumped or removed as provided in this paragraph within the time prescribed must be promptly marked in the manner required by § 201.515.

(b) *Waiver of marking.* Pursuant to written application, in triplicate, the regional director way waive the placing of prescribed marks on such packages where the packages will, no later than the close of the workday next succeeding the date of receipt, be dumped into a tank for storage or for tax determination, or will be withdrawn from bond in such packages on determination of tax for removal to, and be dumped at, bottling premises on or contiguous to the distilled spirits plant at which received from customs custody. Packages not dumped or removed as provided in this paragraph within the time prescribed must be promptly marked in the manner required by § 201.515 unless the regional director authorizes the use of temporary marks under the provisions of paragraph (a) of this section.

The provisions of this section shall not be construed to waive, or authorize the waiver of, the requirements of this part for the assigning of package identification numbers or for the recording of such package identification numbers on deposit forms and the required recording of lot identification numbers and related information on other transaction forms, records, or reports.

(72 Stat. 1360; 26 U.S.C. 5206)

PAR. 24. A new section, § 201.312e, is inserted, immediately following § 201.312d, to read as follows:

**§ 201.312e Recording gage.**

At the time of receipt into internal revenue bond of packages of imported spirits, the proprietor shall use the last official gage to compute and record on deposit forms for each entry the average content of the packages being received, in the manner provided for seasonal accounts in § 201.628a. If the last official gage indicates a substantial variation in the contents of the packages, the proprietor shall group the packages into lots according to their approximate contents, and assign a separate lot identification to each group of packages, based on the date the packages were received on bonded premises.

(72 Stat. 1360; 26 U.S.C. 5206)

PAR. 25. Section 201.322 is amended to (1) designate Form 1515 as a notice, (2) delete the requirement for a list of serial numbers of the packages, (3) delete from its provisions the requirement that spirits be gaged by weight and proof, and (4) make conforming changes. As amended, § 201.322 reads as follows:

**§ 201.322 Entry and gage.**

Proprietors shall make entry for the bottling of distilled spirits in bond on Form 1515. A separate notice on Form 1515 shall be prepared for each lot of spirits to be so bottled. Before dumping packages of spirits, the proprietor shall deliver one copy to the assigned officer and attach the remaining copies to the tank in which the spirits are to be gaged. Each package shall be carefully examined by the proprietor, and if any package bears evidence of loss due to theft or unauthorized voluntary destruction, or loss in excess of normal storage losses, such package shall not be dumped until released by the assigned officer; Form 1515 will be amended when necessary. The proprietor shall dump packages promptly. After dumping the packages, the proprietor shall gage the spirits and make a report of such gage on Form 1515. The spirits shall be gaged either in the storage portion of the bonded warehouse or in the bottling-in-bond facilities; spirits may be transferred to such facilities by pipeline.

(72 Stat. 1366; 26 U.S.C. 5233)

PAR. 26. Section 201.336 is amended to (1) prescribe revised requirements for recording removals of bottled-in-bond spirits, and (2) make an editorial change. As amended, § 201.336 reads as follows:

**§ 201.336 Removal of spirits bottled.**

When spirits are bottled in bond the filled bottles, with labels and strip stamps properly affixed, shall be placed in cases, and the cases then sealed, after which such cases shall be promptly removed from the bottling-in-bond facilities to the storage portion of the bonded warehouse, pursuant to Form 2629, or transferred in bond or withdrawn from bond, pursuant to the appropriate transaction form prescribed in Subpart L of this part. The proof gallons of bottled spirits so removed from the bottling-in-bond facilities, the date of removal, and the form number and serial number of each transaction form shall be entered daily on Form 1515. The tax on spirits withdrawn for export with benefit of drawback at less than 100° of proof shall be determined on a wine gallon basis. The removal to storage of cases temporarily sealed, pending affixing of brand labels or State stamps, may be authorized by the assigned officer. Such temporarily sealed cases may be transferred in bond to other premises. If the mandatory information required under 27 CFR Part 5 appears on the brand label rather than a separate label, the brand label shall be affixed at the time of bottling. Brand labels or State stamps (if to be affixed before withdrawal from bond) shall be affixed to the bottles in the bottling-in-bond facilities: *Provided*, That the assigned officer may authorize the affixing of such labels or stamps in the storage portion of a bonded warehouse where the need therefor is established, if space and facilities for such activities are available and the necessary supervision can be provided without the assignment of an additional alcohol, tobacco and firearms officer. Spirits in cases temporarily sealed shall be kept apart from other spirits in the warehouse.

(72 Stat. 1360, 1366; 26 U.S.C. 5206, 5233)

PAR. 27. Section 201.338 is amended to provide for immediate taxpayment of remnant cases of bottled-in-bond spirits, and make editorial and conforming changes. As amended, § 201.338 reads as follows:

**§ 201.338 Marking and disposition of remnant cases.**

If there is less than a case of bottled spirits remaining from a lot of spirits bottled, either for domestic use or for exportation, the remnant will be placed in a case and such case will be given the serial number of the last full case containing spirits in the same lot, followed by the letter "R", thus: "100–R": *Provided*, That where spirits, of the same kind and proof, produced by the same distiller at the same distillery during the same distilling season as the remnant, are to be bottled on the same or following business day, and are eligible for inclusion in the remnant case, such remnant case may be given the next serial number and held in the bottling-in-bond facilities, and the case filled with such spirits. Such remnant case, if not held in the bottling-in-bond facilities, shall be taxpaid for domestic consumption or removed with other cases to storage, and later taxpaid for domestic consumption, or returned to the bottling-in-bond facilities when the next lot of spirits of the same kind, produced by the same distiller, at the same distillery during the same distilling season is to be bottled, and (a) the bottles used for filling a complete case, if of the same proof and otherwise eligible, or (b) the contents dumped into the bottling tank and mingled with such other spirits for bottling. In any instance when a remnant case is removed to storage or returned to the bottling-in-bond facilities for use as provided in this section, appropriate notations will be made on the applicable Form 2629 or Form 1515, as the case may be.

(72 Stat. 1366; 26 U.S.C. 5233)

PAR. 28. Section 201.340 is amended by changing the word "application" to "notice." As amended, § 201.340 reads as follows:

**§ 201.340 Remnant cases of spirits bottled in bond returned to bottling-in-bond facilities.**

Remnant cases of spirits returned to the bottling-in-bond facilities for use in filling a complete case or dumping into a bottling tank shall be included in the notice on Form 1515, covering the withdrawal of bulk containers for bottling.

(72 Stat. 1366; 26 U.S.C. 5233)

PAR. 29. Paragraph (a) of § 201.343 is amended to prescribe revised requirements for completion of Form 1515. As amended, paragraph (a) of § 201.343 reads as follows:

§ 201.343 General.

(a) *Bottled alcohol.* Alcohol of 190° or more of proof may be bottled and cased in the bonded warehouse under the direct supervision of the assigned officer. Alcohol may be bottled in containers of 1 gallon or less, or in bottles complying with the provisions of § 201.504; however, the proprietor is required to comply with the provisions of Subpart Pa of this part where applicable. The proprietor shall prepare Form 1515 for alcohol to be bottled in the bonded warehouse. The heading of Form 1515 shall be prominently marked with the word "Alcohol." Part I of the form will be modified and completed only to show the tank from which bottled and the proof of the alcohol, and Part III will be completed as provided in § 201.336, and the instructions on the form.

* * * * *

(72 Stat. 1357, 1369; 26 U.S.C. 5202, 5235)

PAR. 30. Section 201.352 is amended by inserting the word, "taxpaid" before the word, "spirits" in the last sentence. As amended, § 201.352 reads as follows:

§ 201.352 Records and reports.

Form 1515, appropriately modified, shall be prepared by the proprietor to cover the rebottling, relabeling, or restamping of bottled-in-bond spirits. Spirits which have not been withdrawn from bond or which have been returned to bond as provided by § 201.586 shall be accounted for in the same manner as spirits originally entered for bottling in bond. Form 1515 covering taxpaid bottled-in-bond spirits returned to a bonded warehouse for rebottling, relabeling, or restamping shall be clearly and prominently marked to show that the spirits are taxpaid, and shall identify each lot of spirits, showing the quantity returned, losses in rebottling, and the quantity removed. Such taxpaid spirits shall not be included in any warehouse records or reports required by Subpart U of this part.

PAR. 31. Section 201.363 is amended to (1) prescribe revised requirements for withdrawals on original gage, and (2) make editorial changes. As amended, § 201.363 reads as follows:

§ 201.363 Withdrawal of spirits on original gage.

When the filling or production gage is made under the provisions of § 201.269 (b), spirits may be withdrawn from bonded premises for any lawful purpose on the original gage. Spirits not so filled or produced must be gaged when they are withdrawn from bonded premises on determination of tax. If the original gage was made by an alcohol, tobacco and firearms officer the spirits shall be withdrawn on such gage unless premission for a gage at time of withdrawal is obtained from the regional director. When spirits which are to be withdrawn on determination of tax on the original gage are transferred in bond, all copies of Form 236 shall be marked by the proprietor "Withdraw on Original Gage."

