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PART I




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S. 11..... Pub. Law 93–152
Arkansas River Basin compact, Arkansas-Oklahoma, 1970
(Nov. 13, 1973; 87 Stat. 569)

S. 607..... Pub. Law 93–151
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(Nov. 16, 1973; 87 Stat. 576)

# Rules and Regulations

This section of the FEDERAL REGISTER contains regulatory documents having general applicability and legal effect most of which are keyed to and codified in the Code of Federal Regulations, which is published under 50 titles pursuant to 44 U.S.C. 1510.

The Code of Federal Regulations is sold by the Superintendent of Documents. Prices of new books are listed in the first FEDERAL REGISTER issue of each month.

## Title 5—Administrative Personnel

### CHAPTER I—CIVIL SERVICE COMMISSION

### PART 213—EXCEPTED SERVICE

#### Department of the Navy

Section 213.3308 is amended to show that one additional position of Special Assistant to the Military Assistant to the President is excepted under Schedule C. Effective on November 21, 1973, § 213.3308(a)(9) is amended as set out below.

**§ 213.3308 Department of the Navy.**

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

* * * * *

(9) Three Special Assistants to the Military Assistant to the President.

* * * * *

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

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

[FR Doc.73-24797 Filed 11-20-73;8:45 am]

## Title 7—Agriculture

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

### PART 987—DOMESTIC DATES PRODUCED OR PACKED IN RIVERSIDE COUNTY, CALIFORNIA

#### Establishment of Free and Restricted Percentages and Withholding Factors for the 1973–74 Crop Year

Notice was published in the October 30, 1973, issue of the FEDERAL REGISTER (38 FR 29893) regarding a proposal to establish free and restricted percentages and withholding factors of 100 percent, 0 percent, and 0 percent, respectively, for Deglet Noor, Zahidi, Halawy, and Khadrawy dates. The 1973–74 crop year began October 1, 1973. The proposal was pursuant to the marketing agreement, as amended, and Order No. 987, as amended (7 CFR Part 987). The amended marketing agreement and order regulate the handling of domestic dates produced or packed in Riverside County, California, and are effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674).

The notice afforded interested persons an opportunity to submit written data, views, or arguments with respect to the proposal. None were received.

The free percentages, restricted percentages, and withholding factors for the 1973–74 crop year are applicable to marketable dates and are pursuant to §§ 987.44 and 987.45. These percentages and factors are based on estimates by the California Date Administrative Committee of supply and trade demand, adjusted for handler carryover, for the current crop year. Trade demand means the aggregate quantity of whole or pitted dates which the trade will acquire from all handlers during the crop year for distribution in the continental United States, Canada, and such other countries as the Committee finds will acquire dates at prices reasonably comparable with prices received in the continental United States. The California Date Administrative Committee included no countries other than the continental United States and Canada in its determination of trade demand.

In determining the percentages for each of the four varieties, the Committee considered the following data and estimates for the crop year beginning October 1, 1973:

| | Deglet Noor | Zahidi | Halawy | Khadrawy |
|---|---|---|---|---|
| | | 1,000 pounds | | |
| 1. Production of marketable dates (1973–74 crop) | 31,960 | 1,656 | 153 | 822 |
| 2. Plus: Noncertified handler carryover as of September 30, 1973, of marketable dates | 347 | 66 | 16 | 69 |
| 3. Total marketable supply | 32,307 | 1,722 | 169 | 891 |
| 4. Trade demand for free whole and pitted dates (continental United States and Canada) | 17,500 | 1,500 | 150 | 450 |
| 5. Plus: Desirable handler carryover as of September 30, 1974, to assure date supplies for early demand | 8,500 | 500 | 75 | 225 |
| 6. Less: Certified handler carryover as of September 30, 1973, of free dates | 892 | 4 | 4 | 34 |
| 7. Need for free dates | 25,415 | 2,096 | 221 | 641 |

After consideration of all relevant matter presented, including that in the notice, the information and recommendation submitted by the Committee, and other available information, it is found that to establish free percentages, restricted percentages, and withholding factors as hereinafter set forth will tend to effectuate the declared policy of the act.

It is further found that good cause exists for not postponing the effective time of this action until 30 days after publication in the FEDERAL REGISTER (5 U.S.C. 553) in that: (1) This action does not impose any restrictions upon handlers and gives them flexibility in meeting market needs; (2) the relevant provisions of said marketing agreement and this part require that free and restricted percentages and withholding factors established for a particular crop year shall be applicable during the entire crop year to all marketable dates; and (3) the current crop year began October 1, 1973, and the percentages and withholding factors hereinafter established will apply to all such dates beginning with that date.

The free percentages, restricted percentages, and withholding factors for the 1973–74 crop year are as follows:

**§ 987.221 Free and restricted percentages, and withholding factors.**

The various free percentages, restricted percentages, and withholding factors applicable to marketable dates of each variety shall be, for the crop year beginning October 1, 1973, and ending September 30, 1974, as follows: (a) Deglet Noor variety dates: Free percentage, 100 percent; restricted percentage, 0 percent; and withholding factor, 0 percent; (b) Zahidi variety dates: Free percentage, 100 percent; restricted percentage, 0 percent; and withholding factor, 0 percent; (c) Halawy variety dates: Free percentage, 100 percent; restricted percentage, 0 percent; and withholding factor, 0 percent; (d) Khadrawy variety dates: Free percentage, 100 percent; restricted percentage, 0 percent; and withholding factor, 0 percent.

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

Dated: November 15, 1973.

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

[FR Doc.73-24802 Filed 11-20-73;8:45 am]

### CHAPTER XIV—COMMODITY CREDIT CORPORATION, DEPARTMENT OF AGRICULTURE

#### SUBCHAPTER B—LOANS, PURCHASES, AND OTHER OPERATIONS

### PART 1464—TOBACCO

#### Subpart A—Tobacco Loan Program

#### 1973 CROP—BURLEY TOBACCO, ADVANCE SCHEDULE

On October 10, 1973, there was published in the FEDERAL REGISTER (38 FR 27939) a notice of proposed rulemaking setting forth the proposed price support advance rates for 1973-crop burley tobacco. Interested parties were given the

opportunity to submit, not later than November 9, 1973, data, views and recommendations regarding the advance rates.

No unfavorable comments have been received, and the proposed advance rates are hereby adopted without change and are set forth below. The material previously appearing under § 1464.21 remains applicable to the crop to which it refers.

*Effective date:* November 21, 1973.

Signed at Washington, D.C. on November 15, 1973.

GLENN A. WEIR,
*Acting Executive Vice President, Commodity Credit Corporation.*

### § 1464.21 1973 Crop Burley Tobacco, Type 31, Advance Schedule.[1]

[Dollars per hundred pounds, farm sales weight]

| Grade | Advance rate | Grade | Advance rate |
|---|---|---|---|
| B1F | 84.25 | T5GF | 65.25 |
| B2F | 83.25 | T4GR | 62.25 |
| B3F | 82.25 | T5GR | 59.25 |
| B4F | 81.25 | C1L | 85.25 |
| B5F | 80.25 | C2L | 84.25 |
| B1FR | 82.25 | C3L | 83.25 |
| B2FR | 81.25 | C4L | 82.25 |
| B3FR | 80.25 | C5L | 81.25 |
| B4FR | 79.25 | C1F | 85.25 |
| B5FR | 77.25 | C2F | 84.25 |
| B1R | 80.25 | C3F | 83.25 |
| B2R | 79.25 | C4F | 82.25 |
| B3R | 78.25 | C5F | 81.25 |
| B4R | 77.25 | C3K | 80.25 |
| B5R | 75.25 | C4K | 78.25 |
| B4D | 68.25 | C5K | 73.25 |
| B5D | 64.25 | C3M | 81.25 |
| B3K | 78.25 | C4M | 79.25 |
| B4K | 76.25 | C5M | 75.25 |
| B5K | 71.25 | C3V | 82.25 |
| B3M | 79.25 | C4V | 80.25 |
| B4M | 77.25 | C5V | 76.25 |
| B5M | 71.25 | C4G | 70.25 |
| B3VF | 80.25 | C5G | 66.25 |
| B4VF | 77.25 | X1L | 85.25 |
| B5VF | 74.25 | X2L | 84.25 |
| B3VR | 73.25 | X3L | 83.25 |
| B4VR | 72.25 | X4L | 82.25 |
| B5VR | 69.25 | X5L | 81.25 |
| B3GF | 74.25 | X1F | 85.25 |
| B4GF | 72.25 | X2F | 84.25 |
| B5GF | 69.25 | X3F | 83.25 |
| B3GR | 68.25 | X4F | 82.25 |
| B4GR | 66.25 | X5F | 81.25 |
| B5GR | 63.25 | X4M | 79.25 |
| T3F | 80.25 | X5M | 73.25 |
| T4F | 77.25 | X4G | 74.25 |
| T5F | 74.25 | X5G | 68.25 |
| T3FR | 78.25 | M1F | 82.25 |
| T4FR | 76.25 | M2F | 81.25 |
| T5FR | 73.25 | M3F | 80.25 |
| T3R | 73.25 | M4F | 78.25 |
| T4R | 70.25 | M5F | 75.25 |
| T5R | 66.25 | M3FR | 74.25 |
| T4D | 66.25 | M4FR | 70.25 |
| T5D | 63.25 | M5FR | 66.25 |
| T4K | 65.25 | N1L | 77.25 |
| T5K | 62.25 | N2L | 70.25 |
| T4VF | 75.25 | N1F | 72.25 |
| T5VF | 71.25 | N1R | 61.25 |
| T4VR | 67.25 | N2R | 55.25 |
| T5VR | 64.25 | N1G | 59.25 |
| T4GF | 69.25 | N2G | 55.25 |

[FR Doc.73-24753 Filed 11-20-73;8:45 am]

[1] Only the original producer is eligible to receive advances. Tobacco graded "U" (unsound), "W" (wet), "No-G" (no grade), or scrap will not be accepted. Cooperatives are authorized to deduct 25 cents per hundred pounds to apply against overhead costs.

## PART 1464—TOBACCO

### Subpart A—Tobacco Loan Program

#### 1973 CROP—FIRE-CURED, DARK AIR-CURED AND VIRGINIA SUN-CURED, ADVANCE SCHEDULE

On October 11, 1973, there was published in the FEDERAL REGISTER (38 FR 28073) a notice of proposed rulemaking setting forth the proposed price support advance rates for 1973-crop fire-cured, dark air-cured and Virginia sun-cured tobacco. Interested parties were given the opportunity to submit, not later than November 9, 1973, data, views and recommendations regarding the advance rates.

No unfavorable comments have been received, and the proposed advance rates are hereby adopted without change and are set forth below. The material previously appearing under the section numbers shown below remains applicable to the crop to which each refers.

*Effective date:* November 21, 1973.

Signed at Washington, D.C. on November 15, 1973.

GLENN A. WEIR,
*Acting Executive Vice President, Commodity Credit Corporation.*

### § 1464.17 1973 Crop—Virginia Fire-Cured Tobacco, Type 21—Advance Schedule.[1]

ADVANCE RATE

[Dollars per hundred pounds, farm sales weight]

| Grade | Length 47 | Length 46 | Length 45 | Length 44 | Length 43 |
|---|---|---|---|---|---|
| A1F | 72.25 | 72.25 | 72.25 | | |
| A2F | 69.25 | 69.25 | 70.25 | | |
| A1D | 72.25 | 72.25 | 72.25 | | |
| A2D | 69.25 | 69.25 | 69.25 | | |
| B1F | 71.25 | 71.25 | 71.25 | | |
| B2F | 66.25 | 66.25 | 67.25 | 62.25 | |
| B3F | 59.25 | 59.25 | 60.25 | 59.25 | 50.25 |
| B4F | 55.25 | 55.25 | 56.25 | 54.25 | 47.25 |
| B5F | 49.25 | 49.25 | 50.25 | 49.25 | 44.25 |
| B1D | 71.25 | 71.25 | 71.25 | | |
| B2D | 65.25 | 65.25 | 66.25 | 61.25 | |
| B3D | 57.25 | 57.25 | 58.25 | 56.25 | 50.25 |
| B4D | 52.25 | 52.25 | 53.25 | 52.25 | 47.25 |
| B5D | 47.25 | 47.25 | 48.25 | 47.25 | 44.25 |
| B3M | 53.25 | 53.25 | 54.25 | 53.25 | 49.25 |
| B4M | 50.25 | 50.25 | 52.25 | 50.25 | 47.25 |
| B5M | 47.25 | 47.25 | 48.25 | 47.25 | 42.25 |
| B3G | 50.25 | 50.25 | 51.25 | 50.25 | 46.25 |
| B4G | 48.25 | 48.25 | 50.25 | 49.25 | 45.25 |
| B5G | 46.25 | 46.25 | 47.25 | 46.25 | 42.25 |
| C1L | 77.25 | 77.25 | 78.25 | | |
| C2L | 73.25 | 73.25 | 74.25 | 66.25 | |
| C3L | 64.25 | 64.25 | 65.25 | 63.25 | |
| C4L | 57.25 | 57.25 | 58.25 | 57.25 | |
| C5L | 52.25 | 52.25 | 53.25 | 51.25 | |
| C1F | 76.25 | 76.25 | 77.25 | | |
| C2F | 72.25 | 72.25 | 73.25 | 66.25 | |
| C3F | 63.25 | 63.25 | 64.25 | 60.25 | |
| C4F | 57.25 | 57.25 | 58.25 | 57.25 | |
| C5F | 52.25 | 52.25 | 54.25 | 52.25 | |

| Grade | Length 47 | Length 46 | Length 45 | Length 44 |
|---|---|---|---|---|
| C2D | 52.25 | 52.25 | 53.25 | 51.25 |
| C3D | 50.25 | 50.25 | 51.25 | 49.25 |
| C4D | 47.25 | 47.25 | 48.25 | 47.25 |
| C5D | 43.25 | 43.25 | 44.25 | 42.25 |
| C3M | 53.25 | 53.25 | 54.25 | 53.25 |
| C4M | 51.25 | 51.25 | 53.25 | 52.25 |
| C5M | 47.25 | 47.25 | 48.25 | 47.25 |
| C3G | 48.25 | 48.25 | 49.25 | 47.25 |
| C4G | 46.25 | 46.25 | 47.25 | 46.25 |
| C5G | 43.25 | 43.25 | 44.25 | 43.25 |

[1] Only the original producer is eligible to receive advances. Tobacco graded "W" (doubtful keeping order), "No-G" (no grade), "U" (unsound), "D" (damaged) or scrap will not be accepted. The association is authorized to deduct 25 cents per hundred pounds to apply against overhead cost.

| Grade | | Grade | |
|---|---|---|---|
| X1L | 58.25 | X3G 45 | 49.25 |
| X2L | 57.25 | X4G | 48.25 |
| X3L | 56.25 | X4G 45 | 46.25 |
| X4L | 54.25 | X5G | 44.25 |
| X5L | 51.25 | X1D | 54.25 |
| X1F | 58.25 | X2D | 52.25 |
| X2F | 57.25 | X3D | 51.25 |
| X3F | 56.25 | X4D | 49.25 |
| X4F | 53.25 | X5D | 45.25 |
| X5F | 50.25 | X3M | 53.25 |
| X3M 45 | 51.25 | X5G 45 | 42.25 |
| X4M | 51.25 | N1L | 41.25 |
| X4M 45 | 48.25 | N1D | 39.25 |
| X5M | 47.25 | N1G | 40.25 |
| X5M 45 | 46.25 | N2 | 30.25 |
| X3G | 52.25 | | |

### § 1464.18 1973-crop — Kentucky-Tennessee Fire-Cured tobacco, type 22 and 23—advance schedule.[1]

ADVANCE RATE

[Dollars per hundred pounds, farm sales weight]

| Grade | Length 47 | Length 46 | Length 45 |
|---|---|---|---|
| A1F | 76 | 76 | 76 |
| A2F | 71 | 71 | 71 |
| A3F | 63 | 63 | 63 |
| A1D | 76 | 76 | 76 |
| A2D | 71 | 71 | 71 |
| A3D | 63 | 63 | 63 |

| Grade | Length 47 | Length 46 | Length 45 | Length 44 | Length 43 |
|---|---|---|---|---|---|
| B1F | 66 | 66 | 66 | 61 | |
| B2F | 63 | 63 | 63 | 59 | |
| B3F | 60 | 60 | 60 | 57 | 51 |
| B4F | 56 | 56 | 56 | 53 | 46 |
| B5F | 52 | 52 | 52 | 49 | 43 |
| B1D | 65 | 65 | 65 | 60 | |
| B2D | 62 | 62 | 62 | 58 | |
| B3D | 61 | 61 | 61 | 57 | 51 |
| B4D | 55 | 55 | 55 | 52 | 45 |
| B5D | 51 | 51 | 51 | 47 | 41 |
| B3M | 56 | 56 | 56 | 52 | 47 |
| B4M | 52 | 52 | 52 | 48 | 41 |
| B5M | 47 | 47 | 47 | 42 | 37 |
| B3VF | 56 | 56 | 56 | 52 | 45 |
| B4VF | 54 | 54 | 54 | 51 | 44 |
| B5VF | 50 | 50 | 50 | 47 | 40 |
| B3G | 56 | 56 | 56 | 52 | 44 |
| B4G | 51 | 51 | 51 | 47 | 39 |
| B5G | 47 | 47 | 47 | 42 | 37 |
| C1L | 66 | 66 | 66 | 62 | |
| C2L | 63 | 63 | 63 | 59 | |
| C3L | 61 | 61 | 61 | 57 | 51 |
| C4L | 58 | 58 | 58 | 55 | 49 |
| C5L | 55 | 55 | 55 | 53 | 46 |
| C1F | 66 | 66 | 66 | 62 | |
| C2F | 63 | 63 | 63 | 60 | |
| C3F | 61 | 61 | 61 | 58 | 51 |
| C4F | 58 | 58 | 58 | 55 | 48 |
| C5F | 56 | 56 | 56 | 52 | 45 |
| C1D | 67 | 67 | 67 | 62 | |
| C2D | 59 | 59 | 60 | 56 | |
| C3D | 55 | 55 | 55 | 52 | 46 |
| C4D | 50 | 50 | 50 | 48 | 42 |
| C5D | 49 | 49 | 49 | 47 | 40 |
| C3M | 56 | 56 | 56 | 53 | 47 |
| C4M | 52 | 52 | 52 | 51 | 45 |
| C5M | 50 | 50 | 50 | 48 | 40 |
| C3VF | 57 | 57 | 57 | 54 | 48 |
| C4VF | 54 | 54 | 54 | 52 | 46 |
| C5VF | 52 | 52 | 52 | 50 | 41 |
| C3G | 52 | 52 | 52 | 49 | 44 |
| C4G | 49 | 49 | 49 | 45 | 40 |
| C5G | 45 | 45 | 45 | 42 | 20 |

[1] Only the original producer is eligible to receive advances. Tobacco graded "No-G" (no grade), "U" (unsound), "D" (damaged) or scrap will not be accepted. Tobacco graded "W" (doubtful keeping order) will be accepted at advance rates 20 percent below the advance rates otherwise applicable.

| Grade | | Grade | |
|---|---|---|---|
| X1L | 57 | X5D | 45 |
| X2L | 55 | X3M | 50 |
| X3L | 53 | X4M | 48 |
| X4L | 51 | X5M | 45 |
| X5L | 49 | X3VF | 52 |
| X1F | 56 | X4VF | 50 |
| X2F | 54 | X5VF | 47 |
| X3F | 53 | X3G | 49 |
| X4F | 51 | X4G | 44 |
| X5F | 49 | X5G | 41 |
| X1D | 55 | N1L | 43 |
| X2D | 53 | N1D | 39 |
| X3D | 50 | N1G | 38 |
| X4D | 48 | N2 | 34 |

### § 1464.19 1973 Crop—Dark Air-Cured Tobacco, Types 35 and 36—Advance Schedule.[1]

[Dollars per hundred pounds, farm sales weight]

| Grade | Length 46 | Length 45 | Length 44 |
|---|---|---|---|
| A1F | 67 | 67 | |
| A1R | 67 | 67 | |
| A2F | 63 | 63 | |
| A2R | 63 | 63 | |
| A3F | 58 | 58 | |
| A3R | 58 | 58 | |
| B1F | 63 | 63 | 60 |

| Grade | Length 46 | Length 45 | Length 44 |
|---|---|---|---|
| C4L | 55 | 55 | 54 |
| C4F | 55 | 55 | 54 |
| C4R | 50 | 50 | 49 |
| C4M | 47 | 47 | 46 |
| C4G | 48 | 48 | 47 |
| C5L | 47 | 47 | 45 |
| C5F | 48 | 48 | 47 |
| C5R | 44 | 44 | 43 |
| C5M | 43 | 43 | 42 |
| C5G | 43 | 43 | 42 |

| Grade | | Grade | | Grade | |
|---|---|---|---|---|---|
| T3F | 49 | X1L | 59 | X4M | 46 |
| T3R | 49 | X1F | 59 | X4G | 44 |
| T3D | 49 | X1R | 59 | X5L | 49 |
| T3M | 48 | X2L | 57 | X5F | 49 |
| T3G | 47 | X2F | 57 | X5R | 44 |
| T4F | 44 | X2R | 56 | X5D | 44 |
| T4R | 45 | X3L | 55 | X5M | 43 |
| T4D | 45 | X3F | 53 | X5G | 38 |
| T4M | 43 | X3R | 51 | | |
| T4G | 42 | X3D | 52 | N1L | 43 |
| T5F | 37 | X3M | 49 | N2L | 36 |
| T5R | 37 | X3G | 48 | N1R | 36 |
| T5D | 37 | X4L | 53 | N2R | 33 |
| T5M | 35 | X4F | 52 | N1G | 34 |
| T5G | 35 | X4R | 47 | N2G | 32 |
| | | X4D | 47 | | |

[1] Only the original producer is eligible to receive advances. Tobacco graded "No-G" (no grade), "U" (unsound), "D" (damaged) or scrap will not be accepted. Tobacco graded "W" (doubtful keeping order) will be accepted at advance rates 20 percent below the advance rates otherwise applicable. Grades marked with the special factor "BH" shall have an advance rate 20 percent below the advance rate otherwise applicable without such special factor. Type 35 grades marked with the special factor "BL" shall have an advance rate 40 percent below the advance rate otherwise applicable without such special factor.

[Dollars per hundred pounds, farm sales weight]

| Grade | Length 46 | Length 45 | Length 44 |
|---|---|---|---|
| B1R | 62 | 62 | 60 |
| B1D | 62 | 62 | 60 |
| B2F | 59 | 59 | 58 |
| B2R | 58 | 58 | 57 |
| B2D | 58 | 58 | 57 |
| B3F | 56 | 56 | 54 |
| B3R | 54 | 54 | 53 |
| B3D | 54 | 54 | 53 |
| B3M | 53 | 53 | 52 |
| B3G | 52 | 52 | 51 |
| B4F | 53 | 53 | 52 |
| B4R | 52 | 52 | 51 |
| B4D | 53 | 53 | 52 |
| B4M | 49 | 49 | 48 |
| B4G | 49 | 49 | 48 |
| B5F | 48 | 48 | 47 |
| B5R | 48 | 48 | 47 |
| B5D | 47 | 47 | 46 |
| B5M | 44 | 44 | 43 |
| B5G | 44 | 44 | 43 |
| C1L | 63 | 63 | 62 |
| C1F | 63 | 63 | 62 |
| C1R | 61 | 61 | 60 |
| C2L | 62 | 62 | 61 |
| C2F | 61 | 61 | 60 |
| C2R | 59 | 59 | 58 |
| C3L | 59 | 59 | 58 |
| C3F | 58 | 58 | 56 |
| C3R | 55 | 55 | 53 |
| C3M | 53 | 53 | 52 |
| C3G | 54 | 54 | 52 |

### § 1464.20 1973 Crop—Virginia Sun-Cured Tobacco, Type 37—Advance Schedule.[1]

ADVANCE RATE

[Dollars per hundred pounds, farm sales weight]

| Grade | Length 46 | Length 45 | Length 44 |
|---|---|---|---|
| A1F | 69.25 | 69.25 | 67.25 |
| A2F | 65.25 | 65.25 | 62.25 |
| A3F | 62.25 | 62.25 | 59.25 |
| A1R | 69.25 | 69.25 | 66.25 |
| A2R | 65.25 | 65.25 | 62.25 |
| A3R | 62.25 | 62.25 | 59.25 |
| B1F | 68.25 | 69.25 | 61.25 |
| B2F | 65.25 | 65.25 | 62.25 |
| B3F | 58.25 | 61.25 | 59.25 |
| B4F | 52.25 | 56.25 | 54.25 |
| B5F | 47.25 | 48.25 | 47.25 |
| B1R | 68.25 | 69.25 | 62.25 |
| B2R | 65.25 | 67.25 | 62.25 |
| B3R | 59.25 | 61.25 | 58.25 |
| B4R | 52.25 | 55.25 | 53.25 |
| B5R | 49.25 | 50.25 | 47.25 |
| B1D | 68.25 | 68.25 | 63.25 |
| B2D | 67.25 | 67.25 | 62.25 |
| B3D | 57.25 | 58.25 | 56.25 |
| B4D | 51.25 | 52.25 | 51.25 |
| B5D | 46.25 | 48.25 | 46.25 |
| B3M | 51.25 | 53.25 | 50.25 |
| B4M | 49.25 | 52.25 | 49.25 |
| B5M | 44.25 | 47.25 | 46.25 |
| B3G | 50.25 | 54.25 | 51.25 |
| B4G | 47.25 | 50.25 | 49.25 |
| B5G | 45.25 | 46.25 | 44.25 |
| C1L | 67.25 | 68.25 | 60.25 |
| C2L | 61.25 | 62.25 | 57.25 |
| C3L | 59.25 | 60.25 | 57.25 |
| C4L | 51.25 | 54.25 | 52.25 |
| C5L | 45.25 | 46.25 | 45.25 |
| C1F | 67.25 | 68.25 | 60.25 |
| C2F | 61.25 | 62.25 | 59.25 |
| C3F | 58.25 | 60.25 | 58.25 |
| C4F | 52.25 | 56.25 | 53.25 |
| C5F | 45.25 | 48.25 | 47.25 |
| C1R | 64.25 | 64.25 | 58.25 |
| C2R | 58.25 | 58.25 | 54.25 |
| C3R | 51.25 | 52.25 | 50.25 |
| C4R | 46.25 | 48.25 | 46.25 |
| C5R | 41.25 | 42.25 | 41.25 |
| C3M | 47.25 | 50.25 | 49.25 |
| C4M | 44.25 | 48.25 | 45.25 |
| C5M | 41.25 | 45.25 | 43.25 |
| C3G | 42.25 | 45.25 | 42.25 |
| C4G | 40.25 | 44.25 | 42.25 |
| C5G | 35.25 | 37.25 | 36.25 |

[1] Only the original producer is eligible to receive advances. Tobacco graded "W" (doubtful keeping order), "No-G (no grade), "U" (unsound), "D" (damaged) or scrap will not be accepted. The association is authorized to deduct 25 cents per hundred pounds to apply against overhead cost.

| Grade | | Grade | |
|---|---|---|---|
| T3F | 48.25 | X4F | 48.25 |
| T4F | 46.25 | X5F | 44.25 |
| T5F | 40.25 | X1R | 54.25 |
| T3R | 48.25 | X2R | 51.25 |
| T4R | 46.25 | X3R | 47.25 |
| T5R | 41.25 | X4R | 45.25 |
| T3D | 46.25 | X5R | 38.25 |
| T4D | 44.25 | X3D | 42.25 |
| T5D | 38.25 | X4D | 40.25 |
| T3M | 45.25 | X5D | 34.25 |
| T4M | 43.25 | X3M | 49.25 |
| T5M | 37.25 | X4M | 46.25 |
| T3G | 48.25 | X5M | 44.25 |
| T4G | 46.25 | X3G | 46.25 |
| T5G | 40.25 | X4G | 43.25 |
| X1L | 55.25 | X5G | 39.25 |
| X2L | 53.25 | N1R | 32.25 |
| X3L | 50.25 | N2R | 24.25 |
| X4L | 48.25 | N1G | 32.25 |
| X5L | 43.25 | N2G | 24.25 |
| X1F | 55.25 | N1L | 30.25 |
| X2F | 54.25 | N2L | 22.25 |
| X3F | 51.25 | | |

[FR Doc.73-24754 Filed 11-20-73;8:45 am]

## Title 9—Animals and Animal Products

## CHAPTER I—ANIMAL AND PLANT HEALTH INSPECTION SERVICE, DEPARTMENT OF AGRICULTURE

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

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

#### Areas Released From Quarantine

This amendment excludes portions of Christian and Todd Counties in Kentucky from the areas quarantined because of exotic Newcastle disease under the regulations in 9 CFR Part 82, as amended. Therefore, the restrictions pertaining to the interstate movement of poultry, myiah and psittacine birds, and birds of all other species under any form of confinement, and their carcasses and parts thereof, and certain other articles from quarantined areas, as contained in 9 CFR Part 82, as amended, will not apply to the excluded areas. No area in Kentucky remains under quarantine.

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

In § 82.3, paragraph (a)(2) relating to the State of Kentucky is deleted.

(Secs. 4–7, 23 Stat. 32, as amended; secs. 1 and 2, 32 Stat. 791–792, as amended; secs. 1–4, 33 Stat. 1264, 1265, as amended; secs. 3 and 11, 76 Stat. 130, 132; 21 U.S.C. 111–113, 115, 117, 120, 123–126, 134b, 134f, 37 FR 28464, 28477, 38 FR 19141.)

*Effective date.* The foregoing amendment shall become effective on Nov. 15, 1973.

The amendment relieves certain restrictions no longer deemed necessary to prevent the spread of exotic Newcastle disease, and must be made effective immediately to be of maximum benefit to affected persons. It does not appear that public participation in this rulemaking proceeding would make additional relevant information available to the Department. Accordingly, under the administrative procedure provisions in 5 U.S.C. 553, it is found upon good cause that notice and other public procedure with respect to the amendment are impracticable and unnecessary, and good cause is found for making it effective less than 30 days after publication in the FEDERAL REGISTER.

Done at Washington, D.C., this 15th day of November 1973.

E. E. SAULMON,
*Deputy Administrator, Veterinary Services, Animal and Plant Health Inspection Service.*

[FR Doc.73-24755 Filed 11-20-73;8:45 am]

## Title 12—Banks and Banking

## CHAPTER II—FEDERAL RESERVE SYSTEM

### SUBCHAPTER A—BOARD OF GOVERNORS OF THE FEDERAL RESERVE SYSTEM

[Reg. Y]

### PART 225—BANK HOLDING COMPANIES

#### Courier Services

By notice of proposed rulemaking published in the FEDERAL REGISTER on November 17, 1971 (36 FR 21897), the Board of Governors proposed to add armored car and courier services to the list of activities that it has determined under section 4(c)(8) of the Bank Holding Company Act to be closely related to banking or managing or controlling banks by amending § 225.4(a) of the Board's Regulation Y. Subsequently, the Board designated a hearing officer to conduct the proceedings and ordered separate, but consecutive, hearings on armored car and courier services. The Hearing Officer conducted a hearing on February 29 and March 1, 1972, and forwarded a Recommended Decision to the Board in June 1972. Comments and exceptions thereto were filed by the participants in the proceeding.

The Board has considered all of the material submitted by the participants to the Hearing Officer, those materials in the Board's public information file which were considered by the Hearing Officer, the Hearing Officer's Recommended Decision, comments and exceptions to the Recommended Decision, and certain additional material which was brought to the attention of all parties. After considering all relevant aspects of the proposal to add armored car and courier services to the list of closely related activities, the Board has determined to add certain courier activities to the list and to take no action to amend Regulation Y with regard to the armored car services.

*It is hereby ordered,* For the reasons set forth in the Board's accompanying Statement of this date, that § 225.4(a) of Regulation Y is amended by adding subparagraph (11) as set forth below effective November 15, 1973:

**§ 225.4 Nonbanking activities.**

(a) *Activities closely related to banking or managing or controlling banks.* * * * The following activities have been determined by the Board to be so closely related to banking or managing or controlling banks as to be a proper incident thereto:

* * * * *

(11) providing courier services (i) for the internal operations of the holding company and its subsidiaries; (ii) for checks, commercial papers, documents, and written instruments (excluding currency or bearer-type negotiable instruments) as are exchanged among banks and banking institutions; (iii) for audit and accounting media of a banking or financial nature and other business records and documents used in processing such media.[2a]

* * * * *

All exceptions to the Hearing Officer's Recommended Decision are hereby denied to the extent they are inconsistent with this Order and accompanying Statement.[1]

Requests for oral argument before the Board with regard to courier services and motions for the inclusion of additional material in the record of these proceedings have been considered by the Board and are hereby denied for the reasons set forth in the Board's accompanying Statement.

The Board has also adopted an interpretation relating to courier services, as set forth below:

**§ 225.129 Activities closely related to banking.**

*Courier activities.* The Board's amendment of § 225.4(a), which adds courier services to the list of closely related activities is intended to permit holding companies to transport time critical materials of limited intrinsic value of the types utilized by banks and bank-related firms in performing their business activities. Such transportation activities are of particular importance in the check clearing process of the banking system, but are also important to the performance of other activities, including the processing of financially-related economic data. The authority is not intended to permit holding

[2a] Applications to engage *de novo* in providing courier services should be filed in accordance with the procedures of § 225.4(b)(2) rather than § 225.4(b)(1). See also the Board's interpretation on courier activities (12 CFR 225.129), which sets forth conditions for holding company entry pursuant to § 4(c)(8).

[1] Statement filed as part of the original document. Copies are available upon request to the Board of Governors of the Federal Reserve System, Washington, D.C. 20551.

companies to engage generally in the provision of transportation services. However, the furnishing of courier services for nonfinancially-related material upon the specific, unsolicited request of a third party when courier services are not otherwise reasonably available may be regarded as an incidental activity of a bank-related courier.

During the course of the Board's proceedings pertaining to courier services, objections were made that courier activities were not a proper incident to banking because of the possibility that holding companies would or had engaged in unfair competitive practices. The Board believes that adherence to the following principles will eliminate or reduce to an insignificant degree any possibility of unfair competition:

a. A holding company courier subsidiary established under § 4(c)(8) should be a separate, independent corporate entity, not merely a servicing arm of a bank.

b. As such, the subsidiary should exist as a separate, profit-oriented operation and should not be subsidized by the holding company system.

c. Services performed should be explicitly priced, and shall not be paid for indirectly, for example, on the basis of deposits maintained at or loan arrangements with affiliated banks.

Accordingly, entry of holding companies into courier activities on the basis of section 4(c)(8) will be conditioned as follows:

1. *The courier subsidiary shall perform services on an explicit fee basis and shall be structured as an individual profit center designed to be operated on a profitable basis.* The Board may regard operating losses sustained over an extended period as being inconsistent with continued authority to engage in courier activities.

2. *Courier services performed on behalf of an affiliate's customer (such as the carriage of incoming cash letters) shall be paid for by the customer. Such payments shall not be made indirectly, for example, on the basis of imputed earnings on deposits maintained at or of loan arrangements with subsidiaries of the holding company.*

Concern has also been expressed that bank-affiliated courier services will be utilized to gain a competitive advantage over firms competing with other holding company affiliates. To reduce the possibility that courier affiliates might be so employed, the Board will impose the following third condition:

3. *The courier subsidiary shall, when requested by any bank or any data processing firm providing financially-related data processing services which firm competes with a banking or data processing subsidiary of Applicant, furnish comparable service at comparable rates, unless compliance with such request would be beyond the courier subsidiary's practical capacity.* In this regard, the courier subsidiary should make known to the public its minimum rate schedule for services and its general pricing policies thereto. The courier subsidiary is also expected to maintain for a reasonable period of time (not less than two years) each request denied with the reasons for such denial.

By order of the Board of Governors, effective November 15, 1973.

[SEAL] CHESTER B. FELDBERG,
*Secretary of the Board.*

[FR Doc.73-24737 Filed 11-20-73;8:45 am]

## CHAPTER V—FEDERAL HOME LOAN BANK BOARD

### SUBCHAPTER B—FEDERAL HOME LOAN BANK SYSTEM

[No. 73-1685]

### PART 523—MEMBERS OF BANKS

### Liquidity

NOVEMBER 14, 1973.

The Federal Home Loan Bank Board considers it desirable to amend § 523.10 of the rules and regulations for the Federal Home Loan Bank System (12 CFR 523.10) by revising paragraph (g)(4) thereof in order to authorize Federal Home Loan Bank member institutions to include as liquidity loans of Federal funds to an insured bank which is a member of the Federal Reserve System. Accordingly, the Board hereby amends said § 523.10 by revising paragraph (g)(4) thereof to read as set forth below, effective November 21, 1973.

The Board by Resolution No. 73-1652 of November 2, 1973 (38 FR 30998) amended paragraph (g)(4) of § 523.10 in order to authorize certain time deposits in an insured bank held subject to a repurchase agreement to be counted as liquidity. The instant amendment further revises that paragraph.

Subdivision (i) of § 523.10(g)(4) is revised to require that the total of all time deposits and loans of Federal funds to the same member bank by a member institution shall not exceed the greater of (a) one-fourth of one percent of the total deposits of such bank or (b) $20,000. Subdivision (ii) of § 523.10(g)(4) is revised to require that no consideration may be received by the member institution from a third party in connection with making a Federal funds loan to a member bank. Subdivision (iii) of § 523.10(g)(4) is revised in order to make clear that its provisions do not apply to Federal funds loans. New subdivision (iv) of § 523.10(g)(4) limits the maturities of loans of Federal funds to six months.

An effect of this revision of § 523.10(g)(4) is that Federal savings and loan associations are authorized to make loans of Federal funds to member banks by § 545.9(a) of the Rules and Regulations for the Federal Savings and Loan System (12 CFR 545.9(a)) without further amendment to that section. § 545.9(a) provides that Federal associations may invest in:

(a) Any assets which qualify as liquid assets, as defined in paragraph (g) of § 523.10 of this chapter, and any assets, other than time deposits and bankers' acceptances, which would so qualify except for the maturity limitations contained in such paragraph;

* * * * *

By a companion Resolution (Resolution No. 73-1686, dated November 14, 1973) the Board amended § 561.15(f) of the Rules and Regulations for Insurance of Accounts (12 CFR 561.15(f)) in order to include within the definition of scheduled items loans of Federal funds to a bank "under the control or in the possession of an appropriate supervisory authority". This same scheduled items treatment is required by that section for deposits in such a bank.

Federal funds transactions are commonly transactions between commercial banks involving the unsecured borrowing and lending of Federal Reserve System member bank deposits at Federal Reserve Banks on an "overnight basis" at a specified interest rate. "Overnight basis" means that the loan is repaid on the next business day with Friday loans being repaid on Monday. Since savings and loan associations and other Federal Home Loan Bank member institutions do not maintain deposits at Federal Reserve Regional Banks, their direct participation in Federal funds transactions is not possible. However, a savings and loan association may indirectly participate in Federal funds transactions by notifying the commercial bank at which it maintains its demand deposit that it wishes to lend a specified amount of its demand deposit in the Federal funds market. The association's commercial bank might borrow the funds for its own account at its Federal Reserve Regional Bank or find another commercial bank that desires to borrow Federal funds. The next business day the transaction is reversed with the result that the funds are redeposited to the association's demand deposit together with interest received.

Loans of Federal funds are often referred to as "sales" of those funds, but in the Board's view the transaction is a loan since the borrowing bank has an obligation to repay with interest. Consequently, a Federal funds loan is an unsecured loan to a member bank for a stated maturity. As such, pursuant to the authority of the Board under subsection 5A(f) of the Federal Home Loan Bank Act, as amended (12 U.S.C. 1425a(f)), to define the terms used in section 5A, a Federal funds loan is deemed for this purpose to be includable as a "time deposit" under § 523.10(g)(4).

Since the above amendment to paragraph (g)(4) of § 523.10 relieves restriction, the Board hereby finds that notice and public procedure with respect to such amendment is unnecessary under the provisions of 12 CFR 508.11 and 5 U.S.C. 553(b); and since publication of such amendment for the 30-day period specified in 12 CFR 508.14 and 5 U.S.C. 553(d) prior to the effective date of such amendment would in the opinion of the Board likewise be unnecessary for the same reason, the Board hereby provides that such amendment shall become effective as hereinbefore set forth.

§ 523.10 Definitions.

For the purposes of this section §§ 523.11 and 523.12:

* * * * *

(g) Prior to January 1, 1972, the term "liquid assets" means the total of cash, accrued interest on unpledged assets which qualify as liquid assets under this paragraph, or would so qualify except for their maturities, and the book value of unpledged assets specified in paragraph (g)(1) through (6) of this section, without regard to the proviso contained in subparagraph (2) of this paragraph. Beginning on January 1, 1972, the term "liquid assets" means the total of cash, accrued interest on unpledged assets which qualify as liquid assets under this paragraph, or would so qualify except for their maturities, and the book value of the following unpledged assets:

* * * * *

(4) Time deposits in an insured bank including such time deposits held subject to a repurchase agreement and loans of Federal funds to an insured bank which is a member of the Federal Reserve System, if:

(i) The total of all time deposits, including loans of Federal funds of the same member, in the same bank does not exceed the greater of (*a*) one-fourth of 1 percent of the total deposits of such bank (calculated on the basis of total deposits of such bank as shown by its last published statement of condition preceding the date each time deposit is made or acquired by a member), or (*b*) $20,000;

(ii) No consideration, other than discounting to a current market rate of interest, is received by the member from a third party in connection with the making or acquiring of such deposits (excluding loans of Federal funds) by the member and no consideration is received by the member from a third party in connection with loans of Federal funds by the member;

(iii) Except for loans of Federal funds, the remaining periods to maturity of such deposits are not more than 1 year and such deposits are negotiable, or, in the case of time deposits which may not be withdrawn without notice, the notice periods do not exceed 90 days; and

(iv) The periods to maturity of loans of Federal funds are not more than 6 months;

* * * * *

(Sec. 5A, 47 Stat. 727, as added by sec. 1, 64 Stat. 256, as amended, sec. 17, 47 Stat. 736, as amended; 12 U.S.C. 1425a, 1437. Reorg. Plan No. 3 of 1947, 12 FR 4981, 3 CFR, 1943–48, Comp., p. 1071.)

By the Federal Home Loan Bank Board.

[SEAL] GRENVILLE L. MILLARD, Jr.,
*Assistant Secretary.*

[FR Doc.73-24800 Filed 11-20-73;8:45 am]

## SUBCHAPTER D—FEDERAL SAVINGS AND LOAN INSURANCE CORPORATION

[No. 73-1686]

## PART 561—DEFINITIONS

### Scheduled Items

NOVEMBER 14, 1973.

The Federal Home Loan Bank Board considers it advisable to amend § 561.15 of the Rules and Regulations for Insurance of Accounts (12 CFR 561.15) by revising paragraph (f) thereof to include "loans of Federal funds to a bank * * * under the control or in the possession of an appropriate supervisory authority" within the definition of scheduled items contained in that section. Accordingly, the Board hereby amends said § 561.15 by revising paragraph (f) thereof to read as set forth below, effective November 21, 1973.

By a companion Resolution (Resolution No. 73-1685, dated November 14, 1973) the Board amended § 523.10(g)(4) of the Rules and Regulations for the Federal Home Loan Bank System (12 CFR 523.10(g)(4) in order to authorize member institutions to include as liquidity loans of Federal funds to an insured bank which is a member of the Federal Reserve System. The instant amendment requires that such loans to a bank under the control or in the possession of an appropriate supervisory authority shall be within the definition of scheduled items.

Since affording notice and public procedure on the above amendment would delay such amendment from becoming effective for a period of time and since it is in the public interest that such amendment become effective without such delay, the Board hereby finds that notice and public procedure as to such amendment are contrary to the public interest under the provisions of 12 CFR 508.11 and 5 U.S.C. 553(b); and since publication of such amendment for the period specified in 12 CFR 508.14 and 5 U.S.C. 553(d) prior to the effective date of such amendment would in the opinion of the Board likewise be unnecessary for the same reason, the Board hereby provides that such amendment shall become effective as hereinbefore set forth.

§ 561.15 Scheduled items.

The term "scheduled items" means:

* * * * *

(f) Deposits in a bank, loans of Federal funds to a bank, or savings accounts in a savings and loan association, under the control or in the possession of an appropriate supervisory authority, and

* * * * *

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

By the Federal Home Loan Bank Board.