(72 Stat. 1357, 1358; 26 U.S.C. 5202, 5204)

PAR. 32. Section 201.364 is amended to make the average tare provisions applicable only to packages entered prior to the effective date of this document. As amended, § 201.364 reads as follows:

§ 201.364 Determination of tare.

When packages are to be individually gaged for withdrawal from bonded premises, actual tare shall be determined: *Provided*, That average tare may be taken, when authorized under Part 186 of this chapter and approved by the assigned officer, for packages that were entered into bonded storage prior to July 1, 1973. Actual or average tare shall be determined in accordance with Part 186 of this chapter.

(72 Stat. 1358; 26 U.S.C. 5204)

PAR. 33. Section 201.368 is amended to (1) delete requirements for preparation of Form 1620, and for Form 2630 except when packages are weighed at the time of shipment, and (2) make conforming and editorial changes. As amended, § 201.368 reads as follows:

§ 201.368 Consignor premises.

(a) *General.* (1) Form 236 shall be prepared by the consignor proprietor to cover the transfer of spirits or denatured spirits in bond, pursuant to an approved application on Form 2609. In the case of denatured spirits, Form 236 shall be prepared as a notice of shipment. In the case of spirits, Form 236 shall be prepared as an application to the assigned officer for approval of the release. Except as otherwise provided herein, a Form 236 shall be prepared for each conveyance. Each Form 236 shall show the real name (or the basic operating name as provided in § 201.235) of the producer (or the name of the importer in the case of imported spirits or the name of the packaging or bottling proprietor in the case of spirits of 190° of proof or more) and, if the spirits were produced under a trade name, shall also show the trade name under which produced. Spirits shall not be removed from the bonded premises until Form 236 (or, as authorized in subparagraph (2) of this paragraph, an authorized shipment and delivery order) has been submitted to the assigned officer and his approval received for the release of the spirits. In the case of pipeline transfers of spirits, the assigned officer shall not unlock the pipeline until he has approved the Form 236. On completion of lading (or completion of transfer by pipeline), the copies of Form 236 shall be disposed of as provided in the instructions on the form.

(2) The proprietor may, on approval of the regional director, cover on one Form 236 all packages of spirits shipped by truck on the same day from his production facilities or storage facilities for deposit for storage in bond in another distilled spirits plant located in the same region. In such case, the proprietor shall deliver, to the assigned officer at the shipping and delivery premises, a shipment and delivery order for each shipment, showing the number of barrels, their package identification numbers, the name of the producer, and the serial numbers of the Government seals (if any) applied to the truck. Such shipping and delivery order shall be properly authenticated, and shall constitute a complete record of the spirits so transferred in each truck each day. On completion of lading of the last truck for the day, the Form 236 shall be disposed of as provided in the instructions on the form.

(b) *Packages.* When spirits are to be transferred in bond in packages, the consignor proprietor shall weigh each package, except (1) when the transfer is to be made in a sealed conveyance, (2) when the individual packages have been securely sealed by the proprietor in a manner satisfactory to the assigned officer, or (3) when this requirement has been waived by the Director on a finding that, because of the location of the premises and the proposed method of operation, the transfer can be made under the control of the assigned officer, and there will be no jeopardy to the revenue. The proprietor shall load the packages into the conveyance and prepare the conveyance for sealing, if it is to be sealed. When packages are weighed at the time of shipment, the proprietor shall list the package identification number of each package and its gross shipping weight on Form 2630. A copy of Form 2630 shall accompany each copy of Form 236.

(c) *Bulk conveyances and pipelines.* When spirits are to be transferred in bond in bulk conveyances or by pipelines, the consignor shall gage the spirits under the direct supervision of the assigned officer and record the quantity so determined on Form 236. Bulk conveyances of spirits shall be prepared by the proprietor for sealing.

(72 Stat. 1362; 26 U.S.C. 5212)

PAR. 34. Section 201.369 is amended to (1) eliminate the reference to Form 1620, (2) revise the requirements for reporting losses sustained during transfer in bond, (3) prescribe revised requirements for recording receiving weights of packages if no Form 2630 accompanies the shipment, and (4) make an editorial change. As amended, § 201.369 reads as follows:

§ 201.369 Consignee premises.

(a) *General.* When spirits are received by transfer in bond the consignee proprietor shall notify the assigned officer who shall deliver the appropriate Form 236, and Form 2630, if any, to the consignee, except that where transfers are made under the provisions of § 201.368 (a)(2), the assigned officer shall note the receipt of the spirits on his copy of the shipping and delivery order and, on receipt, deliver to the consignee the Forms 236 and 2630 covering the transfers for the day. The assigned officer shall examine each sealed conveyance to determine whether the seals are intact and if so he shall authorize the proprietor to remove the seals. The proprietor shall examine all containers, and any container bearing evidence of loss in transit or of loss due to theft shall be held until released by the assigned officer. Spirits after examination (and, if held, after

release by the assigned officer) shall be deposited in the warehouse immediately, or, if the spirits are to be redistilled, they shall be deposited in the production facilities immediately. After execution on the transfer forms of his receipt of the shipment of spirits (including denatured spirits), the consignee shall return the form or forms to the assigned officer. Losses shall be determined and reported on Form 236, by the assigned officer, with a notation (by package identification numbers for packages or serial numbers for cases) as to the apparent cause thereof.

(b) *Packages.* When spirits are received in packages, the consignee proprietor shall weigh each package, except (1) when the transfer is made in a sealed conveyance and the seals are intact on arrival, (2) when the individual packages have been sealed by the consignor proprietor and are intact on arrival, or (3) when the requirement for weighing the packages at the consignor premises has been waived under the provisions of § 201.368(b)(3). If Form 2630 accompanies the shipment, the consignee proprietor shall record the receiving weight of each package on the Form 2630. If no Form 2630 accompanies the shipment, the consignee proprietor shall prepare a list showing the package identification number of each package and its receiving weight and attach one copy to each copy of Form 236 in his possession. All packages in a sealed conveyance on which the seals are not intact, on arrival, and all packages not intact on receipt, shall be segregated, after weighing, and held until released by the assigned officer. When denatured spirits are received in packages, the consignee proprietor shall prepare Form 1467, appropriately modified, to record their deposit on bonded premises; a separate sheet shall be used for each formula.

(c) *Bulk conveyances and pipelines.* When spirits are received in bulk conveyances or by pipeline, the consignee shall gage the spirits under the direct supervision of the assigned officer and record the gage on Form 236: *Provided,* That the regional director may waive the requirement for gaging spirits on receipt by pipeline if he finds that, because of the location of the premises, the transfer can be made under the control of assigned officers, and there will be no jeopardy to the revenue.

(72 Stat. 1358, 1362; 26 U.S.C. 5204, 5213)

PAR. 35. Section 201.370 is amended by deleting the requirement for furnishing a list of serial numbers of packages or cases to be dumped. As amended, § 201.370 reads as follows:

**§ 201.370 Removal of spirits from storage for redistillation.**

A proprietor intending to remove spirits (including denatured spirits) from storage to production facilities on the same bonded premises for redistillation, in accordance with the provisions of §§ 201.272 and 201.273, shall prepare Form 2629 to cover such removal. Each lot of spirits (except bottled spirits) shall be gaged by the proprietor under the direct supervision of the assigned officer. Such gage may be made either in the storage or the production facilities and shall be reported on Form 2629. The packages or cases shall be examined by the proprietor, and if any package or case bears evidence of loss due to theft or unauthorized destruction, or loss in excess of normal storage losses, such package or case shall not be dumped until released by the assigned officer; Form 2629 shall be amended when necessary. Packages or cases shall not be dumped until the assigned officer has given his approval therefor. Before removing the spirits from storage, Form 2629 shall be submitted to the assigned officer for his approval.

PAR. 36. Section 201.371 is amended to (1) provide for identification of spirits treated with oak chips on Form 179, and (2) make conforming and editorial changes. As amended, § 201.371 reads as follows:

**§ 201.371 Application.**

Spirits to be withdrawn from bonded premises on determination of the tax thereon shall be in such containers or cases as are prescribed in this part. The proprietor of the bottling premises to which the spirits are to be removed or the proprietor of the bonded premises from which the spirits are to be withdrawn, shall make application on Form 179 for tax determination and withdrawal. When spirits are to be withdrawn on determination of tax, the tax thereon shall be paid before removal of the spirits from the bonded premises unless the proprietor making application for the withdrawal has furnished bond on Form 2613, 2614, or 2615 to secure payment of tax. When the spirits are to be withdrawn by the propietor of bottling premises from bonded premises not on the same plant premises, he shall, on execution of his portion of the application on Form 179, deliver one copy to the assigned officer at such bottling premises and forward the remaining copies of the form to the proprietor of the bonded premises. Form 179 shall be noted by the proprietor of the bonded premises to identify spirits that have been treated with oak chips. When the proprietor of bottling premises intends to withdraw spirits which are to be bottled in bond after tax determination as provided in § 201.114, he shall specify on Form 179 the purpose for which the spirits are being withdrawn. On completion of the application the proprietor of the bonded premises shall deliver all copies of the application to the assigned officer at his premises shall deliver all copies of the application to the assigned officer at his premises. When an alternating proprietor has been authorized pursuant to § 201.174 to commence operations of bottling facilities at a specified future time, he may apply for the withdrawal of spirits from bond on Form 179 in anticipation of such commencement of operations, but spirits so applied for will not be eligible for loss allowance or bottling in bond after tax determination unless such spirits are withdrawn directly from bond and unless such spirits are received on his bottling premises during the time he is authorized to operate such premises.

(72 Stat. 1363; 26 U.S.C. 5213)

PAR. 37. Section 201.372 is amended to (1) revise the requirements for execution of agreement to pay or prepay tax on Form 179, (2) add references to Part 170, and (3) make editorial changes. As amended, § 201.372 reads as follows:

**§ 201.372 Proprietor's statement.**

When tax is to be paid pursuant to a return on Form 2522 or on Form 4077, the proprietor making application for the withdrawal shall execute on all copies of Form 179 a statement in which he (a) agrees to pay, in accordance with law and this part, the amount of tax shown on the form, or to be shown thereon, and (b) certifies, under the penalties of perjury, that he is not in default in any payment of tax chargeable against his bond. Form 2613, 2614, or 2615, as applicable, and that the penal sum of such bond (1) is in the maximum penal sum or (2) is sufficient to cover such amount in addition to all other amounts chargeable against such bond. When tax is to be prepaid on return Form 2521, the proprietor making application for the withdrawal shall execute on all copies of Form 179 a statement that the tax is to be prepaid. Statements relative to agreement to pay, or to prepayment of, tax shall be executed at the time Form 179 is initiated. The full amount of tax determined shall, as to proprietors of bonded premises, be included for payment in a tax return on Form 2522 or Form 2521, filed as provided in §§ 201.383 and 170.45 of this chapter, or, as to proprietors of bottling premises, be included for payment in a tax return on Form 4077 or Form 2521 as provided in §§ 170.46 and 170.51 of this chapter. Nothing in this part shall be construed as precluding an adjustment after taxpayment, pursuant to law and regulations, of any overpayment or underpayment of tax.

PAR. 38. Section 201.373 is amended to (1) revise requirements for use of Form 2630 and (2) make a clarifying change. As amended, § 201.373 reads as follows:

**§ 201.373 Packages.**

When spirits in packages are to be withdrawn from bonded premises on determination of tax on the basis of individual package gage, each package shall be gaged unless the tax is to be determined on the original gage. When the packages are to be withdrawn, the proprietor shall prepare Form 2630, completing only the heading of the form and inserting the package identification number of each package and, when the packages are to be regaged by the average tare method as provided in § 201.364, the filling tare for each package, and deliver the form to the assigned officer with Form 179. Spirits in wooden packages shall be gaged by the assigned officer and reported on Form 2630. Spirits

in metal packages which are to be tax determined on other than the original gage, shall be gaged by the proprietor (under the direct supervision of an assigned officer) and reported on Form 2630 which shall be delivered, with Form 179, to the assigned officer. Spirits in wooden packages filled from storage tanks for tax determination shall be gaged and reported on Form 2630 by an assigned officer on receipt of Form 179; metal packages so filled shall be gaged (under the direct supervision of an assigned officer) and reported on Form 2630 by the proprietor, and the proprietor shall deliver Form 2630 to such officer with Form 179. In the case of spirits of less than 190° of proof, the date of original entry shall be shown on Form 2630. In the case of spirits mingled pursuant to 26 U.S.C. 5234(a)(1)(C), (homogeneous spirits) the dates of original entry of the oldest and the youngest spirits in the mingled spirits shall be shown. On completion of gage (if any) and computation of tax, the assigned officer will return Forms 179 and 2630 to the proprietor.

(72 Stat. 1358, 1362; 26 U.S.C. 5204, 5213)

PAR. 39. Section 201.378 is amended in its entirety. As amended, § 201.378 reads as follows:

**§ 201.378 Withdrawal procedure; bonded premises.**

The spirits to be taxpaid shall be inspected or gaged and the amount of tax found due shall be entered on Form 179 by the assigned officer. If the tax is to be prepaid, as indicated by the withdrawing proprietor on Form 179, the assigned officer will inform the proprietor from whose premises the spirits are being withdrawn of the amount of tax determined. The proprietor will deliver to the assigned officer the prepayment return, Form 2521, with remittance, or when prepayment is made in cash to the district director, the proprietor will deliver a receipted Form 2521 to the assigned officer. Once the tax is prepaid, or, if the tax is not to be prepaid, and the bond of the withdrawing proprietor is adequate, the assigned officer will execute his statement of tax determination, release the spirits in accordance with § 201.385, retain one copy of Form 179, and return the original and remaining copies and any accompanying reports to the proprietor as authority to remove the spirits from bonded premises. At the time of removal the proprietor will assign to and enter on each Form 179 a release number, assigned in serial order, starting with "1" for the first such form each calendar year. Distribution of Form 179 will be made according to instructions on the form.

**§ 201.379 [Revoked]**

PAR. 40. Section 201.379 is revoked.

PAR. 41. The heading and text of § 201.385 are amended to (1) eliminate reference to the release of spirits by the assigned officer, and (2) make clarifying and editorial changes. As amended, § 201.385 reads as follows:

**§ 201.385 Removal of spirits on tax determination.**

No spirits shall be removed from bonded premises, except as otherwise provided by law, unless the tax thereon has been determined. If the Form 179, and Form 2521 (if required) with remittance, are in order and cover the full amount of the tax on the spirits to be withdrawn, the assigned officer shall execute his certificate of tax determination authorizing the removal of the spirits. The assigned officer shall not execute his certificate of tax determination where a proprietor of bottling premises, whose bond on Form 2614 or 2615 is not in the maximum penal sum, has assumed liability for the tax on the spirits, and the tax is greater than the amount shown on Form 179 as charged against his bond. If Form 2521 has been filed with the district director, as required by § 201.383(b), the certificate regarding tax determination shall not be executed before the assigned officer has received a receipted copy of the return from the district director. When a proprietor of bottling premises has made application for withdrawal of spirits for bottling in bond after tax determination, the assigned officer shall not execute his certificate of tax determination unless the spirits to be withdrawn meet the aging and packaging requirements prescribed for spirits to be bottled in bond and are otherwise eligible. On execution of the certificate of tax determination authorizing removal of the spirits the assigned officer shall issue distilled spirits stamps for packages or bulk conveyances of spirits to be removed from bonded premises. Distilled spirits stamps shall be affixed, canceled, and protected in the manner provided in Subpart Q of this part. When the distilled spirits stamps have been affixed by the proprietor to the containers and the containers have been properly marked, they shall be immediately removed from the bonded premises. When spirits are to be removed by pipeline, the appropriate Form 179, after execution of the certificate of tax determination shall be attached to the gage tank, and shall remain thereon until the spirits have been removed from the tank. Spirits bottled in bond before determination of tax which are to be withdrawn from bonded premises on determination of tax may be so withdrawn subsequent to bottling, without being returned to the storage portion of the bonded warehouse, if the proprietor executes Form 179 in advance of withdrawal to cover a specific quantity of such spirits that shall be equal to or more than the quantity of spirits he expects to withdraw. In such case the assigned officer shall execute the certificate of tax determination only if he is satisfied that adequate means and methods are provided for accurately ascertaining the quantities of spirits to be so withdrawn at time of bottling and that the Form 179 is otherwise in order. On completion of the withdrawal covered by Form 179, the proprietor shall complete the forms, identifying the cases and showing the actual quantity of spirits so withdrawn (and any adjustments); such information shall be verified by the assigned officer. When any spirits have been removed from the bonded premises as provided in this section, the proprietor shall execute, under the penalties of perjury, the statement of removal on all copies of Form 179 and distribute them in accordance with the instructions on the form.

PAR. 42. Section 201.387 is amended to delete the requirement for preparing (1) Form 1620 to cover wine spirits removed in cases, and (2) Form 2630 to cover wine spirits removed in packages on original gage. As amended, § 201.387 reads as follows:

**§ 201.387 Withdrawals of spirits for use in wine production.**

Wine spirits withdrawn without payment of tax for use in wine production may be removed in approved containers for shipment to a bonded wine cellar on receipt of an approved application, Form 257, submitted by the proprietor of the bonded wine cellar in accordance with the provisions of Part 240 of this chapter. Each package of wine spirits (unless withdrawn on the original gage) and each lot of wine spirits transferred by pipeline or by bulk conveyance shall be gaged by the proprietor under the direct supervision of the assigned officer: *Provided*, That spirits transferred by pipeline may be so gaged on the bonded wine cellar premises. Form 2629 shall be prepared by the consignor to cover each removal of wine spirits pursuant to an approved Form 257. When wine spirits in packages are to be removed (unless to be withdrawn on the original gage), the consignor shall also gage the packages and prepare Form 2630. Bulk conveyances shall be prepared by the proprietor for sealing and each such conveyance shall bear a label, dated and signed by the proprietor, showing the intended use of the wine spirits and the name and plant number of the consignor and the name and registry number of the consignee. When the gage (if any) has been completed, and the containers have been marked, and appropriate entries have been made in the gage report by the assigned officer, he shall release the spirits.