[SEAL] GRENVILLE L. MILLARD, Jr.,
*Assistant Secretary.*

[FR Doc.73-24801 Filed 11-20-73;8:45 am]

## Title 14—Aeronautics and Space

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

[Airspace Docket No. 73-GL-42]

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

### Alteration of Transition Areas

On page 25451 of the FEDERAL REGISTER dated September 13, 1973, the Federal Aviation Administration published a Notice of Proposed Rulemaking which would amend Section 71.181 of Part 71 of the Federal Aviation Regulations so as alter the transition areas at Ashland, Wisconsin; Boulder Junction, Wisconsin; Eagle River, Wisconsin; Eau Claire, Wisconsin; Grantsburg, Wisconsin; Hayward and Cable, Wisconsin; Iron Mountain, Michigan; Merrill, Wisconsin; Minneapolis, Minnesota; Prairie Du Chien, Wisconsin, Rhinelander, Wisconsin; Rice Lake, Wisconsin; Woodruff, Wisconsin; and Wausau, Wisconsin.

Interested persons were given 30 days to submit written comments, suggestions or objections regarding the proposed amendment.

The Air Transport Association concurred with the proposal. Accordingly, the proposed amendment is hereby adopted without change and is set forth below.

This amendment shall be effective 0901 G.m.t., January 31, 1974.

(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, Illinois, on November 1, 1973.

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

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

| | |
|---|---|
| Ashland, Wis. | Merrill, Wis. |
| Boulder Junction, Wis. | Minneapolis, Minn. |
| Eagle River, Wis. | Prairie Du Chien, Wis. |
| Eau Claire, Wis. | Rhinelander, Wis. |
| Grantsburg, Wis. | Rice Lake, Wis. |
| Hayward and Cable, Wis. | Woodruff, Wis. |
| Iron Mountain, Mich. | Wausau, Wis. |

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

a. In Duluth, Minn., delete all after "Cloquet transition areas" and insert in place "and the State of Wisconsin";

b. In Green Bay, Wis., delete "that airspace extending upward from 5000 feet MSL in the area bounded by V191E, V26, V217";

c. In Ironwood, Mich., add "excluding the portion which overlies the State of Wisconsin";

d. In Wisconsin, delete "south of the 45° parallel".

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

a. In V129, delete "15 miles 73 miles 35 MSL";

b. In V217, delete "32 miles 39 miles 31 MSL" and "24 miles 80 miles 55 MSL".

[FR Doc.73-24750 Filed 11-20-73;8:45 am]

## Title 16—Commercial Practices

## CHAPTER II—CONSUMER PRODUCT SAFETY COMMISSION

### SUBCHAPTER C—FEDERAL HAZARDOUS SUBSTANCES ACT REGULATIONS

### PART 1500—HAZARDOUS SUBSTANCES AND ARTICLES; ADMINISTRATION AND ENFORCEMENT REGULATIONS

### PART 1508—REQUIREMENTS FOR FULL-SIZE BABY CRIBS

### Banning of Hazardous Full-Size Baby Cribs; Establishment of Safety Requirements

The purpose of this promulgation is to increase the safety of full-size baby cribs by setting forth certain safety-related requirements. Cribs first introduced into interstate commerce after January 31, 1974, and not meeting the requirements will be considered banned hazardous substances.

In the FEDERAL REGISTER of April 13, 1973 (38 FR 9312), the Food and Drug Administration proposed to ban hazardous baby cribs and to establish safety requirements for cribs (21 CFR 191.9a(a)(13) and Part 191e) under section 2(f)(1)(D) of the Federal Hazardous Substances Act. The proposal invited interested persons to submit comments on or before June 12, 1973.

Effective May 14, 1973, functions under the Federal Hazardous Substances Act were transferred to the Consumer Product Safety Commission by section 30(a) of the Consumer Product Safety Act (Pub. L. 92-573, 86 Stat. 1231; 15 U.S.C. 2709(a)).

Subsequently, on September 27, 1973 (38 FR 27012), the Consumer Product Safety Commission revised and transferred the regulations under the Federal Hazardous Substances Act (21 CFR Parts 191 and 191b became 16 CFR Parts 1500 and 1505). Accordingly, in this promulgation, proposed 21 CFR 191.9a(a)(13) and Part 191e are adopted as 16 CFR 1500.18(a)(13) and Part 1508.

In response to the proposal of April 13, 1973, comments were received from 11 crib manufacturers, two trade associations (the Juvenile Products Manufacturers Association (JPMA) and the Toy Manufacturers of America (TMA)), 30 private consumers, the Consumers Union, the Women for Political and Social Action, the Allegheny County (Pa.) Bureau of Consumer Affairs, the consumer editor for WPIX of New York, and Professor Joseph A. Page of the Georgetown University Law Center, Washington, D.C.

Thirty-four of the 48 comments received support the proposal as published. The principal issues raised by and technical comments of the remaining responses plus the Commission's conclusions thereon are as follows:

1. *Scope of the regulations.* a. The JPMA and one manufacturer of both portable and full-size cribs suggest that the promulgated regulations be limited to coverage of full-size cribs since additional technical requirements are still being developed for portable cribs. Compliance with this order followed by a subsequent set of requirements for portable cribs might necessitate two design changes for portable crib manufacturers. They suggest that separate regulations be published covering portable and undersize cribs and that the preamble to the full-size crib promulgation alert manufacturers to that fact.

The Commission finds these suggestions to be appropriate and in the interest of both manufacturers and consumers since the result will be having a complete set of safety requirements for portable cribs become effective at one time rather than in phases. A draft proposal for requirements for portable cribs is being prepared for publication, and the regulations promulgated below have been changed to delete provisions concerning portable cribs.

b. Professor Page urged that the crib regulations and the preamble of the promulgating document clearly indicate the applicability of section 15 of the Federal Hazardous Substances Act providing for the repurchase of banned hazardous substances.

Since the repurchase provisions of the act will be the subject of a separate promulgation (see proposal of December 16, 1972; 37 FR 26832), the Commission finds it unnecessary and inappropriate to refer to those provisions in this or any other banning order issued under authority of the act.

2. *Crib dimensions.* a. Regarding the interior dimensions specified in proposed 21 CFR 191e.1(a)(1):

i. Three manufacturers and JPMA recommend that the tolerance on the width measurement be increased from three-eighths to five-eighths of an inch to be consistent with the tolerance allowed on the length measurement. They contend that if the greater tolerance limit does not increase the hazard on the interior length dimension, the tighter tolerance for the width measurement is not justified.

The Commission finds that increasing the width-dimension tolerance to be consistent with the length-dimension tolerance will not reduce the degree of safety provided. The regulation (now 16 CFR 1508.3(a)) has been changed accordingly.

ii. A manufacturer suggests that only maximum values for the interior measurements be established, contending that setting minimum limits does not contribute to increased safety and unnecessarily limits design freedom.

The Commission concludes that setting minimum interior dimensions is necessary to provide uniformity of size for consumers who must purchase accessories, including properly fitting mattresses, which contribute to the crib's safety aspects.

iii. These same manufacturers also suggest changes in the method of measurement to take into account all-spindle type cribs, indicating that the phrase "no more than 2 inches from the crib corner posts" might involve a measurement in empty space since the first spindle may be up to 2⅜ inches from the corner post. They suggest that this measurement be taken at the first spindle from the corner post or that the measurement be taken from a theoretical line established by extending a straight edge across the spindles at side or end. Such straight edge shall be tangential to the inside surfaces of the spindles at the level of the mattress support in each of its adjustable positions. Regarding contoured spindles, they suggest that the measurement be taken at the widest diameter of a turned spindle within 4 inches of the mattress support.

The Commission agrees that accommodation is needed on these points. The regulation (now 16 CFR 1508.3(a)) has been modified to include alternative measurement techniques for different styles of cribs.

b. Regarding proposed 21 CFR 191e.1(a)(2), which specifies rail height dimensions, two manufacturers suggest that adding "dropside" in subdivision (i) before "rail" and substituting "upper surfaces" for "top" would clarify the regulation. The JPMA suggests that "dropside" be changed to "side" throughout subparagraph (2) so that the requirement will also apply to cribs with stationary sides.

The Commission finds the JPMA suggestion to be constructive and the regulation (now 16 CFR 1508.3(b)) has been changed accordingly. This makes the first suggestion above regarding inserting "dropside" before "rail" inappropriate. The suggestion to change "top" to "upper surfaces" is considered confusing and has not been adopted.

c. Three manufacturers of portable cribs suggest alternative rail heights for portable cribs based on the reduced thickness of mattresses packed with the portable cribs. Those comments will be considered in regard to the proposal on portable cribs that is being prepared.

3. *Spacing of crib components.* Regarding proposed 21 CFR 191e.2:

a. One manufacturer states that the requirement allowing no more than 2⅜ inches between components is unnecessarily restrictive and recommends that the dimension be changed to 2⅞ inches. Although not requesting a change in the dimensional requirement, JPMA points out that the industry considers slat spacing of 3¼ inches, as currently proposed in the voluntary industry standard, to be a safe dimension.

The Commission finds that the slat-spacing dimension cannot be increased on the basis of available technical information. The slat-spacing requirement was determined through use of the best technical data available and was based on a study of infant measurements pre-

pared by the University of Michigan's Highway Safety Research Institute. These data have been made available to the industry and the public and have been reviewed for statistical correctness and appropriateness.

b. Two manufacturers comment that the restriction to 2⅜ inches between components is unjustified for spacing above the 20-inch level since a small child could not slide through feet first at the top of the crib side or end panel. They state that the University of Michigan study indicated a head diameter of 3.9 inches for infants 5 to 7 months of age, and therefore a dimensional requirement utilizing a 3¾-inch cube would be sufficient to prevent a child of standing age from entrapping his head between the slats.

The crib slat substudy was conducted primarily on small infants (2½ to 6½ months of age) who are most susceptible to slipping feet first through the slats. The head diameter measurements contained in the study are representative only of that age group and cannot be utilized to set limits for older children. The Commission has on file consumer complaints where children of standing age have entrapped their heads in rails spaced 3¼ inches apart.

The University of Michigan measurement study has not been completed for all ages of children; therefore, there is not sufficient technical data available on which to base an alternative spacing requirement for spaced components above the 20-inch level. Accordingly, the Commission finds that the test-block specifications in the regulation (now 16 CFR 1508.4) cannot be increased.

c. One manufacturer comments that the test method in proposed 21 CFR 191e.2(b) utilizing a 2½-inch by 2¾-inch by 2¾-inch block for testing under load was more stringent and design limiting than the test method specified in proposed 21 CFR 191e.2(a) which utilizes a 2⅜-inch by 4-inch by 4-inch block when testing not under load. The manufacturer suggests the use of the latter test block also for under load testing.

The Commission agrees with the contention that the test method in proposed 21 CFR 191e.2(b) for testing contoured spindles under load does not provide test criteria consistent with the not under load requirements. The intention is to test the slat spacing of contoured spindles over a 4-inch vertical distance above and below the center point of the test wedge. Consequently, the regulation (now 16 CFR 1508.4(b)) has been changed to specify a 2½-inch by 3¼-inch by 3¼-inch test block for consistent test criteria.

4. *Component spacing test method.* Regarding the component spacing test method described in proposed 21 CFR 191e.3, a manufacturer suggests that the accuracy of the 90-degree test wedge should be stressed because small variations in that angle could cause significantly different results when the spindles are tested under load. Several manufacturers suggest that the test method might be misleading as to placement of the test wedge and suggest that it specify placement of the wedge between adjacent slats and midway between the top and bottom horizontal rails.

The Commission agrees with both suggestions. The test method regulation (now 16 CFR 1508.5) has been modified (a) to include a tolerance on the angle of the wedge that will provide for uniformity in compliance testing (b) to specify placement of the wedge midway between the top and bottom horizontal rails.

Although no comments address this issue, it should be noted that the spacing requirements apply only to cribs utilizing spaced components. Where, for example, a new design for a crib does not utilize such features as slats or spindles, it is not the Commission's intention to require that cribs have such components.

5. *Hardware.* Regarding proposed 21 CFR 191e.4:

a. Several manufacturers and JPMA suggest that the reference to crib hardware "accessible to a child" be changed to read "accessible to a child within the crib" since the purpose of the regulation is to protect the child while in the crib.

The Commission agrees and the regulation (now 16 CFR 1508.6) has been changed accordingly. The purpose of this regulation is to eliminate crib hazards that have been identified through injury reports and consumer complaints implicating hardware accessible to the child while in the crib.

b. Several manufacturers and JPMA suggest that the provision requiring the inaccessibility of the locking or latching mechanisms is too vague as to implementation. They also suggest that requiring the locking or latching mechanism to be inaccessible to the child in the crib and to be either a 10-pound force type or a double-action type is unreasonable and unnecessary. They contend that any one of those requirements would prevent a child from accidentally tripping the release mechanism. The primary manufacturer of crib hardware states that hardware is currently available that will meet the 10-pound or double-action requirement but that insuring inaccessibility to the child is not possible.

The locking-latching mechanism requirements are intended to eliminate the injuries caused by abrupt release of the dropside rail either by the child in the crib or by activity outside the crib. The Commission agrees that the intent of this regulation can be met by either the 10-pound force or the double-action requirement for such mechanisms. The regulation (now 16 CFR 1508.6) has been modified accordingly.

c. One manufacturer comments that the proposed regulation might be interpreted as totally prohibiting the use of wood screws. Another suggests that prohibiting the use of wood screws should be limited to those areas of the crib that are normally assembled or disassembled by the consumer. One manufacturer and JPMA suggest omitting the words "normal assembly" which could be interpreted as including factory installation of some components not intended to be removed by the consumer. They state that elimination of those wood screws would increase the cost to the consumer without enhancing the article's safety characteristics.

The Commission finds that the regulation is intended to prohibit use of wood screws where repeated assembly and disassembly of the crib might weaken it structurally. Components permanently installed by the manufacturer and not intended to be removed by the consumer can therefore have wood screws. The regulation has been modified accordingly.

6. *Construction and finishing.* Regarding proposed 21 CFR 191e.5 dealing with crib construction and finishing requirements:

a. Two manufacturers and JPMA comment that the wood may split, crack, or splinter with changes in temperature and humidity after the crib leaves the factory. The JPMA suggests adding the qualifier "when the item leaves the factory" to § 191e.5(b). A manufacturer requests assurance that manufacturers will not be condemned as the result of a single or rare instance of a crib having split, cracked, or splintered wood. This manufacturer replaces cracked or split parts upon notification from the consumer. Another manufacturer suggests that proposed 21 CFR 191e.5(b) be changed to read "All raw materials used in the manufacture of wood parts shall be free from splits, cracks, or other defects."

The Commission finds that the manufacturer is responsible for taking proper precautions in the manufacture, packing, and shipping operations to insure that a hazardous condition does not develop prior to delivery to the consumer. Accordingly, the regulation (now 16 CFR 1508.7(b)) has not been changed.

b. Several manufacturers and JPMA request that a definition of "toehold" be added to proposed 21 CFR 191e.5(c).

The Commission agrees and for the purposes of that regulation (now 16 CFR 1508.7(c) a definition has been added reading "any ledge or projection with a depth dimension greater than 1 centimeter (⅜ inch) shall constitute a toehold."

c. Three manufacturers and JPMA also suggest, with reference to the allowance for a 3-inch vertical dimension of the lower horizontal rail in proposed 21 CFR 191e.5(c), that the regulation be changed to prohibit the possibility of creating a gap of 3 inches between the top of the mattress support and the bottom of the side rail. They suggest limiting any gap to three-fourths of an inch above the mattress support.

The Commission finds that measurement of the side rail itself as specified in 16 CFR 1508.3 of the regulations promulgated below prohibits any such gap. The provisions will permit the use of a deeper horizontal bar to allow design flexibility without sacrificing the safety provided by a higher rail. In addition, the subject regulation (now 16 CFR 1508.7(c)) has been modified to clarify the intent of this requirement.

d. Regarding proposed 21 CFR 191e.5 (d), several manufacturers and JPMA suggest that built-in toys and other at-

tachments should be tested as installed. Those which are installed by adults and cannot be removed with the prescribed pull and torque tests in accordance with the cited test procedures should be exempt from impact testing. The TMA contends that applying the impact test to built-in toys attached to the crib by an adult is unreasonable because they would never be dropped in normal use or reasonably foreseeable abuse.

Since the use-and-abuse test methods (21 CFR 191.21 and 191.22) and the small-parts hazard determination regulation (21 CFR 191.9a(a)(9)) cited in proposed 21 CFR 191e.5(d) are proposed and not yet promulgated, paragraph (d) has been omitted in adopting the regulation on construction and finishing (now 16 CFR 1508.7).

e. Two manufacturers and JPMA, although supporting the intent of proposed 21 CFR 191e.5(e) concerning hazardous design features, characterize it as being vague, ambiguous, and entirely subjective and state that it does not define limits to gauge compliance. They suggest that the regulation be revised to establish specific dimensions or be deleted. They stress that an inspector could exercise his own personal judgment as to whether a manufacturer is in compliance with or in violation of the regulation.

The Commission recognizes the desirability of objective criteria for evaluating hazards and concludes that the technical requirements specified in other sections of these regulations will reduce the risk of injury also associated with proposed 21 CFR 191e.5(e). Until additional injury and anthropometric data are available to determine specific limits, the Commission will not promulgate the requirements of the subject paragraph. As adopted, the section involved (16 CFR 1508.7) does not include said paragraph (e).

7. *Assembly instructions.* A manufacturer and JPMA, recognizing the importance of maintaining bolts and other fasteners in tight condition, suggest that the assembly instructions packed with the crib be required to include cautionary statements concerning the maintaining, as well as the tightening, of bolts and fasteners.

The Commission agrees and the regulation (now 16 CFR 1508.8(b)(2)) has been changed accordingly.

8. *Identifying marks and warning statement.* Regarding proposed 21 CFR 191e.7:

a. Two manufacturers and JPMA state that requiring cribs and retail cartons thereof to be marked and labeled such that only articles of identical construction, composition, and dimensions shall bear identical markings presents severe problems. They state that decals are frequently changed on cribs which is no way change the rest of the crib's design or operating features, that changes in wood species are common, and that manufacturers committed to catalog pictures and model numbers would incur the additional expense of reprinting catalogs and brochures with even the most superficial change. The following revisions of proposed 21 CFR 191e.7(b)(2) are suggested in the comments:

i. Change "such that only articles of identical construction, composition, and dimensions shall bear identical markings" to read "such that articles of essentially similar design and dimension shall bear identical markings."

ii. Add to the proposed text "provided, however, that the model number shall be changed only when a significant change in the construction, composition, or dimensions of the article is made."

iii. Insert the word "significantly" in the proposed text before the word "identical" in the phrase "such that only articles of identical construction, composition, and dimensions shall bear identical markings."

The Commission has identified specific accident and injury patterns associated with construction, composition, and dimensions and concludes that where such features are changed the model number of the crib must be changed also. The Commission does not consider a change in decals to be a change in construction, composition, or dimensions. The regulation (now 16 CFR 1508.9(b)(2)) is adopted without change.

b. Two manufacturers and JPMA suggest that proposed 21 CFR 191e.7(c) include the manner in which the dimensions of the mattress are to be taken.

The Commission agrees and the regulations (now 16 CFR 1508.9(c)) has been changed by adding a method for measuring the mattress.

c. A manufacturer and JPMA also suggest that for design flexibility the warning label specifying mattress size be permitted to appear on the top of the mattress support as an alternative to appearing on the head end panel.

The Commission agrees and the regulation (now 16 CFR 1508.9(c)) has been changed accordingly.

d. A manufacturer and JPMA suggest that in proposed 21 CFR 191e.7(e) dealing with labeling the crib's retail carton, the requirements referring to "customary conditions of display" are inappropriate because cribs are not usually displayed in the retail carton. Two manufacturers interpreted this regulation as requiring the crib itself to bear all specified information in a manner clearly visible to the consumer under customary conditions of retail display (meaning assembled for showroom display). This they contend would adversely affect the aesthetic appearance of the crib.

The Commission finds that the subject paragraph (e) deals only with labeling requirements of the retail carton and not labeling of the crib itself beyond that which is addressed in paragraph (b)(2) of the same section. The Commission agrees that, because the retail carton is essentially a shipping carton and as such is not generally used for display purposes, the provision "under customary conditions of display" should be deleted. The regulation (now 16 CFR 1508.9(e)) has been changed accordingly.

e. Professor Page of Georgetown University Law Center suggests that proposed 21 CFR 191e.7 be changed to require that cribs with slat spacing greater than 2¼ inches display a warning label to the effect that the slat spacing might still be too wide for some infants and hence unsafe. His comment was based on a change from 2¼ inches contained in an early draft of the technical requirements for cribs, which had been provided to the industry, to the proposed 2⅜-inch spacing requirement.

The Commission finds that this suggestion should not be adopted. The change from 2¼ inches to 2⅜ inches was based on a revision of the data tables following detection by the University of Michigan study team of placement of one infant within the wrong age group. The 2⅜-inch spacing requirement was proposed only after consultation with and concurrence of the University of Michigan study team that no increase in the population at risk would occur with such a change.

Although not suggested by the comments, the Commission shall soon propose adding a paragraph to 16 CFR 1508.9 that would require attachment of an affirmative labeling statement to cribs subject to these regulations. This label will identify the crib as being in conformance with the requirements of 16 CFR Part 1508. The purpose is to aid consumers in making a knowledgable choice between conforming and nonconforming cribs. Further, the Commission is instituting an educational campaign designed to inform the public of methods to reduce the risks of injury associated with cribs that do not meet the safety requirements of these regulations.

9. *Recordkeeping.* Regarding proposed 21 CFR 191e.8, several manufacturers and JPMA suggest that the word "lot" presents interpretative problems since the term is not defined. They point out that cribs are not produced in lots and that many have interchangeable parts. They state that how extensive these records must be is unclear and that extensive recordkeeping might be at great expense to consumers. JPMA suggests omitting the word "lot." A manufacturer suggests changing the regulation to require records of date of assembly or packaging instead of records of lots.

The Commission finds that the regulation (now 16 CFR 1508.10) should be clarified. The phrase "or other suitable identifying unit" has been added after "lot."

10. *Effective date.* The proposal did not specify an effective date for the regulations if promulgated. Six manufacturers and JPMA suggest dates ranging from 6 to 9 months after FEDERAL REGISTER promulgation to allow for necessary tooling changes, depletion of existing inventories of materials and component parts, and development of new hardware. Two responses suggest earlier effective dates.

The Commission concludes that making these regulations effective February 1, 1974, will allow affected persons reasonable time to achieve full compliance. The requests by manufacturers for a lead time of 6 to 9 months were based upon

an assumption that this order would be published in July 1973. Several tooling changes have already been made in advance of this promulgation and necessary hardware is available for new production. Only those articles introduced into interstate commerce on or after February 1, 1974, shall be subject to these regulations.

Therefore, having evaluated the comments received and other relevant material, the Commission concludes that the proposed regulations on cribs, changed as stated above, should be adopted as set forth below.

Accordingly, pursuant to provisions of the Federal Hazardous Substances Act (secs. 2(f), (1)(D), (q)(1)(A), (s), 3(e)(1), 74 Stat. 372, 374, 375, as amended, 80 Stat. 1304–05, 83 Stat. 187–89; 15 U.S.C. 1261, 1262) and under authority vested in the Commission by the Consumer Product Safety Act (sec. 30(a), 86 Stat. 1231; 15 U.S.C. 2079(a)), a new paragraph (a)(13) is added to § 1500.18 (38 FR 27017) and a new Part 1508 is added to Title 16, Chapter II, as follows (although unchanged, the introductory text of § 1500.18(a) is included below for context):

**§ 1500.18 Banned toys and other banned articles intended for use by children.**

(a) *Toys and other children's articles presenting mechanical hazards.* Under the authority of section 2(f)(1)(D) of the act and pursuant to provisions of section 3(e) of the act, the Commission has determined that the following types of toys or other articles intended for use by children present a mechanical hazard within the meaning of section 2(s) of the act because in normal use, or when subjected to reasonably foreseeable damage or abuse, the design or manufacture presents an unreasonable risk of personal injury or illness:

* * * * *

(13) Any full-size baby crib (as defined in § 1508.1(a) of this chapter) that is introduced into interstate commerce on or after February 1, 1974, and that does not comply with the requirements of Part 1508 of this chapter.

* * * * *

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Sec.

1508.1 Definitions.
1508.2 Scope of part.
1508.3 Dimensions.
1508.4 Spacing of crib components.
1508.5 Component spacing test method for § 1508.4.
1508.6 Hardware.
1508.7 Construction and finishing.
1508.8 Assembly instructions.
1508.9 Identifying marks and warning statement.
1508.10 Recordkeeping.

AUTHORITY: Secs. 2(f)(1)(D), (q)(1)(A), (s), 3(e)(1), 74 Stat. 372, 374, 375, as amended, 80 Stat. 1304–05, 83 Stat. 187–89 (15 U.S.C. 1261, 1263).

**§ 1508.1 Definitions.**

For the purposes of this part:

(a) "Full-size baby crib" means a bed (1) that is designed to provide sleeping accommodations for an infant, (2) that is intended for use in the home, and (3) that is within a range of ±5.1 centimeters (±2 inches) of the interior length or width dimensions specified for full-size baby cribs in § 1508.3.

**§ 1508.2 Scope of part.**

This part sets forth the requirements whereby full-size baby cribs (as defined in § 1508.1(a)) are not banned articles under § 1500.18(a)(13) of this chapter.

**§ 1508.3 Dimensions.**

Full-size baby cribs shall have dimensions as follows:

(a) *Interior.* The interior dimensions shall be 71±1.6 centimeters (28±⅝ inches) wide as measured between the innermost surfaces of the crib sides and 133±1.6 centimeters (52⅜±⅝ inches) long as measured between the innermost surfaces of the crib and panels, slats, rods, or spindles. Both measurements are to be made at the level of the mattress support spring in each of its adjustable positions and no more than 5 centimeters (2 inches) from the crib corner posts or from the first spindle to the corresponding point of the first spindle at the other end of the crib. If a crib has contoured or decorative spindles in either or both of the sides or ends, the measurement shall be determined from the largest diameter of the first turned spindle within a range of 10 centimeters (4 inches) above the mattress support spring in each of its adjustable positions, to a corresponding point on the first spindle or innermost surface of the opposite side of the crib.

(b) *Rail height.* The rail height dimensions shall be as follows:

(1) The height of the rail and end panel as measured from the top of the rail or panel in its lowest position to the top of the mattress support in its highest position shall be at least 22.8 centimenters (9 inches).

(2) The height of the rail and end panel as measured from the top of the rail or panel in its highest position to the top of the mattress support in its lowest position shall be at least 66 centimeters (26 inches).

**§ 1508.4 Spacing of crib components.**

(a) The distance between components (such as slats, spindles, crib rods, and corner posts) shall not be greater than 6 centimeters (2⅜ inches) at any point. Measurement of distance between contoured or irregular slats or spindles shall be done by a 6-centimeter wide by 10-centimeter high by 10-centimeter long (2⅜-inch wide by 4-inch high by 4-inch long) rectangular block which shall not pass through the space.

(b) The distance between such components shall not exceed 6.3 centimeters (2½ inches) when a 9-kilogram (20-pound) direct force is applied in accordance with the test method in § 1508.5. For contoured or irregular slats or spindles, the spacing shall not permit passage of a 6.3-centimeter wide by 8.2-centimeter high by 8.2-centimeter long (2½-inch wide by 3¼-inch high by 3¼-inch long) rectangular block above and below the loading wedge when a 9-kilogram (20-pound) direct force is applied in accordance with said test method.

**§ 1508.5 Component spacing test method for § 1508.4(b).**

(a) Construct a right triangular prism-shaped wedge from a rigid material (steel, wood, aluminum, or equivalent) as shown in figure 1.

(b) Place the wedge midway between two vertical components and midway between the top and bottom horizontal rails. Attach a dial push-pull gauge (Chatillon model DPP–50, or equivalent spring scale) to the eyebolt and exert a 9-kilogram (20-pound) direct pull on the wedge. The test may be performed by suspending a 9-kilogram (20-pound) weight from the eyebolt with the crib component placed in a horizontal position.

**§ 1508.6 Hardware.**

(a) A crib shall be designed and constructed in a manner that eliminates from any hardware accessible to a child within the crib the possibility of the hardware's presenting a mechanical hazard through pinching, bruising, lacerating, crushing, breaking, amputating, or otherwise injuring portions of the human body when the crib is in normal use or when subjected to reasonably foreseeable damage or abuse.

(b) Locking or latching devices used to secure dropside rails shall require a minimum force of 4.5 kilograms (10 pounds) to activate the release mechanism or shall consist of a double-action device requiring two distinct actions to release.

(c) Wood screws shall not be used in the assembly of stationary sides, dropside rails, folding rails, or stabilizing bars to crib ends or other components that must be removed by the consumer in the normal disassembly of a crib.

**§ 1508.7 Construction and finishing.**

(a) All wood surfaces shall be smooth and free from splinters.

(b) All wood parts shall be free from splits, cracks, or other defects which might lead to structural failure.

(c) Crib end panels and sides or any attachment thereto shall have no horizontal bar, ledge, projection, or other surface accessible to a child inside the crib capable of being used as a toehold located less than 51 centimeters (20 inches) above the mattress support in its lowest position when the side rail is in its highest position, except the lower horizontal bar of the crib rail may have a vertical dimension that extends no higher than 7.6 centimeters (3 inches) above the mattress support in its lowest position. In no case will any gap between the top surface of the mattress support and the bottom of the lower horizontal rail be permitted. For the purposes of this paragraph, any ledge or projection with a depth dimension greater than 1 centimeter (⅜ inch) shall constitute a toehold.

**§ 1508.8 Assembly instructions.**

(a) Cribs, when shipped other than completely assembled, shall be accompanied by detailed instructions that include an assembly drawing, a list and description of all parts and tools required for assembly, and a full-size diagram of the required bolts and other fasteners.

(b) The instructions shall:

(1) Be so written that an unskilled layman can correctly assemble the crib without making errors that would result in improper and unsafe assembly.

(2) Include cautionary statements concerning the secure tightening and maintaining of bolts and other fasteners.

(3) Contain a cautionary statement that when a child's height reaches 90 centimeters (35 inches), the child should be placed in a youth or regular bed.

(c) The warning relative to mattress size for full-size cribs in § 1508.9(c) shall be included in the instructions.

**§ 1508.9 Identifying marks and warning statement.**

(a) All cribs and retail cartons thereof shall be suitably marked and labeled in accordance with this section.

(b) A crib shall be clearly marked to indicate:

(1) The name and place of business (city and State) of the manufacturer, importer, distributor, and/or seller; and

(2) A model number, stock number, catalog number, item number, or other symbol expressed numerically, in code or otherwise, such that only articles of identical construction, composition, and dimensions shall bear identical markings.

(c) The following warning shall appear on the retail carton and on the inside of the head end panel or on the top surface of the mattress support in a type size of at least one-fourth inch:

"CAUTION: Any mattress used in this crib must be at least 27¼ inches by 51⅝ inches with a thickness not exceeding 6 inches," or "CAUTION: Any mattress used in this crib must be at least 69 centimeters by 131 centimeters with a thickness not exceeding 15 centimeters."

The marking shall appear in block letters, shall contrast sharply with the background (by color, projection, and/or indentation), and shall be clearly visible and legible. The dimensions of the mattress shall be taken from seam to seam or edge to edge where appropriate.

(d) Markings on a crib shall be of a permanent nature such as paint-stenciled, die-stamped, molded, or indelibly stamped directly thereon or permanently affixed, fastened, or attached thereto by means of a tag, token, or other suitable medium. The markings shall not be readily removable or subject to obliteration during normal use of the article or when the article is subjected to reasonably foreseeable damage or abuse.

(e) The retail carton of a crib shall clearly indicate:

(1) The name and place of business (mailing address including ZIP code) of the manufacturer, importer, distributor, and/or seller; and

(2) The model number, stock number, catalog number, item number, or other symbol described in paragraph (b)(2) of this section.

**§ 1508.10 Recordkeeping.**

A manufacturer or importer of cribs shall keep and maintain for 3 years after production or importation of each lot, or other suitable identifying unit, records of sale, distribution, and results of all inspections and tests conducted in accordance with this Part 1508. These records shall be made available upon request at reasonable times to any officer, employee, or agent acting on behalf of the Consumer Product Safety Commission. The manufacturer or importer shall permit such officer, employee, or agent to inspect and copy such records, to make such inventories of stock as he deems necessary, and to otherwise verify the accuracy of such records.

*Effective date:* This order shall become effective February 1, 1974.

(Secs. 2(f)(1)(D), (q)(1)(A), (s), 3(e)(1), 74 Stat. 372, 374, 375, as amended, 80 Stat. 1304-05, 83 Stat. 187-89; 15 U.S.C. 1261, 1262.)

Dated: November 15, 1973.

SADYE E. DUNN,
*Secretary,*
*Consumer Product Safety Commission.*

CRIB SLAT LOADING WEDGE

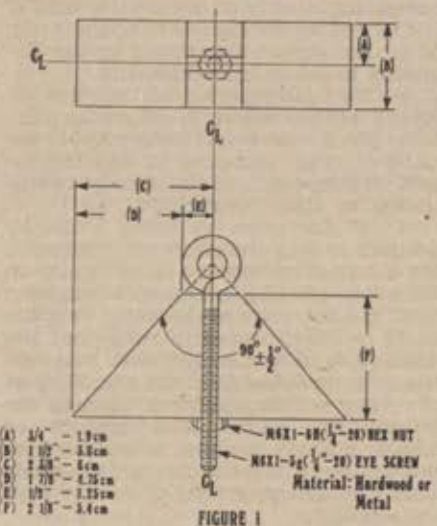



FIGURE 1

[FR Doc.73-24687 Filed 11-20-73;8:45 am]

## Title 32—National Defense

## CHAPTER V—DEPARTMENT OF THE ARMY

### SUBCHAPTER A—AID OF CIVIL AUTHORITIES AND PUBLIC RELATIONS

### PART 516—LITIGATION

### Release of Information and Appearance of Witnesses

Sections 516.3, 516.4 and 516.5 are revised as indicated below. These revisions are necessary due to changes in policy approaches and procedures which render present material contained in §§ 516.3, 516.4 and 516.5 as obsolete.

**§ 516.3 General.**

(a) *Purpose.* This section and §§ 516.4 and 516.5 govern the release of information exempt from release to the public when this information is sought for use in litigation and the appearance of military personnel and civilian employees of the Army as witnesses before civilian courts and regulatory bodies. It pertains to private litigation as well as to litigation in which the United States has an interest.

(b) *Explanation of terms.*—(1) *Information exempt from release to the public.* Those categories of information delineated or defined by § 518.10 of this subchapter.

(2) *Private litigation.* Litigation in which the United States is not a party and in the outcome of which it has no interest, either direct or indirect.

(3) *Litigation in which the United States has an interest.* (i) The United States or one of its agencies or instrumentalities has been or probably will be named as a party; or

(ii) The suit is against a military member or civilian employee of the Army or one of its agencies or instrumentalities and arises out of the individual's performance of official duties; or

(iii) The suit arises out of an Army contract, subcontract, or purchase order under the terms of which the United States may be required to reimburse the contractor for recoveries, fees, or costs of the litigation; or

(iv) The suit involves administrative proceedings before Federal, State, municipal, or foreign tribunals or regulatory bodies that may result in a financial impact upon the Army; or

(v) The suit may affect the operations of the Army or purport to require, limit, or interfere with official action by a military member or civilian employee; or

(vi) The United States has a financial interest in the plaintiff's recovery; or

(vii) Foreign litigation in which the United States is bound by treaty or agreement to insure attendance of military personnel or civilian employees.

(4) *Release of information.* The disclosure of information from Army records by furnishing copies, extracts, or summaries of such records; by permitting examination of such records; or by permitting interview with or statement by the custodian or other person having knowledge of their content.

(5) *Subpoena.* Includes Subpoena Ad Testificandum and Subpoena Duces Tecum.

(c) *Related regulations.* The basic policies for release of information are in Part 518 of this subchapter. Other regulations restrict the release of specific types of information and are applicable when consistent with this regulation and Part 518 of this subchapter. Special note should be made of the regulations listed in the appendix.

(d) *Reference to The Judge Advocate General.* (1) Requests and subpoenas for information exempt from release to the public when this information is sought for use in litigation or for the appearance of witnesses which require approval by the Department of the Army will be submitted to HQDA (DAJA-LT) WASH DC 20310, except:

(i) Those involving patents, copyrights, privately developed technical information, or trademarks will be addressed to HQDA (DAJA-PA) WASH DC 20310.

(ii) Those involving problems of taxation will be addressed to HQDA (DAJA-PL) WASH DC 20310.

(iii) Those involving communication, transportation, or utility service proceedings will be addressed to HQDA (DAJA-RL) WASH DC 20310.

(2) Requests and subpoenas forwarded should be accompanied by such of the following data as may be appropriate:

(i) Parties (names or prospective) to the proceeding, their attorneys, and case number, where appropriate;

(ii) Party making the request (if a subpoena, indicate moving party) and his attorney;

(iii) Name of tribunal in which the proceeding is pending;

(iv) Nature of the proceeding;

(v) Date of receipt of request or date and place of service of subpoena;

(vi) Name, grade, position, and organization of person receiving request or served with subpoena;

(vii) Date, time, and place designated in request or subpoena for production of information or appearance of witness;

(viii) Nature of information sought or document requested, and place where document is maintained;

(ix) A copy of each document requested. If the document is voluminous, a description may be forwarded in lieu of the copy;

(x) Analysis of the problem with recommendations of the forwarding agency.

(e) *Determination by The Judge Advocate General.* The Judge Advocate General, acting personally or through such subordinates as he may designate, will coordinate within Headquarters, Department of the Army, all requests or subpoenas referred to him pursuant to paragraph (d) of this section. He will determine whether the witness should be permitted to testify or to grant an interview or whether the information should be released. Authority may be granted for release of information or for the appearance of a witness even though the information may be used by or the appearance may be on behalf of a party whose interest is adverse to the interest of the United States.

(f) *Response to subpoena.* This paragraph provides policy and procedures for response to subpoenas.

(1) No present or former military member or civilian employee of the Department of the Army shall, in response to the demand of a court order or other authority, produce or disclose any information exempt from release to the public contained in the files of the Department of the Army or disclose or produce any information exempt from release to the public acquired as a part of the performance of his official duties or because of his official status without the prior approval of the Secretary of the Army.

(2) When an official of the Department of the Army to whom a subpoena is referred concludes that a record should not be released or a witness should not appear and testify because such record or testimony would disclose information exempt from release to the public, that fact will be reported immediately to The Judge Advocate General as provided in paragraph (d) of this section. If The Judge Advocate General determines that a record should not be released or an individual should not testify on a particular matter in response to a subpoena, he will advise the person served of the action to be taken (Touhy v. Ragen, 340 US 462).

(3) If a person served with a subpoena fails to receive authorization or other instructions prior to the time fixed for the production of records or appearance in court, he should communicate with counsel responsible for issuing the subpoena, state that he can produce the desired record or can testify on the matter only if authorized, and request a postponement pending receipt of authorization or ascertain if other releasable information can be substituted. If postponement is refused and other information will not suffice, he should appear in court, submit a copy of this and other applicable regulations, and inform the court that—

(i) Records of the Department of the Army can be produced or that he may appear and testify on the matter only if authorized by the Secretary of the Army or by the person designated by the Secretary to act on his behalf, and

(ii) He has requested but has not received authorization or other instructions. He should respectfully request the court or other authority to stay the report or subpoena pending receipt of authority or other instructions.

(4) If the court or other authority declines to stay the effect of its demand for information exempt from release to the public pending receipt of instructions from the Secretary of the Army, or if the court or other authority rules that the demand must be complied with irrespective of instruction from the Secretary of the Army not to produce or disclose the information sought, the present or former military member or civilian employee upon whom the demand was made shall decline respectfully to comply with the demand.

(5) In each instance described above, a judge advocate or civilian attorney of the command concerned should accompany and advise the witness during the court proceedings. Within the United States, the local US Attorney should be consulted.

### § 516.4 Release of Information in Connection with Litigation.

(a) *Scope.* This section deals with requests and subpoenas for information to be used in litigation.

(b) *Records of the Army and other agencies.* (1) Preservation: In order to preserve the integrity of records of the Department of the Army, originals of books, records, papers, or documents will not be furnished to any person or agency for use as evidence in public or private legal proceedings. Properly authenticated copies of Government records may be admitted in evidence in lieu of originals. See 28 USC 1733.

(2) Authentication of copies: Copies of Department of the Army records approved for release under this regulation will, when necessary, be authenticated for introduction into evidence by use of a Department of the Army certificate (DA Form 4). After the custodian has executed his certificate, the preparing agency will forward the DA Form 4 and a copy of the record to the Headquarters, Department of the Army staff agency indicated below for authentication by the Secretary of the Army:

(i) Records maintained in US Army Engineer Districts and Divisions will be forwarded to the Chief of Engineers, Department of the Army, Washington, DC 20315.

(ii) All other records will be forwarded to the official designated in § 518.11 of this subchapter as having release authority for that type document.

(3) Fees and charges: The schedule of fees and charges for searching, copying, and certifying Army records is set forth in AR 37-30.

(4) Documents originated by agencies or organizations outside the Department of the Army (e.g., FBI reports, State traffic accident investigation reports, civilian hospital records) which are included with Army records may be released only with the consent of the originating agency or organization. Normally an individual requesting such records should be advised to direct his inquiry to the originating agency or organization.

(c) *Requests and subpoenas for information releasable to the public.* Requests or subpoenas for information not exempt from release to the public will be handled as prescribed in Part 518 of this subchapter.

(d) *Requests and subpoenas for information exempt from release to the public.* Requests and subpoenas duces tecum for information exempt from release to the public and which may not be released under § 518.7(d) of this subchapter will be processed as follows:

(1) Subpoenas for defense (classified) information which cannot be declassified will be referred to The Judge Advocate General as provided in § 516.3(f).

(2) Subpoenas for medical or personnel records, not releasable to the public or under § 518.7(d) of this subchapter will be responded to by submitting properly authenticated copies of the records to the court (or to the clerk of the court), where:

(i) The subpoena is accompanied by a court order, or such order is separately served, which orders the person to whom the records pertain to consent to the release of the specific records or orders authenticated copies delivered to the clerk of the court and that order has determined their materiality and the nonavailability of a claim of privilege; or

(ii) The clerk of the court is empowered by local statute or practice to receive the records under seal subject to a request that they be withheld from the parties until the court determines the records are material to the issues and until any question of privilege is resolved; or

(iii) The custodian is required to appear and authenticate the records, he may appear in court with a copy of the records under seal, state their general

content, and surrender them with a request that they remain sealed until the court determines their materiality and privileged nature, if any.

(3) Judge advocates and legal officers may furnish to the attorney for the injured party and to the tort feasor's insurance company a copy of the narrative summary of medical care which relates to a claim under chapter 5, AR 27–40. If additional medical records are requested, only those which directly pertain to the pending action will be furnished. If furnishing copies of medical records will be injurious to the injured party's health or prejudice the cause of action, the matter will be reported to HQDA (DAJA–LT) WASH DC 20310.

(4) Other requests from the Department of Justice, U.S. Attorneys, States' Attorneys, or attorneys for private litigants will be forwarded to The Judge Advocate General as prescribed in § 516.-3(f).

**§ 516.5 Department of the Army Personnel as Witnesses in Civil Litigation.**

(a) *Scope.* This section deals with interviews and appearances of military personnel and civilian employees of the Army as witnesses in person or by deposition before civil courts and administrative tribunals pursuant to request of counsel or in response to subpoena or other order of court. It is applicable to private litigation as well as to litigation in which the United States has an interest.

(b) *Private litigation.* (1) The appearance of military personnel and civilian employees in private litigation is solely a personal matter between the prospective witness and the requesting party unless—

(i) The testimony involves information exempt from release to the public, information obtained in an official capacity, or information relating to Army activities; or

(ii) The prospective witness is solicited to testify as an expert; or

(iii) The absence of a prospective witness from duty will seriously interfere with the accomplishment of the military mission of the command or organization; or

(iv) The appearance involves oversea travel.

(2) Requests for interviews with or subpoena for the testimony of military personnel or civilian employees in private litigation will be referred to the individual's commanding officer or supervisor. Except in instances involving subdivisions (i) through (iv) of subparagraph (1) of this paragraph the commander or supervisor may permit the requested interview or subpoenaed attendance.

(3) The decision whether to grant an interview or to testify, as distinguished from the questions of release of information and Army authorization for any necessary absence from duty is a personal matter for the individual. If for personal reasons the military member or civilian employee does not desire to grant the interview or to testify, he will be counseled by the judge advocate or legal adviser on the legal consequences of his refusal.