(72 Stat. 1362, as amended, 1382, as amended; 26 U.S.C. 5214, 5373)

PAR. 43. A new section, § 201.513a, is inserted, immediately following § 201.513, to read as follows:

**§ 201.513a Package identification numbers.**

(a) *General.* Packages of spirits shall when filled on bonded premises after June 30, 1973, be marked with a package identification number, consisting of a lot identification and serial number as follows:

(1) A lot identification representing the date the package is filled, and consisting, in the order shown, of—

(i) The last two digits of the calendar year;

(ii) An alphabetical designation from "A" through "L", representing January through December, in that order;

(iii) The digits corresponding to the day of the month; and

(iv) When more than one lot is filled into packages during the same day, for successive lots after the first lot, a letter suffix, in alphabetical order, with "A" representing the second lot, "B" representing the third lot, and so forth.

The first three lots filled into packages on July 9, 1973, would be identified as "73G09," "73G09A," and "73G09B." The lot identification for packages of spirits so filled shall, when applicable, be preceded by a distinguishing prefix as provided in § 201.514(a).

(2) A serial number for each package of spirits within a lot consecutively numbered by the proprietor commencing with "1" for each lot and appearing adjacent to the lot identification, as "73G09–1" or "73G09A–25".

(b) *Packages constituting a lot.* Packages of spirits filled on bonded premises during any one day shall be given the same lot identification subject to the following conditions:

(1) They are of the same type and either are of the same rated capacity or are uniformly filled with the same quantities by weight or other method approved by the Director as provided in § 201.269 and which is acceptable to the regional director.

(2) They are filled with spirits of the same kind and same proof;

(3) In the case of domestic spirits, they are filled with spirits which were produced by the same distiller at the same distillery, except that this condition shall not apply to spirits of 190° or more of proof, spirits mingled under § 201.298 or § 201.299, or to beverage rums or brandies blended under § 201.307;

(4) If they are filled with spirits of less than 190° of proof, the spirits are of the same age and have the same date of original entry; and

(5) In the case of spirits imported or brought into the United States, they are filled with spirits meeting the requirements for mingling for imported spirits, Puerto Rican spirits, or Virgin Islands spirits, as applicable.

Any remnant package shall itself constitute a lot.

(c) *Waiver of requirement for serial numbers.* Notwithstanding the provisions of paragraph (a) of this section, the regional director may, upon application in duplicate from the proprietor, waive the requirement for assigning serial numbers to packages of spirits at the time of filling or receipt on bonded premises if he finds that the revenue will not be jeopardized, or administrative difficulties caused, by such waiver. When such waiver has been granted, the lot identification shall constitute the package identification number: *Provided*, That when it becomes necessary, as a result of a transaction (such as the transfer in bond of the packages in an unsealed conveyance, withdrawal of the packages from bond on the basis of an individual package gauge, etc.) occurring after deposit of such unnumbered packages, the proprietor who is conducting the transaction shall consecutively number each package involved in the transaction and such number, in conjunction with the lot identification, shall thereafter constitute the package identification number.

PAR. 44. Section 201.514 is amended to make conforming changes respecting the newly prescribed package identification system. As amended, § 201.514 reads as follows:

**§ 201.514 Numbering of packages and cases.**

Packages of spirits filled on bonded premises shall be consecutively numbered by the proprietor commencing with "1" for each lot of packages filled, as provided in § 201.513a. Packages of spirits filled on bottling premises, packages of denatured spirits, packages containing more than 5 gallons of completely denatured alcohol, and cases containing bottles or other containers of spirits (including denatured spirits) shall, when filled, be consecutively numbered in a separate series by the proprietor commencing with "1" in each series of serial numbers, except any series of such numbers in use may be continued, but in any such case the prefix required by paragraph (a) of this section shall be used. When the numbering in any series reaches "1,000,000," the proprietor may recommence the series: *Provided*, That a recommenced series for packages of spirits filled on bottling premises or for packages of denatured spirits shall be given an alphabetical prefix or suffix.

(a) The identification numbers for packages filled on bonded premises, or the serial numbers for packages of spirits filled on bottling premises shall be given applicable prefixes as follows:

| Packages of spirits | Distinguishing prefix | Examples of identification Nos.[1] |
|---|---|---|
| (1) Filled from production facilities | None | 73G09–1, 73G09–2. |
| (2) Filled from bonded storage facilities, spirits of less than 190° of proof. | T and identification of plant | T–12–Ind–73G09–1. |
| (3) Filled from bonded storage facilities, spirits of 190° of proof or more. | T | T–73G09–1. |
| (4) Filled on bottling premises | BP | BP–1, BP–2. |
| (5) Mingled under § 201.301 | CS and identification of plant | CS–12–Ind–73G09–1. |
| (6) Mingled under § 201.297 | CP and identification of plant | CP–12–Ind–73G09–1. |
| (7) Blended under §§ 201.307 and 201.308 | BL | BL–73G09–1. |

[1] Examples illustrate numbering at DSP–Ind–12 for packages filled on July 9, 1973.

(b) Further, cases of spirits bottled in bond on bonded premises, cases of spirits bottled in bond on bottling premises, and cases of spirits otherwise bottled shall be numbered in separate series. The proprietor may establish more than one series of serial numbers for cases on either bonded or bottling premises where more than one bottling unit is used and each series is distinguished from each other by the use of alphabetical prefixes or suffixes. For additional identification, separate series of serial numbers, distinguished from each other by the use of alphabetical prefixes or suffixes, may be established to identify size of bottles, brand names, or other information, on written application (in triplicate) to, and approval of, the regional director. Remnant cases shall be given the serial number of the last full case followed by the letter R.

(c) Where there is a change in proprietorship, or in the individual firm, corporate name, or trade name, all series in use at that time shall be continued, except that for a change in proprietorship a new series shall be started for all cases on bonded premises and for all series in use on bottling premises.

* * * * *

(72 Stat. 1360; 26 U.S.C. 5206)

PAR. 45. Section 201.516 is amended to make conforming changes respecting the newly prescribed package identification system, and editorial changes. As amended, § 201.516 reads as follows:

**§ 201.516 Marks on packages of spirits filled on bonded premises.**

(a) *General.* Except as otherwise provided in this part packages of spirits filled on bonded premises shall be marked with—

(1) The name of the producer, or his trade name as provided in paragraph (e) of this section;

(2) The plant number of the producer, such as "DSP–KY–708";

(3) The kind of spirits or, in the case of distillates removed under § 201.275, the kind of distillates such as "Grape distillate," "Peach distillate," etc.;

(4) The package identification number;

(5) The date of original entry, if other than the date incorporated in the lot identification;

(6) "BSA," "OC," or "QA" when spirits are treated with caramel or oak chips or are subjected to a quick-aging process, as the case may be;

(7) The rated capacity of the package in gallons shown as "RC_____G".

(b) *Spirits of 190° or more of proof.* In the case of spirits of 190° of proof or more, the date of original entry need not be shown. If packages of such spirits are filled by other than the producer, the name (or trade name) and plant number of the packaging proprietor shall be substituted for that of the producer.

(c) *Packages of heterogeneous spirits.* Packages of heterogeneous spirits, mingled under the provisions of § 201.298 and filled for immediate removal, shall be marked as provided in paragraph (a) of this section (except subparagraph (5)), except that the name and plant number of the packaging proprietor shall be shown in lieu of the producer. The kind of spirits shall be shown as "Heterogeneous Whisky," "Heterogeneous Rum," etc., for spirits of the same kind, and as "Heterogeneous Spirits" for

spirits of different kinds. Packages so filled shall also be marked to show the proof gallons.

(d) *Packages of homogeneous spirits.* Packages filled as provided in § 201.384 and which contain homogeneous spirits, shall, in addition to the marks required by paragraph (a) of this section, be marked to show that they are consolidated packages, the plant number of the premises at which filled, the kind of cooperage in which the spirits were stored, and the number of months the youngest spirits in the lot were stored in such cooperage.

(e) *Real or trade names.* The producer's real name, or any trade name authorized (as provided in § 201.146) at the time of production, may be placed on any package filled at the time of production gage, or at the time of original packaging of the spirits in wood when, as provided in § 201.270, the spirits were not filled into wooden packages at the time of production gage. When spirits have been mingled under § 201.297 or § 201.301, the proprietor may use any of the names represented in the mingled spirits, but no other name, as the name of the producer to be marked on packages filled with such mingled spirits: *Provided,* That if the proprietor was the actual producer of the spirits he may in any case use his real name. When spirits have been mingled under § 201.297 and are not eligible for bottling in bond, the name of the producer marked on the package shall be followed by the letter "X" to evidence such ineligibility of the spirits.

(72 Stat. 1360; 26 U.S.C. 5206)

PAR. 46. A new section, § 201.517a, is added, immediately following § 201.517, to read as follows:

**§ 201.517a Authorized abbreviations to identify spirits.**

The following abbreviations may be used, either alone or in conjunction with descriptive words, to identify the kind of spirits on transaction forms and records:

| *Kind of Spirits:* | *Abbreviation* |
|---|---|
| Alcohol | A |
| Brandy | BR |
| Bourbon whisky | BW |
| Canadian whisky | CNW |
| Corn Whisky | CW |
| Grain spirits | GS |
| Irish whisky | IW |
| Light whisky | LW |
| Malt whisky | MW |
| Neutral spirits | NS |
| Rye whisky | RW |
| Scotch whisky | SW |
| Tequila | TEQ |
| Vodka | V |
| Whisky | W |

PAR. 47. Section 201.518 is amended to prescribe revised requirements for new packages, when spirits are transferred from one package to another, and make an editorial change. As amended, § 201.518 reads as follows:

**§ 201.518 Change of packages.**

When spirits are transferred from one package to another as authorized in § 201.295, each new package shall be given the same package identification number, marks, and brands as the original package except the gross weight and tare, if any. The proprietor shall prepare and sign a label to be affixed to the head of each new package in the manner prescribed for affixing distilled spirits stamps. The label shall be in the following form:

The spirits in this _____
(Kind of cooperage)
_____ package identification No. _____, were transferred from a
(Barrel or drum)
_____ _____,
(Kind of cooperage) (Barrel or drum)
on _____, under authority dated _____
(Date)
_____ _____
(Proprietor)

PAR. 48. Section 201.524 is amended to permit additional data to be shown on the Government head or side of packages. As amended, § 201.524 reads as follows:

**§ 201.524 Additional marks on portable containers.**

In addition to the other marks required by this part, portable containers (other than bottles enclosed in cases) of spirits (including denatured spirits, as applicable) to be withdrawn from the bonded premises—

(a) Without payment of tax, for export, transfer to customs manufacturing bonded warehouses, transfer to foreign-trade zones or supplies for certain vessels and aircraft shall be marked as provided in Part 252 of this chapter;

(b) On determination of tax shall be marked, if wooden packages, with the words "Rinsed" or "Not Rinsed"; if rinsed, the temperature of the water used shall be shown as provided in § 201.377; or

(c) Tax-free alcohol shall be marked to show the number of the permit of the tax-free user, the date of withdrawal, and the purpose of withdrawal, as, for example, "Hospital Use," "Scientific Purposes," "Use of U.S."

The proprietor may show on the Government head or side other information such as brand or trade name; caution notices and other material required by Federal, State or local law or regulations; wine or proof gallons; and plant control data: *Provided,* That such marks or attachments do not conceal, obscure, interfere with or conflict with the markings required by this subpart.

(72 Stat. 1360; 26 U.S.C. 5206)

PAR. 49. Paragraph (c) of § 201.549 is amended to provide for showing package identification numbers on distilled spirits stamps. As amended, paragraph (c) of § 201.549 reads as follows:

**§ 201.549 General.**

* * * * *

(c) *Information on stamp.* The prescribed distilled spirits stamp is serially numbered. It shall be marked, in the space provided, by the proprietor withdrawing or removing the spirits, to show the name and plant number of such proprietor, the date of affixing the stamp to the container, and the serial number or package identification number, as applicable, of the container. When spirits are withdrawn under the provisions of § 201.386(a)–(d) the proprietor shall insert the word "Export" on the stamp. When spirits are removed from bottling premises the proprietor shall insert on the stamp the words "Filled on Bottling Premises" and if the spirits have been rectified he shall also insert the words "Rectified Product."

(72 Stat. 1358, 1393; 26 U.S.C. 5205, 5522)

PAR. 49a. Section 201.551 is amended to include "other containers" and to refer to package identification numbers. As amended, § 201.551 reads as follows:

**§ 201.551 Restamping packages, conveyances, or other containers.**

Any package, conveyance, or other container of spirits which has been duly stamped with a distilled spirits stamp, but from which the stamp has been lost or destroyed by accident, shall, except as otherwise provided in this chapter, be restamped with another distilled spirits stamp. Applications for such restamping shall be made in writing, in triplicate, to the regional director for the region in which the package, conveyance or other container to be restamped is located. The application shall set forth the following:

(a) The package identification number or serial number, as applicable, of each package, conveyance or other container (and proprietor's name thereon);

(b) The location of the package, conveyance, or other container;

(c) A description of the contents;

(d) The applicant's interest in the property;

(e) The tax status of the spirits (supported by certified copies of the withdrawal forms);

(f) Statement by the applicant (or person having knowledge of the facts) that the package, conveyance, or other container was once duly stamped (and evidence thereof); and

(g) The circumstances connected with the destruction or loss of the stamps.

The application shall be executed under the penalties of perjury. If the regional director is satisfied that the package, conveyance, or other container had been properly stamped, and that the loss or destruction of such stamp is satisfactorily explained, he will issue, or cause to be issued, a distilled spirits stamp for the package, conveyance, or other container.

(72 Stat. 1358; 26 U.S.C. 5205)

PAR. 50. Section 201.587 is amended to (1) delete the requirement for recording packages and cases on Forms 2630 and 1620, respectively, when returned to storage, and (2) provide for destruction of stamps on returned containers of spirits previously removed for export. As amended, § 201.587 reads as follows:

**§ 201.587 Procedure at plant.**

The receipt and deposit of denatured spirits, recovered denatured spirits, recovered articles, articles, and spirits residues, shall be under the general supervision of the assigned officer; the receipt

and deposit of other spirits returned to bonded premises shall be under the direct supervision of the assigned officer. The proprietor shall, at the time of receipt, determine, by gage when necessary, the quantity of the spirits, denatured spirits, recovered denatured spirits, recovered articles, articles, and spirits residues, and prepare a report thereof on Form 2629 or Form 2612, as appropriate. When containers of spirits are emptied, the proprietor shall comply with the applicable provisions of § 201.531. When containers of spirits removed for export are returned to bond pending subsequent removal for a lawful purpose, the export marks shall be effaced and the stamps, if any, shall be destroyed. If the shipment was made pursuant to Form 1473, the proprietor shall execute the certificate of receipt on such form and forward the original thereof to the regional director through the assigned officer. Spirits recovered by the redistillation of denatured spirits, recovered denatured spirits, recovered articles, articles, and spirits residues may not be withdrawn from bonded premises except for industrial use or after denaturation thereof. All spirits redistilled under the provisions of this subpart shall, subject to the provisions of this subpart, be treated the same as if such spirits had been originally produced by the redistiller and all provisions of this part and chapter 51 of 26 U.S.C., applicable to the original production of distilled spirits, shall be applicable thereto. The receipt, redistillation, storage, and disposition, as applicable, of spirits, denatured spirits, recovered denatured spirits, recovered articles, articles, and spirits residues shall be recorded in the appropriate records and reports of the proprietor as prescribed in Subpart U of this part. Except as otherwise provided in this subpart, all spirits (including denatured spirits) returned to bonded storage may be withdrawn for any purpose authorized by this part and chapter 51 of 26 U.S.C. Nothing in this section shall be construed as affecting any provision of law or regulations relating to the labeling, marking, branding, or identification of distilled spirits.

(72 Stat. 1362, as amended, 1365, as amended; 26 U.S.C. 5214, 5223)

PAR. 51. Paragraph (c) of § 201.603 is amended to provide for package identification numbers on sample schedules, and make an editorial change. As amended, paragraph (c) of § 201.603 reads as follows:

**§ 201.603 Schedule of samples.**

* * * * *

(c) The place from which the sample is to be removed, or, in the case of a package, the package identification number or serial number, as applicable, and the location of the package and the name and plant number of the packaging proprietor if other than the one taking the sample;

* * * * *

(72 Stat. 1362, as amended, 1382, as amended; 26 U.S.C. 5214, 5373)

PAR. 52. Section 201.606 is amended to (1) require the proprietor to prepare Form 1615, (2) require identification of Forms 2521 covering prepaid samples on the semimonthly report of taxable samples, and (3) make editorial changes. As amended, § 201.606 reads as follows:

**§ 201.606 Taxable samples.**

Samples taken of spirits in bond which are used for purposes other than testing or laboratory analysis, and samples withdrawn free of tax in excess of any limitations, as provided in § 201.601, are taxable. The proprietor shall prepare a report on Form 1615 of all taxable samples withdrawn. If the proprietor is qualified to defer payment of the tax, the tax due on samples shall be included in the proprietor's tax return on Form 2522 for the period in which the samples were withdrawn. If a proprietor is not qualified to defer the payment of tax, the tax on samples shall be paid by return on Form 2521 and the semimonthly report of taxable samples, required by § 201.631a, shall be modified to indicate, for each sample upon which the tax has been prepaid, the serial number of the applicable Form 2521.