(c) *Exempt information, Army activities, or official capacity.* Where the expected testimony will involve information exempt from release to the public, Army activities, or information obtained in an official capacity, the matter will be referred to the judge advocate or legal adviser of the command or agency of the individual whose testimony is requested. The judge advocate or legal adviser will process the question of release of the information sought in accordance with § 516.4. If it is determined that the information may be released, the individual will be permitted to be interviewed or to appear as a witness provided such interview or appearance will not unduly affect the mission of the command or agency. If available, a judge advocate or civilian attorney of the Department of the Army should be present during any interview to act as legal representative of the Army. If a question is propounded which seeks information not previously authorized for release, the legal representative will prohibit the witness from answering and, if necessary to avoid release of the information, terminate the interview. Before terminating the interview, however, every effort should be made to substitute releasable information and to continue the interview as to other subjects. A report of the matter will then be forwarded to The Judge Advocate General as outlined in § 516.3(f). Any written statement furnished by the military member or civilian employee will be prepared under the supervision of the legal representative.

(d) *Expert witnesses.* (1) The Department of the Army maintains a strict impartiality in private litigation and conflicts of interest are to be avoided (AR 600–50). Military personnel and civilian employees may not appear as expert witnesses in private litigation or in litigation in which the United States has an interest for a party other than the United States without the prior approval of Headquarters, Department of the Army. These requests will be forwarded to The Judge Advocate General in accordance with paragraph § 516.3(f).

(2) This limitation does not apply to members of the Army Medical Department or other qualified specialists when—

(i) They testify in private litigation involving patients they have treated, investigations they have made, laboratory tests they have conducted, or action they have taken, and they limit their testimony to factual matters such as their observations of the patient, or other operative facts, the treatment prescribed or corrective action taken, course of recovery or steps required for repair of damage suffered, and contemplated future treatment or utility of item damaged. Their testimony may not extend to hypothetical questions or to a prognosis.

(ii) Requests are for expert witnesses on behalf of the United States in cases involving medical care recovery claims under section II, chapter 5, AR 27–40.

(3) Requests for expert witnesses from US Attorneys or attorneys representing the interests of the United States will be met or referred to HQDA (DAJA–LT) WASH DC 20310.

(e) *Litigation in which the United States has an interest.* (1) Requests for interviews with or subpoenas for testimony of military personnel or civilian employees in litigation in which the United States has an interest will be referred to the judge advocate or legal adviser of the command or agency of the individual whose testimony is requested. Except as set out in paragraphs (e)(2) and (d)(3) of this section, the judge advocate or legal adviser will forward the request or subpoena to The Judge Advocate General in accordance with § 516.3(f). This forwarding requirement includes requests received from the Department of Justice. As each request or subpoena involves a question of release of information, the judge advocate or legal adviser will insure that this aspect of the request or subpoena is also presented in the reference to The Judge Advocate General. Interviews or appearances may be authorized even though the information may be used in litigation by parties whose interests are adverse to those of the United States.

(2) The judge advocate or legal adviser may authorize the appearance of witnesses requested by U.S. Attorneys or by attorneys representing the interests of the United States (e.g., attorney handling the Government's medical care claim under section II, chapter 5, AR 27–40) provided—

(i) The request or subpoena does not require travel by the witness outside the judicial district (unless the distance to be traveled is less than 100 miles) or oversea theater in which the witness is stationed, assigned, or employed (see paragraphs (h)(i)(ii) and (i) of this section.

(ii) The testimony of the witness does not involve information exempt from release to the public.

(iii) The testimony, if the witness is a member of the Army Medical Department, will not be injurious to the health of the patient concerned.

(3) When requested by a US Attorney, the judge advocate or legal adviser will insure that military or civilian employee witnesses are not reassigned or otherwise removed from the judicial district without first advising the US Attorney. If a witness is vital to the Government's case, informal arrangements should be made to retain the witness in the command until trial. If this is not feasible or if satisfactory arrangements cannot be made with the US Attorney, the matter will be reported to HQDA (DAJA–LT) WASH DC 20310.

(f) *Oversea witnesses.* Request or subpoena for a witness stationed outside the continental limits of the United States, including Alaska and Hawaii, to appear before a tribunal within the continental limits of the United States will be referred to the judge advocate or legal ad-

viser of the command or agency of the individual whose testimony is requested. The judge advocate or legal adviser will forward the request or subpoena to The Judge Advocate General as provided in § 516.3(f). See 28 USC 1783 on the subpoena of a person in a foreign country.

(g) *Depositions.* (1) Policy. The use of a deposition rather than the personal appearance of a witness is encouraged when this will minimize interference with the performance of the Army's mission.

(2) General. Depositions or other evidentiary statements taken from military personnel or civilian employees for use in state or Federal courts are governed by the rules of the court having jurisdiction of the matter. Depositions or other evidentiary statements for use before foreign tribunals are governed, generally, by the law of the foreign state in which the depositions are to be used and the provisions of applicable treaties and agreements. (See 28 USC 1781 as to the use of letters rogatory.) Military personnel and civilian employees abroad who receive requests or notices for the taking of a deposition or other evidentiary statements shall advise the appropriate judge advocate or legal adviser of this fact immediately.

(3) Procedure. A request or notice for the taking of a deposition from a party to private litigation will be referred to the witness' commanding officer or supervisor unless the expected testimony concerns Army activities, information exempt from release to the public, or information obtained in the performance of official duties or there is a request that the deposition be taken by an officer. All other requests or notices will be referred to the judge advocate or legal adviser for the command.

(i) If the United States has an interest in the litigation the judge advocate or legal adviser will refer the matter to The Judge Advocate General.

(ii) If the expected testimony in cases of private litigation involves Army activities, information exempt from release to the public, or information obtained in the course of official duties, the judge advocate or legal adviser will process the question of release of information as provided in § 516.4. If it is determined that the information may be released, the judge advocate or legal adviser will authorize the taking of the deposition provided it will not affect unduly the military mission of the command or agency. A judge advocate or civilian attorney of the Department of the Army should be present during the taking of the deposition and should take action as prescribed in paragraph (c) of this section when necessary.

(iii) If a request or notice for the taking of a deposition includes a request that the deposition be taken before as officer, the judge advocate or legal adviser may authorize the use of a Reserve officer. Regular Army officers should not be utilized. See 10 USC 3544(b); Rule 28 FRCP, Title 28 App USC.

(4) Appearance as counsel. A request to use a military member or civilian employee as counsel for one of the parties to the taking of a deposition will be referred to the judge advocate or legal adviser for appropriate action. See § 516.1(d).

(5) Expert witnesses. The provisions of paragraph (a) of this section concerning expert witnesses are applicable to testimony by deposition.

(h) *Status, travel, and expenses of witnesses.* (1) Witnesses for the United States.

(i) Status of witness. A military member authorized to appear as a witness for the United States will be placed on temporary duty. The status of a civilian employee will be determined in accordance with Federal Personnel Manual 630.10–3 (hereinafter called FPM). Military personnel and civilian employees who appear as necessary witnesses for a party asserting the Government's claim for medical care are witnesses for the United States within the meaning of this paragraph provided the Government's claim is large enough to justify the expenditure.

(ii) Travel arrangements. Travel arrangements for witnesses for the United States normally are made by the Department of Justice through The Judge Advocate General for other than local travel. Instructions for this travel, including fund citation, will be issued to the appropriate commander by Headquarters, Department of the Army. A US Attorney, or an attorney asserting the Government's medical care claim under chapter 5, AR 27–40, may make arrangements for local travel through the judge advocate or legal adviser for attendance of a witness who is stationed at an installation within the same judicial district, or not more than 100 miles from the place of testifying. Other requests will be referred to The Judge Advocate General in accordance with § 516.3(f). The instructions from Headquarters, Department of the Army, or the request from the US Attorney or the attorney asserting the Government's claim, will serve as a basis for the issuance of appropriate travel orders by the local commander.

(iii) Travel and per diem expenses. The witness' commander or supervisor should insure that the witness has sufficient funds to defray his expenses. The command judge advocate or legal officer will provide assistance as required.

(*a*) Where local travel is performed at the request of a US Attorney and the case does not involve an activity of the Army, the Government transportation request should be issued to the witness through the US Attorney making the request or by the US Marshal and per diem paid by the US Marshal. (Title 8, United States Attorneys Manual, pp 120–121.)

(*b*) The attorney asserting the Government's medical care claim under chapter 5, AR 27–40, may be required to advance local travel expense money to the witness requested and to include these in recoverable costs where the Government's claim is not large enough to justify expenditures of Government travel funds.

(*c*) Other local travel and per diem expense for cases involving Army activities or claims is a proper expense of the command issuing the orders.

(*d*) Headquarters, Department of the Army, will furnish travel expense and per diem funds for other than local travel and will receive reimbursement from the Department of Justice or other Government agency as appropriate.

(2) Witnesses for the District of Columbia.

(i) Status of witness. A military member authorized to appear as a witness for the District of Columbia will attend in a regular duty status. The status of a civilian employee will be determined in accordance with FPM 630.10–3.

(ii) Travel arrangements. Travel arrangements will be made by the requesting agency direct with the witness or his commanding officer. Appropriate orders will be issued by the local commander when necessary.

(iii) Travel expenses. The District of Columbia and the person sought as a witness will be informed that all arrangements for payment of travel and subsistence expenses, other than such monetary allowances for subsistence as may be normally furnished to enlisted personnel pursuant to Department of Defense Pay and Allowances Entitlements Manual (DODPM), chapter 1, will be made directly between the District of Columbia official and the prospective witness. An oversea commander may in his discretion, operations of the Department of the Army permitting, authorize the prospective witness to use, in travel outside the United States, military transport or military aircraft on a space-available basis without cost to the District of Columbia.

(3) Witnesses for a State or private litigant.

(i) Status of witness. If authorized to appear as a witness for a State or private litigant, and the testimony to be given relates to information obtained in the performance of his regular, official duties, a military member may attend in a duty status. If authorized to appear as a witness but his testimony does not relate to information obtained in the performance of his regular, official duties, a military member may be granted a pass or administrative absence where appropriate under AR 630–5, or be required to take ordinary leave to attend. However, military members appearing as expert witnesses on behalf of a State or private litigant will be required to take ordinary leave. The status of a civilian employee will be determined in accordance with FPM 630.10–3. See paragraph (1)(i) of this section for status of witnesses in cases of medical care recovery claims under section II, chapter 5, AR 27–40.

(ii) Travel arrangements. Travel arrangements for attendance of military or civilian personnel authorized to appear as witnesses for a State or private litigant normally will be made by the requesting party with the individual concerned. Appropriate orders will be issued by the local commander when necessary.

(iii) Travel expenses. Travel and subsistence expenses of the witness, other

than such monetary allowances for subsistence as may normally be furnished to enlisted personnel pursuant to Department of Defense Pay and Allowances Entitlements Manual (DODPM), chapter 1, may not be paid by the United States. They are solely a matter between the witness and the party seeking his appearance. Witnesses ordinarily should be advised to require advance payment of such expenses. Military personnel authorized to appear in a pass, duty, or administrative absence status are not entitled to receive witness attendance fees, but may accept travel and subsistence expense money from the requesting litigant. All witness fees tendered the military member will be remitted to the Treasurer of the United States. A civilian employee authorized to appear in his official capacity will accept the authorized witness fees, in addition to the allowance for travel and subsistence, and make disposition of the witness fees as instructed by his personnel office (FPM 630.10–3g).

(iv) Space available travel. Space available transportation may be utilized to the continental United States port of debarkation as authorized by paragraph 4–4, DOD 4515.13–R.

(i) *Witnesses before foreign tribunals.* (1) Requests or subpoenas from a foreign government or tribunal for military personnel and civilian employees stationed or employed within that country to be interviewed or to appear as a witness will be forwarded to the staff judge advocate of the command exercising general courts-martial jurisdiction over the unit to which the individual is assigned, attached, or employed. The staff judge advocate will determine whether—

(i) A consideration listed in paragraph (b) of this section applies.

(ii) The information requested is releasable under the criteria of § 516.4.

(iii) The approval of the American Embassy should be obtained because the person is attached to the Embassy staff or a question of diplomatic immunity otherwise may be involved.

(2) If the judge advocate determines that the United States has an interest in the litigation (see § 516.3 (a)(3)), the commander may authorize the interview or order the individual's attendance in a temporary duty status with full entitlement to travel and per diem allowances. The United States will be presumed to have an interest in the litigation if it is bound by treaty or other international agreement to insure the attendance of such personnel.

(3) If the judge advocate determines that the United States does not have an interest in the litigation, the commander may auhorize the interview or the appearance of the witness in accordance with paragraphs b(2) and h(3) of this section.

(4) If the requested witness is stationed in the United States, the matter will be referred to The Judge Advocate General in accordance with § 516.3(a).

APPENDIX.—REGULATIONS AND DIRECTIVES RELATED TO §§ 516.3, 516.4, AND 516.5

AR 20–1 (IG Reports).
AR 27–20 (Claims Report).
AR 27–60 (Patents and Inventions).
AR 36–20 (GAO Audits).
AR 37–30 (Copying Fees).
AR 40–2 (Medical Records).
DOD 4515.13–R (DOD Air Transportation Eligibility Regulation).
ARs 95–5 and 95–30 (Aircraft Accidents).
AR 190–15 (Traffic Accident Reports).
AR 190–45 (MP Reports).
AR 195–2 (CID Reports).
AR 340–16 (Safeguarding Nondefense Information).
AR 340–17 (Release of Information and Records).
AR 340–19 (Disciplinary Actions).
AR 340–1 (Records Management).
AR 380–5 (Defense Information).
AR 380–10 (DA Policy on Disclosure of Military Information to Foreign Governments).
AR 385–40 (Accident Reports).
AR 630–5 (Passes, Administrative Absences, Public Holidays).
ASPR 1–601.4 and 1–601.6; APP 1–601.6 (Debarred, Ineligible, or Suspended Contractors).
DODPM—Pay and Entitlements Manual.
Federal Personnel Manual, Chapters 630 (Court Leave) and 294 (Availability of Official Information).

[AR 27–40, June 15, 1973.] (Sec. 3012, 70A Stat. 157, 10 U.S.C. 3012.)

For The Adjutant General.

R. B. BELNAP,
*Special Advisor to TAG.*

[FR Doc.73–24732 Filed 11–20–73;8:45 am]

## Title 33—Navigation and Navigable Waters

### CHAPTER I—COAST GUARD, DEPARTMENT OF TRANSPORTATION

[CGD 73–164R]

### PART 117—DRAWBRIDGE OPERATION REGULATIONS

**Big Carlos Pass and Matlacha Pass, Fla.**

This amendment changes the regulations for the drawbridges across Big Carlos Pass and Matlacha Pass by decreasing the time the draws need open on signal from 7 a.m. to 7 p.m. to 8 a.m. to 7 p.m. This amendment was circulated as a public notice dated August 15, 1973 by the Commander, Seventh Coast Guard District and was published in the FEDERAL REGISTER as a notice of proposed rulemaking (CGD 73–164P) on August 10, 1973 (38 FR 21649). No comments were received.

Accordingly, Part 117 of Title 33 of the Code of Federal Regulations is amended by revising subparagraphs (2–a) and (2–b) of paragraph (i) of § 117.245 to read as follows:

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

* * * * *

(i) * * *

(2–a) Big Carlos Pass, Florida; State Road S–865 drawbridge. The draw shall open on signal from 8 a.m. to 7 p.m. The draw need not open from 7 p.m. to 8 a.m.

(2–b) Matlacha Pass, Florida; State Road S–78 drawbridge. The draw shall open on signal from 8 a.m. to 7 p.m. The draw need not open from 7 p.m. to 8 a.m.

* * * * *

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

*Effective date.* This revision shall become effective on December 24, 1973.

Dated: November 15, 1973.

R. I. PRICE,
*Captain, U.S. Coast Guard, Acting Chief, Office of Marine Environment and Systems.*

[FR Doc.73–24722 Filed 11–20–73;8:45 am]

[CGD 73–139R]

### PART 117—DRAWBRIDGE OPERATION REGULATIONS

**Cooper River, South Carolina**

This amendment changes the regulations for the Seaboard Coast Line Railroad bridge across the Cooper River near Cordesville, S.C. to require the draw to open on signal from 7 a.m. to 12 noon and 1 p.m. to 4 p.m. This amendment was circulated as a public notice dated July 19, 1973 by the Commander, Seventh Coast Guard District and was published in the Federal Register as a notice of proposed rulemaking (CGD 73–139P) on July 12, 1973 (38 FR 18563). No comments were received.

Accordingly, Part 117 of Title 33 of the Code of Federal Regulations is amended by revising subparagraph (17) of paragraph (g) of § 117.245 to read as follows:

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

* * * * *

(g) * * *

(17) Cooper River, S.C., Seaboard Coast Line Railroad bridge near Cordesville. The draw shall open on signal from 7 a.m. to 12 noon and from 1 p.m. to 4 p.m. At all other times the draw shall open on signal if at least 24 hours notice is given.

* * * * *

(Sec. 5, 28 Stat. 362, as amended, sec. 6(g)(2), 80 Stat. 937; 33 U.S.C. 499, 49 U.S.C. 1655 (g)(2); 49 CFR 1.46(c)(5), 3 CFR 1.05–1 (c)(4).)

*Effective date.* This revision shall become effective on December 24, 1973.

Dated: November 15, 1973.

R. I. PRICE,
*Captain, U.S. Coast Guard, Acting Chief, Office of Marine Environment and Systems.*

[FR Doc.73–24733 Filed 11–20–73;8:45 am]

## Title 40—Protection of Environment

### CHAPTER I—ENVIRONMENTAL PROTECTION AGENCY

### PART 85—CONTROL OF AIR POLLUTION FROM NEW MOTOR VEHICLES AND NEW MOTOR VEHICLE ENGINES

#### Miscellaneous Amendments; Correction

*Correction*

In FR Doc. 73-22970 appearing at page 30079 in the issue of Wednesday, October 31, 1973, the first line of the equation under paragraph (c) of § 85.974-18 should read:

$$\frac{1}{1+A(H-75)+B(T-85)}$$

## Title 47—Telecommunication

### CHAPTER I—FEDERAL COMMUNICATIONS COMMISSION

[FCC 73-1156]

### PART 5—EXPERIMENTAL RADIO SERVICES (OTHER THAN BROADCAST)

#### Order Regarding Experimental Radio Services

In the matter of adoption of Form 441 as an application for license and modification thereof for the Experimental Radio Services in lieu of Form 403, and amendment of Part 5 to reflect this change.

1. In order to render less burdensome the filing of license applications and modifications thereof in the Experimental Radio Services, (Part 5) it has been determined that present Form 403, which is used by several services should be replaced by Form 441, which is specifically designed for the Experimental Service. A copy of the new form is attached hereto.[1]

2. It is appropriate, in addition, to amend Part 5 of the Rules to reflect this change.

3. Form 403 will continue in use by applicants in Parts 21, 23 and 25 of the Commission's Rules.

4. Authority for these amendments is contained in Sections 4(i) and 303(r) of the Communications Act of 1934, as amended.

5. Substitution of Form 441 for Form 403 is a procedural matter and will lessen the burden of Experimental Applicants and Licensees. Notice and public procedure are unnecessary and would be contrary to the public interest. The procedural and effective date provisions of Section 4 of the Administrative Procedure Act (5 U.S.C. 553) are therefore inapplicable.

6. In view of the foregoing, *it is ordered*, Effective November 27, 1973, that Form 441 is adopted and that Part 5 of the Commission's Rules is amended as set forth below.

(Secs. 4, 303, 48 Stat., as amended, 1066, 1002 (47 U.S.C. 154, 303).)

Adopted: November 14, 1973.

Released: November 15, 1973.

FEDERAL COMMUNICATIONS COMMISSION,
[SEAL] VINCENT J. MULLINS,
*Secretary.*

[1] Filed as part of the original document.

1. In § 5.55, paragraphs (d) and (f) are revised to read as follows:

§ 5.55 Forms to be used.

* * * * *

(d) *Application for station license.* Application for station license shall be filed on FCC Form 441 upon completion of construction in accordance with the terms and conditions set forth in the construction permit.

* * * * *

(f) *Application for modification of station license.* Application for modification of station license shall be submitted on FCC Form 441. A blanket application for modification of a group of station licenses of the same class may be submitted in those cases where the modification requested is the same for all stations covered by the application. The individual stations covered by such application shall be clearly indicated therein.

* * * * *

[FR Doc.73-24762 Filed 11-20-73;8:45 am]

## Title 49—Transportation

### CHAPTER X—INTERSTATE COMMERCE COMMISSION

#### SUBCHAPTER A—GENERAL RULES AND REGULATIONS

[Amdt. No. 2 to Service Order No. 1116]

### PART 1033—CAR SERVICE

#### Lehigh Valley Railroad Co.

At a Session of the Interstate Commerce Commission, Railroad Service Board, held in Washington, D.C., on the 15th day of November 1973.

Upon further consideration of Service Order No. 1116 (38 FR 1508 and 17843), and good cause appearing therefor:

*It is ordered*, That:

*§ 1033.1116 Service Order No. 1116* (Lehigh Valley Railroad Company (John F. Nash and Robert C. Haldeman, trustees) authorized to operate over tracks of West Pittston-Exeter Railroad Company) be, and it is hereby, amended by substituting the following paragraph (e) for paragraph (e) thereof:

(e) *Expiration date.* The provisions of this order shall expire at 11:59 p.m., May 31, 1974, unless otherwise modified, changed, or suspended by order of this Commission.

*Effective date.* This amendment shall become effective at 11:59 p.m., November 30, 1973.

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

*It is further ordered*, That a copy of this amendment shall be served upon the Association of American Railroads, Car Service Division, as agent of all railroads subscribing to the car service and car hire agreement under the terms of that agreement, and upon the American Short Line Railroad Association; and that notice of this amendment be given to the general public by depositing a copy in the Office of the Secretary of the Commission at Washington, D.C., and by filing it with the Director, Office of the Federal Register.

By the Commission, Railroad Service Board.

[SEAL] ROBERT L. OSWALD,
*Secretary.*

[FR Doc.73-24812 Filed 11-20-73;8:45 am]

[Service Order No. 1163]

### PART 1033—CAR SERVICE

#### Missouri Pacific Railroad Co.

At a session of the Interstate Commerce Commission, Railroad Service Board, held in Washington, D.C., on the 15th day of November 1973.

It appearing, that the Union Pacific Railroad Co. (UP) is unable to operate over its line serving Cochrane, Kansas, because of damage resulting from flooding; that the Missouri Pacific Railroad Co. (MP) has agreed to operate over UP tracks at Cochrane in order to restore railroad service to shippers served by the UP at Cochrane; that the UP has consented to use of the aforementioned UP tracks by the MP; that the operation by the MP over such tracks of the UP is 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 thirty days' notice.

*It is ordered*, That:

§ 1033.1163 Service Order No. 1163.

(a) *Missouri Pacific Railroad Co. authorized to operate over tracks of Union Pacific Railroad Co.* The Missouri Pacific Railroad Co. (MP) be, and it is hereby, authorized to operate over tracks of the Union Pacific Railroad Company (UP) between MP milepost 305.6 at Cochrane, Kansas, and UP engineering station 222 plus 67.4, a distance of approximately 1,313 feet.

(b) *Application.* The provisions of this order shall apply to intrastate, interstate, and foreign traffic.

(c) *Rates applicable.* Inasmuch as this operation by the MP over tracks of the UP is deemed to be due to carrier's disability, the rates applicable to traffic moved by the MP over the tracks of the UP shall be the rates which were applicable on the shipments at the time of shipment as originally routed.

(d) *Effective date.* This order shall become effective at 11:59 p.m., November 16, 1973.

(e) *Expiration date.* The provisions of this order shall expire at 11:59 p.m., May 31, 1974, unless otherwise modified, changed, or suspended by order of this Commission.

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

*It is further ordered*, That copies of this order shall be served upon the Association of American Railroads, Car Service Division, as agent of the railroads

subscribing to the car service and car hire agreement under the terms of that agreement, and upon the American Short Line Railroad Association; and that notice of this order shall be given to the general public by depositing a copy in the Office of the Secretary of the Commission at Washington, D.C., and by filing it with the Director, Office of the Federal Register.

By the Commission, Railroad Service Board.

[SEAL] ROBERT L. OSWALD,
*Secretary.*

[FR Doc.73-24813 Filed 11-20-73;8:45 am]

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[Nos. MC-C-6829 and MC-C-6829 (Sub-No.1)]

## PART 1064—NOTICE OF AND PROCEDURES FOR BAGGAGE EXCESS VALUE DECLARATION

### Limitation of Free Baggage Allowance, Greyhound Lines and Limitation of Free Baggage Allowance—Reasonableness of the $50 Limitation

NOVEMBER 13, 1973.

Notice to all parties: At the request of John S. Fessenden, representative of National Bus Traffic Association, Inc., the times for filing representations in these proceedings have been extended from November 23, 1973, to January 7, 1974.

By the Commission.

[SEAL] ROBERT L. OSWALD,
*Secretary.*

[FR Doc.73-24806 Filed 11-20-73;8:45 am]

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## Title 6—Economic Stabilization

## CHAPTER I—COST OF LIVING COUNCIL

[Phase IV Price Ruling 1973-12]

## APPENDIX—PHASE IV PRICE RULINGS

### Re-orders of Custom Products

*Facts.* Company F is a jobbing foundry which produces castings according to specifications supplied by its customers. Some time ago, F received a special order from its customer, C, for certain casting work. The casting qualified as a custom product, as defined in 6 CFR 150.104(a), and was priced accordingly. Now C has re-ordered that same product and F asserts that the re-order is still a custom product since it is not designed to enter and capture a section of the open market and it is built for C according to C's special needs. F relies on Price Commission Ruling 1972-170, 37 FR 10519, May 24, 1972, to support its position.

*Issue.* Does a re-order of a previously produced custom product still qualify as a custom product under the provisions of § 150.104(a) of the Cost of Living Council's Regulations?

*RULING.* No. A custom product is defined by § 150.104(a) as one that is "* * * specifically produced by a manufacturer to the buyer's or buyers' specifications and not reasonably comparable to any product manufactured at any previous time by the same manufacturer * * *." Thus, a re-order of a previously produced custom product could not also be a custom product since the re-order is identical to the initially produced good. The price established in the first sale of the custom product becomes the base price for the re-ordered product. Any increase above that price must be cost-justified in accordance with the provisions of § 150.73. Of course, if the product had not been sold in the same or substantially similar form at any time during the one year period immediately preceding the first date on which the firm now offers it for sale, the re-ordered product would be a new item and could be priced pursuant to the pricing rules for new items in § 150.103.

The reliance on P.C. Ruling 1972-170 is not appropriate in this case. That ruling concerned replacement or repair parts for a previously produced custom product, not a re-order for the entire product itself. If the replacement or repair parts had been priced separately from the total price for the custom product, a re-order of these parts could not have been priced as a custom product. The re-order then would create the same situation as in the case of Company F where F is merely selling additional units of a product it had already sold before.

WILLIAM N. WALKER,
*General Counsel,*
*Cost of Living Council.*

NOVEMBER 19, 1973.

[FR Doc.73-24927 Filed 11-20-73;9:07 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 AGRICULTURE

### Agricultural Marketing Service

### [ 7 CFR Part 907 ]

### HANDLING OF NAVEL ORANGES GROWN IN ARIZONA AND DESIGNATED PART OF CALIFORNIA

### Proposed Expenses and Rate of Assessment for Fiscal 1973–74

This notice invites written comment relative to proposed expenses of $387,450, and a rate of assessment of $0.013 per carton of oranges to support the activities of the Navel Orange Administrative Committee for the 1973–74 fiscal year under Marketing Order No. 907.

Consideration is being given to the following proposals submitted by the Navel Orange Administrative Committee, established under the marketing agreement, as amended, and Order No. 907, as amended (7 CFR Part 907), regulating the handling of Navel oranges grown in Arizona and designated part of California, effective under the applicable provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674), as the agency to administer the terms and provisions thereof:

(1) That the expenses that are reasonable and likely to be incurred by the Naval Orange Administrative Committee during the period November 1, 1973, through October 31, 1974, will amount to $387,450.

(2) That there be fixed, at $0.013 per carton of oranges, the rate of assessment payable by each handler in accordance with § 907.41 of the aforesaid marketing agreement and order.

All persons who desire to submit written data, views, or arguments in connection with the aforesaid proposals should file same in quadruplicate with the Hearing Clerk, United States Department of Agriculture, Room 112, Administration Building, Washington, D.C. 20250, not later than December 3, 1973. All written submissions made pursuant to this notice will be made available for public inspection at the office of the Hearing Clerk during regular business hours (7 CFR 1.27(b)).

Dated: November 16, 1973.

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

[FR Doc.73-24803 Filed 11-20-73;8:45 am]

## DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

### Food and Drug Administration

### [ 21 CFR Part 1 ]

### PRESCRIPTION DRUGS

### Proposed Revision of Reminder Advertisements and Reminder Labeling Regulations

Regulations concerning reminder advertisements and reminder labeling for prescription drugs, §§ 1.105 and 1.106 (21 CFR 1.105 and 1.106), are not consistent in the requirement regarding the declaration of quantitative formula information. Reminder advertisements are required under § 1.105(e)(2)(i) to declare the quantity of each active ingredient of the drug product. Reminder labeling does not have to declare quantitative formula information, being exempt under the provisions of § 1.106(b)(4)(ii). The difference between those items deemed to be advertisements and labeling is set forth in § 1.105(1).

The Commissioner of Food and Drugs has determined that requirements for reminder advertisements and reminder labeling for prescription drugs should be the same, since they are clearly so closely related. He has concluded that no protection is afforded the public by having different requirements for reminder advertisements and reminder labeling. Any difference in the requirements regarding reminder advertisements and reminder labeling only serves to confuse those persons responsible for advertisements and labeling for prescription drugs.

Therefore, the Commissioner proposes to revise the regulations concerning reminder advertisements and reminder labeling for prescription drugs in order to eliminate any difference in these regulations. Reminder advertisements and reminder labeling for prescription drug products will be exempt from the requirements of §§ 1.105(e)(1) or 1.106(b)(4), respectively, if the proposal is adopted. The exemption will apply if the reminder advertisements and reminder labeling contain only the proprietary or trade name of the drug product, if any; the established name of the drug product, if any; the established name of each active ingredient in the drug product; and, optionally, information relating to dosage form, quantity of package contents, price, the name and address of the manufacturer, packer, or distributor or other written, printed, or graphic matter containing no representation or suggestion relating to the drug product. The Commissioner may withdraw these exemptions for a specific drug if he finds that there is evidence of significant incidence of fatalities or serious damage associated with the use of that drug. The revised regulations will continue to prohibit reminder advertisements and reminder labeling for a drug for which an announcement has been published pursuant to a review of the labeling claims for the drug by the National Academy of Sciences-National Research Council, Drug Efficacy Study Group, and for which no claim has been evaluated as higher than "possibly effective."

In addition, it is the policy of the Food and Drug Administration not to inhibit public disclosure of the prices charged for prescriptions for particular drugs. This policy extends to all reminder advertisements and reminder labeling intended to provide consumers with information regarding the price charged for prescriptions including price lists, catalogs, and other promotional material; whether mailed, posted in a pharmacy, placed in a newspaper, or aired on radio or television. In order to assure that the regulations concerning prescription drug reminder advertisements and reminder labeling clearly reflect this policy, the Commissioner has concluded that it is appropriate to establish a separate regulation dealing with this matter.

The proposed regulation establishes conditions whereby prescription drug reminder advertisements and reminder labeling will be exempt from the requirements of §§ 1.105 and 1.106 provided that the sole purpose of the reminder advertisement or reminder labeling is to convey price information to consumers, and the reminder advertisements or reminder labeling contains no representation or suggestion concerning the safety, effectiveness, or use of the drug product. The proposed regulations shall require that the reminder advertisements or reminder labeling contain the proprietary or trade name of the drug product, if any; the established name of the drug product, if any; the established name and quantity of each active ingredient in the drug product; the name of the manufacturer, packer, or distributor as it appears on the label of the drug product; the dosage form; and the price charged for a specific number of dosage units or quantity of the drug product. The declaration of the established name and quantity of each active ingredient is optional if the drug product contains more than three active ingredients. However, this option

does not apply to drug products containing aspirin, phenacetin, and caffeine in combination with one or two other active ingredients. The price is to include all charges to the consumer including, but not limited to, the cost of the drug product, professional fees, handling fees, and mailing fees, if any.

In addition, information such as the National Drug Code (NDC) number and the package or dosage form trade name may be included in the remainder advertisements and reminder labeling. No representation or suggestion may be made concerning the drug product's safety, effectiveness, or indications for use.

In order to further clarify the kinds of information which must be included in such reminder advertisements and reminder labeling, as well as the kinds of optional information which may be included, the Commissioner offers the following as an example of reminder advertisements and reminder labeling which meet the requirements of the proposed regulations:

| | | | |
|---|---|---|---|
| Phenobal elixir (phenobarbital 20 mg/teaspoonful). | Amal Manufacturing Co | 8 fluid oz | $4.25 |
| Mepromate (meprobamate) tablets | XYZ Drug Co | 100/200 mg tablets | 4.50 |
| | | 100/400 mg tablets | 7.50 |
| Alpha ophthalmic solution (0.5% prednisolone sodium phosphate). | Alpha Laboratories | 5 cc. plastic squeeze bottle | 5.70 |
| Copate (codeine sulfate) tablets | Cozy Chemical Co | 25/30 mg tablets | 5.50 |
| Cinol cream (0.025% fluocinolone acetonide) | C. B. J. Laboratories | 15 mg tube | 6.50 |
| Octonyl 1-50 (norethindone 1 mg and mestranol 0.05 mg) tablets. | Octo Laboratories | 3 compact dispensers of 21 tablets each. | 7.35 |
| Proacetin capsules (propoxyphene HCl 65 mg, aspirin 227 mg, phenacetin 162 mg, and caffeine 32.4 mg). | Pro Pharmaceutical Co | 50 capsules | 6.00 |
| Thipine (hydrochlorothiazide 25 mg and reserpine 0.125 mg) softcaps. | ABC Drug Co | 100 capsules | 9.75 |
| Myxin-B ointment (polymyxin B sulfate 5,000 units, zinc bacitracin 400 units, and neomycin sulfate equivalent to neomycin 3.5 mg). | Capital Manufacturing Co | 1 oz tube | 6.70 |

The Commissioner is aware that there may be other ways of including the required and optional information in the reminder advertisements or reminder labeling other than that indicated in the example. It is not the intent of the proposed regulations to specify the format of the reminder advertisements or reminder labeling provided that the reminder advertisements or reminder labeling meet all of the requirements of the proposed regulations.

Therefore, pursuant to provisions of the Federal Food, Drug, and Cosmetic Act (secs. 201(m), 502, 701(a), 52 Stat. 1041, 1051 as amended by 76 Stat. 791, 1055; 21 U.S.C. 321(m), 352, 371(a)) and under authority delegated to the Commissioner (21 CFR 2.120), it is proposed that Part 1 be amended as follows:

1. In § 1.105 by revising paragraph (e)(2)(i) to read as follows:

**§ 1.105 Prescription-drug advertisements.**

* * * * *

(e) * * *

(2) * * *

(i) *Reminder advertisements.* Reminder advertisements are those which call attention to the name of the drug product but do not include indications or dosage recommendations for use of the drug product. These reminder advertisements shall contain only the proprietary or trade name of the drug product, if any; the established name of the drug product, if any; the established name of each active ingredient in the drug product; and, optionally, information relating to dosage form, quality of package contents, price, the name and address of the manufacturer, packer, or distributor or other written, printed, or graphic matter containing no representation or suggestion relating to the advertised drug product. If the Commissioner finds that there is evidence of significant incidence of fatalities or serious damage associated with the use of a particular prescription drug, he may withdraw this exemption by so notifying the manufacturer, packer, or distributor of the drug by letter. Reminder advertisements which are intended to provide consumers with information concerning the price charged for a prescription of a particular drug product are exempt from the requirements of this section if they meet all of the conditions contained in § 1.111. Reminder advertisements, other than those subject to the requirements of § 1.111, are not permitted for a drug for which an announcement has been published pursuant to a review of the labeling claims for the drug by the National Academy of Sciences—National Research Council (NAS–NRC), Drug Efficacy Study Group, and for which no claim has been evaluated as higher than "possibly effective." If the Commissioner finds the circumstances are such that a reminder advertisement may be misleading to prescribers of drugs subject to NAS–NRC evaluation, such advertisements will not be allowed and the manufacturer, packer, or distributor will be notified either in the publication of the conclusions on the effectiveness of the drug or by letter.

* * * * *

2. In § 1.106 by revising paragraph (b)(4)(ii) and by adding a new paragraph (b)(6) as follows:

**§ 1.106 Drugs and devices; directions for use.**

* * * * *

(b) * * *

(4) * * *

(ii) The same information concerning the ingredients of the drug as appears on the label and labeling on or within the package from which the drug is to be dispensed.

* * * * *

(6) Reminder labeling which calls attention to the name of the drug product but does not include indications or dosage recommendations for use of the drug product is exempted from the provisions of paragraph (b)(4) of this section. This reminder labeling shall contain only the proprietary or trade name of the drug product, if any; the established name of the drug product, if any; the established name of each active ingredient in the drug product; and, optionally, information relating to dosage form, quantity of package contents, price, the name and address of the manufacturer, packer, or distributor or other written, printed, or graphic matter containing no representation or suggestion relating to the drug product. If the Commissioner finds that there is evidence of significant incidence of fatalities or serious damage associated with the use of a particular prescription drug, he may withdraw this exemption by so notifying the manufacturer, packer, or distributor of the drug by letter. Reminder labeling which is intended to provide consumers with information concerning the price charged for a prescription for a particular drug product shall meet all of the conditions contained in § 1.111. Reminder labeling, other than that subject to the requirements of § 1.111, is not permitted for a drug for which an announcement has been published pursuant to a review of the labeling claims for the drug by the National Academy of Sciences—National Research Council, Drug Efficacy Study Group, and for which no claim has been evaluated as higher than "possibly effective." If the Commissioner finds the circumstances are such that reminder labeling may be misleading to prescribers of drugs subject to NAS–NRC evaluation, such reminder labeling will not be allowed and the manufacturer, packer, or distributor will be notified either in the publication of the conclusions on the effectiveness of the drug or by letter.

* * * * *

3. By adding a new § 1.111 to read as follows:

**§ 1.111 Prescription drugs; reminder advertisements and reminder labeling to provide price information to consumers.**

(a) Prescription drug reminder advertisements and reminder labeling intended to provide price information to consumers are exempt from the requirements of §§ 1.105 and 1.106 if all of the following conditions are met:

(1) The only purpose of the reminder advertisement or reminder labeling is to provide consumers with information concerning the price charged for a prescription for a particular drug product, and the reminder advertisement or reminder labeling contains no representation or suggestion concerning the drug's safety, effectiveness, or indications for use.

(2) The reminder advertisement or reminder labeling contains the proprietary or trade name of the drug product, if any; the established name of the drug product, if any; the established name and quantity of each active ingredient in the drug product; the name of the manufacturer, packer, or distributor as it appears on the label of

the drug product; the dosage form; and the price charged for a prescription for a specific number of dosage units or quantity of the drug product. The established name and quantity of each active ingredient in the drug product is optional if the drug product contains more than three active ingredients, but this option does not apply to drug products containing aspirin, phenacetin, and caffeine in combination with one or two other active ingredients.

(3) The reminder advertisement or reminder labeling may also include information such as the National Drug Code (NDC) number and any package or dosage form trade name.

(4) No representation or suggestion may be made concerning the drug product's safety, effectiveness, or indications for use.

(5) The price stated in the reminder advertisement or reminder labeling as that charged for a prescription shall include all charges to the consumer including, but not limited to, the cost of the drug product, professional fees, handling fees, and mailing fees, if any.

(b) This exemption from §§ 1.105 and 1.106 is applicable to all prescription drug reminder advertisements and reminder labeling solely intended to provide consumers with information regarding the price charged for prescriptions including price lists, catalogs, and other promotional material; whether mailed, posted in a pharmacy, placed in a newspaper, or aired on radio or television.

Interested persons may, on or before January 21, 1974, file with the Hearing Clerk, Food and Drug Administration, Rm. 6-86, 5600 Fishers Lane, Rockville, MD 20852, written comments (preferably in quintuplicate) regarding this proposal. Comments may be accompanied by a memorandum or brief in support thereof. Received comments may be seen in the above office during working hours, Monday through Friday.

Dated: November 12, 1973.

A. M. SCHMIDT,
*Commissioner of Food and Drugs.*

[FR Doc.73-24766 Filed 11-20-73;8:45 am]

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[ 21 CFR Part 102 ]

## RESTRUCTURED FOODS

### Proposal To Establish Common or Usual Name

*Correction*

In FR Doc. 73-15695 appearing at page 20746 in the issue of Thursday, August 2, 1973, the sixth line of § 102.13 reading "Made From Diced Onions,' the blank to" should read "Made From Diced ------ Onions,' the blank to".

## DEPARTMENT OF TRANSPORTATION

### Federal Aviation Administration

[ 14 CFR Part 71 ]

[Airspace Docket No. 73-NE-30]

### TRANSITION AREA

### Proposed Alteration

The Federal Aviation Administration is considering amending § 71.181 of Part 71 of the Federal Aviation Regulations so as to alter the Keene, New Hampshire, 700-foot Transition Area (38 FR 512).

A new VOR standard instrument approach procedure will be established for the Turners Falls Airport, Turners Falls, Massachusetts. This will require alteration of the Keene, New Hampshire, 700-foot Transition Area to provide controlled airspace for aircraft executing the procedures for this new approach.

Interested persons may submit such written data or views as they may desire. Communications should be submitted in triplicate to the Director, New England Region, Attention: Chief, Air Traffic Division, Department of Transportation, Federal Aviation Administration, 12 New England Executive Park, Burlington, Massachusetts 01803. All communications received on or before December 21, 1973, will be considered before action is taken on the proposed amendment. No hearing is contemplated at this time, but arrangements may be made for informal conferences with Federal Aviation Administration officials by contacting the Chief, Operations, Procedures and Airspace Branch, New England Region.

Any data or views presented during such conferences must also be submitted in writing in accordance with this notice in order to become part of the record for consideration. The proposal contained in this notice may be changed in the light of comments received.

The official docket will be available for examination by interested persons at the Office of Regional Counsel, Federal Aviation Administration, 12 New England Executive Park, Burlington, Massachusetts.

The Federal Aviation Administration, having completed a review of the airspace requirements for the terminal area of Keene, New Hampshire, proposes the airspace action hereinafter set forth:

§ 71.181 [Amended]

1. Amend § 71.181 of Part 71 of the Federal Aviation Regulations so as to delete the description of the Keene, New Hampshire, 700-foot Transition Area and insert the following in lieu thereof:

That airspace extending upward from 700 feet above the surface bounded by a line beginning at 43°01'00" N., 72°13'00" W. To 42°55'00" N., 72°00'00" W. To 42°51'30" N., 71°54'00" W. To 42°28'00" N., 71°54'00" W. To 42°28'00" N., 72°27'00" W. To 42°22'00" N., 72°27'00" W. To 42°22'00" N., 72°35'00" W. To 42°28'00" N., 72°35'00" W. To 42°28'00" N., 73°00'00" W. To 43°01'00" N., 73°00'00" W. To the point of beginning excluding that portion within the Boston, Mass., Pittsfield, Mass., and Chicopee Falls, Mass., Transition Areas.

This amendment is proposed under section 307(a) of the Federal Aviation Act of 1958 (72 Stat. 749; 49 U.S.C. 1348) and section 6(c) of the Department of Transportation Act (49 U.S.C. 1655(c)).

Issued in Burlington, Massachusetts on October 19, 1973.

FERRIS J. HOWLAND,
*Director, New England Region.*

[FR Doc.73-24783 Filed 11-20-73;8:45 am]

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### National Highway Traffic Safety Administration

[ 49 CFR Part 571 ]

[Docket No. 73-26; Notice 1]

### STANDARDS APPLICABLE TO POLICE VEHICLES

### Advance Notice of Proposed Rulemaking; Correction

In FR Doc. 73-23871, appearing at page 31017-18 of the issue for Friday, November 9, 1973, the date before which individuals wishing to participate in the public meeting on standards applicable to police vehicles should contact Mr. Guy Hunter, should read "December 5, 1973."