(72 Stat. 1362, as amended, 1382, as amended; 26 U.S.C. 5214, 5373)

PAR. 53. Paragraph (f) of § 201.607 is amended by changing the word "fourth" to "second." As amended, paragraph (f) of § 201.607 reads as follows:

**§ 201.607 Labels.**

* * * * *

(f) Whether taxable or free of tax, and if taxable, the proof gallon content to the second decimal place;

* * * * *

(72 Stat. 1362, as amended, 1382, as amended; 26 U.S.C. 5214, 5373)

PAR. 54. Section 201.612 is amended by adding provisions for maintaining records on data processing equipment. As amended, § 201.612 reads as follows:

**§ 201.612 Maintenance and preservation of records.**

Records required by this part shall be kept by the proprietor at the plant where the operation or transaction occurs and shall be available for inspection by any alcohol, tobacco and firearms officer during business hours. Whenever any record, because of its condition, becomes unsuitable for its intended or continued use, the proprietor shall reproduce such record, by a process approved by the Director under § 201.616 for reproducing records, and such reproduction shall be treated and considered for all purposes as though it were the original record, and all provisions of law applicable to the original shall be applicable to such reproduction. Records required by this part shall be preserved for a period of not less than 4 years from the date thereof or the date of the last entry required to be made thereon, whichever is the later, except that records covering spirits of 190° or more of proof in storage tanks, transferred to an inactive file in accordance with § 201.628(b), shall be preserved for a period of not less than 4 years from the date of removal from the active file, and that records of all other spirits stored on bonded premises shall be preserved for not less than 4 years from the date the spirits covered thereby are removed from the proprietor's bonded premises. Notwithstanding any other provision of this section, record data maintained on data processing equipment may be kept at a location other than the plant premises if the daily records required by §§ 201.619–201.624 and the reports required by §§ 201.631a–201.634 are kept available for inspection at the plant premises. Data which has been accumulated on cards, tapes, discs, or other accepted record media must be retrievable within 5 business days.

(72 Stat. 1361; 26 U.S.C. 5207)

PAR. 55. The heading and text of § 201.614 have been revised to prescribe more flexible requirements for variations from prescribed forms and records. As amended, § 201.614 reads as follows:

**§ 201.614 Variations from prescribed forms or records.**

(a) *General.* Proprietors may, subject to the approval of the Director, modify certain prescribed forms, or subject to the approval of the regional director, maintain substitute records in lieu of the records required by §§ 201.628 and 201.629 in order to adapt the use of such forms and records to data processing equipment or special operations, to provide additional information, or for other good cause, if such changes are not inconsistent with the general requirements of clarity and accuracy and do not result in difficulty in processing or filing such forms or difficulty in maintaining and examining such records. Such modified forms or substitute records shall (1) contain the information which would have been on the prescribed form or record, (2) constitute the record or report required by this part, and (3) be subject to the same requirements as the prescribed forms or records.

(b) *Application.* An application to use modified forms shall be submitted, in triplicate, to the Director through the regional director. It shall be accompanied by (1) three copies of each proposed form with typical entries thereon and (2) a statement, in triplicate, explaining the need for the use of the modified forms. Such modified forms shall not be used until approved by the Director. An application to use substitute records shall be submitted, in duplicate, to the regional director. It shall be accompanied by (1) two copies of each proposed record with typical entries thereon and (ii) a statement, in duplicate, explaining the need for the use of the substitute records. Such substitute records shall not be used until they are approved by the regional director.

(c) *Restrictions.* No modification shall be permitted on claim forms, tax return forms, or forms covering the reports required by §§ 201.633 and 201.634. Approval for the maintenance of substitute records in lieu of the records required by § 201.629 shall not relieve a proprietor

from the requirements of § 201.302, § 201.304, § 201.307, or § 201.308 respecting the preparation of Form 1685 or Form 2323. The Director or the regional director, as applicable, may withdraw the approval of any modified form or substitute record when in his opinion the administration of this part will be served thereby.

(72 Stat. 1361; 26 U.S.C. 5207)

PAR. 56. Paragraphs (a), (c), and (f) of § 201.618 are amended to make conforming and editorial changes, and paragraph (f) is further amended to provide for package identification numbers. As amended, paragraphs (a), (c), and (f) of § 201.618 read as follows:

**§ 201.618 Details of daily records.**

* * * * *

(a) Spirits shall be recorded by kind and by quantity in proof gallons, or tax gallons if required by instructions on transaction forms, except that removals of bottled products from bottling premises shall be in wine gallons.

* * * * *

(c) Distilling materials produced on the premises shall be recorded by kind and by quantity in wine gallons. Chemical byproducts containing spirits, articles, spirits residues, and distilling materials received on the premises, shall be recorded by kind, by percent of alcohol by volume, and by quantity in wine gallons: *Provided*, That when nonliquid distilling materials which are not susceptible to such quantitative determination are received, the quantity of such materials may be determined by weight and shall be so recorded, and the alcohol content need not be recorded: *Provided, further*, That when it can be shown that it is impractical to weigh or otherwise determine the exact quantity of such nonliquid materials, the Director may, by approval of an application submitted by the proprietor in quadruplicate, authorize the proprietor, in lieu of weighing or measuring, to estimate the weight or volume of the material.

* * * * *

(f) Containers (other than packages bearing package identification numbers) or cases involved in each operation or transaction shall be recorded by type, serial number, and the number of containers (including identifying marks on bulk conveyances), or cases. Package identification numbers shall be recorded on all deposit forms reflecting production gages or filling of packages from tanks in the warehouse; however, only the lot identification need be shown for transactions in packages of spirits unless package identification numbers are specifically required by this part (see for example, §§ 201.513a(c) and 201.628a (d)).

* * * * *

(72 Stat. 1361; 26 U.S.C. 5207)

PAR. 57. Section 201.619 is amended to prescribe revised requirements for production records. As amended, § 201.619 reads as follows:

**§ 201.619 Daily production records.**

Each proprietor shall maintain daily records of operations of his production facilities showing:

(a) The receipt of fermenting material or other nonalcoholic material intended for use in the production of spirits.

(b) The receipt and use of spirits, denatured spirits, articles, and spirits residues received for redistillation.

(c) The fermenting material set in each fermenter or other material used in the production of spirits.

(d) The distilling material produced, received on production facilities, and used in production of spirits, or destroyed or removed from the premises before being distilled (including the residue of beer returned to the producing brewery).

(e) The gage of spirits in each receiving tank both before and after the production gage of spirits removed therefrom, the production gage (in tax gallons) of spirits removed from each tank, the purpose for which removed, and the transaction form and its serial number covering each removal. (The date of production shall be the date of gage and removal from the production system, and the quantity produced shall be the quantity reported on the deposit or withdrawal forms.) If spirits are filled into packages, the record for each tank shall also show (1) the package identification numbers, (2) the average tax gallons per package, and (3) the number of packages involved in each transaction.

(f) The fermenting materials or other nonalcoholic materials removed from the premises.

(g) The quantity and alcohol content of fusel oil or other chemicals removed from the closed production system and the disposition thereof with the name of the consignee, if any.

(h) The kind and quantity of distillates removed from the production system pursuant to § 201.275.

(i) The kind and quantity of spirits lost or destroyed prior to production gage.

Records pertaining to production shall meet the requirements of § 201.630b and shall be maintained in such a manner that the spirits produced may be traced through the distilling system to the mash or other material from which produced, and the identity of the spirits thus traced may be clearly established.

(72 Stat. 1361; 26 U.S.C. 5207)

PAR. 58. Paragraph (b) of § 201.622 is amended by adding requirements for records for storage tanks on bonded premises. As amended, paragraph (b) of § 201.622 reads as follows:

**§ 201.622 Daily bonded storage records.**

* * * * *

(b) *Other transactions.* Each proprietor shall also maintain records reflecting:

(1) The mingling of spirits under §§ 201.297 and 201.301;

(2) The blending of beverage rums and brandies under §§ 201.307 and 201.308;

(3) The bottling of spirits under Subpart K of this part, including—

(i) Spirits entered for bottling in bond,

(ii) Spirits bottled and cased for domestic use or for export,

(iii) Bottled spirits returned to storage,

(iv) The rebottling, relabeling, or restamping of bottled spirits (domestic spirits rebottled, relabeled, or restamped for export shall be appropriately identified on the Form 1515),

(v) Alcohol bottled, and

(vi) The gains or losses determined during bottling;

(4) The change of packages under § 201.295; and

(5) The quick-aging of spirits, or the addition of oak chips to spirits or burnt sugar or caramel to brandy and rum under § 201.292.

Records for storage tanks on bonded premises which contain spirits of less than 190° of proof shall show the gage, in tax gallons, of spirits removed from each tank, the purpose for which removed, and the transaction form and its serial number covering the removal from the tank. If the spirits in such tanks are filled into packages, the record for each tank shall also indicate the gage of the spirits in the tank both before and after the gage of spirits removed therefrom; the number, average tax gallons per package, and the package identification numbers, of the packages filled; and the serial numbers of the related Form 2323 (Form 1685 in the case of blended rums or brandies) covering spirits deposited in the tank. The disposition of packages so filled shall be recorded by identifying the related transaction form (such as Form 179, 236, or 2629) and its serial number, and the number of packages involved in each transaction. The records shall meet the requirements of § 201.630b.

(72 Stat. 1361; 26 U.S.C. 5207)

PAR. 59. Section 201.624 is amended by inserting the words, "unaccounted for," after the word "mutilated" in the first sentence. As amended, § 201.624 reads as follows:

**§ 201.624 Daily strip stamp record.**

Each proprietor bottling spirits under the provisions of this part shall maintain, for each day a transaction in strip stamps occurs, a daily record of green bottled-in-bond strip stamps, of blue bottled-in-bond strip stamps and of red strip stamps by kind (green, blue or red) and by size (small or standard), and of alcohol strip stamps, showing the number received, used, lost, mutilated, unaccounted for, destroyed or otherwise disposed of, and on hand at the beginning and at the end of the day. The record shall also show, by size of bottle, the number of bottles to which each kind of strip stamps (green, blue, red, and white) were affixed, except that, as to each kind of stamp, bottles of less than one-half pint capacity shall be recorded as one item.

(72 Stat. 1358, 1361; 26 U.S.C. 5205, 5207)

PAR. 60. Section 201.626 is amended to make editorial changes. As amended, § 201.626 reads as follows:

**§ 201.626 Sample record for bonded premises.**

Proprietors shall maintain daily records of samples taken by them from bonded premises to show (a) the date taken, (b) the kind of spirits (formula number in the case of denatured spirits), (c) the quantity in wine gallons, (d) the container from which taken, (e) the place from which taken, (f) the purpose for which taken, (g) the name and address of the consignee when samples are sent out, and (h) whether such samples are tax-free or tax-determined and if tax-determined, the proof and tax gallons.

(72 Stat. 1361; 26 U.S.C. 5207)

PAR. 61. Paragraph (b) of § 201.627 is amended to prescribe the forms to be used for recording losses disclosed by inventory of tanks on bonded storage facilities. As amended, paragraph (b) of § 201.627 reads as follows:

**§ 201.627 Inventories.**

* * * * *

(b) *Storage facilities.* Each proprietor of bonded storage facilities shall make a record of his monthly inventory of spirits in tanks and other vessels required by § 201.311, showing the date taken and the details thereof including the identifying marks on each such container, the kind and quantity of spirits or denatured spirits therein, and the losses, if any, disclosed by the inventory. Such losses, and the quantity disclosed by inventory, shall be recorded in respect of each tank or other vessel containing spirits of less than 190° of proof, on the respective current Form 2323 or 1685 covering the particular tank, and as to spirits of 190° or more of proof, on the current Form 1621 covering the particular spirits. The inventory shall be signed and retained as provided in paragraph (a) of this section.

* * * * *

(72 Stat. 1361; 26 U.S.C. 5207)

PAR. 62. Paragraphs (a) and (b) of § 201.628 are amended in their entirety, and paragraph (c) is deleted. As amended, § 201.628 reads as follows:

**§ 201.628 Record of spirits in storage.**

(a) *Records covering deposits.* The proprietor's copies of forms (for example, Forms 236, 1685, 2323, or 2629) covering (1) deposit in bonded storage of spirits received from production facilities, from other bonded premises, from customs custody, or by return to bond under Subpart S of this part, (2) packages filled from tanks and retained in bonded storage, (3) cases of spirits returned to the storage portion of the warehouse after bottling, (4) spirits retained in tanks after mingling or blending, and (5) spirits of less than 190° of proof transferred from one tank to another, shall be filed by the proprietor as permanent records. Before filing such forms, he shall enter the date of deposit of the spirits in the warehouse at the bottom of each form. Separate files shall be maintained for spirits in packages and in cases, and such files shall be arranged by producers (by warehousemen in the case of blended rums or brandies, and spirits of 190° or more of proof, by the warehouseman who received the spirits from customs custody in the case of imported spirits, and by producer in the Virgin Islands or Puerto Rico in the case of Virgin Islands or Puerto Rican spirits), in chronological order according to the date of deposit in the warehouse, and, when possible, in sequence by lot identification for packages or serial numbers for cases. In addition, separate files shall be maintained for spirits which have been mingled under § 201.301 and for spirits which have not been so mingled. (For the purpose of records under this section spirits produced under trade names shall be treated as being produced under the real name of the producer.) Also, files shall be maintained, in the manner prescribed by § 201.629, for spirits of less than 190° of proof in storage tanks, with a separate file for each tank of spirits. In the case of spirits of 190° or more of proof deposited in storage tanks, the proprietor shall maintain a separate consolidated file of deposit forms for all tanks, separately as to gin, vodka, and other spirits as applicable, of (i) all such domestic spirits, (ii) all such imported spirits duty paid at the beverage rate, (iii) all such imported spirits duty paid at the nonbeverage rate, (iv) all such Virgin Islands spirits subject to rectification tax, (v) all such Virgin Islands spirits not subject to rectification tax, (vi) all such Puerto Rican spirits subject to rectification tax, and (vii) all such Puerto Rican spirits not subject to rectification tax. Such files shall be arranged chronologically by date of deposit in the warehouse.

(b) *Records covering withdrawals.* When spirits, other than spirits of 190° or more of proof in storage tanks, are withdrawn from bonded storage the proprietor shall note on the record of deposit required by paragraph (a) of this section, the date and disposition of the spirits so that the files shall currently reflect the spirits remaining in the warehouse. When spirits of 190° or more of proof are withdrawn from storage tanks the record of deposit need not be noted, but semiannually (as of June 30 and December 31) the proprietor shall remove from his consolidated files of active deposit forms all such forms in excess of those required to cover the "balance in warehouse" shown on Form 1621 for such spirits. The deposit forms so removed shall be those covering spirits which were "first-in-warehouse."

(72 Stat. 1361; 26 U.S.C. 5207)

PAR. 63. A new section, § 201.628a, is inserted, immediately following § 201.628, to read as follows:

**§ 201.628a Adjustment of recorded quantities of spirits in packages in bond prior to July 1, 1973.**

Packages of spirits entered into bonded storage before July 1, 1973, shall be accounted for by the proprietor as required by regulations in effect on June 30, 1973, except that on and after July 1, 1973, his accounts shall be adjusted as follows:

(a) Incidental, or prior, to the first transaction in packages comprising a basic seasonal account prescribed by § 201.629, the total recorded tax gallons in the account, based on a summation of the recorded original tax gallon content of the individual packages in the account, shall be converted to total tax gallons of record, calculated as provided in paragraph (d) of this section, and such quantity shall be recorded on the Form 1621 covering the account and the average content of the packages in the account shall be recorded on the related deposit record on Form 2630: *Provided*, That if, prior to the conversion, the recorded contents of the various packages within the account differ substantially, the packages shall be separated into groups according to their fill dates and recorded contents, and the total tax gallons of record shall be calculated for each group and such quantities shall be individually recorded on the Form 1621 covering the account and the average content of the packages in each group shall be recorded on the related deposit record.

(b) Upon receipt of packages of spirits transferred in bond which are eligible for inclusion in an account in which packages of spirits are on deposit, the total tax gallons received shall be adjusted on the basis of the average tax gallons of record (computed as prescribed in paragraph (a) of this section) contained in the packages already on deposit. Such average tax gallons per package shall be recorded on the deposit Form 236 and the adjusted total tax gallons shall be recorded on the Form 236 covering the shipment and on the Form 1621 covering the account.

(c) Upon receipt of packages transferred in bond for which a new seasonal account must be established, the total tax gallons of record as computed by the consignor and reported by him on the Form 236 shall be recorded on the Form 1621 covering the new account.

(d) When required to be established and recorded, the total tax gallons of record for all packages within a seasonal account or within a particular group within such seasonal account shall be calculated by (1) dividing the total original tax gallons of spirits contained in the packages within the account or group, as the case may be, by the number of packages within the account or group to establish the average content for all packages within the account or group and (2) multiplying such average content, rounded to the nearest one-tenth of a tax gallon, by the number of packages within the account or group, as applicable. For the purpose of 26 U.S.C. 5006(b), the most recently established average content of a package of spirits entered into bond before July 1, 1973, shall be deemed to be the original quantity entered into bond in that package, unless the actual quantity can be otherwise specifically established. Forms covering transactions occurring on and

after July 1, 1973, involving packages filled prior to July 1, 1973, shall show the average content of the packages and, under "identification", shall show a lot identification constructed in accordance with the instructions in subparagraph (1) of paragraph (a) of § 201.513a.

Nothing in this section shall be construed to require the alteration of marks and brands placed on packages filled before July 1, 1973, to reflect any change in accounting specified herein.

PAR. 64. Section 201.629 is amended in its entirety. As amended, § 201.629 reads as follows:

**§ 201.629 Warehouse summary accounts.**

(a) *General.* Each bonded warehouse proprietor shall keep current summary accounts of spirits entered into, withdrawn from, and remaining in his warehouse in accordance with the provisions of this section. Separate accounts shall be maintained for domestic spirits, imported spirits, Virgin Islands spirits, and Puerto Rican spirits, with such further separation into basic accounts as is required by paragraphs (b), (c), (d), and (e) of this section. Such basic accounts for imported spirits shall show the rate of duty paid on the spirits and such basic accounts for Virgin Islands and Puerto Rican spirits shall, if subject to rectification tax, show the rate of rectification tax.