Issued on November 16, 1973.

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

[FR Doc.73-24817 Filed 11-20-73;8:45 am]

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[ 49 CFR Part 571 ]

[Docket No. 71-13; Notice 5]

### MOTOR VEHICLE SAFETY STANDARDS

### Brake Fluids

This notice proposes performance requirements for brake fluids of low water tolerance, presently unspecified by 49 CFR 571.116 Motor Vehicle Safety Standard No. 116, *Motor Vehicle Brake Fluids*. The notice also proposes amendments affecting color and determination of clarity of all DOT brake fluids.

An advance notice of proposed rulemaking was published on June 24, 1971 (36 FR 12032), requesting substantive data on the performance levels of types of fluid other than polyglycol and similar synthetic fluids, for use in central hydraulic systems and conventional brake systems. Many of the comments stated that it was premature to specify comprehensive regulations for fluids to be used in systems that are still under development and that may require fluid characteristics not yet defined. The National Highway Traffic Safety Administration concurred with these opinions and did not propose definitive perform-

ance requirements. But since comments endorsed labeling to aid in the prevention of adverse cross-contamination of the different fluids presently available to the consumer, the NHTSA proposed and adopted an amendment to Standard No. 116 (38 FR 2981 as amended by 38 FR 12922) which specifies container labeling requirements for silicone-based brake fluids and hydraulic system mineral oils, effective July 1, 1973.

The NHTSA now proposes performance requirements for brake fluids of low water tolerance, which would include but not be limited silicone-based brake fluids. This new fluid would be known as "DOT 5."

The proposed requirements for DOT 5 brake fluid are based on comments to the advance notice of proposed rulemaking, and the proposed recommended practice for nonconventional brake fluids developed by the SAE Motor Vehicle Brake Fluid Subcommittee task force assigned to this area. To answer some of the questions that may be raised concerning the in-service performance charactertistics and requirements of fluids of low water tolerance, the following are some of the major considerations behind the current proposal.

*Water tolerance.* The presence of water in a brake system degrades braking performance and safety by lowering the boiling point of brake fluid, increasing the possibility of vapor lock, corroding system components, and depositing sediment in wheel cylinders that could cause a system malfunction. The DOT brake fluids currently in use are designed to absorb moisture present in the system, minimizing the corrosion and sediment problems caused by freestanding water. Another approach to the water problem is the use of brake fluids that either repel water completely, or tend to seal the system while absorbing the small amounts of moisture that may enter. On balance, the NHTSA has tentatively decided that these fluids of "low water tolerance" represent a technological advance over conventional brake fluids, and provide a safety benefit in systems designed for them, that should be made available to the motoring public. The boiling point tests proposed in this notice have the effect of requiring a low water tolerance for DOT 5 brake fluids.

*Compatibility.* One requirement of the compatibility test is that there shall be no stratification when DOT brake fluids are mixed with RM–1 fluid, which has a glycol base. Although it may be argued that fluids cannot be considered compatible with one another unless they are completely miscible, the NHTSA has tentatively determined that if fluids of different chemical bases stratify, they are nevertheless compatible, and hence acceptable, when there are no undesirable chemical interactions as demonstrated by the chemical stability test and the fluid mixture meets other applicable performance requirements. Since DOT 5 fluid will stratify without detriment when it is mixed with RM–1 fluid it is not proposed that the stratification requirement apply to it.

*Boiling point.* The minimum equilibrium reflux (or dry) boiling point proposed for DOT 5 fluids is 260° C (500° F) and the minimum wet boiling point, 180° C (356° F). The fact that boiling points are higher than those of DOT 3 and 4 fluids may be questioned, but each of the three fluids is designed for use in different types of brake systems and under different environmental conditions, resulting in different minimum performance values so that fluid characteristics will themselves differ.

As a practical matter it is likely that low water tolerant-type fluids will have a boiling point near 700° F. The NHTSA does not believe that it is necessary to test DOT 5 fluids until they reach such high temperatures, and is proposing that the high temperature stability test be discontinued if no reflux is evident when the fluid temperature reaches 260° C (500° F). It is possible that between 260° C (500° F) and the boiling point chemical decomposition may occur in the fluid, but no safety problems are likely to arise in service as manufacturers should not design brake systems to perform beyond the practical limits of the DOT grade fluid selected for service.

*Viscosity.* The proposed viscosity of DOT brake fluids at minus 40° C (minus 40° F) is 900 cSt. Some manufacturers have expressed the desire to have the low temperature viscosity set at 800 cSt and, in addition, to establish a viscosity requirement for the fluid in a humidified condition, representative of its properties in-service. The NHTSA considers that the proposed limit is adequate until additional vehicle test data are available. However, the NHTSA is concerned about the effects of viscosity requirements of all DOT fluids on the cycle times of antilock systems and is interested in comments on this area.

Also included in this notice is a proposed revision in the test procedures for determining cloudiness and lack of clarity in all brake fluids (S6.9, S6.10). This change is proposed with a view to eliminating the subjective hiding power test chart procedure. Fluid clarity does not appear to be a functional requirement for brake fluids. From the standpoint of motor vehicle safety it may be argued that as long as the fluid retains an acceptable viscosity in continued storage at low temperature, and does not form crystals, sludge, or sediment that may clog the system, or stratify to yield an extremely viscous phase, it will provide an operating capability equivalent to that of a perfectly transparent fluid of the same low-temperature viscosity. The NHTSA is proposing the requirement that in warming again to room temperature the brake fluid test specimen shall resume the appearance and fluidity that it had prior to chilling. Failure to do so would indicate an irreversible change that might prove harmful to safe performance over a long term.

The introduction of new fluid types has posed several questions as to a suitable method for controlling the intermixing of motor vehicle brake fluids and hydraulic system mineral oils. The NHTSA has tentatively decided that color coding of the fluids is an appropriate method of preventing brake system contamination in view of the recent proliferation of brake fluid types. Currently, a wide range of colors is being employed by fluid manufacturers, and this presents potential safety hazards since fluids of the same color may or may not be compatible. It is proposed that DOT 3 and DOT 4 fluid be yellow and that labels for containers of these fluids be bordered in yellow. DOT 5 fluid and label color would be blue, and red would be required for hydraulic system mineral oil. Colors would be defined in terms of millimicrons. It is requested that comments in response to the proposal address the problems entailed with changing from one color system to another and the effect of coloration on the physical properties of the fluid.

In consideration of the foregoing, it is proposed that 49 CFR 571.116, Motor Vehicle Safety Standard No. 116, *Motor Vehicle Brake Fluids* be amended as follows:

1. S5 would be revised to read:

S5. *Requirements.* This section specifies requirements for DOT brake fluids, (grades DOT 3, DOT 4, and DOT 5), brake fluid containers, and brake fluid container labeling. Where a range of tolerances is specified, the brake fluid must be capable of meeting the requirements at all points within the range.

2. S5.1 would be revised to read:

S5.1 *Motor vehicle brake fluid.* When tested in accordance with S6., motor vehicle brake fluids other than hydraulic system mineral oil shall meet the following requirements.

3. In S5.1.1, a new paragraph (c) would be added to read:

S5.1.1 *Equilibrium reflux boiling point (ERBP).*

* * * * *

(c) DOT 5: 260°C (500°F)

4. In S5.1.2, a new paragraph (c) would be added to read:

S5.1.2 *Wet ERBP*

* * * * *

(c) DOT 5: 180°C (356°F)

5. In S5.1.3, a new paragraph (c) would be added to read:

S5.1.3 *Kinematic viscosities.*

* * * * *

(c) DOT 5: 900 cSt at minus 40°C (minus 40°F).

6. S5.1.4 would be revised to read:

S5.1.4 *pH value.* When DOT 3 or DOT 4 brake fluid is tested according to S6.4, the pH value shall not be less than 7.0 nor more than 11.5.

7. In S5.1.6 paragraphs (c), (e), and (f) would be revised to read:

S5.1.6 *Corrosion*

* * * * *

(c) The water-wet brake fluid at the end of the test shall show no jelling at 23 ±5°C (73.4±9°F);

* * * * *

(e) At the end of the test, sedimentation of the water-wet brake fluid shall not exceed 0.10 percent by volume;

(f) The pH value of water-wet DOT 3 and DOT 4 brake fluid at the end of the test shall not be less than 7.0 nor more than 11.5;

* * * * *

8. In S5.1.7, the lettered items would be amended to read:

S5.1.7 *Fluidity and appearance at low temperature.*

* * * * *

(a) The fluid shall show no sludging, sedimentation, crystallization, or stratification;

(b) Upon inversion of the sample bottle, the time required for the air bubble to travel to the top of the fluid shall not exceed the bubble flow times shown in Table II; and

(c) On warming to room temperature, the fluid shall resume the appearance and fluidity that it had before chilling.

* * * * *

9. In S5.1.9(a), the lettered items would be amended to read:

S5.1.9 *Water tolerance.*

(a) At low temperature: * * *

(1) The fluid shall show no sludging, sedimentation, crystallization, or stratification;

(2) Upon inversion of the centrifuge tube, the air bubble shall travel to the top of the fluid in not more than 10 seconds;

(3) If cloudiness has developed, the wet fluid shall regain its original clarity and fluidity when warmed to room temperature; and

* * * * *

10.S5.1.10 would be revised to read:

S5.1.10 *Compatibility.*

(a) *At low temperature.* When brake fluid is tested according to S6.10.3(a) the test specimen shall show no sludging, sedimentation, or crystallization. In addition DOT 3 and DOT 4 fluids shall show no stratification.

(b) *At 60°C (140°F).* When brake fluid is tested according to S6.10.3(b)—

(1) Sedimentation shall not exceed 0.05 per cent by volume after centrifuging; and

(2) DOT 3 and DOT 4 fluids shall show no stratification.

11. A new S5.1.14 would be added to read:

S5.1.14 *Fluid color.* Motor vehicle brake fluid and hydraulic system mineral oil shall be of the color indicated:

DOT 3 and DOT 4—yellow (570 to 590 millimicrons)

DOT 5—blue (440 to 500 millimicrons)

Hydraulic system mineral oil—red (610 to 700 millimicrons)

12. The first sentence of S5.2.1 would be revised to read:

S5.2.1 *Container sealing.* Each brake fluid container with a capacity of 6 fluid ounces or more shall be provided with a resealable closure that has an inner seal impervious to the packaged brake fluid. * * *

13. The introductory phrase and paragraph (b) of S5.2.2.1 would be revised to read:

S5.2.2.1 Each manufacturer of a DOT grade brake fluid shall furnish to each packager, distributor, or dealer to whom he delivers brake fluid, the following information:

* * * * *

(b) The grade (DOT 3, DOT 4, or DOT 5) of the brake fluid.

* * * * *

14. In S5.2.2.2, the introductory phrase and paragraphs (e), (f), and (g) would be revised to read:

S5. 2.2.2 Each packager of a brake fluid other than hydraulic system mineral oil shall furnish the following information clearly and indelibly marked on each brake fluid container, in any location except a removable part such as a lid.

* * * * *

(e) Designation of the contents as "DOT ____ MOTOR VEHICLE BRAKE FLUID" (Fill in "3", "4", or "5" as applicable.)

(f) The minimum wet boiling point in Fahrenheit of the DOT brake fluid in the container.

(g) The following safety warnings, bordered by a line not less than ⅛ inch in width in yellow if the fluid in the container is DOT 3 or DOT 4, or in blue if the fluid is DOT 5, in capital and lower case letter as indicated: * * *

15. In S5.2.2.3, the introductory phrase and paragraphs (d) and (e) would be revised to read:

S5.2.2.3 Each packager of hydraulic system mineral oil shall furnish the following information clearly and indelibly marked on each container in any location except a removable part such as a lid:

* * * * *

(d) Designation of the contents as "HYDRAULIC SYSTEM MINERAL OIL" in capital letters at least ⅛ of an inch high.

(e) The following safety warnings, bordered by a red line not less than ⅛ inch in width, in capital and lower case letters as indicated:

* * * * *

(2) Hydraulic System Mineral Oil is *NOT COMPATIBLE* with the rubber components of brake systems designed for use with DOT brake fluids.

* * * * *

16. In S6.1.4, the following sentence would be added to the end of the paragraph:

S6.1.4, *Procedure for preparation of apparatus.* * * * If no reflux is evident when the fluid temperature reaches 260° C (500° F), discontinue heating and report ERBP as in excess of 260° C (500° F).

17. The references to "ethanol" in paragraphs S6.3.5(b), S6.6.4(a), S6.6.5, S6.7.3(a), S6.10.3(a), S6.11.5, S6.12.4, S6.13.4(a), and S6.13.5 would be changed to "ethanol (isopropanol when testing DOT 5 fluids)."

18. In S6.5.3.1, the following sentence would be added to the end of the paragraph:

S6.5.3.1 *Procedure for high temperature testing.* * * * If no reflux is evident when the fluid temperature reaches 260°C (500°F), discontinue heating and report ERBP as in excess of 260°C (500°F).

19. In S6.6.3, a new paragraph (h) would be added to read:

S6.6.3 *Materials.*

* * * * *

(h) Isopropanol as specified in S7.7.

20. The fourth and last sentences of S6.6.5 would be amended to read:

S6.6.5 *Procedure for preparation.* * * * When testing DOT 3 and DOT 4 brake fluids, mix 760 ml. of brake fluid with 40 ml. of distilled water, or, when testing DOT 5 brake fluids, humidify 800 ml. of brake fluid in accordance with S6.2, eliminating determination of the ERBP; using this water-wet mixture, cover each strip assembly to a minimum depth of 10 mm. above the tops of the strips. * * * Measure the pH value of the DOT 3 and DOT 4 test mixture according to S6.4.6.

21. Paragraph (d) of S6.7.2 would be deleted.

22. In S6.7.3, paragraph (a) would be revised to read:

S6.7.3 *Procedure.*

(a) Place 100 ± 1 ml. of brake fluid at room temperature in an oil sample bottle. Stopper the bottle with an unused cork and place in the cold chamber at the higher storage temperature specified in Table II (S5.1.7(c)). After 144 ±4 hours remove the bottle from the chamber, quickly wipe it with a clean, lint-free cloth saturated with ethanol or acetone. Examine the fluid for evidence of sludging, sedimentation, crystallization, or stratification. Invert the bottle and determine the number of seconds required for the air bubble to travel to the top of the fluid. Let sample warm to room temperature and examine.

* * * * *

23. In paragraph S6.9.1, the first sentence would be revised to read:

S6.9.1 *Summary of the procedure.* DOT 3 and DOT 4 brake fluid is diluted with 3.5 per cent water, and DOT 5 brake fluid is humidified, then stored at minus 40° C (minus 40° F) for 24 hours. * * *

24. In S6.9.1, the reference to "24 hours" in the first sentence would be revised to "120 hours."

25. In S6.9.2, paragraph (f) would be deleted.

26. In S6.9.3, paragraph (a) would be revised to read:

S6.9.3 *Procedure.*

(a) *At low temperature.* Humidify 100±1 ml. of DOT 5 brake fluid in accordance with S6.2 eliminating determination of the ERBP. When testing DOT 3 and DOT 4 brake fluids, mix 3.5±0.1 ml. of distilled water with

100±1 ml. of the brake fluid; pour into a centrifuge tube. Stopper the tube with a clean cork and place in the cold chamber maintained at minus 40±2°C (minus 40±3.6°F). After 120 hours ±2 hours remove the tube, quickly wipe with clean lint-free cloth saturated with ethanol or acetone, and examine the fluid for evidence of sludging, sedimentation, crystallization, or stratification. Invert the tube and determine the number of seconds required for the air bubble to travel to the top of the fluid. (The air bubble is considered to have reached the top of the fluid when the top of the bubble reaches the 2 ml. graduation of the centrifuge tube.) If the wet fluid has become cloudy, warm to 23±5°C (73.4±9°F) and note appearance and fluidity.

* * * * *

27. In S6.10.2, paragraph (f) would be deleted.

28. In S6.10.3, the last two sentences of paragraph (a) would be deleted and the following two sentences substituted:

S6.10.3 *Procedure.*

(a) * * * Examine the test specimen for evidence of sludging, sedimentation, or crystallization. DOT 3 and DOT 4 test fluids shall also be examined for stratification.

29. In paragraph (b) of S6.10.3, the second sentence would be revised to read:

(b) * * * Remove tube and immediately examine the contents of DOT 3 and DOT 4 test mixtures for evidence of stratification. * * *

30. In S6.11.1, the first sentence would be deleted and the following two sentences substituted:

S6.11.1 *Summary of the procedure.* DOT 3 and DOT 4 brake fluids are activated with a mixture of approximately 0.2 percent benzoyl peroxide and 5 percent water. DOT 5 brake fluid is humidified in accordance with S6.2 eliminating determination of the ERBP, and then approximately 0.2 percent benzoyl peroxide is added. * * *

31. In S6.11.4, the first two sentences of paragraph (b) would be deleted and the following substituted:

S6.11.4 *Preparation.*

* * * * *

(b) *Test mixture.* Place 30±1 ml. of the brake fluid under test in a 22 by 175 mm. test tube. For DOT 3 and DOT 4 fluids, add 0.060±.002 gram of benzoyl peroxide, and 1.50±0.05 ml. of distilled water. For DOT 5 fluids, use test fluid humidified in accordance with S6.2, and add only the benzoyl peroxide. * * *

32. A new S7.7 would be added to read:

S7.7 *Isopropanol.* ACS or reagent grade.

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

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

Comment closing date: January 22, 1974. Proposed effective date: July 1, 1974.

(Sec. 103, 112, and 119, Pub. L. 89-563, 80 Stat. 718 (15 U.S.C. 1392, 1401 and 1407); delegations of authority at 49 CFR 1.51 and 501.8.)

Issued on: November 16, 1973.

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

[FR Doc.73-24790 Filed 11-20-73;8:45 am]

## COST ACCOUNTING STANDARDS BOARD

### [ 4 CFR Part 407 ]

### USE OF STANDARD COSTS FOR DIRECT MATERIAL AND DIRECT LABOR

#### Proposed Cost Accounting Standard

Notice is hereby given of a proposed cost accounting standard on the use of standard costs for direct material and direct labor which the Cost Accounting Standards Board is considering for promulgation to implement further the requirements of section 719 of the Defense Production Act of 1950, as amended, Public Law 91-379, 50 U.S.C. App. 2168. When promulgated, the standard will be used by all relevant Federal agencies and national defense contractors and subcontractors.

The proposed standard, if adopted, will be one of a series of cost accounting standards which the Board is promulgating "to achieve uniformity and consistency in the cost-accounting principles followed by defense contractors and subcontractors under Federal contracts." (See section 719(g) of the Defense Production Act of 1950, as amended.) It is anticipated that any contractor receiving an award of a contract on or after the effective date of this standard will be required to follow it as of the date of such award, if he elects to use standard costs for estimating, accumulating, and reporting costs of direct material and direct labor.

The Cost Accounting Standards Board solicits comments on the proposed cost accounting standard from any interested person on any matter which will assist the Board in its consideration of the proposal.

Interested persons should submit written data, views, and arguments concerning the proposed cost accounting standard to the Cost Accounting Standards Board, 441 G Street NW., Washington, D.C. 20548.

To be given consideration by the Board in its determination relative to final promulgation of the cost accounting standard covered by this notice, written submissions must be made to arrive no later than Monday, January 21, 1974. All written submissions made pursuant to this notice will be made available for public inspection at the Board's office during regular business hours.

Sec.
407.10 General applicability.
407.20 Purpose.
407.30 Definitions.
407.40 Fundamental requirement.
407.50 Techniques for application.
407.60 Illustrations.
407.70 Exemptions.
407.80 Effective date.

AUTHORITY: Sec. 719 of the Defense Production Act of 1950, as amended, Pub. L. 91-379, 50 U.S.C. App. 2168.

**§ 407.10 General applicability.**

This Standard shall be used by defense contractors and subcontractors under Federal contracts entered into after the effective date hereof and by all relevent Federal agencies in estimating, accumulating, and reporting costs in connection with the pricing, administration, and settlement of all negotiated prime contract and subcontract national defense procurements with the United States in excess of $100,000, other than contracts or subcontracts where the price negotiated is based on: (a) Established catalog or market prices of commercial items sold in substantial quantities to the general public, or (b) prices set by law or regulation.

**§ 407.20 Purpose.**

The purpose of this Cost Accounting Standard is to facilitate the election, by a contractor, of the use of standard costs for estimating, accumulating, and reporting costs of direct material and direct labor, and to provide criteria relating to the establishment and revision of standard costs and to the disposition of variances from standard costs. Consistent application of these criteria where standard costs are in use will improve verifiability in contract-cost measurement and promote comparability of cost data.

**§ 407.30 Definitions.**

(a) *Cost-Accounting Period.* A time period which is determined in accordance with the provisions of 4 CFR Part 406.

(b) *Labor Cost at Standard.* The labor element of standard cost, computed by multiplying labor-rate standard by labor-time standard.

(c) *Labor-Rate Standard.* A preestablished measure, expressed in monetary terms, of price of labor.

(d) *Labor-Time Standard.* A preestablished measure, expressed in temporal terms, of quantity of labor.

(e) *Material Cost at Standard.* The material element of standard cost, computed by multiplying material-price standard by material-quantity standard.

(f) *Material-Price Standard.* A pre-established measure, expressed in monetary terms, of price of material.

(g) *Material-Quantity Standard.* A pre-established measure, expressed in physical terms, of quantity of material.

(h) *Production Unit.* A grouping of homogeneous activities for which costs and statistics associated with that unit are separately accumulated.

(i) *Standard Cost.* Any cost computed with the use of pre-established measures.

(j) *Variance.* The difference between a pre-established measure and actual measure.

**§ 407.40 Fundamental requirement.**

Where standard costs as used by a contractor or by any organizational unit thereof are entered into, and become a part of, his accounting records, he may use standard costs for estimating, accumulating, and reporting costs of direct material and direct labor when all of the following criteria are met:

(a) Standards, established to become effective at the beginning of a cost-accounting period on the basis of experience or other valid supporting data, reflect conditions expected to prevail during that cost-accounting period;

(b) Material cost at standard, where used, and labor cost at standard, where used, are accounted for at the level of production unit;

(c) Variances for material, where material cost at standard is in use, and variances for labor, where labor cost at standard is in use, are accounted for in accordance with provisions of this Cost Accounting Standard; *and*

(d) Practice with respect to the disposition of variances at the end of each cost-accounting period is established and followed consistently, in accordance with provisions of this Cost Accounting Standard.

**§ 407.50 Techniques for application.**

(a)(1) A contractor shall state the approach he follows in setting each of the two components of material cost at standard (material-price standard and material-quantity standard) and each of the two components of labor cost at standard (labor-rate standard and labor-time standard).

(2) Where a contractor's established practice so states, a component of material cost at standard or of labor cost at standard may be further broken down, such as incorporating material-scrap standard in setting material-quantity standard or incorporating labor-performance standard in setting labor-time standard.

(3) Where a contractor's established practice so states, one of the two components of material cost at standard may be substituted by actual in lieu of standard. Similarly, one of the two components of labor cost at standard may be substituted by acutal in lieu of standard.

(4) A labor-rate standard may be set to cover a category of direct-labor functions only if such functions are not materially disparate and the range between the highest and lowest rates in that category is reasonably narrow in the light of the degree of similarity or interchangeability of usage of functions in that category.

(5) A labor-rate standard may be set to cover a composite of direct-labor functions only if members in each group work as an inseparable team in the performance of a common task.

(b)(1) Variances for material price may be recognized either at the time material is purchased or at the time it is introduced to production units; the timing of recognizing variances for material price shall be a part of a contractor's established practices.

(2) Where variances for material price are recognized at the time material is introduced to production units, these variances and variances for material quantity may be combined into one material-cost variance account. There shall be at least one material-cost variance account for each production unit.

(3) Where variances for material price are recognized at the time material is purchased, these variances shall be accounted for separately from variances for material quantity. There shall be one material-price variance account for each homogeneous grouping of material, and at least one material-quantity variance account for each production unit.

(4) A transfer between organizational units shall be considered a purchase by the receiving organizational unit for the purpose of this Cost Accounting Standard.

(5) Variances for labor rate and variances for labor time may be combined into one labor-cost variance account. There shall be at least one labor-cost variance account for each production unit.

(c)(1) A contractor shall elect, as his established practice with respect to the disposition of variances at the end of each cost-accounting period, either (i) or (ii) of the following:

(i) Variances, irrespective of the materiality of their amount, are allocated directly to applicable cost objectives;

(ii) variances, when their amount is immaterial, are included in appropriate indirect cost pools for subsequent allocation to applicable cost objectives, and, when their amount ceases to be immaterial, are allocated directly to applicable cost objectives.

(2) Where a contractor elects paragraph (c)(1)(ii) of this section as his established practice with respect to the disposition of variances, a material-cost variance ceases to be immaterial when its cumulative amount for a cost-accounting period is in excess of 5 percent of its related material cost at standard for the same period. Similarly, a labor-cost variance ceases to be immaterial when its cumulative amount for a cost-accounting period is in excess of 5 percent of its related labor cost at standard for the same period. Where a contractor recognizes variances for material price at the time material is purchased, a material-price variance ceases to be immaterial when its cumulative amount for a cost-accounting period is in excess of 5 percent of the sum, at material cost at standard, of items in inventory at the beginning of that cost-accounting period and items purchased during that cost-accounting period for that homogeneous grouping of material.

(3) Where a material-cost variance is to be allocated directly to applicable cost objectives in accordance with (c)(1) of this section, the basis of allocation shall be the material cost at standard incurred by each of the applicable cost objectives. Similarly, where a labor-cost variance is to be allocated directly, the basis of allocation shall be the labor cost at standard incurred by each of the applicable cost objectives.

(4) Where variances for material price are recognized at the time material is purchased, and where a material-price variance ceases to be immaterial at the end of a cost-accounting period, it shall be allocated to items in inventory and to applicable production units. A contractor shall elect, as his established practice in this respect, either of the following:

(i) Items in inventory are adjusted, to the extent practical, from standard cost to actual cost; the balance of the material-price variance, after reflecting these adjustments, is allocated to applicable production units on the basis of material cost at standard incurred by each of the applicable production units;

(ii) Items in inventory of a homogeneous grouping of material, at standard cost, are treated, collectively, as a production unit; a material-price variance is allocated to applicable production units on the basis of material cost at standard incurred by each of the applicable production units.

(5) Where material-price variance is allocated to a production unit in accordance with (c)(4) of this section, it shall be combined with material-quantity variance into one material-cost variance for that production unit in disposing variances in accordance with provisions of paragraph (c)(1) of this section.

(6) The amount of material-price variance, where it is adjusted or allocated to items in inventory at the end of a cost-accounting period in accordance with paragraph (c)(4) of this section, shall be treated as material-price variance of the subsequent cost-accounting period.

(7) A contractor's established practice with respect to the disposition of variances shall be the same whether a variance is favorable (that is, where standard cost exceeds actual cost) or unfavorable (that is, where actual cost exceeds standard cost).

(d)(1) A contractor shall establish criteria, stated generally in terms of the difference between a standard and actual in percentage figures or in dollars or both, and agreed to by the Government, under which standards are to be revised during a cost-accounting period. When a

standard requires revision in accordance with these criteria, it shall be revised and put into effect during that cost-accounting period, and variances from using the standard being revised shall be disposed of, at the time the revised standard becomes effective.

(2) Notwithstanding the provisions in paragraph (d)(1) of this section, a contractor shall review standards at least once for each cost-accounting period to determine the need for revision of standards, which are to become effective at the beginning of that cost-accounting period, in accordance with the provisions in § 407.40(1).

**§ 407.60 Illustrations.**

(a) Contractor A sets his material-price standards on the basis of average purchase prices expected to prevail during a cost-accounting period, which is the calendar year. For a particular item whose usage from month to month is stable, a purchase contract is generally signed on May 1 of each year for a one-year commitment. The current contract calls for a purchase price of $3 per pound; an increase of 5 percent, or 15¢ per pound, has been announced by the vendor when the new contract comes into effect next May. Contractor A sets his material-price standard for this item at $3.10 per pound for the year

(=[$3.00×4+$3.15×8]÷12).

Contractor A's practice is deemed to be in compliance with provisions of § 407.40 (1) of this Cost Accounting Standard.

(b) Contractor B identifies material cost at standard at the subassembly level and recognizes material-price variances at the time material is introduced to the subassembly. He uses one Material Variance account for this subassembly to record both material-price and material-quantity variances. Contractor B's practice is deemed to be in compliance with provisions of § 407.50(b)(2) of this Cost Accounting Standard.

(c)(1) Contractor C recognizes material-price variances at the time material is purchased, maintains Material Price Variance accounts in terms of homogeneous groupings of material, and has an established practice, where material-price variances cease to be immaterial, of adjusting items in inventory from standard cost to actual cost at the end of a cost-accounting period.

(2) During a cost-accounting period, one homogeneous grouping of material has, at standard cost, a beginning inventory of $150,000 and total purchases of $1,850,000; the related Material Price Variance account has an unfavorable balance of $140,000. Since the variance is in excess of 5 percent of the sum of beginning inventory and total purchases, he adjusts the ending inventory of that homogeneous grouping of material from standard cost to actual cost on an item-by-item basis. This results in a restatement of items in ending inventory from standard cost at $200,000 to actual cost at $220,000, or an upward adjustment of $20,000. He then reduces the Material Price Variance account by the same amount. He proceeds to allocate the balance of the Material Price Variance account of $120,000 to applicable production units, using material cost at standard as requisitioned by each of the applicable production units as the basis of allocation, as follows:

| Production unit | Requisition of material cost at standard | Fractional share | Allocation of material-price variance |
|---|---|---|---|
| 1 | $900,000 | 9/18 | $60,000 |
| 2 | 450,000 | 4.5/18 | 30,000 |
| 3 | 300,000 | 3/18 | 20,000 |
| 4 | 150,000 | 1.5/18 | 10,000 |
| Total requisitioned | 1,800,000 | 18/18 | 120,000 |

Contractor C's practice is deemed to be in compliance with provisions of § 407.50 (c)(4)(i) of this Cost Accounting Standard.

(d) Contractor D has the same practices as Contractor C, with one exception: Contractor D's established practice is to allocate material-price variances to applicable production units and to ending inventory as if the latter constitutes a production unit. At the end of a cost-accounting period, Contractor D has accumulated the same data as Contractor C in Illustration (c). Contractor D proceeds to allocate the unfavorable balance of $140,000 in Material Price Variance account as follows:

| Production unit | Requisitions and ending inventory of material cost at standard | Fractional share | Allocation of material-price variance |
|---|---|---|---|
| 1 | $900,000 | 9/20 | $63,000 |
| 2 | 450,000 | 4.5/20 | 31,500 |
| 3 | 300,000 | 3/20 | 21,000 |
| 4 | 150,000 | 1.5/20 | 10,500 |
| Inventory | 200,000 | 2/20 | 14,000 |
| Total | 2,000,000 | 20/20 | 140,000 |

Contractor D's practice is deemed to be in compliance with provisions of § 407.50 (c)(4)(ii) of this Cost Accounting Standard.

**§ 407.70 Exemptions.**

None for this Standard.

**§ 407.80 Effective date.**

This Standard shall be followed by each contractor as of the beginning of his next fiscal year following the receipt of a covered contract after _____ (Date)

The effective date of this Cost Accounting Standard is [reserved].

ARTHUR SCHOENHAUT,
*Executive Secretary.*

[FR Doc.73-24889 Filed 11-20-73;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 STATE

[Public Notice CM-C4]

### ADVISORY PANELS ON FOLK MUSIC AND JAZZ, MUSIC, AND ACADEMIC MUSIC

#### Cancellation of Meetings

This is to advise that both the open and closed sessions of the meetings of the subject Advisory Panels announced in the FEDERAL REGISTER on Wednesday, November 14, 1973 (FR Vol. 38, No. 219, page 31458) have been canceled.

The Advisory Panel on Folk Music and Jazz was to have met on November 28, 1973; the Advisory Panel on Music was to have met on November 29, 1973; and the Advisory Panel on Academic Music was to have met on November 30, 1973.

SUE M. MORELAND,
*Committee Management Officer.*

NOVEMBER 20, 1973.

[FR Doc.73-24938 Filed 11-20-73;8:45 am]

## DEPARTMENT OF THE TREASURY

### Customs Service

[T.D. 73-316]

### FOREIGN CURRENCIES

#### Certification of Rates

The Federal Reserve Bank of New York, pursuant to section 522(c), Tariff Act of 1930, as amended (31 U.S.C. 372 (c)), has certified the following rates of exchange which varied by 5 per centum or more from the quarterly rate published in Treasury Decision 73-294 for the following country. Therefore, as to entries covering merchandise exported on the dates listed, whenever it is necessary for Customs purposes to convert such currency into currency of the United States, conversion shall be at the following daily rates:

| | |
|---|---|
| Germany deutsche mark: | |
| November 7, 1973 | $0.3922 |
| November 8, 1973 | .3910 |
| November 9, 1973 | .3888 |

[SEAL] R. N. MARRA,
*Director, Appraisement and Collections Division.*

[FR Doc.73-24751 Filed 11-20-73;8:45 am]

### Office of the Secretary

### RUBBER THREAD FROM ITALY

#### Discontinuance of Antidumping Investigation

NOVEMBER 15, 1973.

On August 29, 1973, there was published in the FEDERAL REGISTER a notice of "Tentative Discontinuance of Antidumping Investigation" (38 FR 23342) concerning rubber thread from Italy.

The statement of reasons for the tentative action was published in the above-mentioned notice, and interested persons were afforded an opportunity to make written submissions and to present oral views in connection with the tentative discontinuance.

After consideration of all views and arguments, and for the reasons stated in the notice of "Tentative Discontinuance of Antidumping Investigation," I hereby discontinue the antidumping investigation of rubber thread from Italy.

This "Discontinuance of Antidumping Investigation" is published pursuant to § 153.15(d) of the Customs Regulations (19 CFR 153.15(d)).

[SEAL] EDWARD L. MORGAN,
*Assistant Secretary of the Treasury.*

[FR Doc.73-24830 Filed 11-20-73;8:45 am]

## DEPARTMENT OF THE INTERIOR

### Bureau of Land Management

### RAWLINS DISTRICT ADVISORY BOARD

#### Notice of Meeting

NOVEMBER 12, 1973.

Notice is hereby given that the Rawlins District Advisory Board will hold a meeting on December 4–5, 1973, at the Rawlins District Office, Bureau of Land Management, Rawlins, Wyoming. The agenda for the meeting will include election of Chairman and vice-chairman, election of representatives to the Wyoming State Multiple Use Advisory Board, consideration of applications for the 1974 grazing season, and consideration of the 1974 range improvement program.

The meeting will be open to the public. Time will be available for a limited number of brief statements by members of the public. Those wishing to make an oral statement should inform the Advisory Board Chairman prior to the meeting of the Board. Any interested person may file a written statement with the Board for its consideration.

Written statements and requests to appear before the Board should be submitted to Bernard Sun, Chairman, % District Manager, Bureau of Land Management, P.O. Box 670, Rawlins, Wyoming 82301.

CLAUDE A. MARTIN,
*District Manager.*

[FR Doc.73-24740 Filed 11-20-73;8:45 am]

### Office of Hearings and Appeals

[Docket No. M 74-19]

### GRAYS KNOB COAL CO.

#### Petition for Modification of Application of Mandatory Safety Standard

Notice is hereby given that in accordance with the provisions of section 301(c) of the Federal Coal Mine Health and Safety Act of 1969, 30 U.S.C. § 861(c) (1970), Grays Knob Coal Company has filed a petition to modify the application of 30 CFR 77.1605(k) to its Harlan Nos. 1 and 2 Mines and its Mill Creek No. 2 Mine located at Grays Knob, Kentucky.

30 CFR 77.1605(k) reads as follows:

(k) Berns or guards shall be provided on the outer bank of elevated roadways.

Petitioner states that the access roads in the affected area range in length from 3,000 feet to over 4 miles. The roads are narrow due to the steep slopes of the mountains and the outer banks are on fill material and will not support guard rails.

As an alternative method, petitioner requests that it be allowed to continue using its access roads without the addition of berms or guards. Petitioner states that the access roads are maintained by the use of salt, gravel and grading equipment which is used to push mud and snow over the outer edge of the roads.

Petitioner contends that the application of the mandatory safety standard would result in a diminution of safety to miners in the affected area in that the addition of berms would eliminate possible passing areas for coal trucks and cars. Also, petitioner avers that frequent freezes and thaws occur which would be dangerous because berms would trap runoff water thereby creating hazardous driving conditions.

Persons interested in this petition may request a hearing on the petition or furnish comments on or before December 21, 1973. Such requests or comments must be filed with the Office of Hearings and Appeals, Hearings Division, U.S. Department of the Interior, 4015 Wilson Boulevard, Arlington, Virginia 22203. Copies of the petition are available for inspection at that address.

GILBERT O. LOCKWOOD,
*Acting Director, Office of Hearings and Appeals.*

NOVEMBER 9, 1973.

[FR Doc.73-24731 Filed 11-20-73;8:45 am]

## DEPARTMENT OF AGRICULTURE

### Commodity Credit Corporation

### DIRECTORS ET AL.

### Delegation of Authority To Sign Sight Drafts

In order to provide for the execution of sight drafts in connection with Commodity Credit Corporation transactions at Agricultural Stabilization and Conservation Service Commodity Offices, and the Agricultural Stabilization and Conservation Service Accounting Field Office at Kansas City, Missouri, a delegation of authority is provided below, pursuant to authority vested in me by the bylaws of Commodity Credit Corporation.

The authority herein delegated shall be exercised in conformity with the bylaws, regulations, and programs of Commodity Credit Corporation, and the policies adopted by the Board of Directors of the Corporation.

The Directors or Acting Directors of the Agricultural Stabilization and Conservation Service Commodity Offices at Prairie Village, Kansas and Minneapolis, Minnesota, and the Chief or Acting Chief of the Agricultural Stabilization and Conservation Service Accounting Field Office at Kansas City, Missouri, may sign Commodity Credit Corporation sight drafts issued in disbursement of capital funds of Commodity Credit Corporation. This authority may not be redelegated.

(Section 4, 62 Stat. 1070, as amended, (15 U.S.C. 714b). Terminated: Ca-257 (35 FR 7614), published May 15, 1970).

Effective date: November 21, 1973.

Signed at Washington, D.C. on November 12, 1973.

GLENN A. WEIR,
*Acting Executive Vice President,*
*Commodity Credit Corporation.*

[FR Doc.73-24756 Filed 11-20-73;8:45 am]

## DEPARTMENT OF COMMERCE

### Domestic and International Business Administration

### NUMERICALLY CONTROLLED MACHINE TOOL TECHNICAL ADVISORY COMMITTEE

### Notice of Meeting

Pursuant to the provisions of the Federal Advisory Committee Act (Public Law 92-463), notice is hereby given that a meeting of the End Use Subgroup of the Numerically Controlled Machine Tool Technical Advisory Committee will be held November 29, 1973, at 9 a.m. at the National Machine Tool Builders Association headquarters, 7901 Westpark Drive, McLean, Virginia.

Members advise the Office of Export Administration, Bureau of East-West Trade, with respect to questions involving technical matters, worldwide availability and actual utilization of production and technology, and licensing procedures which may affect the level of export controls applicable to numerically controlled machine tools, including technical data related thereto, and including those whose export is subject to multilateral (COCOM) controls.

Agenda items are as follows:

1. Opening remarks and review of the purpose of the Subgroup by Edward J. Loeffler, Chairman.
2. Presentation of papers or comments by the public.
3. Review of data collected by Subgroup members on military and military support uses and on civilian uses of numerically controlled machine tools and preparation of report to the Committee.
4. Executive session:
   Continuation of review and of report preparation.
5. Adjournment.

The public will be permitted to attend the discussion of agenda items 1-3, and a limited number of seats will be available to the public for these agenda items. To the extent time permits, members of the public may present oral statements to the committee. Interested persons are also invited to file written statements with the committee.

With respect to agenda item (4), "Executive session," the Assistant Secretary of Commerce for Administration, on August 9, 1973, determined, pursuant to section 10(d) of P.L. 92-463, that this agenda item should be exempt from the provision of sections 10(a)(1) and (a)(3), relating to open meetings and public participation therein, because the meeting will be concerned with matters listed in 5 U.S.C. 552(b)(1).

Further information may be obtained from Edward J. Loeffler, Chairman of the Subgroup, National Machine Tool Builders Association, 7901 Westpark Drive, McLean, Va. 22101 (A/C 703+893-2900).

Minutes of those portions of the meeting which are open to the public will be available 30 days from the date of the meeting upon written request addressed to: Central Reference and Records Inspection Facility, U.S. Department of Commerce, Washington, D.C. 20230.

Dated: November 16, 1973.

STEVEN LAZARUS,
*Deputy Assistant Secretary*
*for East-West Trade.*

[FR Doc.73-24833 Filed 11-20-73;8:45 am]

### NUMERICALLY CONTROLLED MACHINE TOOL TECHNICAL ADVISORY COMMITTEE

### Notice of Meeting

Pursuant to the provisions of the Federal Advisory Committee Act (Public Law 92-463), notice is hereby given that a meeting of the Foreign Availability Subgroup of the Numerically Controlled Machine Tool Technical Advisory Committee will be held November 29, 1973, at 2 p.m. at the National Machine Tool Builders Association headquarters, 7901 Westpark Drive, McLean, Virginia.

Members advise the Office of Export Administration, Bureau of East-West Trade, with respect to questions involving technical matters, worldwide availability and actual utilization of production and technology, and licensing procedures which may affect the level of export controls applicable to numerically controlled machine tools, including technical data related thereto, and including those whose export is subject to multilateral (COCOM) controls.

Agenda items are as follows:

1. Opening remarks and review of the purpose of the Subgroup by Irwin H. Dennen, Chairman.
2. Presentation of papers or comments by the public.
3. Review of data collected by Subgroup members on foreign availability of numerically controlled machine tools and preparation of report to the Committee.
4. Executive session: Continuation of review and report preparation.
5. Adjournment.

The public will be permitted to attend the discussion of agenda items 1-3, and a limited number of seats will be available to the public for these agenda items. To the extent time permits, members of the public may present oral statements to the committee. Interested persons are also invited to file written statements with the committee.

With respect to agenda item (4), "Executive session," the Assistant Secretary of Commerce for Administration, on August 9, 1973, determined, pursuant to section 10(d) of P.L. 92-463, that this agenda item should be exempt from the provision of sections 10(a)(1) and (a)(3), relating to open meetings and public participation therein, because the meeting will be concerned with matters listed in 5 U.S.C. 552(b)(1).

Further information may be obtained from Irwin H. Dennen, Chairman of the Subgroup, Pratt and Whitney Machine Tool Division, Charter Oak Boulevard, West Hartford, Conn. 06101 (A/C 203+233-7561).

Minutes of those portions of the meeting which are open to the public will be available 30 days from the date of the meeting upon written request addressed to: Central Reference and Records Inspection Facility, U.S. Department of Commerce, Washington, D.C. 20230.

Dated: November 16, 1973.

STEVEN LAZARUS,
*Deputy Assistant Secretary*
*for East-West Trade.*

[FR Doc.73-24834 Filed 11-20-73;8:45 am]

### SEMICONDUCTOR TECHNICAL ADVISORY COMMITTEE

### Notice of Meeting

The Semiconductor Technical Advisory Committee of the U.S. Department of Commerce will meet on November 29, 1973, at 9 a.m. in the Banyon Room of the Doubletree Inn, 4710 North Scottsdale Road, Scottsdale, Arizona 85251.

Members advise the Office of Export Administration, Bureau of East-West Trade, with respect to questions involving technical matters, worldwide availability and actual utilization of production and technology, and licensing procedures which may affect the level of export controls applicable to semiconductor prod-

ucts, including technical data related thereto, and including those whose export is subject to multilateral (COCOM) controls.

Agenda items are as follows:

1. Comments on minutes of previous meeting.
2. Presentation of papers or comments by the public.
3. Review of work program.
4. Executive session:
a. Status report on discrete devices.
b. Discussion of integrated devices.
c. Problems related to export of technology.
5. Adjournment.

The public will be permitted to attend the discussion of agenda items 1–3, and a limited number of seats will be available to the public for these agenda items. To the extent time permits, members of the public may present oral statements to the committee. Interested persons are also invited to file written statements with the committee.

With respect to agenda item (4), "Executive session," the Assistant Secretary of Commerce for Administration, on August 9, 1973, determined, pursuant to section 10(d) of Public Law 92–463, that this agenda item should be exempt from the provision of sections 10(a)(1) and (a)(3), relating to open meetings and public participation therein, because the meeting will be concerned with matters listed in 5 U.S.C. 552(b)(1).

Further information may be obtained from Rauer H. Meyer, Director, Office of Export Administration, Room 1886C, U.S. Department of Commerce, Washington, D.C. 20230 (A/C 202–967–4293).

Minutes of those portions of the meeting which are open to the public will be available 30 days from the date of the meeting upon written request addressed to: Central Reference and Records Facility, U.S. Department of Commerce, Washington, D.C. 20230.

Dated: November 16, 1973.

STEVEN LAZARUS,
*Deputy Assistant Secretary for East-West Trade, U.S. Department of Commerce.*

[FR Doc.73-24832 Filed 11-20-73;8:45 am]

## National Technical Information Service

### GOVERNMENT-OWNED INVENTIONS

### Notice of Availability for Licensing

The inventions listed below are owned by the U.S. Government and are available for licensing in accordance with the GSA Patent Licensing Regulations.

Copies of Patent applications, either paper copy (PC) or microfiche (MF), can be purchased from the National Technical Information Service (NTIS), Springfield, VA 22151, at the prices cited. Requests for copies of patent applications must include the PAT–APPL number and the title. Requests for licensing information should be directed to the address cited with each copy of the patent application.

Paper copies of patents cannot be purchased from NTIS but are available from the Commissioner of Patents, Washington, D.C. 20231, at $0.50 each. Requests for licensing information should be directed to the address cited below for each agency.

DOUGLAS J. CAMPION,
*Patent Program Coordinator, National Technical Information Service.*

U.S. DEPARTMENT OF THE ARMY; Chief; Patents Division; Office of Judge Advocate General; Patent Division Room 2C–455; Pentagon; Washington, D.C. 20310.

Patent 3,692,566: Method of Depositing Isotropic Boron Nitride; filed 24 November 1970, Patented 19 September 1972; not available NTIS.

Patent 3,694,321: Portable Distillation Unit; filed 3 November 1970, Patented 26 September 1972; not available NTIS.

Patent 694,677: VHF–UHF Piezoelectric Resonators; filed 3 March 1971, Patented 26 September 1972; not available NTIS.

Patent 3,695,766: Photosensitive Surface Shaping for Optical Heterodyning; filed 14 January 1970, Patented 3 October 1972; not available NTIS.

Patent 3,696,474: Lacing Lock for Hood; filed 17 December, 1970, Patented 10 October 1972; not available NTIS.

Patent 3,696,561: Biological Door Seal; filed 1 April 1971, Patented 10 October 1972; not available NTIS.

Patent 3,697,645: Purification of Antibodies; filed 28 April 1971, Patented 10 October 1972; not available NTIS.

Patent 3,698,240: Electronic Circuit for Prevention of Receiver Paralysis in Ultrasonic Echo Ranging; filed 29 September 1971, Patented 17 October 1972; not available NTIS.

Patent 3,698,319: High Temperature-Resistant Waterproof Caseless Primer; filed 8 June 1971, Patented 17 October 1972; not available NTIS.

Patent 3,698,331: Apparatus and Method for the Disposal of Liquid Waste Material; filed 19 July 1971, Patented 17 October 1972; not available NTIS.

Patent 3,698,651: Tape Wrapping Arrangement; filed 1 March 1971, Patented 17 October 1972; not available NTIS.

Patent 3,699,360: One-Shot Monostable Multivibrator; filed 15 August 1969, Patented 17 October 1972; not available NTIS.

Patent 3,699,509: Seismic System for Real-Time Reporting; filed 21 October 1969, Patented 17 October 1972; not available NTIS.

Patent 3,699,584: Insertion Phase Correction of Phase Shifters by Presetting Binary Counters; filed 30 December 1970. Patented 17 October 1972; not available NTIS.

Patent 3,700,010: Wire Tying Apparatus Including Demountable typing Mechanism; filed 17 June 1971, Patented 24 October 1972; not available NTIS.

Patent 3,700,338: Light Scattering Cell; filed 9 June 1970, Patented 24 October 1972; not available NTIS.

Patent 3,700,397: Camouflaged Article and Method of Producing same; filed 6 May 1969, Patented 24 October 1972; not available NTIS.

Patent 3,700,517: Method for Arresting Propagating Fractures in Stressed Skin Monocoque Type of Construction; filed 24 November 1970, Patented 24 October 1972, not available NTIS.

Patent 3,700,547: Bonding Process for Polyphenyiene Oxidedielectric Microwave Circuits and Bonded Assemble; filed 20 October 1970, Patented 24 October 1972; not available NTIS.

Patent 3,700,999: Automatic Battery Polarizing Circuit; filed 11 January 1972, Patented 24 October 1972; not available NTIS.

Patent 3,701,004: Circuit for Generating a Repeatable Voltage as a Function of Temperature; filed 13 May 1971, Patented 24 October 1972; not available NTIS.

Patent 3,701,026: Median Frequency Generator; filed 13 May 1971, Patented 24 October 1972; not available NTIS.

Patent 3,701,048: Multi-Rod Single Pump Source Laser; filed 15 September 1967, Patented 24 October 1972; not available NTIS.

Patent 3,701,498: Fiberoptic Clearance Light System; filed 3 June 1971, Patented 31 October 1972; not available NTIS.

Patent 3,705,474: Method to Prevent Toxic Gas Emission; filed 21 January 1971, Patented 12 December 1972; not available NTIS.

Patent 3,705,523: Hybrid Routing Technique for Switching Communication Network; filed 21 September 1970, Patented 12 December 1972; not available NTIS.

Patent 3,705,549: Ammunition; filed 25 November 1970, Patented 12 December 1972; not available NTIS.

Patent 3,705,814: Directly Edible, Compacted and Dehydrated Fruit Bar; filed 20 August 1970, Patented 12 December 1972; not available NTIS.

Patent 3,705,998: Negative Ion Generator; filed 27 January 1972, Patented 12 December 1972; not available NTIS.

Patent 3,706,001: Thermionic Electron Emitter Containing Thorium Carbide, Thorium Oxide and Zirconium Carbide; filed 12 March 1971, Patented 12 December 1972; not available NTIS.

Patent 3,706,050: Magnetohydrodynamic Gas Dynamic Laser; filed 2 November 1971, Patented 12 December 1972; not available NTIS.

Patent 3,706,227: Pneumatic Thermometer; filed 27 March 1963, Patented 19 December 1972; not available NTIS.

Patent 3,706,228: Temperature and Velocity Apparatus for Moving Fluids; filed 5 January 1971, Patented 19 December 1972; not available NTIS.

Patent 3,706,279: Combustible Cartridge Case; filed 20 January 1971, Patented 12 December 1972; not available NTIS.

Patent 3,706,280: Novel Combustible Cartridge Case and Process Therefore; filed 29 December 1970, Patented 19 December 1972; Not available NTIS.

Patent 3,706,487: Photochromic Projection System; filed 4 May 1971, Patented 19 December 1972; not available NTIS.

Patent 3,706,496: Cinetheodolite; filed 13 January 1971, Patented 19 December 1972; not available NTIS.

Patent 3,706,498: Automatic Beam Scanning Apparatus for Evaluating Optical Beacons; filed 23 April 1971, Patented 19 December 1972; not available NTIS.

Patent 3,706,609: TNT Composition Containing a Cellulosic Resin which is free from oily Exudation Upon Storage; filed 29 December 1970, Patented 19 December 1972; not available NTIS.

Patent 3,706,865: Elapsed Time Indicator; filed 7 December 71, Patented 19 December 1972; not available NTIS.

Patent 3,706,867: Electronic Anti-Intrusion Device; filed 18 February 1971, Patented 19 December 1972; not available NTIS.

Patent 3,706,938: Directional Ion Anemometer; filed 10 March 1971, Patented 19 December 1972; not available NTIS.

Patent 3,711,769: Spurious Signals and Intermodulation Products Detection Enhancement Circuit; filed 9 March 1971, Patented 16 January 1973; not available NTIS.

Patent 3,721,899: Continuity Test and Indicating Circuit; filed 6 October 1971, Patented 20 March 1973; not available NTIS.

Patent 3,722,553: Wire Tying Apparatus Including Timing and Stopping Mechanism; filed 17 June 1971, Patented 27 March 1973; not available NTIS.

Patent 3,723,513: Organic Disulfide Sulfinic Acid Compounds; filed 6 November 1969, Patented 27 March 1973; not available NTIS.

Patent 3,725,729: Electrical Crowbar System with Novel Triggered Spark Gap Devices; filed 29 October 1971, Patented 3 April 1973; not available NTIS.

Patent 3,728,647: Waveguide Phase Shift Actuator; filed 4 November 1971, Patented 17 April 1973; not available NTIS.

Patent 3,733,319: Nitrothiophenes; filed 7 January 1970, Patented 15 May 1973; not available NTIS.

U.S. Atomic Energy Commission: Assistant General Counsel for Patents; Washington, D.C. 20545.

Patent Application 148,132: Improved Process for Treatment of Aqueous Suspensions; filed 28 May 1971; PC $3.00/MF $1.45.

Patent Application 295,780: Compact Dynamic Multistation Photometer Utilizing Disposable Cuvette Rotor, filed 6 October 1972; PC $3.00/MF $1.45.

Patent Application 687,594: Noble Metals Having a High Emittance Coating of Iron Titanate; filed 4 December 1967; PC $3.00/MF $1.45.

Patent 3,480,793: Logarithmic Function Generator; filed 2 August 1966, Patented 25 November 1969; not available NTIS.

Patent 3,725,293: Conversion of Fuel-Metal Nitrate Solutions to Oxides; filed 11 January 1972, Patented 3 April 1973; not available NTIS.

Patent 3,725,295: Technetium Labeling; filed 20 July 1971, Patented 3 April 1973; not available NTIS.

Patent 3,728,217: Bumpy Torus Plasma Confinement Device; filed 5 June 1972, Patented 17 April 1973; not available NTIS.

Patent 3,733,248: Plasma Control by Feedback; filed 15 February 1972, Patented 15 May 1973; not available NTIS.

Patent 3,733,249: Method for Detecting and Monitoring a Fuel Element Failure in a Nuclear Reactor; filed 2 November 1971, Patented 15 May 1973; not available NTIS.

Patent 3,736,539: Moment Free Toroidal Magnet Design: filed 18 April 1972, Patented 29 May 1973; not available NTIS.

Patent 3,738,873: Self Generating Thermoelectric Converter; filed 23 December 1964, Patented 12 June 1973; not available NTIS.

Patent 3,740,314: Fuel Pin for a Liquid-Metal-Cooled Fast Breeder Nuclear Reactor; filed 28 January 1972, Patented 19 June 1973; not available NTIS.

Patent 3,740,340: Composite Insulators for Use in Hot Hydrogen Environments; filed 3 March 1971, Patented 19 June 1973; not available NTIS.

Patent 3,740,760: Reaction End-Point Recorder for Use with a Rotary Analytical Photometer; filed 9 November 1971, Patented 19 June 1973; not available NTIS.

National Aeronautics and Space Administration; Assistant General Counsel for Patent Matters; NASA—Code GP-2; Washington, D.C.

Patent Application 311,234: Single Reflector Interference Spectrometer and Drive System Therefor; filed 1 December 1972; PC $3.50/MF $1.45.

Patent Application 327,969: Hall Effect Magnetometer; filed 30 January 1973, PC $3.00/MF $1.45.

Patent Application 370,271: Modulator for Tone and Binary Signals; filed 15 June 1973; PC $3.00/MF $1.45.

Patent Application 374,421: Flame Retardant Elastometer Compositions; filed 28 June 1973; PC $4.50/MF $1.45.

Patent Application 374,422: System for Interference Signal Nulling by Polarization Adjustment; filed 28 June 1973; PC $3.00/MF $1.45.

Patent 3,741,001: Apparatus for Sampling Particulates in Gases; filed 20 March 1972, Patented 26 June 1973; not available NTIS.

Patent 3,744,247: Single Grid Accelerator for an Ion Thrustor; filed 14 September 1971, Patented 10 July 1973; not available NTIS.

Patent 3,744,294: Acoustical Transducer Calibrating System and Apparatus; filed 14 October 1971, Patented 10 July 1973; not available NTIS.

Patent 3,744,738: Zero Gravity Liquid Transfer Screen; filed 16 September 1971, Patented 10 July 1973; not available NTIS.

[FR Doc.73-24760 Filed 11-20-73;8:45 am]

## GOVERNMENT-OWNED INVENTIONS

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Paper copies of patents cannot be purchased from NTIS but are available from the Commissioner of Patents, Washington, D.C. 20231, at $0.50 each. Requests for licensing information should be directed to the address cited below for each agency.

Douglas J. Campion,
*Patent Program Coordinator*
*National Technical Information Service.*

Department of the Army; Chief; Patents Division; Pentagon; Office of the Judge Advocate General; Patent Division; Rm 2C-455; Washington, D.C. 20310.

Patent 3,726,920: 1, 3-BIS (4-Chlorophenyl)-2-Propen-1-One Guanylhidrazone Hydrochloride and Analogs Thereof Useful as Antimalarials; filed 6 January 1970, patented 10 April 1973; not available NTIS.

Patent 3,732,305: S-Substituted Thiosulfuric Acid Derivatives and Preparation Thereof; filed 3 March 1970, patented 8 May 1973; not available NTIS.

U.S. Atomic Energy Commission; Assistant General Counsel for Patents; Washington, D.C. 20545.

Patent Application 226,472: Filament Support Structure for Large Electron Guns; filed 15 February 1972, PC $3.00/MF $1.45.

Patent Application 289,906: Automatic Photomultiplier Tube Voltage Controller; filed 18 September 1972; PC $3.00/MF $1.45.

Patent 3,731,374: Method of Fabricating a Hard Intermetallic Superconductor by Means of Diffusion; filed 20 July 1971, patented 8 May 1973; not available NTIS.

Patent 3,734,690: Corrosion Surveillance System; filed 28 April 1970, patented 22 May 1973; not available NTIS.

Department of the Air Force; AF/JACP; Washington, D.C. 20314.

Patent 3,673,871: Portable Liquid Gas Sampler System; filed 28 June 1971, patented 4 July 1972; not available NTIS.

Patent 3,673,942: Camera Shutter; filed 20 October 1969, patented 4 July 1972; not available NTIS.

Patent 3,674,455: Process for the Synthesis of Glass and Single Crystal Germanates of Identical Composition; filed 31 July 1970, patented 4 July 1973; not available NTIS.

Patent 3,674,690: Air Drying Silicone Resin Bonded Dry Film Lubricant; filed 8 July 1969, patented 4 July 1972; not available NTIS.

Patent 3,677,011: Thrust Control System for Hybrid Rocket Motors; filed 22 January 1969, patented 18 July 1972; not available NTIS.

Patent 3,677,065: Transparent Fluid Sampler Permitting Particulate Analysis in an Assembled Condition; filed 14 October 1970, patented 18 July 1972; not available NTIS.

Patent 3,677,079: Combined Steady-State/Dynamic Total Head Probe; filed 21 May 1970, patented 18 July 1972; not available NTIS.

Patent 3,677,337: Heat Transfer Apparatus with Osmotic Pumping; filed 10 September 1970, patented 18 July 1972; not available NTIS.

Patent 3,677,360: Heat Removal System for Brakes; filed 23 February 1971, patented 18 July 1972; not available NTIS.

Patent 3,677,653: Laser Sensitometer; filed 23 October 1970, patented 18 July 1972; not available NTIS.

Patent 3,678,088: Polychlorinated Metallocenes and Their Synthesis; filed 24 February 1971, patented 18 July 1972; not available NTIS.

Patent 3,678,145: Method for Preparing Metal Matrix Composites Containing Modified Polytetrafluoroethylene; filed 23 December 1969, patented 18 July 1972; not available NTIS.

Patent 3,678,275: Dosimetry System for Measuring Instantaneous Dose and Linear Energy Transfer Spectrum of Space Radiations; filed 15 April 1971, patented 18 July 1972; not available NTIS.

Patent 3,678,279: Automatic Variable Gain Optical Tracker for Space Vehicles Comprising D-C System for Error Signal Generation; filed 2 June 1970, patented 18 July 1972; not available NTIS.

Patent 3,678,387: Satellite Communications System; filed 5 August 1970, patented 18 July 1972; not available NTIS.

Patent 3,678,859: Two Stage Impact Fuze; filed 6 October 1970, patented 25 July 1972; not available NTIS.

Patent 3,680,009: Acoustic Surface Wave Delay Line; filed 18 March 1971, patented 25 July 1972; not available NTIS.

Patent 3,680,127: Tunable Omnidirectional Antenna; filed 7 April 1971, patented 25 July 1972; not available NTIS.

Patent 3,680,129: Aircraft Towed Inflatable Antenna; filed 29 April 1971, patented 25 July 1972; not available NTIS.

Patent 3,687,558: Laser Power-Energy Meter; filed 16 July 1971, patented 29 August 1972; not available NTIS.

Patent 3,687,701: Thermoplastic Release Coating; filed 23 November 1970, patented 29 August 1972; not available NTIS.

Patent 3,687,816: Bacterial Growth Media; filed 17 June 1970, patented 29 August 1972; not available NTIS.

Patent 3,687,908: Polymers Containing Nitrile and Thioamide Groups and Their Prep-

aration; filed 2 February 1971, patented 29 August 1972; not available NTIS.

Patent 3,688,118: Selective Neutron Sensor; Filed 25 February 1970, patented 29 August 1972; not available NTIS.

Patent 3,688,215: Continuous-Wave Chemical Laser; filed 21 September 1970, patented 29 August 1972; not available NTIS.

Patent 3,689,922: Radar System Logic Circuit; filed 23 March 1966, patented 5 September 1972; not available NTIS.

DEPARTMENT OF THE NAVY; Assistant Chief for Patents; Office of Naval Research; Code 302; Arlington, Va. 22217.

Patent 3,721,949: Echo Repeater Target; filed 30 September 1964, patented 20 March 1973; not available NTIS.

Patent 3,723,214: Method of Making a Steel, Graphite, Phenolic Asbestos Laminate; filed 1 March 1971, patented 27 March 1973; not available NTIS.

Patent 3,723,739: Water-Cooled Cholesteric Liquid Crystal Infrared Imaging Device; filed 11 June 1971, patented 27 March 1973; not available NTIS.

Patent 3,723,776: Temperature Compensated Zener Diode Circuit; filed 27 December 1971, patented 27 March 1973; not available NTIS.

Patent 3,723,805: Distortion Correction System; filed 12 May 1971, patented 27 March 1973; not available NTIS.

Patent 3,723,891: Frequency to Voltage Converter; filed 12 May 1971, patented 27 March 1973; not available NTIS.

Patent 3,723,944: Quick-Disconnect Electrical Connector; filed 5 March 1971, patented 27 March 1973; not available NTIS.

Patent 3,724,375: Illuminating Flare Having High Drag Configuration; filed 6 April 1970; patented 3 April 1973; not available NTIS.

Patent 3,724,919: Low Friction Seawater Lubricated Bearing Journal Arrangement; filed 28 December 1971, patented 3 April 1973; not available NTIS.

Patent 3,724,933: Laser Speckle Visual Tester; filed 8 September 1971, patented 3 April 1973; not available NTIS.

Patent 3,725,173: Method of Making a Protective Diving Suit; filed 13 January 1972, patented 3 April 1973; not available NTIS.

Patent 3,725,566: Evaporative Cooling and Heat Extraction System; filed 1 May 1972, patented 3 April 1973; not available NTIS.

Patent 3,725,682: One Shot Multivibrator for Variable Width Video Edge Detector; filed 14 April 1971, patented 3 April 1973; not available NTIS.

Patent 3,725,824: Compact Waveguide-Coax Transition; filed 20 June 1972, patented 3 April 1973; not available NTIS.

Patent 3,725,856: Push-Pull Transducer; filed 24 September 1956, patented 3 April 1973; not available NTIS.

Patent 3,725,936: VHF Travelling Wave Loop Antenna; filed 16 August 1971, patented 3 April 1973; not available NTIS.

Patent 3,725,953: Full View Diver's Mask; filed 24 January 1972, patented 10 April 1973; not available NTIS.

Patent 3,726,480: Thrust Vectoring Control System for Rocket Nozzles; filed 24 February 1971, patented 10 April 1973; not available NTIS.

Patent 3,726,500: Load-Controlled Disreefing Mechanism for Parachutes; filed 23 August 1971, patented 10 April 1973; not available NTIS.

Patent 3,726,728: Binderless Cast Photoflash Compositions; filed 20 April 1970, patented 10 April 1973; not available NTIS.

Patent 3,727,049: Method for Determining Immiscible Water Content of Fluids by Spectrophotometer; filed 1 May 1967, patented 10 April 1973; not available NTIS.

Patent 3,727,146: Linear, Voltage Variable, Temperature Stable Gain Control; filed 20 December 1971, patented 10 April 1973; not available NTIS.

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION; Assistant General Counsel for Patent Matters; NASA—Code GP-2; Washington, D.C. 20546.

Patent Application 277,904: Optically Detonated Explosive Device. 3 August 1972, PC $3.00/MF $1.45.

Patent Application 237,694: Monitoring Atmospheric Pollutants with a Heterodyne Radiometer Transmitter Receiver; filed 24 March 1972; PC $3.50/MF $1.45.

Patent Application 267,572: Improved Dispensing Targets for Ion Beam Particle Generators; filed 29 June 1972; PC $3.00/MF $1.45.

Patent Application 283,502: Optically Actuated Two Position Mechanical Mover; filed 24 August 1972; PC $3.00/MF $1.45.

Patent Application 310,615: Concentric Differential Gearing Arrangement; filed 29 November 1972; PC $3.00/MF $1.45.

Patent Application 310,624: Overvoltage Protection Network; filed 29 November 1972; PC $3.00/MF $1.45.

Patent Application 313,389: Water Purification Membranes and Method of Preparation; filed 8 December 1972; PC $3.00/MF $1.45.

Patent Application 318,151: Method and Apparatus for Determining Properties of a Plasma; filed 26 December 1972; PC $3.00/MF $1.45.

Patent Application 370,581: Rocket Propellant Injection; filed 15 June 1973; PC $3.00/MF $1.45.

Patent Application 372,143: Optical Rotational Sensor; filed 21 June 1973; PC $3.00/MF $1.45.

Patent Application 372,148: Coaxial Anode Wire for Gas Radiation Counters; filed 21 June 1973; PC $3.00/MF $1.45.

Patent Application 374,423: Acoustically Controlled Distributed Feedback Laser; filed 28 June 1973; PC $3.00/MF $1.45.

Patent Application 374,441: Multiplate Focusing Collimator; filed 28 June 1973; PC $3.00/MF $1.45.

Patent Application 374,583: Digital Servo Controller; filed 28 June 1973; PC $3.00/MF $1.45.

Patent Application 376,258: An Ion Exchange Nuclear Reactor; filed 3 July 1973; PC $3.00/MF $1.45.

Patent Application 379,019: Wind Tunnel Flow Generation Section; filed 13 July 1973; PC $3.00/MF $1.45.

Patent Application 379,290: Microscope Multi-Angle, Reflection, Viewing Adaptor and Photographic Recording System; filed 16 July 1973; PC $3.00/MF $1.45.

Patent Application 380,046: Production of I-123; filed 17 July 1973; PC $3.00/MF $1.45.

Patent Application 380,630: High Speed, Self-Acting Shaft Seal; filed 19 July 1973; PC $3.00/MF $1.45.

Patent Application 382,262: Thiophenyl Ether Disiloxanes and Trisiloxanes Useful as Lubricant Fluids; filed 24 July 1973; PC $3.00/MF $1.45.

Patent Application 384,773: Annular Momentum Control Device Used for Stabilization of Space Vehicles and the Like; filed 1 August 1973; PC $3.00/MF $1.45.

Patent Application 385,013: A Spectrometer Integrated with a Facsimile Camera; filed 2 August 1973; PC $3.00/MF $1.45.

Patent Application 385,522: Filter Regeneration Systems; filed 3 August 1973; PC $3.25/MF $1.45.

Patent Application 382,261: Strain Gage Mounting Assembly; filed 24 July 1973; PC $3.00/MF $1.45.

Patent 3,742,316: Wide Temperature Range Electronic Device with Lead Attachment; 28 January 1972; Patented 26 June 1973; not available NTIS.

Patent 3,745,816: Ablation Article & Method; filed 20 September 1971; Patented 17 July 1973; not available NTIS.

Patent 3,198,994: Superconductive Magnetic-Field-Trapping Device; Patented 3 August 1965; not available NTIS.

Patent 3,219,997: Analog-to-Digital Converter; Patented 23 November 1965; not available NTIS.

Patent 3,244,943: Continuous Magnetic Flux Pump; Patented 5 April 1966; not available NTIS.

Patent 3,402,265: Pseudonoise (Pn) Synchronization of Data System with Derivation of Clock Frequency from Received Signal for Clocking Receiver Pn Generator; Patented 17 September 1968; not available NTIS.

Patent 3,419,384: Preparation of Alkali Metal Dispersons; Patented 31 December 1968; not available NTIS.

Patent 3,440,419: Dual Purpose Optical Instrument Capable of Simultaneously Acting as Spectrometer and Diffractometer; Patented 22 April 1969; not available NTIS.

Patent 3,736,938: Ophthalmic Method and Apparatus; Patented 5 June 1973; not available NTIS.

Patent 3,737,762: Apparatus and Method for Measuring the Seebeck Coefficient and Resistivity of Materials; Patented 5 June 1973; not available NTIS.

Patent 3,740,671: Filter for Third Order Phase Locked Loops; Patented 19 June 1973; not available NTIS.

Patent 3,744,128: Process for Making RF Shielded Cable Connector Assemblies and the Products Formed Thereby; Patented 10 July 1973; not available NTIS.

Patent 3,744,148: Drying Apparatus for Photographic Sheet Material; Patented 10 July 1973; not available NTIS.

Patent 3,744,305: Apparatus and Method for Generating Large Mass Flow of High Temperature Air at Hypersonic Speeds; Patented 10 July 1973; not available NTIS.

Patent 3,744,320: Pressurized Panel; Patented 10 July 1973; not available NTIS.

Patent 3,744,480: Ergometer; Patented 10 July 1973; not available NTIS.

Patent 3,744,794: Restraint System for Ergometer; Patented 10 July 1973; Not available NTIS.

Patent 3,744,913: Device for Determining Relative Angular Position Between a Spacecraft and a Radiation Emitting Celestial Body; Patented 10 July 1973; not available NTIS.

Patent 3,744,972: Nondestructive Spot Test Method for Magnesium and Magnesium Alloys; Patented 10 July 1973; not available NTIS.

Patent 3,745,089: Protein Sterilization Method of Firefly Luciferase Using Reduced Pressure and Molecular Sieves; Patented 10 July 1973; not available NTIS.

Patent 3,745,090: Method of Detecting and Counting Bacteria in Body Fluids; Patented 10 July 1973; not available NTIS.

Patent 3,745,149: Preparation of Polyimides from Mixtures of Monomeric Diamines and Esters of Polycarboxylic Acids; Patented 10 July 1973; not available NTIS.

Patent 3,745,255: Receiver with an Improved Phase Lock Loop in a Multichannel Telemetry System with Suppressed Carrier; Patented 10 July 1973; not available NTIS.

Patent 3,745,300: Welding Blades to Rotors; Patented 10 July 1973; not available NTIS.

Patent 3,745,357: Method and Apparatus for Measuring Electromagnetic Radiation; Patented 10 July 1973; not available NTIS.

Patent 3,745,739: Apparatus and Method for Skin Packaging Articles; Patented 17 July 1973; not available NTIS.

Patent 3,747,111: Composite Antenna Feed; Patented 17 July 1973; not available NTIS.

[FR Doc.73-24759 Filed 11-20-73;8:45 am]

## DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

### National Institutes of Health

### ADVISORY COMMITTEE TO THE DIRECTOR

#### Notice of Meeting

Pursuant to Public Law 92-463, notice is hereby given of the meeting of the Advisory Committee to the Director, NIH, December 3, 9:00 a.m. to 5:00 p.m., and December 4, 9:00 a.m. to 1:00 p.m., National Institutes of Health, Building 1, Conference Room 114. This meeting will be open to the public from 9:00 a.m. to 5:00 p.m. on December 3, and 9:00 a.m. to 1:00 p.m. on December 4, to discuss mechanisms of support of biomedical research and other policy matters of concern to the Director, NIH. Attendance by the public will be limited to space available.

Rosters of Committee members and summary of the meeting may be obtained from the Executive Secretary, Charles R. McCarthy, Ph. D., Building 1, Room 224, 496-3471.

Dated: November 14, 1973.

JOHN F. SHERMAN,
*Deputy Director, NIH.*

[FR Doc.73-24730 Filed 11-20-73;8:45 am]

### NATIONAL ADVISORY COMMISSION ON MULTIPLE SCLEROSIS

#### Notice of Meeting

Pursuant to Public Law 92-463, notice is hereby given of the meeting of the National Advisory Commission on Multiple Sclerosis on December 15, 1973, at the Holiday Inn of La Guardia, 100-15 Ditmars Blvd., E. Elmhurst, New York. This meeting will be open to the public from 10:00 a.m. to 4:00 p.m. and will continue the investigation into the most promising avenues for research leading to causes of and preventives and treatments for multiple sclerosis. Attendance by the public will be limited to space available.

1. The Institute Information Officer who will furnish summaries of the meeting and rosters of committee members is: Mrs. Ruth Dudley, Building 31, Room 8A03, phone: 496-5751.

2. The Executive Director from whom substantive program information may be obtained is: Dr. Harry M. Weaver, Room 8A11, Building 31A, NIH, phone: 496-3523.

Dated: November 14, 1973.

JOHN F. SHERMAN,
*Deputy Director, NIH.*

[FR Doc.73-24728 Filed 11-20-73;8:45 am]

### NATIONAL INSTITUTE OF NEUROLOGICAL DISEASES AND STROKE

#### Notice of Meeting

Pursuant to Public Law 92-463, notice is hereby given of the meeting of the Epilepsy Advisory Committee, National Institute of Neurological Diseases and Stroke, December 11, 1973, 9 a.m., National Institutes of Health, Building 31, Conference Room 3. This meeting will be open to the public. The purpose is to discuss issues regarding the overall existing and proposed research activities relative to the epilepsies. Attendance by the public will be limited to space available.

A summary of the meeting and a roster of committee members may be obtained from:

Mrs. Ruth Dudley, Information Officer, NINDS, National Institutes of Health (Building 31, Room 8A-03B), Bethesda, Maryland 2014. Telephone: 301/496-5751.

Substantive program information may be obtained from the Executive Secretary:

J. Kiffin Penry, M.D., Chief, Applied Neurologic Research Branch, Collaborative and Field Research, NINDS, National Institutes of Health (Building 36, Room 5D-10), Bethesda, Maryland 20014. Telephone: 301/496-6691.

Dated: November 14, 1973.

JOHN F. SHERMAN,
*Deputy Director, NIH.*

[FR Doc.73-24729 Filed 11-20-73;8:45 am]

### Office of Education

### EDUCATION OF THE HANDICAPPED

#### Notice of Closing Date for Receipt of Applications

Pursuant to the authority contained in Part C and Part E of the Education of the Handicapped Act (20 U.S.C. 1421-1425, 1441-1444), notice is hereby given that the U.S. Commissioner of Education has established a final closing date for receipt of (1) applications for grants under sections 622 and 623 of the Act (Centers and services for deaf-blind children and early education for handicapped children) and (2) applications for continuation grants under Part E of the Act (research in the education of the handicapped).

1. Applications for continuations requiring action prior to April 15, 1974, must be received at the address below no later than 100 days prior to the anticipated continuation date.

2. Applications for new grants must be received by the U.S. Office of Education Application Control Center, Room 5673, Regional Office Building Three, 7th and D Streets SW., Washington, D.C. 20202 (mailing address: U.S. Office of Education, Application Control Center, 400 Maryland Avenue SW., Washington, D.C. 20202), on or before the 35th day following publication of this notice in the FEDERAL REGISTER, unless such 35th day is a Saturday, Sunday, or Federal holiday, in which case applications must be received by the next following business day.

3. An application sent by mail will be considered to be received on time by the Application Control Center if:

(a) The application was sent by registered or certified mail not later than the fifth calendar day prior to the closing date (or if such fifth calendar day is a Saturday, Sunday, or Federal holiday, not later than the next following business day), as evidenced by the U.S. Postal Service postmark on the wrapper or envelope, or on the original receipt from the U.S. Postal Service; or

(b) The application is received on or before the closing date by either the Department of Health, Education, and Welfare, or the U.S. Office of Education mail rooms in Washington, D.C. (In establishing the date of receipt, the Commissioner will rely on the time-date stamp of such mail rooms or other documentary evidence of receipt maintained by the Department of Health, Education, and Welfare, or the U.S. Office of Education).

4. The following regulations contain the criteria for selection of applications, and appear in the May 25, 1973 issue of the FEDERAL REGISTER at 38 F.R. 13739-13746 (to be codified in 45 CFR Part 121):

(a) Centers and services for deaf-blind children—45 CFR 121.57(b), 121.235 (38 F.R. 13740, 13743);

(b) Early education for handicapped children—45 CFR 121.57(b), 121.253 (38 FR 13740); and

(c) Research in the education of the handicapped—45 CFR 121.57(b), 121.403 (38 FR 13740, 13746).

5. Applications may be obtained from the Bureau of Education for the Handicapped, U.S. Office of Education, 400 Maryland Avenue SW., Washington, D.C. 20202.

(20 U.S.C. 1422, 1423, 1441, 1442.)

(Catalog of Federal Domestic Assistance Program Nos. 13.443 Handicapped—Research and Demonstration, 13.444 Handicapped Early Education Assistance; 13.445 Handicapped Innovative Programs—Deaf-blind Centers; and 13.447 Handicapped Physical Education and Recreation Research).

Dated: November 15, 1973.

JOHN OTTINA,
*U.S. Commissioner of Education.*

[FR Doc.73-24894 Filed 11-20-73;8:45 am]

### Office of the Secretary

### THE PRESIDENT'S COMMITTEE ON MENTAL RETARDATION

#### Notice of Meeting

The President's Committee on Mental Retardation was established to provide

advice and assistance in the area of mental retardation to the President including evaluation of the adequacy of the national effort to combat mental retardation; coordination of activities of Federal agencies; provision of adequate liaison between Federal activities and related activities of State and local governments, foundations and private organizations; develop information designed for dissemination to the general public. The Committee will meet Friday and Saturday, December 14–15, 1973, from 9 a.m. to 5 p.m. in Washington, D.C., at the L'Enfant Plaza Hotel. The Committee will discuss health, education, services, and legal rights as they relate to the mentally retarded. These meetings are open to the public.

Dated: November 12, 1973.

FRED J. KRAUSE,
*Executive Director, President's Committee on Mental Retardation.*

[FR Doc.73-24757 Filed 11-20-73;8:45 am]

## OFFICE OF EDUCATION

### Statement of Organization, Functions, and Delegations of Authority

The following statement supersedes all previous material issued in Part 2 (Office of Education) of the Statement of Organization, Functions, and Delegations of Authority for the Department of Health, Education, and Welfare pertaining to Part 2-B, Organization and Functions.

This statement completes the organizational changes required by P.L. 92-318 and makes certain other changes. They include the abolishment of the Deputy for Development organization; the creation of an Office of Management and an Office of Planning. The Educational Professions Development Program is transferred to the Bureau of Occupational and Adult Education. A Division of Basic Grants is established to administer the new Basic Educational Opportunity Grants Program. The Drug Abuse Program, Environmental Education Program, Educational Technology Program, and ESEA Title III are transferred to the Bureau of School Systems.

OFFICE OF EDUCATION

OFFICE OF THE COMMISSIONER

The Commissioner manages and directs the affairs of the Office of Education with the aid of staff advisors and assistants, internal advisory groups, and special staff.

The Executive Deputy Commissioner, under the general direction of the Commissioner of Education, has broad delegated responsibility to act for the Commissioner on major aspects of operations. Assumes full responsibility for the duties of the Commissioner during his absence, or inability to act, or if a vacancy occurs in the position of Commissioner. Coordinates the management of the OE Regional Offices.

TEACHER CORPS

The Teacher Corps administers a program to strengthen the educational opportunities available to children in areas having concentrations of low-income families. Encourages colleges and universities to broaden their programs of teacher education by developing systematic processes through with qualified teachers and teacher-interns can acquire specified competencies.

RIGHT TO READ PROGRAM

Administers the Right to Read Program which is designed to increase functional literacy in the United States.

OFFICE OF PUBLIC AFFAIRS

The Office of Public Affairs plans, develops, and directs comprehensive public information activities, reports, and editorial services in support of Office of Education programs. Represents the Office in the area of public information in relationship with the Department and other Federal agencies. Maintains liaison with the news media and the general public. Plans, develops, and edits the official journal of the Office, "American Education."

*News Division.* Serves as the central channel through which education news and information is disseminated both to the public and to officials in the Office and the Department. Releases news and feature material to all media; arranges press conferences for the Commissioner and other Office officials; and answers or coordinates answers to inquiries and requests for assistance from the various media.

*Editorial Services Division.* Assists in planning and carrying out special presentations by arranging and conducting seminars and briefing sessions. Provides a wide variety of editorial services; writing, rewriting, or editing statements, position papers, reference articles, speeches, pamphlets, booklets, memoranda, notifications, and other materials about Office programs, for internal use or for public distribution. Acts as project manager for various contracted programs to inform the public.

*Publications Division.* Provides professional services and counsel for manuscripts and technical reports. Serves as the clearance office for speeches, articles, and other public information materials prepared within the OE for public presentation as well as all manuscripts prepared in OE for publication via GPO. Though its Public Inquiries Branch meets the OE responsibility under the Freedom of Information Act.

*Program Services Division.* Provides advice and assistance in matters dealing with public relations activities as applicable to bureau and staff office programs. Provides liaison and consultative services to bureaus and staff offices and to the public with respect to Federal programs which are the responsibility of the bureaus and staff offices.

OFFICE OF PLANNING

The Office of Planning directs and coordinates the activities of all segments of the Office having to do with program planning and evaluation, legislative planning, Congressional liaison, and educational statistics.

OFFICE OF PLANNING, BUDGETING AND EVUALUATION

*Elementary and Secondary Education.* Is responsible for the overall planning of program and budgets, and for evaluating the effectiveness of elementary and secondary education programs. In coordination with appropriate deputyships and bureaus, reviews the 5-year program and financial plan and supporting analyses for the planning, programming, and budgeting system, serves as monitor for appropriate operational planning system activities, designs and directs major national evaluation studies of the effectiveness of assigned programs.

*Post Secondary Division.* Is responsible for the overall planning of program and budgets, and for evaluating the effectiveness of post secondary and international education programs. In coordination with appropriate deputyships and bureaus, reviews the 5-year program and financial plan and supporting analyses for the planning, programing and budgeting system, serves as monitor for appropriate operational planning system activities, designs and directs major national evaluation studies of the effectiveness of assigned programs.

*Vocational and Handicapped Division.* Is responsible for the overall planning of program and budgets, and for evaluating the effectiveness of vocational education programs and programs of education for the handicapped. In coordination with appropriate deputyships and bureaus, reviews the 5-year program and financial plan and supporting analyses for the planning, programing, and budgeting system, serves as monitor for appropriate operational planning system activities, designs and directs major national evaluation studies of the effectiveness of assigned programs.

*Developmental Programs Division.* Is responsible for the overall planning of program and budgets, and for evaluating the effectiveness of development programs. In coordination with appropriate deputyships and bureaus, reviews the 5-year program and financial plan and supporting analyses for the planning, programing and budgeting system, serves as monitor for appropriate operational planning system activities, designs and directs major national evalaution studies of the effectiveness of assigned programs.

*Budget Division.* Directs the preparation, and execution of the program and administrative budget of the Office of Education, including the following: Represents the Office of Education, and provides liaison in planning and policy discussions with the Department, the Office of Management and Budget, and Appropriation Committees of Congress, on matters relating to appropriation re-

quests. Coordinates the development of budget justifications and testimony for appropriations requests. Coordinates, through the Office of the Deputy Assistant Secretary, Budget, requests regarding Office of Education programs and operation originating from the Senate and House appropriation subcommittees. Replies to inquiries dealing with appropriations. Attends hearings relating to appropriation requests with the Department, the Office of Management and Budget, and Appropriation Committees of Congress. Is responsible for the receipt of all funds received by transfer or direct appropriation. Establishes safeguards to prevent violations of the antideficiency regulations. Issues allotments and limitations, for the use of all funds received by the Office of Education, to appropriate subdivisions. Reviews and approves all reprograming actions. Maintains personnel ceiling controls at the appropriation and agency level. Reviews proposed legislation for budgetary implications.

OFFICE OF LEGISLATION

The Office of Legislation plans and prepares the specifications for new legislation necessary to carry out the functions of and the objectives proposed for the Office of Education; coordinates the preparation of Congressional and other reports on Bills relating to education; provides the Office with information regarding the content, status, and progress of legislation affecting education, and coordinates suggestions for new legislation received from within the Office. Responsible for coordinating Congressional correspondence and other Congressional contacts of the Office, except for appropriations matters.

NATIONAL CENTER FOR EDUCATIONAL STATISTICS

The National Center for Educational Statistics designs, directs, coordinates, and executes all statistical programs of the Office; gathers, stores, and analyzes statistical data and disseminates information and studes to show the condition and progress of American education; and administers the program for National Assessment of Educational Progress and develops the Officewide annual data acquisition plan.

*Division of Survey Planning and Analysis.* Responsible for special educational surveys and for survey systems of multi-purpose educational statistics. Plans, designs, collects, analyzes, and publishes basic educational data. Extracts and displays statistical data relevant to current issues for the Commissioner, the Bureaus, the Department and Congress. Provides technical assistance to Bureaus and offices in planning for acquisition of data for evaluations using survey instruments. Conducts such surveys or provides technical monitorship for contracted data acquisition efforts. Provides survey advice and consultation on educational statistics as requested by other Federal agencies.

*Division of Intergovernmental Statistics.* Establishes and manages an integrated system of educational statistics to meet Federal, State, local, and institutional needs for planning, management, and evaluation. Develops standardized terminology and definitions to promote compatible reporting of educational data. Provides developmental assistance to State, local, and institutional educational agencies to assist in the development of integrated systems. Conducts studies of users' data requirements into specifications for information systems, and designs surveys to collect data for these information systems. Conducts training programs necessary to meet division objectives. Performs analyses of the data collected for use at the several levels of management served by the systems.

*Division of Survey Operations.* Provides operational support services for all NCES surveys, also provides statistical consultation on an Officewide basis and to State elements of the Federal-State integrated statistical system. Develops and maintains the master schedule for the total production of the Center. Develops and improves statistical techniques for collecting, processing, and analyzing statistical information. Furnishes manual edit and data validation services, establishes automatic data processing requirements and serves as NCES liaison with the ADP Division. Prepares final copy for all Center publications and implements the Center's publications program. Designs sampling plans and provides technical review of survey plans.

*Division of Statistical Information and Studies.* Performs statistical analysis and reference services. Performs both special and indepth analyses of OE statistical data addressed to basic education questions. Develops statistics on the unit costs of the delivery of specific educational services to various target groups. Coordinates with directors of other Federal statistical programs. Conducts pilot and field tests and development for those cross-sectional surveys and studies that have progressed beyond the initial conceptualization but have yet to be developed to the stage where they can be incorporated into one of the well developed data collection systems. Analyzes educational statistics in conjunction with relevant statistics from other Federal statistical programs.

OFFICE OF MANAGEMENT

The Office of Management plans, directs, and coordinates the activities of all segments of the Office having to do with management planning and evaluation; and administrative and business management.

OFFICE OF BUSINESS MANAGEMENT

The Office of Business Management plans, directs, and coordinates financial management, contracts and grants management, and audit management programs of the Office of Education; performs the audit liaison and coordination functions within OE which includes both internal and external liaison for the purpose of resolving audit matters.

*Finance Division.* Plans, develops, and executes an integrated system of financial policy, procedure, and standards for operations; operates a central system of transaction accounting, reporting, and certification of the availability of funds.

*Contracts and Grants Division.* Provides contract management policy and procedure and directs the negotiation and administration of contracts and discretionary grants awarded by all components of the Office of Education; inventories, maintains accountability, and manages utilization of Government property held by contractors/grantees.

OFFICE OF ADMINISTRATION

The Office of Administration plans, directs, and coordinates personnel management and data processing programs of the Office of Education and provides a broad variety of administrative services.