(b) *Basic accounts of spirits in packages and cases.* Separate basic accounts for spirits in packages and for spirits in cases shall be maintained on Form 1621 for each producer (bonded warehouse proprietor in the case of blended rums or brandies and spirits of 190° or more of proof), by kind of spirits, and by season of production, showing the number of packages or cases, and the total tax gallons therein, deposited in, withdrawn from, and remaining in the warehouse. Basic accounts for spirits in packages which have been mingled under the provisions of § 201.301 shall be separately maintained from basic accounts for spirits which have not been so mingled. The basic accounts shall be arranged as follows:

(1) For domestic spirits, other than blended rums or brandies and spirits of 190° or more of proof, alphabetically by States and numerically by the plant number of the producer (spirits produced under trade names, for the purpose of this record, shall be treated as being produced under the real name of the producer);

(2) For domestic blended rums or brandies and spirits of 190° or more of proof, alphabetically by States and numerically by the plant number of the bonded warehouse proprietor who blended the rums or brandies or who filled the packages of spirits of 190° or more of proof, as the case may be;

(3) For imported spirits, alphabetically by States and numerically by the plant number of the bonded warehouse proprietor who received the spirits from customs custody; and

(4) For Virgin Islands or Puerto Rican spirits, alphabetically by the name of the producer in the Virgin Islands or in Puerto Rico.

(c) *Basic accounts of spirits of less than 190° of proof in tanks.* Separate basic accounts shall be maintained on Form 2323 or, in the case of blended rums or brandies, on Form 1685, of all spirits of less than 190° of proof in tanks (including tank cars, tank trucks, and similar vessels). Forms 2323 prepared as provided in §§ 201.291, 201.302 and 201.304 and Forms 1685 prepared as provided in §§ 201.291, 201.307, and 201.308 for the current month (including any Forms 2323 or 1685 prepared in a prior month that are current because of a lack of subsequent transactions) shall constitute the account prescribed by this paragraph: *Provided*, That other Forms 2323 and 1685 for noncurrent months shall be retained as provided in § 201.612.

(d) *Basic accounts of spirits of 190° or more of proof in tanks.* A basic account shall be maintained on Form 1621 for each kind of spirits of 190° or more of proof stored in tanks (including tank cars, tank trucks, or similar vessels). The account shall show the total tax gallons deposited in, withdrawn from, and remaining in all tanks covered by such account.

(e) *Summary of containers and kinds.* The basic accounts maintained in accordance with paragraphs (b), (c), and (d) of this section shall, at the end of each month (or such lesser period as required by the regional director) be summarized to show, for each type of container, the total tax gallons deposited in, withdrawn from, and remaining in the warehouse by each kind of spirits, and the total tax gallons deposited in, withdrawn from, and remaining in the warehouse for all kinds of spirits. Such summaries shall be maintained on Form 1621, and shall include all losses (or gains) such as those disclosed by inventory or on emptying a tank (see § 201.311).

(72 Stat. 1361; 26 U.S.C. 5207)

PAR. 65. Section 201.630 is amended by (1) revoking paragraph (a) and redesignating paragraphs (b) and (c), and (2) making a conforming change. As amended, § 201.630 reads as follows:

**§ 201.630 Monthly summary records.**

Each proprietor shall, within 10 days after the end of each month, summarize the transactions recorded in his daily records relating to:

(a) Denaturants as required by paragraph (a) of § 201.621.

(b) Alcoholic flavoring materials as required by paragraphs (a), (c), and (h) of § 201.623.

Such summary shall show the kind of material or denaturant and the quantity on hand the first of the month, received, used, otherwise disposed of, and on hand, end of the month. The summaries shall be filed with the daily records to which they pertain and shall be made available for inspection by alcohol, tobacco and firearms officers.

(72 Stat. 1361; 26 U.S.C. 5207)

PAR. 66. A new section § 201.630b, is inserted, immediately following § 201.630a, to read as follows:

**§ 201.630b Style of production and bonded storage records.**

When the proprietor's copies of prescribed forms show the details required by §§ 201.619 and 201.622 to be recorded for transactions, such forms shall constitute the required records. When the proprietor's commercial records show the details required by §§ 201.619 and 201.622 to be recorded for transactions, and there is no prescribed form showing such details, such commercial records may constitute the required records.

(72 Stat. 1361; 26 U.S.C. 5207)

PAR. 67. The heading and text of § 201.631 are amended to (1) include transaction forms and semimonthly reports, and (2) require the submission of monthly, quarterly, and semiannual reports by the 15th, instead of 10th day of a month. As amended, § 201.631 reads as follows:

**§ 201.631 Submission of transaction forms and reports.**

(a) *Transaction forms.* Copies of transaction forms required by this part shall be submitted to the assigned officer, or, if none is regularly assigned, to the regional director, as provided by this part and by instructions on the individual forms.

(b) *Reports.* Semimonthly reports (taxable samples) required by this part shall be submitted to the assigned officer, or, if none is regularly assigned, to the regional director, on or before the third business day preceding the due date for filing a return covering the period during which the samples were taken. Monthly, quarterly, and semiannual reports required by this part shall be submitted to the assigned officer, or, if none is regularly assigned, to the regional director, on or before the 15th day following the close of the period for which rendered.

(72 Stat. 1361; 26 U.S.C. 5207)

PAR. 68. A new section, § 201.631a, is inserted, immediately following § 201.631, to read as follows:

**§ 201.631a Semimonthly report of taxable samples.**

Each proprietor of bonded premises shall prepare, in triplicate, a report on Form 1615 of taxable samples, if any, taken on his premises during the semimonthly period. The original and one copy of the report shall be submitted and the remaining copy shall be retained by the proprietor.

(72 Stat. 1361, 1395; 26 U.S.C. 5207, 5555)

**§ 201.632 [Revoked]**

PAR. 69. Section 201.632 is revoked.

PAR. 70. Section 201.633 is amended to prescribe revised requirements for preparation and distribution of monthly re-

ports, and make an editorial change. As amended, § 201.633 reads as follows:

**§ 201.633 Monthly reports.**

Each proprietor shall, at the end of each month, report his operations on the forms prescribed below. Each report shall be prepared in triplicate. The original and one copy shall be filed as provided in § 201.631 and the remaining copy shall be retained by the proprietor.

| Report | Prepared by— | Purpose |
|---|---|---|
| (a) Monthly report—Distilled spirits plant: | | |
| Form 2730 | Distillers | Reports production operations. |
| Form 2731 | Bonded warehousemen. | Reports bonded storage operations. |
| Form 2732 | Proprietors of bonded premises. | Reports denaturation operations for entire bonded premises. |
| Form 2733 | Proprietors of bottling premises. | Reports rectification and bottling operations. |
| (b) [Reserved] | | |

(72 Stat. 1361, 1395; 26 U.S.C. 5207, 5555)

PAR. 71. Section 201.633a is amended to prescribe revised requirements for preparation and distribution of Form 2260, Quarterly Report of Strip Stamps. As amended, § 201.633a reads as follows:

**§ 201.633a Quarterly report of strip stamps, Form 2260.**

As of the close of business March 31, June 30, September 30, and December 31, of each year, each proprietor using strip stamps shall prepare Form 2260, in triplicate. A separate report shall be prepared for each kind of strip stamp used. The original and one copy shall be filed as provided in § 201.631 and the remaining copy shall be retained by the proprietor.

(72 Stat. 1361, 1395; 26 U.S.C. 5207, 5555)

PAR. 72. Section 201.634 is amended by inserting a new paragraph (a) and redesignating paragraphs (a), (b), and (c) as (b), (c), and (d), respectively. As amended § 201.634 reads as follows:

**§ 201.634 Semiannual reports.**

(a) *General.* Semiannual reports required by this section shall be prepared in triplicate; the original and one copy shall be filed as provided in § 201.631, and the remaining copy retained by the proprietor.

(b) *Form 332.* As of the close of business June 30, and December 31, of each year, each proprietor of a bonded warehouse shall prepare, on Form 332, a statement by kind, season, and year of production, of spirits in his bonded warehouse. A separate Form 332 shall be prepared for spirits which have been mingled under § 201.301 and for spirits which have not been so mingled. Spirits of 190° or more of proof (on which a record of age is not kept) shall be reported as a single item on Form 332; however, the quantity of such domestic spirits and of such imported spirits shall be reported separately. Imported spirits of less than 190° of proof shall be reported on a separate line, appropriately identified as "Imported," giving the total quantity of each kind of such imported spirits in the appropriate column on Form 332.

(c) *Form 2546.* As of the close of business June 30, and December 31, of each year, each proprietor of a bonded warehouse shall prepare, on Form 2546, a report of spirits mingled under § 201.301 during the preceding 6-month period. A separate report shall be prepared for each kind of spirits.

(d) *Form 338.* As of the close of business June 30, and December 31, of each year, every proprietor who, in connection with his plant, conducts wholesale liquor dealer operations, or operates a taxpaid storeroom, on, contiguous to, adjacent to, or in the immediate vicinity of plant premises, or operates storage premises at another location from which distilled spirits are not sold at wholesale, shall prepare, on Form 338, a report showing the total quantity of distilled spirits received and disposed of during the preceding 6-month period.

(72 Stat. 1361, 1395; 26 U.S.C. 5207, 5555)

[FR Doc.73-10800 Filed 5-30-73;8:45 am]

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