*Personnel and Training Division.* Provides personnel management policy and procedure and interpretation of Civil Service Commission and departmental personnel standards for all elements of the Office of Education. Services rendered include: Position classification; employment and placement screening and referral; employee relations and services; personnel action processing and records maintenance; and employee development and training.

*Automatic Data Processing Division.* Provides ADP systems analysis, programing services, and computer operations support for the Office of Education.

*General Services Division.* Performs administrative services in areas such as mail, procurement, property, office space, equipment, and printing internal to the Office of Education.

OFFICE OF MANAGEMENT PLANNING AND EVALUATION

The Office of Management Planning and Evaluation develops policies, plans, and goals for organizational structure, management systems, and manpower allocation and utilization; conducts management studies and analysis, coordinates development of management information systems and data processing systems related thereto; and evaluates and reports on the overall effectiveness of Office of Education organization and management.

*Systems Planning and Control Division.* Analyzes requirements for and develops manual and automated systems in support of administrative and management programs applicable to all organizational components of the Office of Education. Operates an automated management information system which provides decision making officials with current data on the status of Office of Education programs.

*Management Evaluation Division.* Conducts studies to evaluate the effectiveness of OE organization and management and implements resultant systems and procedures. Develops policy, plans, and goals for organizational structure and staffing and monitors allocation of positions and manpower utilizations. Responsible for delegations

of authority; the employee suggestion awards system; issuance management; correspondence and records management; and the management improvement system.

BUREAU OF SCHOOL SYSTEMS

The Bureau of School Systems formulates policy for, directs, and coordinates the activities of, the elements of the Office of Education which deal with preschool, elementary and secondary matters.

OFFICE OF EQUAL EDUCATIONAL OPPORTUNITY PROGRAMS

The Office of Equal Educational Opportunity Programs is responsible for administration of programs designed to achieve educational equality for all children.

*Division of Compensatory Education.* Administers a program providing payment to State agencies for the education of educationally deprived children in low-income areas, and for institutionalized neglected and delinquent, migrant and Indian children.

*Division of Follow Through.* Administers a program to provide special services to children of low-income families to sustain the gains made in Headstart and other pre-school programs.

*Division of Bilingual Education.* Responsible for the administration of a program of assistance to local educational agencies to develop and carry out new and imaginative projects designed to meet the special educational needs of students of limited English-speaking ability, i.e., students who come from environments where the dominant language is other than English.

OFFICE OF SCHOOL DESEGREGATION PROGRAMS

The Office of School Desegregation Programs administers programs of financial and technical assistance to assist school districts to meet special needs incident to the elimination of racial segregation and discrimination, and technical assistance in the development, adoption and implementation of plans for the desegregation of public schools.

*Division of Program Development.* Responsible for the initiation, coordination, and renewal of program strategies; the identification and reporting of specific program accomplishments; and the development and implementation of administrative guidelines, management models, operational plans, and training manuals.

*Division of Program Operations.* Responsible for supporting and facilitating the operations of regional Equal Educational Opportunity Offices including problemsolving action as necessary and directly administering certain specified program activities which are national in scope, limited in number, and/or highly specialized.

OFFICE OF STATE AND LOCAL PROGRAMS

The Office of State and Local Programs is responsible for administration of programs providing general financial assistance to support educational activities at the State and local levels.

*Division of Supplementary Centers and Services.* Administers grants to State and local agencies to provide assistance for educational programs.

*Division of State Assistance.* Administers grants to States to provide assistance to strengthen State educational agencies.

*Division of Technology and Environmental Education.* Administers grant programs of environmental education and educational technology including grants for the construction of noncommercial educational broadcasting facilities.

*Division of Drug Education—Nutrition and Health Programs.* Administers grant programs of drug education, nutrition and health.

*Division of School Assistance in Federally Affected Areas.* Provides grants to local educational agencies for construction, maintenance, and operation of schools in areas affected by Federal activities, and by disasters, and for the operation of special educational programs for Cuban refugees.

OFFICE OF PROGRAMS FOR THE HANDICAPPED

The Office of Programs for the Handicapped assists States, colleges, and universities, and other institutions and agencies in meeting the educational needs of the Nation's handicapped children and youth who require special services.

*Division of Innovation and Development.* Responsible for development and expansion of leadership activities and resources to provide improved education and direction for handicapped children. Determines new avenues for exploration in a constant search for better educational approaches for the handicapped.

*Division of Personnel Preparation.* Responsible for implementing programs concerned primarily with training educational personnel to work with the handicapped. Provides leadership to various education agencies or other groups designed to stimulate the implementation and improvement of relevant training programs.

*Division of Educational Services.* Coordinates the implementation of Office of Education programs designed to provide direct or indirect services to the handicapped by providing leadership to educational agencies and other groups in stimulating the extension and improvement of educational services to handicapped persons. Operates a program for development of instructional media for the handicapped.

BUREAU OF OCCUPATIONAL AND ADULT EDUCATION

The Bureau of Occupational and Adult Education administers programs of grants, contracts, and technical assistance for vocational and technical education, occupational education, career education, manpower development and training, adult education, consumer education, education professions development and drop-out prevention.

*Occupational Planning Unit.* The Occupational Planning Unit provides leadership for planning, directing, and the development of occupational education programs. These programs are established under a variety of legislative authorities and involves promoting and encouraging occupational education at both the secondary level and postsecondary level. This unit also has the responsibility for relating to a coordinating planning activities with the Community College Unit located in the Bureau of Postsecondary Education.

OFFICE OF CAREER EDUCATION

Plans, develops, and coordinates all career education conceptualization, policy formulation, and program activity within the Office of Education designed to improve the prospects of all Americans to have a successful life by enhancing the educational experience with career options, and provides planning, developmental assistance, coordination for educational personnel development, and dropout prevention programs within the Office of Education.

*Division of Career Education Programs.* Develops objectives and plans for career education activities, coordinates activities that implement and support those efforts, and administers assigned programs of grants and contracts.

*Division of Educational Systems Development.* Administers programs of financial support (1) to institutions of higher education, States, and local educational agencies to improve the quality of teaching and (2) to local educational agencies for demonstration projects designed to reduce the number of elementary and secondary school dropouts. Provides professional advice and developmental assistance to the education community on strategies for dropout prevention and the reform of training programs for the education profession.

OFFICE OF ADULT, VOCATIONAL, TECHNICAL AND MANPOWER EDUCATION

The Office of Adult, Vocational, Technical and Manpower Education administers programs of grants, contracts and technical assistance for vocational and technical education, adult education, and manpower development and training in order to strengthen vocational preparation, counseling, and placement.

*Division of Vocational and Technical Education.* Administers programs of grants and contracts for vocational and technical education.

*Division of Adult Education.* Administers programs of grants for adult education to States and other public and private non-profit organizations.

*Division of Manpower Development and Training.* Administers institutional training programs, as provided through State agencies and through direct contracts and grants for occupations desig-

nated for referrals from the Secretary of Labor.

*Division of Research and Demonstration.* Administers vocational and technical education programs of grants and contracts involving research and demonstration projects and activities.

BUREAU OF POSTSECONDARY EDUCATION

The Bureau of Postsecondary Education formulates policy for, directs and coordinates activities of the elements of the Office which deal with programs for assistance to postsecondary educational institutions and students, to international education, and to libraries.

*Community College Unit.* Responsible for coordinating all programs administered by the Office which affect, or can benefit community colleges. Coordinates with other Government agencies regarding community college programs and activities. Serves as a focal point for liaison with community colleges.

*College and University Unit.* Responsible for coordinating programs within the Deputyship which affect or benefit colleges and universities and serving as liaison with other programs within the Office and with other Government agencies. Serves as a focal point for liaison with colleges and universities.

*Accreditation and Institutional Eligibility Unit.* Provides services to units in the Office regarding all aspects of accreditation and determination of the eligibility of postsecondary institutions to participate in Federal programs.

OFFICE OF STUDENT ASSISTANCE

The Office of Student Assistance administers programs to provide financial assistance to students to pursue a postsecondary education and to increase educational opportunities for deprived youth for entry into postsecondary education.

*Division of Insured Loans.* Administers a program of low interest long-term insured loans for college and vocational students under which loans made by commercial and other lenders are insured (or reinsured) by the Federal Government and insured by State and nonprofit private agencies. Provides for payments to reduce interest costs to student borrowers and payments of special incentive allowances to lenders including payment of claims on insured loans.

*Division of Basic Grants.* Administers programs of basic educational opportunity grants which provides for the payment of entitlements to students enrolled or accepted for enrollment as an undergraduate in institutions of higher education to assist them in meeting educational costs. The amount of such payment shall be based on anticipated family contributions, student needs, and cost of education.

*Division of Work Study and Special Programs.* Administers programs of grants to institutions to provide for compensation for employment of needy students to enable them to pursue a postsecondary education. Administers programs to provide funds to institutions for grants and loans for student assistance. Administers programs to identify low income students, prepare them for postsecondary education and provide special services to those students while attending postsecondary educational institutions.

OFFICE OF INSTITUTIONAL SUPPORT AND INTERNATIONAL PROGRAMS

The Office of Institutional Support and International Programs administers programs of institutional support for postsecondary educational institutions through project grants, fellowships and training. Administers programs for and provides services to strengthen international education, and to support library and learning resource activities.

*Division of Institutional Support.* Administers programs of financial assistance to strengthen developing institutions through institutional grants, cooperative arrangements, and national teaching fellowships.

*Division of Training and Facilities.* Administers programs of financial assistance to institutions of higher education to support cooperative education programs, training programs including fellowships and institutes; and, continuing education programs and aid to land grant colleges. Administers programs of grants and loans for construction of academic facilities and supports foreign language training, research, and fellowship activities.

*Division of International Education.* Administers programs of teacher exchange and development; provides services to international organizations including recruitment and foreign visitors; conducts comparative education studies and provides advisory evaluations on foreign credentials.

*Division of Library Programs.* Administers programs to improve public library services and library construction to strengthen library resources, support training of library personnel, and acquisition of equipment to improve instructional programs. Administers programs to support acquisition of school library resources and instructional equipment and support research and demonstrations in library and information science.

OFFICE OF INDIAN EDUCATION

The Office of Indian Education administers programs of grants to local educational agencies for elementary and secondary school programs designed to meet the special educational needs of Indian children and grants and, where applicable, contracts with eligible institutions, organizations or agencies for special programs and projects to improve educational opportunities for Indian children and for special programs to improve educational opportunities for adult Indians. The Deputy Commissioner of Indian Education, upon delegation or assignment by the Commissioner of such duties, also coordinates other efforts to improve educational opportunities for Indians at all educational levels.

Dated: November 13, 1973.

CASPAR W. WEINBERGER,
*Secretary of Health, Education, and Welfare.*

[FR Doc.73-24758 Filed 11-20-73;8:45 am]

## ATOMIC ENERGY COMMISSION

[Docket Nos. 50-440, 50-441]

### CLEVELAND ELECTRIC ILLUMINATING COMPANY ET AL.

#### Notice of Availability of AEC Draft Environmental Statement

Pursuant to the National Environmental Policy Act of 1969 and the United States Atomic Energy Commission's regulations in Appendix D to 10 CFR Part 50, notice is hereby given that a Draft Environmental Statement prepared by the Commission's Directorate of Licensing related to the proposed Perry Nuclear Power Plant, Units 1 and 2, to be constructed by Cleveland Electric Illuminating Company et al. in Lake County, Ohio is available for inspection by the public in the Commission's Public Document Room at 1717 H Street NW., Washington, D.C., and in the Perry Public Library, 3753 Main Street, Perry Township, Ohio 44081. The Draft Statement is also being made available at the Office of the Governor, State Clearinghouse, 62 East Broad Street, 2d Floor, Columbus, Ohio 43215. Copies of the Commission's Draft Environmental Statement may be obtained by request addressed to the U.S. Atomic Energy Commission, Washington, D.C. 20545, Attention: Deputy Director for Reactor Projects, Directorate of Licensing.

The Applicant's Environmental Report, as supplemented, submitted by Cleveland Electric Illuminating Company et al. is also available for public inspection at the above-designated locations. Notice of availability of the Applicant's Environmental Report was published in the FEDERAL REGISTER on July 16, 1973 (38 FR 18920).

Pursuant to 10 CFR Part 50, Appendix D, interested persons may submit comments on the Applicant's Environmental Report, as supplemented, and the Draft Environmental Statement for the Commission's consideration. Federal and State agencies are being provided with copies of the Applicant's Environmental Report and the Draft Environmental Statement (local agencies may obtain these documents upon request). Comments are due by January 9, 1974. When comments thereon by Federal, State, and local officials are received by the Commission, such comments will be made available for public inspection at the Commission's Public Document Room in Washington, D.C., and the Perry Public Library, 3753 Main Street, Perry Township, Ohio 44081. Upon consideration of comments submitted with respect to the Draft Environmental Statement, the Regulatory staff will prepare a Final Environmental Statement, the availability of which will be published in the FEDERAL REGISTER.

Comments on the Draft Environmental Statement from interested members of the public should be addressed to the U.S. Atomic Energy Commission, Washington, D.C. 20545, Attention: Deputy Director for Reactor Projects, Directorate of Licensing.

Dated at Bethesda, Maryland, this 16th day of November 1973.

For the Atomic Energy Commission.

WM. H. REGAN, Jr.,
*Chief, Environmental Projects Branch No. 4, Directorate of Licensing.*

[FR Doc.73-24901 Filed 11-20-73;8:45 am]

[Docket No. 50-304]

## COMMONWEALTH EDISON CO.

### Notice of Issuance of Facility Operating License

Notice is hereby given that pursuant to the Initial Decision of the Atomic Safety and Licensing Board, dated October 5, 1973, the Atomic Energy Commission (the Commission) has issued Facility Operating License No. DPR-48 to Commonwealth Edison Company authorizing operation of the Zion Nuclear Power Station, unit 2, at steady state reactor core power levels not in excess of 2760 megawatts thermal, in accordance with the provisions of the license and the August 9, 1973, Technical Specifications as changed. The facility is a pressurized water reactor located in Zion, Lake County, Illinois.

The Initial Decision modified in certain respects the contents of the Final Environmental Statement relating to the operation of the Zion Nuclear Power Station prepared by the Directorate of Licensing. A notice of availability of the Initial Decision was published in the FEDERAL REGISTER on October 26, 1973 (38 FR 29632).

The Initial Decision authorizes the issuance of a license up to 100% of rated power. However, after reviewing the docket for 50-304, the Director of Regulation has determined that the docket does not contain sufficient information on the steam line check valves to justify operation in excess of 85% of rated power. When this information has been submitted, the Regulatory staff will take appropriate action. In addition, information regarding plant performance during the initial Zion Unit 1 fuel cycle will be required for review and evaluation by the Regulatory staff and the Advisory Committee on Reactor Safeguards (ACRS) prior to granting authorization to operate above 85% of rated power. These limitations are in accordance with the restrictions and conditions set forth in paragraphs 9.37, 48 and 49 of the Initial Decision relating to the main steam line check valve, fuel densification, and the ACRS recommendation to limit power until after the first refueling of Zion Unit 1. Accordingly, this license authorizes Commonwealth Edison Company to operate the Zion Nuclear Power Station, Unit 2, at steady state reactor core power levels not in excess of 2760 megawatts thermal (85% of rated power). However, as indicated by Section 7.0 of Change No. 3 to the August 9, 1973 Technical Specifications, activities under this license are temporarily being limited to initial fuel loading and maintaining the facility in the refueling, cold shutdown or the hot shutdown operating mode until certain matters identified by the Directorate of Regulatory Operations have been satisfactorily resolved.

The Commission has made appropriate findings as required by the Act and the Commission's regulations in 10 CFR Chapter 1, which are set forth in the license. The application for the license complies with the requirements of the Atomic Energy Act of 1954, as amended, and the Commission's regulations in 10 CFR Ch. I.

The license is effective as of the date of issuance and shall expire at midnight on December 26, 2008.

In addition to the Initial Decision, a copy of Facility Operating License No. DPR-48, and other relevant documents are available for public inspection at the Commission's Public Document Room, 1717 H Street, N.W., Washington, D.C. and at the Waukegan Public Library, 128 N. County Street, Waukegan, Illinois. Single copies of the Initial Decision, Facility Operating License No. DPR-48, the Final Environmental Statement and the Safety Evaluation Report may be obtained upon request addressed to the U.S. Atomic Energy Commission, Washington, D.C. 20545, Attention: Deputy Director for Reactor Projects, Directorate of Licensing, Regulation.

Dated at Bethesda, Maryland, this 14th day of November 1973.

For the Atomic Energy Commission.

K. R. GOLLER,
*Chief, Pressurized Water Reactors Branch No. 3, Directorate of Licensing.*

[FR Doc.73-24780 Filed 11-20-73;8:45 am]

[Docket Nos. 50-329A, 50-330A]

## CONSUMERS POWER CO.

### Order Establishing Dates and Places for Evidentiary Hearings

In the matter of Consumers Power Co. (Midland Plant, Units 1 and 2).

Take Notice, the Evidentiary Hearings in the subject antitrust proceeding shall commence on November 27, 1973, at 9:00 a.m., local time, in the Hearing Room, Woodmont Building, 8120 Woodmont Avenue, Bethesda, Maryland. The first session of hearings shall run continuously from November 27 through November 30, 1973, with each day of hearing commencing at 9:00 a.m., local time, and ending at 5 p.m.

The second session of hearings shall be held in Lansing, Michigan, from December 4, 1973, through December 7, 1973, in the Probate Court, 608 South Washington Avenue, Lansing, Michigan 48933. Each day of hearing shall commence at 9 a.m., local time, and end at 5:00 p.m.

Further sessions shall commence on each succeeding Tuesday of the week and run continuously through Friday, starting at 9:00 a.m., local time, and ending at 5:00 p.m. These hearings will be held in the Woodmont Building Hearing Room, Bethesda, Maryland. This schedule will be followed until the completion of the direct cases of the parties, except for holidays or as otherwise directed by the instant Atomic Safety and Licensing Board.

It is so ordered.

Issued at Washington, D.C., this 15th day of November 1973.

ATOMIC SAFETY AND LICENSING BOARD,
HUGH K. CLARK,
*Member.*

J. V. LEEDS, Jr.,
*Member.*

JEROME GARFINKEL,
*Chairman.*

[FR Doc.73-24726 Filed 11-20-73;8:45 am]

[Dockets Nos. 50-452 and 50-453]

## DETROIT EDISON CO.

### Notice of Receipt of Application for Construction Permits and Facility Licenses and Availability of Applicant's Environmental Report: Time for Submission of Views on Antitrust Matter

The Detroit Edison Company (the applicant), pursuant to Section 103 of the Atomic Energy Act of 1954, as amended, has filed an application, which was docketed September 17, 1973, for authorization to construct and operate two generating units utilizing pressurized water nuclear reactors. The application was initially tendered on June 4, 1973. Following a preliminary review for completeness, the PSAR was found to be acceptable for docketing; however, the Environmental Report was rejected for lack of sufficient information. The applicant submitted additional information on August 20, 1973, and the application was found acceptable for docketing. Docket Nos. 50-452 and 50-453 have been assigned to this application and should be referenced in any correspondence relating to it.

The proposed nuclear facilities, designated by the applicant as the Greenwood Energy Center, Units 2 and 3, are located on the applicant's site in Greenwood Township, St. Clair County, Michigan. Each unit is designed for initial operation at approximately 3429 megawatts (thermal), and a net electrical output of 1160 megawatts.

A Notice of Hearing with opportunity for public participation is being published separately.

Any person who wishes to have his views on the antitrust aspects of the application presented to the Attorney General for consideration shall submit such views to the U.S. Atomic Energy Commission, Washington, D.C. 20545, Attention: Chief, Office of Antitrust and Indemnity, Directorate of Licensing, on or before December 31, 1973. The request should be filed in connection with Docket Nos. 50-452-A and 50-453-A.

A copy of the application is available for public inspection at the Commission's Public Document Room, 1717 H

Street NW., Washington, D.C. 20545, and at the St. Clair County Library, 210 McMorran Boulevard, Port Huron, Michigan 48060.

The applicant has also filed, pursuant to the National Environmental Policy Act of 1969 and the regulations of the Commission in Appendix D to 10 CFR Part 50, an environmental report. This report, which discusses environmental considerations related to the proposed construction of the Greenwood Energy Center, Units 2 and 3, is available for public inspection at the aforementioned locations, and is also being made available at the Office of Planning Coordination, Executive Office of the Governor, Lewis Case Building, Lansing, Michigan 48913, and the South East Michigan Council of Governments, 810 Book Building, Detroit, Michigan 48226.

After the environmental report has been analyzed by the Commission's Director of Regulation or his designee, a draft environmental statement will be prepared by the Commission. Upon preparation of the draft environmental statement, the Commission will, among other things, cause to be published in the FEDERAL REGISTER a summary notice of availability of the draft statement, requesting comments from interested persons on the draft statement. The summary notice will also contain a statement to the effect that comments of Federal agencies and State and local officials thereon will be made available when received. Upon consideration of comments submitted with respect to the draft environmental statement, the Regulatory staff will prepare a final environmental statement, the availability of which will be published in the FEDERAL REGISTER.

Dated at Bethesda, Maryland, this 16th day of October 1973.

For the Atomic Energy Commission.

A. SCHWENCER,
*Chief, Pressurized Water Reactors, Branch No. 4, Directorate of Licensing.*

[FR Doc.73-23007 Filed 10-30-73;8:45 am]

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[Docket No. 50-389A]

## FLORIDA POWER AND LIGHT CO.

### Notice of Receipt of Attorney General's Advice and Time for Filing of Petitions To Intervene on Antitrust Matters

The Commission has received, pursuant to section 105c of the Atomic Energy Act of 1954, as amended, a letter of advice from the Attorney General of the United States, dated November 14, 1973, a copy of which is attached as Appendix A.

Any person whose interest may be affected by this proceeding may, pursuant to section 2.714 of the Commission's "Rules of Practice", 10 CFR Part 2, file a petition for leave to intervene and request a hearing on the antitrust aspects of the application. Petitions for leave to intervene and requests for hearing shall be filed by December 28, 1973 either (1) by delivery to the AEC Public Document Room at 1717 H Street NW., Washington, D.C., or (2) by mail or telegram addressed to the Secretary, U.S. Atomic Energy Commission, Washington, D.C. 20545, Attn: Chief, Public Proceedings Branch.

For the Atomic Energy Commission.

ABRAHAM BRAITMAN,
*Chief, Office of Antitrust & Indemnity Directorate of Licensing.*

APPENDIX "A"

Re: Florida Power & Light Company, St. Lucie Plant, Unit No. 2, AEC Docket No. 50-389A, Department of Justice File 60-415-45.

NOVEMBER 14, 1973.

You have requested our advice pursuant to the provisions of section 105 of the Atomic Energy Act of 1954, as amended by P.L. 91-560, in regard to the above-captioned application.

Florida Power & Light Company ("Applicant") has applied for a construction permit for its St. Lucie Plant, Unit No. 2, an 810-megawatt nuclear steam generating unit to be located on Hutchinson Island off Florida's east coast. Operation of the facility is presently scheduled for September, 1979.

THE APPLICANT

Applicant is by far the largest electric utility in the State of Florida; it serves approximately half of the statewide electric load. Headquartered in Miami, its area of operation includes most of southern Florida and extends up the east coast to the Georgia border. As of the end of 1972, it provided retail electric power to 574 communities with over 1,500,000 customers. Its total energy sales for 1972 were 28,927,808 megawatt hours. Applicant's summer 1972 peak load was 6,011 megawatts; its dependable generating capacity at that time was 6,585 megawatts—over 70 percent of the generation in the area. Its system of generating stations is integrated by over 3,400 miles of high-voltage transmission lines, approximately 90 percent of the high-voltage transmission in the area—including the 230-kilowatt main transmission grid for southern Florida and the east coast.

Applicant calls itself "the nation's fastest growing electric utility." Florida's rapid growth has been concentrated in the area in which it serves; and for the past several years, the Applicant has added more new customers than any other electric utility in the United States. Applicant's projected peak load for 1980 is 14,475 megawatts—over twice its 1972 load—and generating capacity is planned to increase more than 10,000 megawatts to meet that load.

Applicant's system is directly interconnected and coordinated to some degree with most of the other electric generating systems in Florida: Florida Power Corporation, Tampa Electric Company, and the municipal systems of Jacksonville, Orlando, Fort Pierce, Vero Beach, and Lake Worth. Applicant coordinates operations with still other systems through the activities of the Florida Operating Committee. Some of these coordinating arrangements have been entered into only recently.

Applicant supplies electric power in bulk at wholesale to seven rural electric cooperative distribution systems: Lee County, Clay, Glades, Okefenoke, Peace River, Suwanee Valley, and Florida Keys. With the exception of Florida Keys, which has some generation of its own, these cooperatives are exclusively distribution systems and purchase all of their bulk power requirements.[1] Applicant also supplies bulk power to supplement the generation of two small municipal systems, Homestead and New Smyrna Beach.

COMPETITION

There is substantial and vigorous actual and potential competition among electric utilities in Florida in both bulk power supply and retail distribution markets. Florida law does not require electric utilities to restrict their service areas. The Florida Public Service Commission has approved certain voluntary territorial agreements between Applicant and neighboring systems.[2]

Even where these territorial agreements exist, neighboring smaller systems do compete with Applicant at retail. They still compete to attract new loads who can choose to locate either in their service areas or in Applicant's. They still compete to extend service in developing areas on the fringes of their systems. Finally, they compete to stay in business; if their costs and retail rates become too high, their customers may force them to sell out to the Applicant.

There is also competition in bulk power supply, where territorial agreements cannot lawfully operate. The smaller systems have two basic competitive alternatives; either they produce their own bulk power supply, or they buy their bulk power requirements from the Applicant.

ANTITRUST IMPLICATIONS OF THIS LICENSE APPLICATION

The Department regards Applicant's ownership of the main high-voltage transmission network in southern and east coast Florida as a significant factor in this antitrust review of the St. Lucie Unit No. 2 license application.

As we have advised you previously,[3] there are substantial economies of scale in the business of generation and bulk supply of electric power. Nuclear power, which is expected to be the cheapest kind of base-load electric power available to meet future load growth, may be produced economically only from large generating units—units with a capacity of 500 megawatts or more. Most electric generating systems cannot install and market power from such large units on their own. They can employ large units—and achieve the economies of scale necessary to compete effectively in today's electric power markets—only through coordination with other generating systems. High-voltage transmission is the necessary medium for such coordination.

Applicant's control over the transmission network in its area has given it the power to grant or deny access to coordination—and thereby access to the benefits of large-scale, low-cost, base-load nuclear generation—to neighboring smaller systems. There have been some allegations that Applicant may have used this power to deny coordinating benefits to smaller systems or to take the predominant share of the benefits of such coordination as has been entered into. The principal allegations of this nature are: (1) That Applicant insisted upon retail territorial allocation agreements as a prerequisite to entering into interconnections and

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[1] Applicant supplies the total requirements of Lee County, most of the requirements of Clay, Florida Keys, and Glades, and a portion of the requirements of Okefenoke, Peace River and Suwanee Valley.

[2] Some territorial agreements involving the Applicant apparently have taken the form of oral understandings and have never been submitted to the Commission.

[3] E.g., letter of advice of June 28, 1971, regarding Consumers Power Company (Midland Units 1 and 2), AEC Docket Nos. 50-329A and 50-330A.

bulk power supply transactions with other systems; (2) that Applicant once refused interconnection arrangements to Gainesville in adherence to wholesale territorial allocation with Florida Power Corporation;[4] and (3) that on one occasion in the 1960's, Applicant refused to make available to a rural electric cooperative the coordinating arrangements necessary to "firm up" its own isolated generation.

Applicant's control over regional transmission and over access to necessary coordinating arrangements for small systems is illustrated by the current problems of two municipal systems, Homestead and New Smyrna Beach. Both have generation of their own and have endeavored to remain in the business of producing their own bulk power supply and to expand their generating facilities to compete for new and growing loads.[5] Applicant has interconnected with these two municipal systems for the sale of wholesale bulk power.[6] The nature of the interconnection and the terms under which the power is sold appear to be designed for systems without any generation or systems planning to cease self-generation, rather than for systems seeking to coordinate with others.

We are advised that Homestead and New Smyrna Beach are negotiating with the Applicant for parallel interconnections at transmission voltage and appropriate coordinating arrangements. Since the instant application was filed, Homestead and New Smyrna Beach have sought ownership participation in or unit power purchases from St. Lucie Unit No. 2 as a means of satisfying their future power supply needs in coordination with their own generation. Homestead and New Smyrna Beach also have asked the Applicant to agree to provide transmission services ("wheeling") to accommodate future power transactions with other systems as another means of satisfying their power supply expansion needs.

The following example indicates how wheeling might be used. We are advised that the Jacksonville electric system proposes to construct two 1,150-megawatt nuclear units and has inquired of other Florida systems, including Homestead and New Smyrna Beach, whether they would be interested in participating in those units or purchasing unit power surplus to Jacksonville's needs. Applicant, which already has a high-voltage interconnection with Jacksonville, could transmit this nuclear power to Homestead and New Smyrna Beach. Applicant has not yet offered, however, to provide such transmission services to Homestead or New Smyrna Beach.

[4] During the course of our antitrust review, the municipal distribution system of Jacksonville Beach (which presently obtains its full bulk power requirements from the Jacksonville municipal system) advised us of a pending request to Applicant (which has transmission lines close by) to consider an interconnection with it for the sale of bulk power. Applicant's ultimate response to this request should indicate its current policy with regard to selling wholesale bulk power to a retail distribution system seeking an alternative source of bulk power supply.

[5] Homestead now has barely sufficient generation to meet its load requirements, and it lacks reserves. New Smyrna Beach's generation is sufficient to serve approximately half of its load.

[6] There is some evidence that Applicant earlier had a policy of refusing to sell power at wholesale to municipal systems.

We have noted above that seven rural electric cooperative systems purchase some or all of their bulk power requirements from the Applicant. Six of these systems,[7] and six other distribution cooperatives who do not obtain any power from Applicant, are members of Seminole Electric Cooperative, Inc., a corporation formed to act for its members in solving their power supply problems. Seminole has at various times in the past conducted studies to determine the feasibility of alternative means of power supply for its members. It appears that the possibility of self-generation by these cooperatives as an alternative to purchased power has had the effect of keeping wholesale purchase rates relatively low, and therefore, the cooperatives have continued to purchase their power requirements from the Applicant and other large generating systems.

Recently, both Applicant and Florida Power Corporation have filed wholesale rate increases with the Federal Power Commission; and, as a result, Seminole is again exploring power supply alternatives to meet the growing loads of its members. One alternative for the cooperatives would be to acquire a share of, or purchase unit power from, Applicant's St. Lucie Unit No. 2 (in conjunction with appropriate provisions for power delivery, reserve sharing, and other forms of coordination). A second alternative would be to obtain nuclear power from Jacksonville or other systems which may contemplate installing nuclear generation, with provision for delivery of that power over Applicant's high-voltage transmission system to those cooperatives with which it is interconnected. Since the filing of this license application, Seminole has advised the Applicant of its interest in participating in St. Lucie Unit No. 2 and in other forms of coordination to achieve a feasible long-range power supply program.

Applicant has recently installed its first two nuclear generating units, Turkey Point Nos. 3 and 4, each with a capability of 728 megawatts. A third nuclear unit, St. Lucie Unit No. 1, with 810 megawatts of capacity, is projected to enter service in September, 1975. Unit No. 2, the subject of the present license application, and also 810 megawatts in size, is scheduled for operation in September, 1979. When Unit No. 2 comes on line, Applicant will have over 3,000 megawatts of large-scale, low-cost, base-load nuclear generating capacity. The marketing of power produced by this substantial block of nuclear generation clearly could impair the competitive viability of the other systems in Applicant's area if they are unable to exercise a similar opportunity to obtain their power from nuclear generation.

If systems such as Homestead and New Smyrna Beach are denied *both* access to nuclear generating units like Applicant's St. Lucie No. 2 and access to other systems' nuclear generation through the use of Applicant's transmission system, they will not be able to take advantage of nuclear generation to meet growing loads as bulk power suppliers. Likewise, without similar access to nuclear generation, the feasibility of Seminole's members entering the bulk power supply business as an alternative to full-requirements wholesale purchase appears greatly diminished.

### Conclusion

Our antitrust review led us to the following conclusions: (1) Applicant is the dominant electric utility in Florida and because of its ownership of transmission, has the power to grant or deny other systems in its area the access to coordination—and thus the nuclear power—needed to compete in bulk power supply and retail distribution markets; (2) there is some indication Applicant's dominance may have been enhanced through conduct inhibiting the competitive opportunities of the smaller systems in its area; and (3) construction and operation of St. Lucie No. 2, and the sale of power therefrom to meet Applicant's load growth and compete with the smaller systems in its area could create or maintain a situation inconsistent with the antitrust laws if access to nuclear generation were denied those smaller systems.

We related our concern over these matters to representatives of the Applicant. While denying construction and operation of St. Lucie Unit No. 2 could have the effect we feared, they advised us that Applicant would nevertheless seriously consider offering participation in St. Lucie Unit No. 2 (with the transmission services, reserve sharing, and other coordination necessary to support such participation) to the three utilities who, prior to our rendering this advice, have given Applicant notice of their interest in such participation to meet a portion of their future power supply requirements—*i.e.*, Homestead, New Smyrna Beach and Seminole Electric Cooperative. Further, because of the status of Applicant's transmission network as the key to coordination by these systems with others, the Department requested Applicant also to consider adopting a policy to facilitate their efforts to obtain access to other economical power sources. It was indicated that the Applicant's final position on these matters will be determined within the next 90 days; this would appear to leave sufficient time to formulate such license conditions as may be appropriate.

In view of the consideration Applicant is now giving to the question of access by other entities to nuclear generation, and the probability that participation in St. Lucie Unit No. 2 will be made available to certain of these entities,[8] the Department does not at this time recommend an antitrust hearing. Considering that issuance of the construction permit for St. Lucie Unit No. 2 is not contemplated until early in 1975, we believe it reasonable to ask the Commission to abide the outcome of Applicant's 90-day consideration prior to ultimately deciding whether or not to hold an antitrust hearing. The Department would, of course, be pleased to advise the Commission further on this question or other relevant questions, in the light of whatever offers Applicant may make and other intervening developments.

[FR Doc.73-24781 Filed 11-20-73;8:45 am]

[7] The exception is Florida Keys.

[8] In this connection we note also that Applicant will almost certainly apply to the Commission for licenses to construct and operate additional nuclear generation units. Further questions concerning the opportunities of its neighboring systems (including systems other than Homestead, New Smyrna Beach, and Seminole) for access to the benefits of nuclear generation may be ripe for resolution in the antitrust review of such license applications.

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[Docket No. 50-389]

## FLORIDA POWER & LIGHT CO.

### Notice of Special Prehearing Conference

In the matter of Florida Power & Light Company (St. Lucie Plant, Unit 2).

Take notice that, pursuant to a "Notice of Hearing on Application for construction permit" dated September 21, 1973, a Petition to Intervene, dated October 23, 1973 was filed by Mr. Martin H. Hodder, appearing "pro se and as attorney for Intervenors," as listed therein.

The Notice of Hearing provided that any petition to Intervene shall, as required by § 2.714 of the Commission's rules of practice (10 CFR Part 2) set forth the interests of the petitioner in the proceeding, how that interest may be affected by Commission action, and state the contentions of the petitioner in reasonably specific detail. The contentions filed by Mr. Hodder marginally meet the said requirements. Accordingly, the Board, before final ruling on the merits of the petition will require further clarification as to each of the contentions alleged.

In coordination with the petitioner, the Applicant, and the Regulatory staff, we have scheduled a prehearing conference in this proceeding to be held on December 4, 1973 at 9:30 a.m., local time, Courtroom No. 209, U.S. District Court, 300 Northeast First Avenue, Miami, Florida 33101.

Members of the public may attend this prehearing conference as well as the evidentiary hearing which will be held at a future date to be fixed later by this Board. However, members of the public who may wish to participate in the proceeding by way of limited appearances will not be permitted to do so until the beginning of the evidentiary session.

The purpose of this prehearing conference is as follows:

(1) Simplification, clarification, and specification of each issue.
(2) The necessity or desirability of amending the petition.
(3) Such other matters as may aid in the orderly disposition of the instant proceeding.

The parties are directed to confer and to report to the Board at the prehearing conference on progress made towards:

(1) A stipulation as to the matters in controversy,
(2) possibility of settlement,
(3) a proposed schedule for the case.

Issued at Washington, D.C., this 16th day of November 1973.

ATOMIC SAFETY AND LICENSING BOARD,
JOHN B. FARMAKIDES,
*Chairman.*

[FR Doc.73-24727 Filed 11-20-73;8:45 am]

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[Docket No. 50-333]

## POWER AUTHORITY OF THE STATE OF NEW YORK, ET AL.

### Assignment of Members of Atomic Safety and Licensing Appeal Board

Notice is hereby given that, in accordance with the authority in 10 CFR § 2.787 (a), the Chairman of the Atomic Safety and Licensing Appeal Panel has assigned the following panel members to serve as the Atomic Safety and Licensing Appeal Board for this proceeding regarding the James A. Fitzpatrick nuclear power plant:

Alan S. Rosenthal, Chairman
Dr. John H. Buck, Member
Michael C. Farrar, Member

Dated: November 15, 1973.

MARGARET E. DU FLO,
*Secretary to the Appeal Board.*

[FR Doc.73-24779 Filed 11-20-73;8:45 am]

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## CIVIL AERONAUTICS BOARD

[Docket No. 25002]

### KUONI TRAVEL, INC.

### Notice of Supplemental Prehearing Conference

In the matter of Kuoni Travel Limited (Switzerland), d/b/a Kuoni Travel, Inc., concerning Amendment of foreign air carrier permit travel group charters.

Notice is hereby given that a supplemental prehearing conference in the above-entitled matter is assigned to be held on November 29, 1973, at 10 a.m. (local time), in Room 503, Universal Building, 1825 Connecticut Avenue, NW., Washington, D.C., before the undersigned.

Requests for information should be circulated to the parties on or before November 27, 1973.

Dated at Washington, D.C., November 15, 1973.

[SEAL] JOSEPH L. FITZMAURICE,
*Administrative Law Judge.*

[FR Doc.73-24791 Filed 11-20-73;8:45 am]

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[Docket No. 25002]

### KUONI TRAVEL, INC.

### Notice of Postponement of Hearing

In the matter of Kuoni Travel Limited (Switzerland), d/b/a Kuoni Travel, Inc., concerning Amendment of foreign air carrier permit travel group charters.

Notice is hereby given that the hearing in the above-entitled matter scheduled to be held on November 19, 1973, (38 FR 29352, October 24, 1973) is hereby indefinitely postponed. It has now been found necessary to conduct a supplemental prehearing conference.

Dated at Washington, D.C., November 15, 1973.

[SEAL] JOSEPH L. FITZMAURICE,
*Administrative Law Judge.*

[FR Doc.73-24792 Filed 11-20-73;8:45 am]

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[Docket No. 20522; Order 73-11-63]

## PAN AMERICAN WORLD AIRWAYS, INC. AND TRANS WORLD AIRLINES, INC.

### Order Dismissing Complaints Regarding North Atlantic Cargo Rates

Adopted by the Civil Aeronautics Board at its office in Washington, D.C., on the 14th day of November 1973.

After notice and hearing the Board issued its decision in Docket 20522 in Order 73-2-24 dated February 6, 1973. In that order the Board found that the existing North Atlantic cargo rate structure, including general commodity rates, specific commodity rates, container rates, and minimum charges unduly and unreasonably prefers New York and unduly and unreasonably prejudices Boston, Philadelphia, Baltimore, Washington, Cleveland, Detroit, and Chicago (hereinafter sometimes referred to as the other gateway cities). The Board also found that the lawful cargo rates between points in Europe, on the one hand, and the above-named cities, on the other hand, are the New York-European point rates per mile multiplied by the distance in miles between such cities and points in Europe.[1] However, the Board found that the record did not afford an adequate basis for determining the lawful relationship between the minimum charges applicable at the various gateways. Finally, the Board found that the lawful cargo rates between Memphis and other non-gateway cities, on the one hand, and points in Europe, on the other hand, were beyond the scope of the proceeding. The Board deferred, therefore, pending submission of revised agreements or individual carrier tariffs, consideration of the lawful North Atlantic cargo rates to interior non-gateway points.

Petitions for reconsideration and/or clarification of the Board's decision and order were filed and in its Supplemental Opinion and Order on Reconsideration thereon, Order 73-7-9 of July 5, 1973, the Board affirmed generally its original decision and order referred to above, subject only to modifications and clarification. These modifications (1) extended the time for filing tariffs in conformance with its decision until September 30, 1973, on not less than 30 days' notice,[2] (2) made it clear that all rates available at New York shall be available at the other gateway cities, and (3) required that copies of agreements and tariffs implementing the Board's decision and accompanying cost justifications be served upon the civic parties to this proceeding.

By Order 73-9-109 dated September 28, 1973, the Board rejected tariff filings by the North Atlantic air carrier and foreign air carrier members of the International Air Transport Association (IATA) marked for September 30, 1973 effectiveness, for the reason that the tariff proposals did not provide air freight rates to/from the other gateway cities to European points at the same rate per

[1] The order would permit continued common-rating of Baltimore and Washington in view of their geographical proximity. The order also provided that rates between the U.S. gateway points involved, on the one hand, and European points currently common-rated, on the other hand, may continue to be common-rated upon the lowest rate resulting from the application of the rate per mile formula.

[2] The Board had earlier stayed, pending disposition of petitions for reconsideration, the time for filing tariffs. (Order 73-5-36 dated May 8, 1973).

mile established for New York.[3] The air carrier and foreign air carrier parties to this proceeding were directed to amend their tariffs to conform to the Board's orders herein on or before November 15, 1973, and on not less than 30 days' notice.

By tariff revisions[4] marked for effectiveness November 15, 1973, Pan American World Airways, Inc. (Pan American) has proposed to establish by tariff rule[5] general commodity, specific commodity and container rates between the seven other gateway cities and European points which will be at the same rate per mile with respect to the various European points as are the New York rates, except in those cases where the carrier proposes to continue common rating of European points as permitted by the Board's order. In limited instances Pan American would maintain common rates at European points by tariff provisions establishing the rates at one point as the governing rates for one or more additional points, e.g., the rates for Aalborg, Aarhus and Billund are stated to be the applicable rate for Copenhagen.

Pan American proposes to remove the differentials in its minimum charges applicable to the said interior gateway cities by increasing those to/from Boston and New York to match the interior minimums. The carrier also proposes to increase its existing westbound-only minimum charge of $21 from the Middle East (Amman, Beirut, Cairo, Damascus, Jerusalem, and Tel Aviv) to $28, thus matching the new common-rated minimum charges for New York, Boston, the said six other interior gateway cities, and all other U.S. cities.

Trans World Airlines, Inc., (Trans World) by tariff revisions[6] also proposes to establish general commodity, specific commodity and container rates between the seven other gateway cities and European points. By Special Tariff Permission Application filed November 1, 1973, Trans World proposes further revisions to maintain the current commonrating practices by adjusting the percentage add-on over New York to the lowest of any group of cities traditionally common-rated. Trans World's rates on the North Atlantic to the other gateway cities will be the same rate per mile as the New York rates except where common rates in Europe would be continued and in certain other exceptions noted below. Trans World initially did not propose to increase its minimum charges but rather submitted material purporting to justify why such differentials should continue to exist. The carrier has filed a Special Tariff Permission Application to adjust its minimum charges effective November 15, 1973, to the same basis as proposed by Pan American. Trans World also proposes to add proportional rates between Dayton and Indianapolis, on the one hand, and New York on the other. These rates are restricted to apply on traffic originating or destined to points in Europe.

Complaints against these proposals have been filed by: The Attorney General of Virginia on behalf of the Commonwealth of Virginia and other Virginia Parties; the Metropolitan Washington Board of Trade; the Baltimore Parties; and the City of Memphis, Tennessee and the Memphis Area Chamber of Commerce. The complaints allege, inter alia, that the proposed tariff format, i.e., publication by tariff rule, adds extensively to the difficulty and burden of computing rates from/to the specified seven U.S. gateway points and thereby prejudices them, Trans World's justification for and the continuation of the differential in minimum charges does not comport with the Board's order, and that the proposed rates are not related to the miles flown, and result in higher rates for a shorter mileage than for a greater mileage, especially between disparate markets. The increases in the "add-ons" for general commodity traffic are not supported by cost justification nor from the record developed in this proceeding.

Complainants further allege that the only rationale for such increases rests solely on the CAB suggested "mileage formula" in Order 73-9-109, that the tariff filings fail to specifically state whether the past improper method of rounding of rates is being corrected; that the carriers neither proposed nor sought to take any action on the question of the combinability of domestic rates with transatlantic rates; and suggest that rates to/from points in Africa be treated the same as points in Europe by the transatlantic carriers.

The Memphis complaint additionally alleges that the carriers failed to observe the mandates of the Board's findings and orders since no adjustments were made nor proposed from/to the non-gateway point of Memphis; that the proposal by Trans World to include rate adjustments from/to the non-gateway points of Dayton and Indianapolis causes undue and unreasonable preference and advantage to other ports or localities, especially Memphis and the Memphis Area; and that the justifcation submitted by Trans World for the continuation of the status quo of rates from/to Memphis is insufficient. Further, with respect to Pan American's contention that the continuation of the status quo rates from/to Memphis is lawful and justifiable, it is urged that Pan American fails to provide any basis in fact to support its position.

The complainants request that, in view of the foregoing, the tariffs either be modified, or rejected or alternatively, that they be suspended and set for investigation.

In support of their filings and in answer to the complaints, Pan American and Trans World variously assert that the proposed rates which will be effected by their tariff filings will precisely implement the Board's orders in this proceeding in providing the same rate per mile between the seven U.S. interior gateway points and various points in Europe as is provided for New York. The carriers further state that the rounding of rates problem has been corrected, and that the tariff format utilized was designed to meet the Board's orders while maintaining a reasonably sized and useable tariff. Further any difficulties in connection with the use of the tariff format does not constitute unjust discrimination or undue preference. Pan American further asserts that it has removed the differential between the other gateway cities and New York with respect to minimum charges. It contends that the complaint with respect to charging higher rates for greater mileage than for a lesser mileage between different markets not involving the same point is without merit and a matter which the Board has previously considered and that in any event such rate differences between disparate points do not constitute unlawful preferences or prejudices. Both Pan American and Trans World further state that the combinability of rates complained against is in fact no problem and that the optional routing contained in the tariffs permits routing over any of the interior gateway cities.

In response to the Memphis complaint the carriers contend, *inter alia*, that Memphis' rates are beyond the scope of Docket 20522, that there was no intention to treat Memphis the same as gateway cities, and that reliance by Memphis upon the Board's decision in Phase 4 of the *Domestic Passenger-Fare Investigation* (Order 72-4-42, April 10, 1972) is unsupportable. Trans World asserts that the situation concerning the Dayton and Indianapolis rates is unique because it provides direct cargo service between these points and Europe, but not to Memphis. Finally, Trans World states that as to the complex non-gateway problem, the IATA rate structure proposed for January 1, 1974 effectiveness (subject to Board approval) will offer some relief respecting construction of rates to non-gateway cites.[7]

Upon consideration of the record herein, the complaints and answers and support filed by the carriers, the Board will deny the request of the complainants for rejection, suspension and/or in-

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[3] The rejected rates were based upon single add-ons beyond New York for each other gateway city for each weight break separately for general commodity and specific commodity rates based upon averaging the corresponding rate per mile between selected European points and New York.

[4] International Air Traffic Tariffs Corp., Agent CAB Nos. 259, 399 and 400.

[5] The tariff rule is that suggested by the Board at page 7 of Order 73-9-109. The rule consists of a table listing the seven named U.S. interior gateway points and the major European cities and showing the mileage percentage figure (relationship over New York) between them, together with a conversion table which converts the applicable New York rates predicated on such percentage.

[6] Revisions to Airline Tariff Publishers, Inc., Agent CAB Nos. 131 and 169 marked for effectiveness November 17, 1973, and Trans World Airlines, Inc., CAB Nos. 214 and 230 marked for effectiveness November 15, 1973.

[7] Seaboard World Airlines, Inc. (which had not filed its tariff at the time of the Memphis complaints), has also filed an answer to the Memphis complaint against the filings of Pan American and Trans World.

vestigation of the proposed tariffs for air freight service on the North Atlantic between the seven interior gateway cities and points in Europe filed by Pan American and Trans World, the tariffs will be permitted to become effective November 15, 1973 as marked, and the complaints will be dismissed. We will also permit to become effective the Trans World rates between Dayton-Indianapolis and New York.

Except for certain discrepancies related to the common-rating of European points, which are considered below, the Board finds that the tariff revisions filed comport with the Board's prior orders in this proceeding. We are therefore directing that modifications be made[8] to correct these variances. With these modifications the tariffs of Pan American and Trans World will comply with our orders herein.

With respect to the North Atlantic rates proposed between the seven interior gateways and European points, the carriers' tariffs will provide to/from each of these other gateway cities air freight rates available for New York, and accordingly conform to the Board's orders with respect to the availability of rates to the other gateway cities *vis-a-vis* New York.

The contention of the Virginia Parties that the higher North Atlantic rates between certain areas or points involving Dulles as compared with other North Atlantic markets involving New York has been disposed of in previous Board orders.[9] The Board has considered the complaint with respect to the rounding procedures and finds no basis for objection. The rounding procedures, in rounding up from a half cent or more and rounding down for lesser fractions, are consistent with rounding procedures recognized by the Board. The adjustments in the minimum rates appear to have eliminated the issue of the undue preference or prejudice between the other gateway cities and New York with respect to the North Atlantic market and accordingly, as indicated, the North Atlantic tariff proposals for these other gateway cities will be permitted to become effective.

[8] As noted, the maintenance of the current common-rate relationship among European points was permitted by Order 73-2-24 since the intra European common rate structure was not at issue in this proceeding, (mimeo Page 18, footnote 31A). Continuation of common rating between New York and various European points will obviously result in a difference in the rates per mile between New York and other places in Europe which are different distances from New York. The Board notes that while the Dulles/London rate may exceed a rate between New York and some other European point, nevertheless Dulles will get a lower rate per mile to numerous European cities than is provided by the New York-London rate, *e.g.*, the proposed rate per mile on a 100 kilogram shipment from New York to London on Item 4416, Electrical Appliances is 2.662 cents as compared with a rate of 2.422 cents from Baltimore/Washington to Milan. A mere recitation of differences in applicable rates does not establish any unlawful preference or prejudice.

With respect to the complaint that the carriers have taken no action on the question of combinability of domestic rates with transatlantic rates, as Pan American asserts, non-gateway rates can be constructed over any gateway, not just New York, and the complaint in this regard is unfounded. The Board construes the carriers' tariffs to permit the construction of rates over any gateway and expects that the carriers tariffs maintain this option in a fashion that is clear from ambiguity. We accordingly find no basis for action on the combinability issue. Nor are we persuaded that the Board should extend the rate per mile concept to service in Africa. This matter was not an issue in this proceeding, the extent of through service to Africa from the other gateway cities is different than to European points and it does not appear that action in this regard should be initiated at this time.

The Board has considered carefully the contentions filed on behalf of Memphis contending that it is being subject to undue prejudice and we cannot conclude that a basis has been shown at this time for action on this issue. Memphis is not a gateway city and its international service is consequently operated on a different basis than that offered at the gateway cities. The differences between international cargo service and domestic passenger service are such that we can find nothing in the *Domestic Passenger-Fare Investigation* which can serve as a precedent to support the Memphis position. We are not, by dismissing the Memphis complaints, fully endorsing the status quo as to nongateway points, and this is a matter which will receive consideration on an overall basis in the Board's continuing review of international cargo rates.

The Board has considered the Trans World filing for rates between Dayton and Indianapolis, on the one hand, and New York on the other for use on traffic originated or destined to points in Europe. This filing, which is marked to expire December 31, 1973, will effect some reduction in the add-ons beyond New York for transatlantic traffic involving Dayton and Indianapolis and provide lower rates to the shipping public. The lack of demonstration of any significant prejudice to other points, and the special nature of the through service provided between these cities and Europe by Trans World supports our conclusion to permit these rates to become effective.

There remain, nevertheless, other matters to be considered in this proceeding. The differential in minimum charges between New York and the other gateway cities has been eliminated and thus the preference and prejudice issue removed. However, the discrimination was removed by increasing the minimum charges to Boston and New York and the Board is deferring decision as to the reasonableness of the level of such minimum charges. The Board in Order 73-10-88 dated October 24, 1973 considered, *inter alia*, IATA agreements with respect to the North Atlantic cargo rate structure. The Board provided there that all U.S. air carrier members of IATA providing services on the North Atlantic shall file full documentation and economic justification for the rates, charges and relevant conditions embodied in the agreements, and that such support and comments or objections shall be submitted within 15 days after such date and replies thereto within 30 days after the date of that order. We will by our action herein defer decision upon the level of the minimum charges to our consideration of the North Atlantic cargo rate structure indicated in Order 73-10-88 in Docket 25280.

With respect to the problem stemming from the common-rating of European points to/from the other gateway cities, our prior order required that deviations would be permitted from the strict mileage formula, where necessary to preserve the current common-rate relationship among European points, by applying the lowest rate resulting from application of the formula. (Finding 4, Order 73-2-24, affirmed on reconsideration in Order 73-7-9). An analysis of Pan American's filing discloses that, in limited instances, the carrier failed to apply the proper percentage add-on necessary to obtain the lowest rate for European cities grouped together for common rating purposes.[8] Pan American is taking steps to correct these situations and no further action is indicated with respect to Pan American.

Trans World's tariff filing, and Special Tariff Permission Application to make revisions to maintain current common rating to European points present additional problems which stem from their application of a tariff rule to common rate situations.[10] As noted above, the application of common rating will result in deviations from the strict mileage formula. Thus by common rating Amsterdam and Madrid on Item 4702, (Machinery) the carrier would apply a 113 percent add-on for Chicago to reflect the Chicago mileage relationship over New York as to Amsterdam rather than the 117 percent which would represent the mileage relationship as regards Madrid. This is proper and in conformance with our orders. The problem with the Trans World filing, however, is that under this methodology the lower 113 percent add-on (instead of 117 percent on a rate per mile basis) would also apply to Madrid on Item 1204, (Leather) for which the carrier has not common rated Amsterdam and Madrid. Thus its proposal deviates from the rate per mile requirement in situations other than the limited exceptions permitted by our orders. Trans World is taking steps to correct this problem, which we hereby re-

[8] In grouping the cities of Copenhagen, Aalborg Aarhus and Billund for common rating with respect to Chicago, for example, the carrier applied 111 percent of the New York rate (representing the Chicago mileage relationships vis-a-vis New York/Copenhagen) instead of 110 percent dictated by the mileage relationships Chicago/Aarhus and Chicago/Billund.

[10] In Order 73-9-109 the Board stated that it would permit the use of tariff rules and tables but cautioned that such rules will not accommodate certain common rate situations.

quire be promptly effected, and as with Pan American, no other Board action appears necessary at this time. Since the problem appears to stem principally from the proposed revisions contained in Trans World's Special Tariff Permission Application the application will not be granted until further revised to meet the problems above described.

Accordingly, pursuant to the Federal Aviation Act of 1958 and particularly section 204(a), 403, 404(a) and 1002(f),

*It is ordered*, That:

1. The requests for suspension and investigation or rejection of the tariffs considered herein are denied and such tariffs will be permitted to become effective;

2. Except to the extent granted herein, the requests contained in the complaints under consideration are denied;

3. The complaints filed by or on behalf of The Attorney General of Virginia on behalf of the Commonwealth of Virginia and other Virginia Parties, the Metropolitan Washington Board of Trade; the Baltimore Parties; and the City of Memphis, Tennessee and the Memphis Area Chamber of Commerce are dismissed;

4. The level of the minimum charges with respect to New York and the other gateway cities for North Atlantic traffic will be considered by the Board in its disposition of this issue in Docket 25280; and

5. Copies of this order will be served upon the parties to this proceeding.

This order will be published in the FEDERAL REGISTER.

By the Civil Aeronautics Board.

[SEAL] EDWIN Z. HOLLAND,
*Secretary.*

[FR Doc.73-24793 Filed 11-20-73;8:45 am]

## CIVIL SERVICE COMMISSION

### FEDERAL EMPLOYEES PAY COUNCIL

#### Notice of Meeting

Pursuant to section 10(a)(2) of the Federal Advisory Committee Act, Public Law 92-463, notice is hereby given that the Federal Employees Pay Council will meet at 2 p.m. on Wednesday, November 28, 1973, to continue discussions on the fiscal year 1974 comparability adjustment for the statutory pay systems of the Federal Government.

In accordance with the provisions of section 10(d) of the Federal Advisory Committee Act, it was determined by the Director of the Office of Management and Budget and the Chairman of the Civil Service Commission, who serve jointly as the President's Agent for the purposes of the Federal pay comparability process, that this meeting of the Federal Employees Pay Council would not be open to the public.

For the President's Agent.

RICHARD H. HALL,
*Advisory Committee Management Officer for the President's Agent.*

[FR Doc.73-24798 Filed 11-20-73;8:45 am]

## COMMISSION ON CIVIL RIGHTS

### CONNECTICUT STATE ADVISORY COMMITTEE

#### Agenda and Notice of Open Meeting

Notice is hereby given, pursuant to the provisions of the Rules and Regulations of the United States Commission on Civil Rights, that a meeting of the Connecticut State Advisory Committee will convene at 7:30 p.m., on November 28, 1973, at the Holiday Inn, 900 E. Main Street, Meridan, Connecticut 06450.

Persons wishing to attend this meeting should contact the Committee Chairman, or the Northeastern Regional Office of the Commission in Room 1639, 26 Federal Plaza, New York, New York 10007.

The purpose of this meeting shall be to further discuss the release of the Connecticut State advisory Committee's report entitled "EL Boricua: The Puerto Rican Community in Bridgeport and New Haven."

This meeting will be conducted pursuant to the Rules and Regulations of the Commission.

Dated at Washington, D.C., November 19, 1973.

ISAIAH T. CRESWELL, Jr.,
*Advisory Committee Management Officer.*

[FR Doc.73-24880 Filed 11-20-73;8:45 am]

### OHIO STATE ADVISORY COMMITTEE

#### Agenda and Notice of Open Meeting

Notice is hereby given, pursuant to the provisions of the rules and regulations of the United States Commission on Civil Rights, that a meeting of the Ohio State Advisory Committee will convene at 10 a.m., on November 21, 1973, at 1944 Morse Road, Columbus, Ohio 43229.

Persons wishing to attend this meeting should contact the Committee Chairman, or the Midwestern Regional Office of the Commission in Room 1428, 219 South Dearborn Street, Chicago, Illinois 60604.

The purpose of this meeting shall be to plan continuing followup activities to the Ohio Prison Study and Report.

This meeting will be conducted pursuant to the rules and regulations of the Commission.

Dated at Washington, D.C., November 16, 1973.

ISAIAH T. CRESSWELL, Jr.,
*Advisory Committee Management Officer.*

[FR Doc.73-24879 Filed 11-20-73;8:45 am]

## ENVIRONMENTAL PROTECTION AGENCY

### BASF WYANDOTTE CORP.

#### Notice of Withdrawal of Petition Regarding Pesticide Chemical

Pursuant to provisions of the Federal Food, Drug, and Cosmetic Act (sec. 408 (d)(1), 68 Stat. 512; (21 U.S.C. 346a (d)(1))), the following notice is issued:

In accordance with § 180.8 *Withdrawal of petitions without prejudice* of the pesticide procedural regulations (40 CFR 180.8), BASF Wyandotte Corp., 100 Cherry Hill Road, Post Office Box 181, Parsippany, N.J. 07054, has withdrawn its petition (PP 1F1140), notice of which was published in the FEDERAL REGISTER of June 4, 1971 (36 FR 10899), proposing the establishment of tolerances for combined negligible residues of the herbicide 2-chloro-N-(1-methyl-2-propynyl) acetanilide and its metabolites (calculated as the herbicide) in or on the raw agricultural commodities grain of field corn and sorghum at 0.15 part per million.

Dated: November 14, 1973.

HENRY J. KORP,
*Deputy Assistant Administrator for Pesticide Programs.*

[FR Doc.73-24717 Filed 11-20-73;8:45 am]

### N,N-BIS(PHOSPHONOMETHYL)GLYCINE

#### Notice of Filing of Petition Regarding Pesticide Chemical

Pursuant to provisions of the Federal Food, Drug, and Cosmetic Act (sec. 408 (d)(1), 68 Stat. 512; (21 U.S.C. 346a (d)(1))), notice is given that a petition (PP 4F1439) has been filed by Monsanto Co., 800 N. Lindbergh Boulevard, St. Louis, MO 63166, proposing establishment of tolerances (40 CFR Part 180) for residues of the plant growth regulator N,N-bis(phosphonomethyl) glycine in or on the raw agricultural commodities sugarcane fodder and forage at 5 parts per million and sugarcane at 3 parts per million.

The analytical method proposed in the petition for determining residues of the plant growth regulator is a procedure in which the compound is esterified with diazomethane in methanol/ether. The pentamethyl ester is partitioned to methylene chloride and analyzed by gas chromatography using a phosphorus specific flame photometric detector.

Dated: November 14, 1973.

HENRY J. KORP,
*Deputy Assistant Administrator for Pesticide Programs.*

[FR Doc.73-24718 Filed 11-20-73;8:45 am]

### O,S-DIMETHYL ACETYLPHOSPHORAMIDOTHIOATE

#### Notice of Extension of Temporary Tolerances

Chevron Chemical Co., 940 Hensley Street, Richmond, CA 94801, was granted temporary tolerances for combined residues of the insecticide *O,S*-dimethyl acetylphosphoramidothioate and its metabolite *O,S*-dimethyl phosphoramidothioate in or on the raw agricultural commodities broccoli at 15 parts per million, head lettuce at 10 parts per million, tomatoes at 5 parts per million, and potatoes at 0.5 part per million on November 16, 1972, in connection with Pesticide Petition No. 2G1248 (notice was published in the FEDERAL REGISTER of November 23, 1972 (37 FR 24930)).

The firm has requested a 6-month extension of these temporary tolerances to

obtain additional experimental data. It is concluded that extension of the temporary tolerances will protect the public health. A condition under which these temporary tolerances are extended is that the insecticide will be used in accordance with the temporary permit which is being issued concurrently and which provides for distribution under the Chevron Chemical Co. name.

As extended, these temporary tolerances expire May 16, 1974.

This action is taken pursuant to provisions of the Federal Food, Drug, and Cosmetic Act (sec. 408(j), 68 Stat. 516; (21 U.S.C. 346a(j))), the authority transferred to the Administrator of the Environmental Protection Agency (35 FR 15623), and the authority delegated by the Administrator to the Deputy Assistant Administrator for Pesticide Programs (36 FR 9038).

Dated: November 14, 1973.

HENRY J. KORP,
*Deputy Assistant Administrator for Pesticide Programs.*

[FR Doc.73-24719 Filed 11-20-73;8:45 am]

## FEDERAL COMMUNICATIONS COMMISSION

[Dockets Nos. 19516, 19611; FCC 73R-382]

### INTERCAST, INC., AND ROYCE INTERNATIONAL BROADCASTING

#### Memorandum Opinion and Order Enlarging Issues

In re application of Intercast, Inc., Sacramento, California, Docket No. 19516, File No. BPH-7669; Edward Royce Stolz, II, trading as Royce International Broadcasting, Sacramento, California, Docket No. 19611, File No. BPH-7924, for construction permits.

1. This proceeding involves the mutually exclusive applications of Intercast, Inc. (Intercast) and Edward Royce Stolz, II, trading as Royce International Broadcasting (Stolz) for authorization to construct a new FM broadcast station in Sacramento, California. It was designated for hearing by the Commission on various issues by Memorandum Opinion and Order, FCC 72-916, 37 FR 23201, published October 31, 1971.[1] A hearing was held and the record was closed on June 14, 1973. Now before the Review Board is a second petition to enlarge issues, filed July 27, 1973, by Stolz, requesting that the record be reopened and that a misrepresentation and lack of candor issue be added against Intercast.[2]

2. Stolz, in his first petition to enlarge issues, filed June 19, 1973, requested legal qualifications and Rule 1.65 issues against Intercast, based on its alleged failure to pay the California corporation franchise tax, and the resultant suspension of its charter by the state.

Intercast, on July 12, 1973, filed an opposition to that petition containing three documents which were represented as the respective affidavits of Intercast principals Kenneth Ponder, Jesse Session, and Robert Harvey. It has since been admitted by Intercast that two of these documents (the Session and Harvey statements) were not in fact genuine affidavits, but forgeries;[3] however the misrepresentation and lack of candor alleged by Stolz in his second petition arise from the content of the documents rather than from their lack of authenticity. The affidavit of Kenneth Ponder stated that neither he nor any other Intercast principal was aware of the suspension of Intercast's corporate charter until Washington counsel informed Ponder on June 20, 1973, of the filing of Stolz's first petition; it further declared that Intercast had hired an accountant to deal with such matters as the California corporate franchise tax, but that this person had contracted terminal cancer and, perhaps as a result, had failed to inform the Intercast principals that the tax was due. The purported affidavit of Jesse Session stated that he visited the offices of the California Franchise Tax Board, paid the past due tax and received a certificate of revivor; it added that, while Session was doing this, he learned that "the address they had for Intercast, Inc., was Robert Harvey's former address at 1725 23d Street, Sacramento." The purported affidavit of Robert Harvey stated that he had "been informed" that the Tax Board had listed his "former residential address at 1725 23d Street, Sacramento" as the address for Intercast, that he did not know how they obtained this address, that he moved from this address prior to April, 1972, and that he never received the notice of suspension issued in April, 1972, or was otherwise aware of the suspension until June, 1973.

3. Stolz, in his second petition,[4] asserts that the three Intercast principals did know, or at least should have known, that California corporations are suspended if they fail to pay annual franchise taxes, since Intercast had already been suspended in 1971 for that very reason. Moreover, petitioner argues, it is probable that, despite their disclaimers, Ponder, Session, and Harvey actually did have notice of the 1972 suspension. Stolz submits a document which allegedly shows that, contrary to the sworn statements of Harvey and Session, the Tax Board listed Harvey's address both as 7025 23d Street and as 7023 23d Street, but never as 1725 23d Street. Petitioner assumes that 7025 23d Street is Harvey's correct address, and this, coupled with what he calls Harvey's "weasel words" (e.g., "I have been informed") and Session's failure to produce corroborative evidence from the Tax Board, leads him to infer that Intercast was apprised of its 1972 suspension, and that Harvey and Session deliberately attempted to mislead the Commission in this regard. Stolz also attacks Ponder's affidavit, calling it "evasion and double talk". He questions Ponder's claim that no Intercast principal knew of the suspension until June, 1973, and avers that the description of the alleged illness and misfeasance of Intercast's accountant is entirely lacking in verifiable detail.

4. In its comments, the Broadcast Bureau cites a number of inconsistencies and omissions in the three "affidavits" submitted by Intercast. For example, the Bureau notes, it is not clear whether it was in fact the Tax Board's practice to notify corporations of taxes due and of suspensions, and if such notice was given, whether Harvey or Intercast's accountant was supposed to receive it. The Bureau also agrees with Stolz that more information about this accountant should be supplied. The Bureau further points out that it is uncertain whether Session informed Harvey, Ponder or both of the incorrect address allegedly used by the Tax Board, or whether they were told by someone else. In the Bureau's view, Intercast should more fully explain these matters. In addition, the Bureau objects to Ponder's speaking on behalf of the other principals as to their lack of knowledge of Intercast's suspension. Accordingly, it would have the Board require Intercast's other principals to speak for themselves on this point.

5. Intercast, in its opposition, reveals for the first time that the purported affidavits of Harvey and Session were not, in fact, prepared and signed by them, but by Ponder. Intercast claims: that Ponder had discussed the situation with the other two men and knew all the statements in the three documents to be true; that Session had ratified his affidavit by telephone and had authorized Ponder to sign in his behalf; that Harvey had been unavailable when the documents were prepared but had previously authorized the other two to act for him and subsequently ratified his purported affidavit as his own; and that all three had acted, not with the intent to deceive or mislead the Commission, but "under the constraints of time pressure and with the desire to have the questions raised in Stolz's petition * * * resolved as expeditiously as possible."[5] Intercast further argues that the affidavits were factually correct except for a single detail, namely, the former address of

[1] The application of California Stereo, Inc. was also designated for consolidated hearing with those filed by Intercast and Stolz, but was subsequently dismissed with prejudice for want of prosecution. See the Administrative Law Judge's Order, FCC 73M-444, released April 11, 1973.

[2] Also before the Board are the following related pleadings: (a) Opposition, filed August 27, 1973, by Intercast; (b) Broadcast Bureau's comments, filed August 27, 1973; (c) petition for leave to file extraordinary pleading, filed August 28, 1973, by Intercast; (d) comments on (b), filed August 28, 1973, by Intercast; (e) reply, filed September 6, 1973, by Stolz; (f) petition for leave to file response to (e), filed September 18, 1973, by Intercast; and (g) response to (e), filed September 18, 1973 by Intercast. The petitions filed by Intercast on August 28 and September 18 are unopposed and will be granted.

[3] See paragraph 5, infra.

[4] Stolz's first petition was denied by the Board, by Memorandum Opinion and Order, FCC 73R-316, 28 RR 2d 367, released September 6, 1973.

[5] Another trio of affidavits is submitted in support of these claims.

Harvey. According to Intercast, the affidavits were intended to state that the Tax Board had 7025 23d Street as Harvey's address, and that he had moved from that address prior to April, 1972,[4] and therefore never received the notice of suspension issued at that time. The substitution of 1725 for 7025 was, according to Intercast, simply a typographical error which neither Ponder nor Session noticed. Intercast then asserts that Stolz has built practically his whole case on this typographical error, and insists anew that none of its principals was aware of the suspension. It argues that "little point would have been served" by indicating who told Harvey about the incorrect address, or by producing supporting documents from the Tax Board. As for its failure to provide details about its accountant, Intercast declares that it "did not wish to drag the accountant's name and reputation through the public records of the Commission as it did not believe they were particularly relevant to the issue before the Commission."

6. In reply, Stolz argues that the forging of signatures by Ponder and the condonation of this act by Session and Harvey cannot be overlooked regardless of purpose or objective, but rather requires the addition of basic as well as comparative issues. Moreover, Stolz claims, the admission contained in Intercast's opposition "renders suspect every representation made by Intercast" during the course of this proceeding. In particular, Stolz asserts, Intercast's explanation of its failure to provide details about its accountant is "transparent". Responding to this, Intercast reiterates that its principals' acts, while "misguided," were not intended to deceive the Commission, nor was there any material misrepresentation.

7. To add issues in this proceeding, it would first be necessary to reopen the record. It is well established that a petition to reopen must be supported by newly discovered evidence; that the facts relied upon must show that petitioner could not with due diligence have known or discovered such facts earlier; and that the new evidence must be such that it would, if true, be of decisional significance. See La Fiesta Broadcasting Company, 2 FCC 2d 255, 6 RR 2d 884 (1965), and cases cited therein. The Board is of the view that Stolz has failed to meet this standard. True, he has pointed out numerous lacunae in Intercast's account of its suspension and reinstatement. But he has offered no allegations raising a substantial question of wrongdoing, only theory and conjecture; and we have no reason to doubt Intercast's assertion that the only affirmative fact petitioner has alleged (i.e., that the Tax Board had 7025 and not 1725 23d Street as Harvey's address) is founded on a typographical error. In short, Stolz's argument is wholly inadequate to support the addition of misrepresentation and/or lack of candor issues. *Cf. Theodore Granik*, 12 FCC 2d 208, 12 RR 2d 803 (1968). Therefore, we will not add the issues requested by Stolz.

8. However, a serious question has been raised as to the character qualifications of Intercast's principals. Intercast concedes in its opposition pleading that it knowingly submitted to the Commission documents which purported to be, but in fact were not, affidavits. Moreover, it appears that the purpose of this conduct was to persuade the Commission that such documents were properly signed and sworn. The claim that Intercast so acted only to insure timely filing of these documents is unpersuasive, for the Commission has frequently permitted applicants who face filing deadlines to submit affidavits in unsworn form initially and to supply the proper authentication at a later date.[5] Nor is it sufficient that there may have been no material misrepresentation of fact and no motive to mislead. Even if this were true, "the willingness to deceive a regulatory body may be disclosed by immaterial and useless deceptions as well as by material and persuasive ones." FCC v. WOKO, Inc., 329 U.S. 223, 227 (1946). In support of its claim that there is no basis here for the addition of issues, Intercast cites the Commission's Decision in Jane A. Roberts, 29 FCC 141 (1960). There, an applicant was granted a construction permit even though she had allowed her husband to sign her name to numerous documents and had denied doing so in sworn testimony. But that was a final decision issued after a full evidentiary hearing had been held. It is more significant for our present purposes that the Commission had earlier believed that these matters raised sufficiently serious questions to warrant the designation of issues. See Jane A. Roberts, 23 FR 7153 (1958). The fact that Mrs. Roberts' application was ultimately granted does not mean that issues should not have been designated against her in the first place or that issues should not now be specified against Intercast. "[T]he favorable resolution of issues after a full evidentiary hearing does not necessarily mean that the specification of these issues in the first instance was unwarranted." Alabama Microwave, Inc., 21 FCC 2d 549, 553, 18 RR 2d 475, 480 (1970), review denied FCC 70-652, released June 26, 1970. In view of the foregoing, we believe that a full inquiry into the facts and circumstances pertaining to the preparation and submission of the forged affidavits is warranted. See WIOO, Inc., 37 FCC 2d 740, 25 RR 2d 567 (1972). On the Board's own motion, then,[6] the record will be reopened and an appropriate issue added.

9. *Accordingly, it is ordered*, That the petition for leave to file response to reply, filed September 18, 1973, by Intercast, Inc., is granted, and the response is accepted; and

10. *It is further ordered*, That the petition for leave to file extraordinary pleading, filed August 28, 1973, by Intercast, Inc., is granted, and the pleading is accepted; and

11. *It is further ordered*, That the second petition to enlarge issues, filed July 27, 1973, by Edward Royce Stolz, II, is denied; and

12. *It is further ordered*, On the Review Board's own motion, That the record herein is reopened and that the issues in this proceeding are enlarged to include the following issue:

To determine whether Messrs. Kenneth Ponder, Jesse Session, and/or Robert Harvey, and/or Intercast, Inc., have made misrepresentations or abused Commission processes or been lacking in candor with respect to documents purporting to be affidavits submitted to the Commission on July 12, 1972, and if so, the effect of such conduct on the applicant's requisite and/or comparative qualifications to be a Commission licensee.

13. *It is further ordered*, That the burdens of proceeding and proof under the foregoing issue shall be on Intercast, Inc.

Adopted: November 13, 1973.

Released: November 14, 1973.

FEDERAL COMMUNICATIONS COMMISSION,
[SEAL] VINCENT J. MULLINS,
*Secretary.*

[FR Doc.73-24763 Filed 11-20-73;8:45 am]

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[Docket Nos. 19857, 19858; FCC 73-1133]

## SOUTHERN RADIO AND TELEVISION CORP.

### Order and Notice of Apparent Liability Designating Applications for Consolidated Hearing on Stated Issues

In re applications of: Southern Radio and Television Corporation, Goldsboro, North Carolina, Docket No. 19857, File No. BR-2681, for renewal of license for station WFMC; Southern Radio and Television Corporation, Goldsboro, North Carolina, Docket No. 19858, File No. BLH-5784, for a license for station WOKN(FM).

1. The Commission has before it for consideration (a) the captioned applications and (b) its inquiries into the operations of Station WFMC, Goldsboro, North Carolina.

2. Information before the Commission raises serious questions as to whether the applicant possesses the qualifications to be or to remain a licensee of the Commission. In view of these questions, we are unable to find that a grant of the renewal application or the application for a license for an FM Station in Goldsboro would serve the public interest, convenience and necessity, and must, therefore, designate the applications for hearing.

3. *Accordingly, it is ordered*, That pursuant to section 309(e) of the Communications Act of 1934, as amended, the applications are designated for hearing in a consolidated proceeding, at a time and

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[4] Elsewhere in its opposition, Intercast lists the actual date of Harvey's change of address as June, 1971.

[5] See, e.g., H & H Broadcasting Company, ____ FCC 2d ____, 28 RR 2d 817, 819, n. 5 (1973).

[6] See Charles County Broadcasting Co. Inc., 25 RR 903 (1963); Athens Broadcasting Co., Inc., 37 FCC 2d 374, 25 RR 2d 483 (1972).

place to be specified in a subsequent order, upon the following issues:

(a) To determine whether, and, if so, the extent to which the applicant knowingly engaged in fraudulent billing practices or failed to exercise reasonable diligence to see that its agents and employees did not engage in fraduluent billing practices in the operation of Station WFMC, in violation of § 73.1205 of the Commission's Rules.

(b) To determine whether the applicant violated §§ 73.111 and 73.112 of the Commission's rules by making false entries or corrections in its program logs or by inaccurately logging the duration of commercial announcements.

(c) To determine whether the applicant violated section 315(b) of the Communications Act of 1934, as amended, by failing to afford legally qualified candidates for public office the station's lowest unit charge for "the same class and amount of time for the same period" in the sale of time for political announcements preceding the general election of November 7, 1972.

(d) To determine whether, during the general election of November 7, 1972, the applicant violated section 315(c) of the Communications Act by failing to obtain from certain candidates or their representatives written certificates stating that payment of advertising charges for advertising on WFMC would not violate any limitation on campaign spending specified in paragraph (1), (2), or (3) of section 104(a) of the Campaign Communications Reform Act, whichever paragraph was applicable.

(e) To determine whether the applicant has violated the Commission's rules as alleged in the Official Notice of Violation issued June 21, 1973.

(f) To determine, in light of the evidence adduced under the preceding issues, whether the licensee has the requisite qualifications to be or to remain a licensee of the Commission and whether a grant of the applications would serve the public interest, convenience and necessity.

4. *It is further ordered*, That if it is determined that the hearing record does not warrant an order denying the captioned application for renewal of license of Station WFMC, it shall also be determined whether the applicant has repeatedly or willfully violated section 315(b) and (c) of the Communications Act of 1934, as amended, or the following Sections of the Commission's Rules: §§ 73.39(d)(2); 73.52(a); 73.56(a); 73.111; 73.112; 73.113(a)(6); 73.114(b); and 73.1205.[1] If so, it shall also be determined whether an Order of Forfeiture pursuant to section 503(b) of the Communications Act of 1934, as amended, in the amount of $10,000 or some lesser amount should be issued for violations which occurred within one year preceding the issuance of the Bill of Particulars in this matter.

5. *It is further ordered*, That this document constitutes a Notice of Apparent Liability for a forfeiture for violations of those sections of the Communications Act and of the Commission's Rules set out in the preceding paragraph. The Commission has determined that, in every case designated for hearing involving revocation or denial of a license renewal application for alleged violations which also come within the purview of section 503(b) of the Act, it shall, as a matter of course, include this forfeiture notice so as to maintain the fullest possible flexibility of action. Since the procedure is thus a routine or standard one, we stress that inclusion of this Notice is not to be taken as in any way indicating what the initial or final disposition of the case should be; that judgment is, of course, to be made on the facts of each case.

6. *It is further ordered*, That the Chief of the Broadcast Bureau shall serve upon the captioned applicant, within thirty (30) days of the release of this document, a Bill of Particulars with respect to issues (a) through (e), inclusive.

7. *It is further ordered*, That the Broadcast Bureau proceed with the initial presentation of the evidence with respect to issues (a) through (e), inclusive, and that the applicant then proceed with its evidence and have the burden of establishing that it possesses the requisite qualifications to be and to remain a licensee of the Commission and that a grant of its applications would serve the public interest, convenience and necessity.

8. *It is further ordered*, That to avail itself of the opportunity to be heard, the applicant, pursuant to § 1.221(c) of the Commission's rules, in person or by attorney, shall, within twenty (20) days of the mailing of this Order, file with the Commission, in triplicate, a written appearance stating an intention to appear on the date fixed for the hearing and present evidence on the issues specified in this Order.

9. *It is further ordered*, That the applicant herein, pursuant to section 311(a)(2) of the Communications Act of 1934, as amended, and § 1.594 of the Commission's Rules, shall give notice of the hearing within the time and in the manner prescribed in such rule and shall advise the Commission thereof as required by § 1.594(g) of the rules.

10. *It is further ordered*, That the Secretary of the Commission shall send a copy of this Order by Certified Mail—Return Receipt Requested to Southern Radio and Television Corporation.

Adopted: October 31, 1973.

Released: October 31, 1973.

FEDERAL COMMUNICATIONS COMMISSION,[2]

[SEAL] VINCENT J. MULLINS, *Secretary.*

[FR Doc.73-24764 Filed 11-20-73;8:45 am]

[1] See Bill of Particulars for specific dates and details of each alleged violation.

[2] Chairman Burch not participating.

[Canadian List No. 316]

## CANADIAN STANDARD BROADCAST STATIONS

### Notification List

OCTOBER 31, 1973.

List of new stations, proposed changes in existing stations, deletions, and corrections in assignments of Canadian standard broadcast stations modifying the assignments of Canadian broadcast stations contained in the Appendix to the Recommendations of the North American Regional Broadcasting Agreement Engineering Meeting January 30, 1941.

| Call letters | Location | Power kW | Antenna | Schedule | Class | Antenna height (feet) | Ground system: Number of radials | Ground system: Length (feet) | Proposed date of commencement of operation |
|---|---|---|---|---|---|---|---|---|---|
| (New) | Rimouski, Province of Quebec, N. 48°24'15", W. 68°29'26". | 680 kHz 10D/5N | DA-2 | U | III | | | | E.I.O. 10-31-74. |
| CFDR (change of frequency, mode of operation and increase in power—PO 790 kHz, 5 kW, DA-1). | Dartmouth, Nova Scotia, N. 44°42'08", W. 63°41'55". | 680 kHz 50D/10N | DA-2 | U | II | | | | E.I.O. 10-31-74. |
| (New) | Port Cartier, Province of Quebec, N. 49°58'55", W. 66°57'22". | 710 kHz 1 | DA-1 | U | II | | | | E.I.O. 10-31,74. |
| CKGM (correction to coordinates). | Montreal, Province of Quebec, N. 45°22'06", W. 73°37'25". | 980 kHz 10 | DA-1 | U | III | | | | |
| (New) | Goose Bay, Newfoundland, N. 53°18'37", W. 60°17'38". | 1330 kHz 1D/0.25N | ND-182 | U | IV | 142 | 120 | 320 | E.I.O. 10-31-74. |
| CFGT (correction to coordinates—also change of name from St. Joseph d'Alma, and increase in power—PO 1270 kHz, 1 kW, DA-N). | Alma, Province of Quebec, N. 48°31'46", W. 71°36'31". | 1270 kHz 10D/5N | DA-N ND-D-192 | U | III | | | | E.I.O. 10-31-74. |
| (New) | St. Jovite, Province of Quebec, N. 46°07'49", W. 74°33'33". | 1400 kHz 0.25 | ND-192 | U | IV | 180 | 120 | 280 | E.I.O. 10-31-74. |
| (New) | Bagotville, Province of Quebec, N. 48°21'25", W. 70°55'46". | 1470 kHz 1 | DA-1 | U | III | | | | E.I.O. 10-31-74. |
| (New) | Grand Sault, New Brunswick, N. 47°02'24", W. 67°42'22". | 1490 kHz 1D/0.25N | ND-190 | U | IV | 165 | 120 | 264 | E.I.O. 10-31-74. |

[SEAL]

FEDERAL COMMUNICATIONS COMMISSION,
WALLACE E. JOHNSON,
*Chief, Broadcast Bureau.*

[FR Doc.73-24765 Filed 11-20-73;8:45 am]

## FEDERAL ENERGY REGULATION STUDY

### ENERGY REGULATORY SYSTEM

### Notice of Public Meetings

The FEDERAL REGISTER notice of October 23, 1973 issued by the Federal Energy Regulation Study Team called for written statements concerning problems and suggestions related to the organization of Federal energy-related regulatory activities and offered persons submitting such statements the opportunity to request a meeting with the Study Team. Notice is hereby given that these meetings will be held during the period November 29–30 and December 3–10, 1973 in Room 4203, New Executive Office Building, 726 Jackson Place NW., Washington, D.C. The purpose of the meetings will be to discuss substantive problems and issues raised by individuals and groups in their statements and to receive suggestions and information related to the Federal Energy Regulation Study. The meetings will be informal and open to the public.

With respect to the conduct of the meetings, the following procedures shall apply:

(a) Participation in each meeting will be limited to members of the Study Team and those groups and individuals that have filed written statements and requested the opportunity to meet with the Study Team as stated in the FEDERAL REGISTER notice of October 23, 1973.

(b) Copies of the statements submitted by the individuals and groups desiring to meet with the Study Team will be available for review by the public in Room 4204, New Executive Office Building, 726 Jackson Place NW., Washington, D.C., after November 20, 1973. Copies of the statements may be made by reviewers at their own expense.

(c) Information regarding meeting schedules may be secured by contacting Ken Pedersen, Room 4204, New Executive Office Building, 726 Jackson Place NW., Washington, D.C. 20503, 202-395-3686. While every effort will be made to maintain the announced schedule, practical considerations may dictate alterations.

Dated: November 19, 1973.

WILLIAM O. DOUB,
*Chairman.*

[FR Doc.73-24912 Filed 11-20-73;8:45 am]

## FEDERAL MARITIME COMMISSION

[Docket No. 73-74]

### ASSOCIATION OF WEST COAST STEAMSHIP COMPANIES

### Order To Show Cause

According to information on file with the Commission, the member lines of The Association of West Coast Steamship Companies (ASSWESTCO) have made attempts to reduce the voting requirements in the conference agreement from unanimity to two-thirds majority vote in any decision effecting rate changes. However, because the institution of such a change requires unanimous approval of the member lines under Article 4 of the ASSWESTCO agreement, all efforts in this direction have been unsuccessful. Had the unanimity rule not been applied, information before the Commission reveals that at least one recent proposal put before the members would have carried.

The Commission has acted in other cases where necessary to remove obstacles which have frustrated the desires of a majority of conference members to take necessary action. *Investigation of Passenger Steamship Conferences Regarding Travel Agents*, 10 F.M.C. 27 (1966), *aff'd sub nom. Federal Maritime Commission* v. *Aktiebolaget Svenska Amerika Linien*, 390 U.S. 238 (1968), and Docket No. 70-16, *Modification of Article 8, Agreement No. 5850—North Atlantic Westbound Freight Association*, discontinued by the Commission's Order served August 20, 1970.

In the present case, it appears that the unanimous voting requirement in Article 4 of the agreement has frustrated the desires of a strong majority of the members of ASSWESTCO to reduce that requirement from unanimity to two-thirds majority vote. In ordr to remove this obstacle and assist the parties in any decision effecting rate changes, we believe that Article 4 of the ASSWESTCO

agreement should be modified to permit the member lines to effect rate changes by a vote of something less than unanimity, such as two-thirds or three-fourths of those members present at a meeting and entitled to vote.

*Therefore it is ordered*, That pursuant to Sections 15 and 22 of the Shipping Act, 1916, The Association of West Coast Steamship Companies and its member lines show cause why Article 4 of ASSWESTCO Agreement No. 3302 should not be modified to reduce the voting requirements from unanimity to something less than unanimity, such as two-thirds or three-fourths in any decision effecting rate changes.

*It is further ordered*, That the proceeding shall be limited to the submission of affidavits of fact, memoranda of law, and replies thereto. Should any party feel that an evidentiary hearing is required, it must accompany any request for such hearing with a statement setting forth in detail the facts to be proven, their relevance to the issues in this proceeding, and why such proof cannot be submitted through affidavit. Requests for evidentiary hearing shall be filed on or before December 17, 1973. Affidavits of fact and memoranda of law shall be filed by respondents on or before December 17, 1973. Reply affidavits and memoranda of law shall be filed by the Commission's Bureau of Hearing Counsel and intervenors, if any, on or before January 4, 1974. An original and 15 copies of affidavits of fact, memoranda of law and replies are required to be filed with the Secretary, Federal Maritime Commission, Washington, D.C. 20573. Copies of any papers filed with the Secretary should also be served upon all parties hereto. Time and date of oral argument, if requested and/or deemed necessary by the Commission, will be announced at a later date.

*It is further ordered*, That the Association of West Coast Steamship Companies and its member lines as listed in Appendix A, attached hereto, be made respondents in this proceeding;

*It is further ordered*, That this Order be published in the FEDERAL REGISTER and served upon respondents;

*It is further ordered*, That any person other than those named as respondents herein who desires to become a party to this proceeding and participate therein shall file a petition to intervene in accordance with Rule 5(1) of the Commission's Rules of Practice and Procedure, 46 CFR 502.72;

*And it is further ordered*, That all future notices issued by or on behalf of the Commission in this proceeding, shall be mailed directly to all parties of record.

By the Commission.

[SEAL] FRANCIS C. HURNEY,
*Secretary.*

APPENDIX A

The Association of West Coast Steamship Companies
D. A. Harper, Chairman
P.O. Box 5097
Cristobal, Canal Zone

Colombiana Internacional de Vapores
Apartado 17227
Bogota, Colombia

Compania Sud-Americana de Vapores (Chilean Line)
Casilla 3207
Santiago, Chile

Empresa Lineas Maritimas Argentinas
Buenos Aires, Argentina

Flota Mercante Grancolombiana, S.A.
Apartado Aereo 4482
Bogota, Colombia

Kawasaki Kisen Kaisha, Ltd.
8, Kaigan-dori, Ikuta-Ku
Kobe, Japan

Lykes Bros. Steamship Co., Inc.
P.O. Box 50998
New Orleans, Louisiana 70150

Nippon Yusen Kaisha Line
3-2, Marunouchi, 2-Chome, Chiyoda-Ku,
Tokyo 100, Japan

Prudential-Grace Lines, Inc.
One New York Plaza
New York, New York 10004

Vaasa Line Oy
Arkadiankatu 21
Helsinki, Finland

Westfal-Larsen & Co. A/S
P.O. Box 1192
Bergen, Norway

[FR Doc.73-24796 Filed 11-20-73;8:45 am]

## PORT OF SAN FRANCISCO AND FRED F. NOONAN CO.

### Notice of Agreement Filed

Notice is hereby given that the following agreement has been filed with the Commission for approval pursuant to section 15 of the Shipping Act, 1916, as amended (39 Stat. 733, 75 Stat. 763, 46 U.S.C. 814).

Interested parties may inspect and obtain a copy of the agreement at the Washington office of the Federal Maritime Commission, 1405 I Street, NW., Room 1202; or may inspect the agreement at the Field Offices located at New York, N.Y., New Orleans, Louisiana, and San Francisco, California. Comments on such agreements, including requests for hearing, may be submitted to the Secretary, Federal Maritime Commission, Washington, D.C., 20573, on or before December 11, 1973. Any person desiring a hearing on the proposed agreement shall provide a clear and concise statement of the matters upon which they desire to adduce evidence. An allegation of discrimination or unfairness shall be accompanied by a statement describing the discrimination or unfairness with particularity. If a violation of the Act or detriment to the commerce of the United States is alleged, the statement shall set forth with particularity the acts and circumstances said to constitute such violation or detriment to commerce.

A copy of any such statement should also be forwarded to the party filing the agreement (as indicated hereinafter) and the statement should indicate that this has been done.

Notice of agreement filed by:

Richard A. Bobier
Chief Counsel
Port of San Francisco
Ferry Building
San Francisco, California 94111

Agreement No. T-2869, between the Port of San Francisco (Port) and Fred F. Noonan Company (Noonan), provides for the 10-year non-exclusive preferential use by Noonan of a 22.43 acre maritime terminal at Seawall Lot No. 349, Port of San Francisco, California. As compensation, the Port is to receive wharfage and dockage charges assessed pursuant to the Port of San Francisco Tariff No. 3-C, subject to a minimum of $60,000 a year for the first two years of the agreement and escalating to $90,000 a year for the last two years. Noonan is to receive all other charges, excluding utility charges, assessed under the Port's tariff.

Dated: November 15, 1973.

By order of the Federal Maritime Commission.

FRANCIS C. HURNEY,
*Secretary.*

[FR Doc.73-24795 Filed 11-20-73;8:45 am]

[Docket No. 73-58]

## UNITED STATES LINES, INC.

### Order of Investigation and Hearing Regarding Rates on Military Cargo

By Order served on September 24, 1973, United States Lines, Inc. (USL) was directed by the Commission to show cause why certain of its rates bid on Cargo N.O.S. and refrigerated cargo to the Military Sealift Command (MSC), pursuant to Request for Proposal (RFP)-800, First Cycle, should not be stricken from its tariff for failure to comply with the provisions of Commission General Order 29 and section 18(b)(5) of the Shipping Act, 1916, by reason of the application of a credit for "Net Income—Military Inland Transportation".[1]

In challenging the application of a credit for "Net Income—Military Inland Transportation", referred to in the Show Cause Order as "Military Inland Profit", the Commission explained:

> By using the credit for "Military Inland Profit", USL reduced its ocean carriage costs to a level where its rates bid cover its fully distributed costs as required by General Order 29. If the ocean carriage cost is not reduced for the credit for "Military Inland Profit", the rates bid for carriage of Cargo N.O.S. and refrigerated cargo would not cover fully distributed cost and would thus be in violation of section 18(b)(5) of the Shipping Act, 1916.
>
> * * * * *
>
> The Commission is of the opinion that unless USL can justify its use of profits on inland carriage of military cargo to offset costs attributable to the ocean carriage of that

[1] This credit is defined by USL as that pool of revenue in excess of cost associated with moving a container of military cargo from point of origin to ocean port or from ocean port to final inland destination.

cargo, USL's rates bid for the carriage of Car-

go N.O.S. and refrigerated cargo for RFP-800 First Cycle on MSC Routes 4 and 5 must be found to be in violation of General Order 29 and section 18(b)(5) of the Shipping Act, 1916, and be stricken from USL's tariff on file with the Commission.

On the grounds that the Commission's Order to Show Cause raises material and disputed factual issues which do not lend themselves to resolution through the show cause procedure, USL has now moved the Commission to institute a full evidentiary healing, or in the alternative, initiate a rulemaking proceeding. USL's motion for evidentiary hearing is supported by an affidavit detailing the "issues of fact as to which evidence must be presented". "[I]n the event the Commission denies the foregoing Motion", USL requests that it grant to Respondent an extension of time to reply to the Order to Show Cause and modify said Order to allow for (1) the filing of rebuttal affidavits; (2) the cross-examination of opposing affiants; and (3) oral argument.

In addition to filing its own separate Motion for Hearing on much the same grounds as those advanced by USL in its request, Intervenor MSC has also advised that it "fully supports" the position taken by USL in its various motions.

In their Reply to USL's motions, Hearing Counsel state that they have no objection to the institution of an evidentiary hearing on the factual issues claimed to be in dispute.

The requests for hearing advanced by USL and MSC are well taken. While we had hoped to effect the expeditious handling of this proceeding by utilization of the show cause procedure, it is now apparent, as Respondent and MSC have demonstrated, that the ultimate issue to be decided herein, i.e., whether USL may under General Order 29 reduce its ocean transportation costs by the application of a credit for "Military Inland Profit", raises factually disputed issues which can only be properly resolved in an evidentiary atmosphere. Accordingly, in order to allow USL to present whatever evidence it deems necessary to support its application of the challenged credit and to otherwise enable the parties to develop a full record upon the contested issues, we are referring this proceeding for a full evidentiary hearing consistent with the allegations set forth in the Commission's Order to Show Cause. Because of the continuing urgent nature of the issues and the time element involved in military rates generally, we are directing that the proceeding be expedited.

*Therefore it is ordered*, That pursuant to section 22 of the Shipping Act, 1916, an investigation and hearing is hereby instituted to determine the lawfulness under section 18(b)(5) of the Shipping Act, 1916, and General Order 29 of USL's application of a credit for "Military Inland Profit" (Net Income—Military Inland Transportation) in computing its costs for the carriage of military cargo; and

*It is further ordered*, That United States Lines, Inc. be made respondent in the proceeding; and

*It is further ordered*, That this proceeding be referred to an Administrative Law Judge of the Commission's Office of Administrative Law Judges for hearing and recommended decision, with directions that the proceeding be expedited; and

*It is further ordered*, That notice of this Order be published in the FEDERAL REGISTER and a copy thereof and notice of hearing be served upon respondent; and

*It is further ordered*, That any person, other than respondent and MSC, who desires to become a party to this proceeding and to participate therein shall file a petition to intervene with the Secretary, Federal Maritime Commission, Washington, D.C. 20573, promptly, with copies to parties; and

*It is further ordered*, That all future notices issued by or on behalf of the Commission in this proceeding, including notice of time and place of hearing or prehearing conference, shall be mailed directly to all parties of record.

By the Commission.

[SEAL] FRANCIS C. HURNEY,
*Secretary.*

[FR Doc.73-24794 Filed 11-20-73;8:45 am]

## FEDERAL POWER COMMISSION

[Docket No. G-5315, etc.]

### AUTHORIZATION TO SELL NATURAL GAS

**Applications for Certificates, Abandonment of Service and Petitions To Amend Certificates [1]**

NOVEMBER 13, 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 December 10, 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 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.*

[1] This notice does not provide for consolidation for hearing of the several matters covered herein.

| Docket No. and date filed | Applicant | Purchaser and location | Price per Mcf | Pressure base |
|---|---|---|---|---|
| G-5315..... E 11-5-73 | Exxcel Oil Co. (successor to Skelly Oil Co.), 4633 Princeton Ave., Midland, Tex. 79701. | El Paso Natural Gas Co., Jalmat Field, Lea County, N. Mex. | [1] 17.6308 | 14.65 |
| G-17294..... D 11-5-73 | The Superior Oil Co., P.O. Box 1521, Houston, Tex. 77001. | Colorado Interstate Gas Co., a division of Colorado Interstate Corp., Sparks Field, Morton County, Kans. | ([2]) | ..... |
| CI60-153..... C 11-5-73 | Cabot Corp. (SW), 125 High St., Boston, Mass. 02110. | Cities Service Gas Co., Hugoton Field (Deep), Seward County, Kans. | [3] 18.5 | 14.65 |
| CI61-1265..... C 10-31-73 [4] | Southern Union Production Co., Suite 1700, Campbell Centre, 8350 North Central Expressway, Dallas, Tex. 75206. | El Paso Natural Gas Co., Pictured Cliffs formation, San Juan County, N. Mex. | [5] 28.0 | 15.025 |
| CI67-248..... 11-1-73 [6] | Beacon Gasoline Co., P.O. Box 396, Minden, La. 71055. | East Dykesville Field, Claiborne Parish, La. | ..... | ..... |
| CI74-273..... A 10-26-73 | The Superior Oil Co. | Mountain Fuel Supply Co., West Side Canal Area, Carbon County, Wyo. | [3] 40.0 | 15.025 |
| CI74-274..... (C871-650) F 10-29-73 | Phillips Petroleum Co., (successor to Davis Oil Co), Bartlesville, Okla. 74004. | Colorado Interstate Gas Co., a division of Colorado Interstate Corp., South Patrick Draw Area, Sweetwater County, Wyo. | [3] 40.0 | 14.65 |
| CI74-275..... A 10-29-73 [7] | Phillips Petroleum Co., Bartlesville, Okla. 74004. | Lone Star Gas Co., Brittain Lease, Stephens County, Okla. | 18.0 | 14.65 |
| CI74-279..... (C871-557) B 10-26-73 | Alma Oringderff, Box 906, Perryton, Tex. 79070. | Northern Natural Gas Co., Bradford (Cleveland and Bradford NW (Tonkawa)) Field, Lipscomb County, Tex. | ([8]) | ..... |
| CI74-280..... (G-5363) F 10-29-73 | D. W. Marden (Operator) et al. (successor to Skelly Oil Co.), P.O. Box 1313, Liberal, Kans. 67901. | Kansas Nebraska Natural Gas Co., Inc., Hugoton Field, Finney County, Kans. | [3] 12.0 | 14.65 |
| CI74-280..... (G-16224) F 10-29-73 | do | Northern Natural Gas Co., Hugoton Field, Finney County, Kans. | [3] 15.0 | 14.65 |
| CI74-284..... (G-12100) F 11-1-73 | Graham-Michaelis Drilling Co. (successor to Mobil Oil Corp.), P.O. Box 247, Wichita, Kans. 67201. | Northern Natural Gas Co., Hugoton Field, Seward County, Kans. | [3] 13.513125 | 14.65 |

[1] Rate in effect subject to refund in Docket No. RI70-1567.
[2] Acreage assigned to Charles B. Wilson, Jr., Ltd.
[3] Subject to upward and downward B.t.u. adjustment.
[4] As supplemented on Nov. 6, 1973.
[5] Applicant is willing to accept a certificate at an initial rate of 24 cents per Mcf, subject to upward and downward B.t.u. adjustment; however, the contract price is 28 cents per Mcf, subject to upward and downward B.t.u. adjustment.
[6] Applicant proposes to gather and transport natural gas for Span America Oil Co.
[7] Applicant proposes to cover its own interests in the sale of natural gas heretofore authorized to be made by Harper Oil Co., now holder of a small producer certificate.
[8] Well will not produce into present line pressure.
[9] Subject to downward B.t.u. adjustment.

Filing code: A—Initial service.
B—Abandonment.
C—Amendment to add acreage.
D—Amendment to delete acreage.
E—Succession.
F—Partial succession.
See footnotes at end of table.

[FR Doc.73-24655 Filed 11-20-73;8:45 am]

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[Docket No. RI74-63]

## JURISDICTIONAL SALE OF NATURAL GAS

### Order Providing for Hearing on and Suspension of Proposed Change in Rate, and Allowing Rate Change To Become Effective Subject to Refund

NOVEMBER 13, 1973.

Respondent has filed a proposed change in rate and charge for the jurisdictional sale of natural gas, as set forth in Appendix A hereof.

The proposed changed rate and charge may be unjust, unreasonable, unduly discriminatory, or preferential, or otherwise unlawful.

The Commission finds: It is in the public interest and consistent with the Natural Gas Act that the Commission enter upon a hearing regarding the lawfulness of the proposed change, and that the supplement herein be suspended and its use be deferred as ordered below.

The Commission orders: (A) Under the Natural Gas Act, particularly sections 4 and 15, the Regulations pertaining thereto [18 CFR, Chapter I], and the Commission's Rules of Practice and Procedure, a public hearing shall be held concerning the lawfulness of the proposed change.

(B) Pending hearing and decision thereon, the rate supplement herein is suspended and its use deferred until date shown in the "Date Suspended Until" column. This supplement shall become effective, subject to refund, as of the expiration of the suspension period without any further action by the Respondent or by the Commission. Respondent shall comply with the refunding procedure required by the Natural Gas Act and Section 154.102 of the Regulations thereunder.

(C) Unless otherwise ordered by the Commission, neither the suspended supplement, nor the rate schedule sought to be altered, shall be changed until disposition of this proceeding or expiration of the suspension period, whichever is earlier.

By the Commission.

[SEAL] KENNETH F. PLUMB,
*Secretary.*

APPENDIX A

| Docket No. | Respondent | Rate schedule No. | Supplement No. | Purchaser and producing area | Amount of annual increase | Date filing tendered | Effective date unless suspended | Date suspended until— | Cents per Mcf* | | Rate in effect subject to refund in docket No. |
|---|---|---|---|---|---|---|---|---|---|---|---|
| | | | | | | | | | Rate in effect | Proposed increased rate | |
| RI74-63 | Amoco Production Co. | 614 | 1 | Mountain Fuel Supply Co. (Middle Baxter Basin Field, Sweetwater County, Wyo.) (Rocky Mountain Area). | $56,160 | 10-16-73 | | 4-16-74 | [1] 23.75 | [1] 40.0 | |

*Unless otherwise stated, the pressure base is 15.025 p.s.i.a. [1] Subject to upward and downward B.t.u. adjustment from a base of 1,000 B.t.u.

APPENDIX "A"

The proposed rate increase is suspended for five months since it exceeds the ceiling rate established in Order No. 435.

[FR Doc.73-24654 Filed 11-20-73;8:45 am]

## NATIONAL POWER SURVEY, TECHNICAL ADVISORY COMMITTEE ON RESEARCH AND DEVELOPMENT

### Notice of Meeting and Agenda

Agenda, Seventh Meeting of the Technical Advisory Committee on Research and Development—Task Force on Environmental Research—to be held at the Federal Power Commission Offices, Union Center Plaza Building, 825 North Capitol Street NE., Washington, D.C., 10:00 a.m., November 27, 1973, Room 5200.

1. Meeting called to order by FPC Coordinating Representative.
2. Approval of minutes of previous meeting.
3. Objectives and purposes of meeting.
A. Final Review of Comments on Report Draft, preparatory to submittal to parent committee.
B. Other Business.
4. Adjournment.

This meeting is open to the public. Any interested person may attend, appear before, or file statements with the committee—which statements, if in written form, may be filed before or after the meeting, or, if oral, at the time and in the manner permitted by the committee.

KENNETH F. PLUMB,
*Secretary.*

[FR Doc.73-24749 Filed 11-20-73;8:45 am]

[Docket No. CP73-340]

## COLORADO INTERSTATE GAS CO.

### Order Granting Intervention, Establishing Prehearing Conference, Prescribing Procedures Setting Date for the Filing of Evidence and Hearing Date

NOVEMBER 15, 1973.

By application filed on June 25, 1973, as supplemented on November 2, 1973, Colorado Interstate Corporation (CIG), proposes to construct and operate a major extension of its Wyoming Big Horn—Wind River line into the Bearpaw Mountain Area of Montana in order to attach a new gas supply, all as more fully set forth in the application which is on file with the Commission. Notice published in the FEDERAL REGISTER on July 13, 1973 (38 FR 18709) resulted in numerous petitions to intervene, two of which requested formal hearing.

In substance, this proposal involves a 216 mile pipeline extension into north-central Montana, 73 miles of looping and new compression in order to attach new reserves. CIG claims control over nearly 600,000 acres in the Bearpaw Mountain Area through a single contract with subsidiary companies from which proven and probable reserves are currently estimated to be 139 Bcf and 143 Bcf, respectively. Additional potential reserves in the area are estimated to be 443 Bcf. This new supply represents a portion of supplies needed to assist CIG in meeting peak day requirements and static annual requirements of existing customers. No increased sales are anticipated due to lack of sufficient new reserves from which to provide any growth. Even with this new Montana gas, CIG is forecasting peak day deficiencies for the 1974–75 season.

Projections of deliverability from these Montana sources have been submitted with the application. Based on proved and probable reserves, CIG has estimated first years availability of 8,383,000 Mcf increasing to 28,418,000 Mcf in the fifth year and decreasing thereafter.

The major components involved in attaching the Bearpaw Mountain supply to CIG's existing system fall into the following three groups.

*Elk Basin—Bearpaw Mountain Transmission Line*—216 miles of 20-inch diameter pipeline beginning near the Wyoming Montana border to Chouteau County, Montana—$17,435,012.

*Rawlins—Wind River Basin Transmission Line Loop*—73 miles of 20-inch diameter pipeline partially looping the existing 12-inch line in Carbon and Natrona Counties, Wyoming—$5,727,250.

*Big Sandy Compressor Station and Dehydration Plant*—Two 2,400 horsepower compressor units and related dehydration equipment near the northern terminus in Chouteau County, Montana—$3,116,752.

In addition, CIG intends to build company housing at Big Sandy due to the isolated location at an estimated cost of $645,000. Field gathering facilities involving $2,700,000 in 1974 and $2,000,000 in 1975 are anticipated. Estimated 1974 total costs including gathering, contingencies, interest and overheads is $32,233,091 with an additional $2,176,146 for further gathering facilities scheduled for 1975. CIG expects interim financing for the related investment will be funded by internally generated cash, short-term bank loans and commercial paper, or the issuance of long-term senior securities. Permanent financing is anticipated through the issuance of first mortgage pipeline bonds.

The following timely petitions have been received.

Public Service Company of Colorado, Western Slope Gas Company, and Cheyenne Light, Fuel and Power Company
Natural Gas Pipeline Company of America
Citizens Utilities Company
The Public Utilities Commission of the State of Colorado
City and County of Denver
Northern Natural Gas Company
The Montana Power Company
Montana-Dakota Utilities Company

In addition, the following late petitions to intervene were filed.

The City of Colorado Springs, Colorado
Greeley Gas Company
Raton Natural Gas Company

In view of the fact that the hearing date has not been set, and no delay will result from the granting of these late petitions, the interventions should be permitted.

In view of the nature of the issues presented by this docket, together with requests by two intervenors for formal hearing, the Commission is of the opinion that the public interest requires that a record be developed in support of this application.

The Commission finds: (1) It is desirable and in the public interest to allow all of the above-named petitioners to intervene in order that they may establish the facts and the law from which the nature and validity of their alleged rights may be determined and show that further action may be appropriate under the circumstances in the administration of the Natural Gas Act.

(2) It is necessary and appropriate that the proceedings in Docket No. CP73-340 be set for hearing and decision.

(3) A pre-hearing conference should be convened, at which may be discussed in addition to the matters set forth in Section 1.8 of the Rules of Practice and Procedure, any requests for clarification of the facts presented by the application which may be necessary for evaluation of the environmental impact of the proposed project.

The Commission orders: (A) The above-named petitioners are hereby permitted to intervene in these proceedings subject to the rules and regulations of the Commission: *Provided, however,* That the participation of such intervenors shall be limited to matters affecting asserted rights and interests as specifically set forth in said petition for leave to intervene, *And provided, further,* That the admission of such intervenors shall not be construed as recognition by the Commission that they might be aggrieved because of any order or orders of the Commission entered in this proceeding.

(B) Colorado Interstate Gas Company, and all supporting intervenors shall file testimony and exhibits comprising their cases in chief, inclusive of end use data, on or before January 8, 1973.

(C) A pre-hearing conference is to be convened on January 17, 1974 in a hearing room of the Federal Power Commission, 825 North Capitol Street, Washington, D.C. 20426 to discuss procedural issues and clarification as noted in this order.

(D) Pursuant to § 2.64(c) of the Commission's Rules of Practice and Procedure, the parties shall serve copies of their filings upon all intervenors promptly, unless such service has already been effected pursuant to Part 157 of the Regulations of the Natural Gas Act.

(E) 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 in a hearing room of the Federal Power Commission, 825 North Capitol Street NE., Washington, D.C. 20426 on January 29, 1974, concerning the matters involved in and the issues presented by this application.

(F) If necessary the record of these proceedings shall remain open until the submission of the Commission Staff's final environmental impact statement, and no initial decision shall be issued by the Administrative Law Judge until inclusion of the environmental impact statement in the record and appropriate consideration thereof.

By the Commission.

[SEAL] KENNETH F. PLUMB, *Secretary.*

[FR Doc.73-24747 Filed 11-20-73;8:45 am]

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[Docket No. CP74-122]

## DISTRIGAS OF NEW YORK CORP.

### Notice of Application

NOVEMBER 14, 1973.

Take notice that on November 2, 1973, Distrigas of New York Corporation (Applicant), 125 High Street, Boston, Massachusetts 02110, filed in Docket No. CP74-122 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 liquefied natural gas (LNG) facilities at Rossville, Staten Island, New York, for the receipt, terminalling and redelivery of LNG from Algeria, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

In Commission Opinion No. 613, issued March 9, 1972, *Distrigas Corporation,* Docket No. CP70-156, *et al.* (47 FPC 752), rehearing denied June 7, 1972 (47 FPC ——), the Commission authorized Distrigas Corporation (Distrigas) an affiliate of Applicant, to import up to 14 shiploads of LNG from Algeria to deepwater terminals located at Staten Island and Everett, Massachusetts. At that time the Commission held, *inter alia,* that the terminal facilities at Staten Island did not require certification; however, on May 25, 1973, in Docket No. CP73-78, *et al., Distrigas Corporation, et al.* (49 FPC ——), rehearing denied June 20, 1973 (49 FPC ——), the Commission determined that it did have jurisdiction over the subject Staten Island facilities and has required Distrigas or its appropriate affiliate to apply for authorization to construct and operate the proposed Staten Island facility. Applicant states that it is filing the subject application in compliance with the Commission's orders issued in Docket No. CP73-78, *et al.* on May 25 and June 20, 1973, but that it is doing so under protest and with reservation of its rights to contest the Commission's aforesaid orders. These orders are being contested by Applicant in the United States Court of Appeals for the District of Columbia Circuit in Case No. 73-1747.

Applicant seeks authorization to construct and operate certain terminal and appurtenant facilities to handle LNG, which will be imported into the United States at Rossville, Staten Island, on the Arthur Kill. Applicant states that these facilities are approximately 90 percent completed and will consist of ship berthing and unloading facilities, two storage tanks of 900,000 barrels capacity each, revaporization facilities, boil-off compressors, booster pumps, a stabilization air compressor, odorant facilities, related piping and other equipment and supporting structures. In its application Applicant has included a detailed explanation of the major systems and facilities that will be installed at the subject terminal for fire protection.

Applicant estimates that the cost of the subject facilities will approach approximately 100 million dollars. Applicant plans to finance part of this project under a note purchase agreement with Public Service Electric and Gas Company (PSE & G) which has agreed to purchase from Applicant first mortgage notes due May 1, 1995, in the principal amount of $60,000,000 secured by a first mortgage on the property, plant and equipment of Applicant. Applicant also will use $35,000,000 which Eastern Energy Corporation (Eastern Energy) has agreed to provide in return for common stock equity in Applicant. The Cabot Corporation, the owner of 100 percent of the capital stock of Eastern Energy, has guaranteed this obligation of Eastern Energy.

Applicant proposes to provide a terminalling service, including storage, revaporization and redelivery of LNG for PSE & G, which has contracted for supply of LNG to be imported for its use into the United States from Algeria. Applicant has entered into terminalling agreement dated August 23, 1973, with PSE & G providing for demanding charges of $2,200,000 for the first year of such service, $2,200,000 for the next six months and $6,600,000 per year thereafter plus a throughput charge of $0.046 cents per million Btu. The agreement also provides for a vaporization demand charge at the annual rate of $72,000 per billion Btu per hour of applicable maximum delivery rate subject to certain adjustments if Applicant fails to or is unable to provide in whole or in part during one or more days the vapor delivery rates as specified in the subject contract and requested by PSE & G. The agreement indicates that PSE & G's LNG entitlements will be delivered at Staten Island from Easogas ship cargoes and may be commingled with Distrigas LNG supplies. Pursuant to § 154.52 of the Commission's regulations under the Natural Gas Act (18 CFR 154.52), Applicant requests an exception to the usual form and composition of tariff filings, so that it may file its terminalling agreement with PSE & G as a special rate schedule.

Applicant requests a waiver of the requirements of Part 159 of the Commission's Regulations under the Natural Gas Act so that it will not have to pay $150,000 in filing fees. Applicant asserts that to have to pay this large fee would be inequitable.

The subject facilities are proposed to be used to accept natural gas imported from Algeria by Distrigas for which an application for import authorization is pending in Docket No. CP73-132 and to help initiate sales of LNG to customers in New Jersey for which an application for authorization is pending in Docket No. CP73-230. Additionally in Docket No. CP73-148, Distrigas Pipeline Corporation has applied for authorization to construct pipeline from the subject terminal facilities across the Arthur Kill to permit vaporized gas to reach certain distributors in New Jersey.

Applicant asserts that this application and the aforesaid pending applications present a project designed to provide supplemental supplies of gas to distributors in the New York and New Jersey areas, primarily for peak shaving purposes. Applicant further asserts that the proposed terminal will make a significant contribution towards meeting and pressing requirements of the buyers for supplemental gas supplies in peak periods, where the markets to be served suffer from acute shortages of clean burning fuels for peak shaving and other nonbase load requirements.

Any person desiring to be heard or to make any protest with reference to said application should on or before Decem-

ber 10, 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.

KENNETH F. PLUMB,
*Secretary.*

[FR Doc.73-24748 Filed 11-20-73;8:45 am]

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[Docket Nos. RP74-19, etc.]

## FLORIDA GAS TRANSMISSION CO.

### Order Granting Intervention

NOVEMBER 14, 1973.

By an order issued October 12, 1973, the Commission, in Docket No. RP74-19, accepted for filing and suspended for five months (effective March 16, 1974) Florida Gas Transmission Company's (Florida Gas) proposed tariff sheets Ninth Revised Sheet No. 27 and Ninth Revised Sheet No. 63 and Seventh Revised Sheet No. 128 of Original Volume No. 2. Furthermore, the order of October 12, 1973, consolidate Docket Nos. RP74-19, RP69-2, RP70-25, RP71-27, RP71-28, and RP72-144.

Timely petitions were filed by the following parties: Florida Power and Light Company, Florida Power Corporation, Sun Oil Company. A late petition to intervene was filed by the Southern Gas Company on October 5, 1973.

The Commission finds:

Participation of the above-named petitioners for intervention in this proceeding may be in the public interest.

The Commission orders:

(A) The above-named petitioners are hereby permitted to intervene in this proceeding, subject to the Rules and Regulations of the Commission: *Provided, however,* That the participation of such intervenors shall be limited to matters affecting the rights and interests specifically set forth in their petition to intervene: *And provided, further,* That the admission of such intervenors shall not be construed as recognition that they or any of them might be aggrieved because of any order issued by the Commission in this proceeding.

(B) The Secretary shall cause prompt publication of this order in the FEDERAL REGISTER.

By the Commission.

[SEAL] KENNETH F. PLUMB,
*Secretary.*

[FR Doc.73-24744 Filed 11-20-73;8:45 am]

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[Docket No. E-7734]

## MID-CONTINENT AREA POWER POOL AGREEMENT

### Notice Clarifying Procedural Dates

NOVEMBER 14, 1973.

On October 26, 1973, an order was issued granting a further extension on the request of the interveners for the submittal of direct testimony. The order also provided that the other procedural dates be postponed accordingly 30 days.

Notice is hereby given that the procedural dates fixed by order issued are as follows:

Applicant's Prepared Testimony, December 26, 1973.
Staff Testimony, January 14, 1974.
Rebuttal Evidence, February 11, 1974.
Prehearing Conference, February 20, 1974 (10 a.m., e.s.t.).
Hearing, March 19, 1974 (10 a.m., e.s.t.).

KENNETH F. PLUMB,
*Secretary.*

[FR Doc.73-24743 Filed 11-20-73;8:45 am]

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[Project No. 5]

## MONTANA POWER CO.

### Notice of Application for Amendment of License

NOVEMBER 14, 1973.

Public notice is hereby given that application for amendment of license has been filed under the Federal Power Act (16 U.S.C. 791a-825r) by The Montana Power Company (Correspondence to: Mr. George W. O'Connor, President and Chief Executive Officer, The Montana Power Company, Butte, Montana 59701), for its Kerr Project No. 5, located on the Flathead River in Flathead, Lake, Sanders, Missoula, Granite, Powell, and Deer Lodge Counties, Montana.

Applicant has requested that its license for the Kerr Project No. 5 be amended by deleting therefrom the Kerr-Anaconda 161 kV "A" transmission line. The line, occupying a 100-foot right-of-way for about 145 miles through Lake, Missoula, Granite, Powell, and Deer Lodge Counties (and the Flathead Indian Reservation), connects the powerhouse of the Kerr Project with the Licensee's Anaconda substation near Anaconda, Montana.

Licensee supports its request with the statement that the line is not a primary line within the meaning of Section 3(11) of the Federal Power Act.

Any person desiring to be heard or to make protest with reference to said application should on or before December 27, 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 available for public inspection.

KENNETH F. PLUMB,
*Secretary.*

[FR Doc.73-24745 Filed 11-20-73;8:45 am]

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[Docket Nos. RI72-265, etc.]

## PHILLIPS PETROLEUM COMPANY ET AL.

### Order Providing for Hearing on and Suspension of Proposed Changes in Rates; Correction

OCTOBER 24, 1973.

In The Order Providing For Hearing On And Suspension Of Proposed Changes In Rates, And Allowing Rate Changes To Become Effective Subject To Refund, Issued January 24, 1973 and published in the FEDERAL REGISTER February 5, 1973, (38 FR 3353) Appendix "A" Footnote 11 should be corrected to read: "Favored-nation increase".

KENNETH F. PLUMB,
*Secretary.*

[FR Doc.73-24741 Filed 11-20-73;8:45 am]

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[Docket Nos. RI74-9, etc.]

## PHILLIPS PETROLEUM COMPANY ET AL.

### Order Providing for Hearing on and Suspension of Proposed Changes in Rates; Correction

OCTOBER 31, 1973.

Order Providing For Hearing On And Suspension Of Proposed Changes In Rates, And Allowing Rate Changes To Become Effective Subject To Refund, Issued July 25, 1973 and Published in the FEDERAL REGISTER, August 3, 1973 (38 FR 20945): Appendix "A" Docket No. RI74-12, Hondo Oil & Gas Company Under column headed "Proposed Increased Rate" change "24.036" to "23.6563".

KENNETH F. PLUMB,
*Secretary.*

[FR Doc.73-24742 Filed 11-20-73;8:45 am]

[Docket No. RP73-100]

## SYLVANIA CORP.

### Notice of Certification of Proposed Settlement Agreement

NOVEMBER 13, 1973.

Take notice that the Presiding Administrative Law Judge on November 2, 1973, certified to the Commission a proposed Agreement as to Rates, which was offered in hearing by the Sylvania Corporation (Sylvania) on October 30, 1973, and was recommended by the Commission Staff. No other party participated in the hearing.

The Agreement contains Sylvania's proposed First Revised Volume No. 1 to its FPC Gas Tariff. The revised tariff contains a proposed First Revised Sheet No. 4 and Original Sheet No. 5 which set forth the provisions of Rate Schedule G-1 and the rate, 55.27 cents per Mcf, applicable to all gas deliveries to Sylvania's single customer, its affiliate, United Natural Gas Company, to be effective as of August 13, 1973.

Sylvania states that the agreement resulted from conferences held on June 27 and July 31, 1973, and that it reflects jurisdictional revenues of approximately $1,487,518 annually, based upon the test period ended December 31, 1973, adjusted.

A copy of the agreement has been served upon Sylvania's jurisdictional customer, United Natural Gas Company.

Any person desiring to be heard or to comment upon said filing should file such comment with the Federal Power Commission, 825 North Capitol Street NE., Washington, D.C., in accordance with §§ 1.8 and 1.10 of the Commission's rules of practice and procedure (18 CFR 1.8 and 1.10), on or before November 29, 1973. Copies of this application are on file with the Commission and available for public inspection.

KENNETH F. PLUMB,
*Secretary.*

[FR Doc.73-24746 Filed 11-20-73;8:45 am]

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[Docket No. RP74-31-11]

## PANHANDLE EASTERN PIPE LINE CO.

### Notice of Petition for Extraordinary Relief

NOVEMBER 19, 1973.

On October 1, 1973, Panhandle Eastern Pipe Line Company (Panhandle) filed revised tariff sheets to its FPC Gas Tariff, Original Volume No. 1, setting forth curtailment procedures to be operative during periods of curtailed deliveries on Panhandle's system. Panhandle stated that, if the Commission does not extend the effectiveness of the then operative interim curtailment procedures, which expired October 31, 1973, until the completion of the proceeding in Docket No. RP71-119, the proposed tariff sheets are proposed to be effective on November 1, 1973. By the order issued November 6, 1973, in Docket No. RP71-119 (50 FPC _____), the Commission denied Panhandle's motion for extension of the effective interim curtailment plan and accepted the October 1, 1973, revised tariff sheets and made them effective as of November 1, 1973, to remain in effect until further order of the Commission in Docket No. RP71-119.

Take notice that on November 7, 1973, Mueller Brass Company (Petitioner) filed a petition with the Commission for extraordinary relief pursuant to § 1.7 of the Commission's rules of practice and procedure (18 CFR 1.7) requesting the Commission to direct Panhandle to sell and deliver to Mueller up to 2,760 Mcf of natural gas daily, such gas to be used solely to meet the essential process and plant protection needs at Mueller's Port Huron, Michigan, plant.

Petitioner states that it has utilized natural gas in its operations for many years and has placed reliance on its supplier, Panhandle, to provide the approximately 6,500 Mcf of gas daily required for the operation of the Port Huron plant. Said plant, Petitioner further states, is a major producer of fuse bodies for rockets, mortars, etc., for use by the Armed Services and is the largest employer in Port Huron. Petitioner alleges that should its employees lose their jobs for any extended period, Port Huron would become a severely depressed area.

Petitioner states that it has converted its principal boiler to coal firing and has, as a result, been enabled to reduce substantially its gas requirements. The gas that Petitioner requests will not be consumed for boiler use but will be utilized, Petitioner indicates, for those purposes which are essential to the operation and maintenance of the plant. Additionally, Petitioner states that because of the shortage of propane, it has been unable to secure firm commitments for this fuel supply for this winter season. Accordingly, Petitioner requests that Panhandle be directed to supply 2,760 Mcf of gas daily for use at the Port Huron plant.

It appears reasonable and consistent with the public interest in this proceeding 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 should on or before November 27, 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). The notices and petitions for intervention previously filed in Docket No. RP71-119 will not operate to make those parties interveners or protestants with respect to the instant petition. All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's rules.

KENNETH F. PLUMB,
*Secretary.*

[FR Doc.73-24937 Filed 11-20-73;8:45 am]

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# FEDERAL RESERVE SYSTEM

## DAWSON CORP.

### Order Approving Formation of Bank Holding Company and Engaging De Novo in Insurance Agency Activities

Dawson Corporation, Lexington, Nebraska, has applied for the Board's approval under section 3(a)(1) of the Act (12 U.S.C. 1842(a)(1)) of formation of a bank holding company through acquisition of 83.3 percent or more of the voting shares of the Farmers State Bank, Lexington, Nebraska ("Bank").

At the same time, Applicant has applied for the Board's approval under section 4(c)(8) of the Act (12 U.S.C. 1843(c)(8)) and § 225.4(b)(1) of the Board's Regulation Y to engage de novo, at the offices of Bank in Lexington, Nebraska, in the sale of credit life and credit accident and health insurance directly related to extensions of credit by Bank. Such activities have been determined by the Board to be closely related to the business of banking (12 CFR 225.4(a)(9)).

Notice of receipt of these applications was published in the FEDERAL REGISTER on June 19, 1973 (38 FR 15995) and on August 24, 1973 (38 FR 22827). The Board has considered the applications and all comments received in light of the factors set forth in section 3(c) of the Act (12 U.S.C. 1842(c)), and the considerations specified in section 4(c)(8) of the Act.

Applicant is a Nebraska corporation organized for the purpose of becoming a bank holding company through acquisition of Bank. Applicant's majority shareholder, who will continue in control of Applicant after consummation of the proposed transaction, now owns all of the shares of Bank which Applicant proposes to acquire. The proposed transaction involves the transfer of these shares to Applicant and Applicant's assumption of debt arising from the transferor's purchase of such shares. Accordingly, the proposed acquisition involves essentially a change from individual to corporate ownership.

Bank, with deposits of $9.8 million, is the smaller of two banks in Lexington and the fifth largest of nine commercial banks in the Dawson County banking market (approximated by Dawson County, Nebraska).[1] Applicant, through Bank, would control about 13.8 percent of total deposits in commercial banks in Dawson County and only an insignificant percentage of all such deposits in the State. Due to the nature of the proposed transaction and since Applicant has no operating history, consummation of said transaction will not adversely affect

[1] Data as of December 31, 1972.

commercial banking competition in any relevant area.

The financial and managerial resources and future prospects of Applicant and Bank are satisfactory and consistent with approval. Although Applicant will assume the debt incurred by its principal organizer in acquiring control of Bank, it appears that such debt can be adequately serviced without placing an undue strain on Bank's resources. Bank is adequately capitalized at present and, it appears, will continue to be adequately capitalized throughout the period of debt amortization. Considerations relating to the convenience and needs of the communities to be served are consistent with approval. It is the Board's judgment that consummation of the proposed transaction would be in the public interest and that the application to acquire Bank should be approved.

Due to the limited character of Applicant's proposed insurance activities, and the fact that such activities will commence de novo, no adverse competitive effects would result from approval of the 4(c)(8) application. Moreover, there is no evidence in the record indicating that consummation of the proposal would result in any undue concentration of resources, unfair competition, conflicts of interest, unsound banking practices, or other consequences adverse to the public interest. Approval would permit Applicant to offer Bank's customers a convenient source of credit-related insurance. Based on the foregoing and other considerations reflected in the record, the Board has determined that the balance of the public interest factors the Board is required to consider regarding the proposal to sell credit-related insurance is favorable and that the application should be approved.

During the course of its consideration of this application, the Board received one adverse comment protesting Applicant's proposed insurance activities and requesting a hearing. Protestant argued, among other things, that the proposed activities described in Applicant's submissions to the Board might not be among those which the Board has determined to be so closely related to banking or managing or controlling banks as to be a proper incident thereto. Applicant's response to said protest indicated that the proposed insurance activities would consist excusively of "the sale of credit life and credit accident and health insurance directly related to an extension of credit by Farmers State Bank, Lexington, Nebraska." After notice of Applicant's response, Protestant withdrew its opposition to the application and its request for a hearing.

On the basis of the record, the applications to acquire Bank and to engage in insurance agency activities are approved for the reasons summarized above. The acquisition of Bank shall not be made before the thirtieth calendar day following the effective date of this Order; and neither the acquisition of Bank nor the commencement of insurance activities shall occur later than three months after the effective date of this Order. However, such periods may be extended for good cause by the Board, or by the Federal Reserve Bank of Kansas City. The determination as to the insurance agency activities is subject to the conditions set forth in § 225.4(c) of Regulation Y and to the Board's authority to require such modification or termination of the activities of a holding company or any of its subsidiaries as the Board finds necessary to assure compliance with the provisions and purposes of the Act and the Board's regulations and orders issued thereunder, or to prevent evasions thereof.

By order of the Board of Governors,[1] effective November 12, 1973.

[SEAL] CHESTER B. FELDBERG,
*Secretary of the Board.*

[FR Doc.73-24733 Filed 11-20-73;8:45 am]

## FORT WORTH NATIONAL CORP.

### Proposed Acquisition of American Cattle and Crop Services Corp.

The Fort Worth National Corporation, Fort Worth, Texas, has applied, pursuant to § 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and § 225.4(b)(2) of the Board's Regulation Y, for permission to engage in a joint venture with The Fort Worth National Corporation, Fort Worth, Texas, and thereby to acquire voting shares of American Cattle and Crop Services Corp., Guyman, Oklahoma, a de novo corporation. Notice of the application was published on September 5, 1973, in The Globe-Times a newspaper circulated in Potter County, Texas, and on September 5, 1973, in The Guyman Daily Herald, a newspaper circulated in Texas County, Oklahoma.

Applicant states that the proposed subsidiary would engage de novo in the activities of agricultural commodity financing and servicing such financing, and in general making, servicing or acquiring, for its own account or for the account of others, loans and other extensions of credit to agricultural enterprises or secured by agricultural commodities. Such activities have been specified by the Board in § 225.4(a) of Regulation Y as permissible for bank holding companies, subject to Board approval of individual proposals in accordance with the procedures of § 225.4(b).

Interested persons may express their views on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices." Any request for a hearing on this question should be accompanied by a statement summarizing the evidence the person requesting the hearing proposes to submit or to elicit at the hearing and a statement of the reasons why this matter should not be resolved without a hearing.

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Dallas or Boston.

Any views or requests for hearing should be submitted in writing and received by the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551, not later than December 10, 1973.

Board of Governors of the Federal Reserve System, November 13, 1973.

[SEAL] THEODORE E. ALLISON,
*Assistant Secretary of the Board.*

[FR Doc.73-24735 Filed 11-20-73;8:45 am]

[1] Voting for this action: Vice Chairman Mitchell and Governors Brimmer, Sheehan, Bucher and Holland. Absent and not voting: Chairman Burns and Governor Daane.

## SCHRODER INTERNATIONAL LTD. AND SCHRODER INTERNATIONAL HOLDINGS LTD.

### Formation of Bank Holding Companies

Schroder International Limited and Schroder International Holdings Limited, both of London, England, have 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 bank holding companies through the indirect acquisition of 99 percent or more of the voting shares of Schroder Trust Company, New York, New York. The factors that are considered in acting on the applications are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The applications 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 applications should submit his views in writing to the Board of Governors of the Federal Reserve System, Washington, D.C. 20551, to be received not later than November 28, 1973.

Board of Governors of the Federal Reserve System, November 15, 1973.

[SEAL] THEODORE E. ALLISON,
*Assistant Secretary of the Board.*

[FR Doc.73-24724 Filed 11-20-73;8:45 am]

## SHAWMUT ASSOCIATION, INC.

### Proposed Acquisition of American Cattle and Crop Services Corp.

Shawmut Association, Inc., Boston, Massachusetts, has applied, pursuant to section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and § 225.4(b)(2) of the Board's Regulation Y, for permission to engage in a joint venture with The Fort Worth National Corporation, Fort Worth, Texas, and thereby to acquire voting shares of American Cattle and Crop Services Corp., Guyman, Oklahoma, a de novo corporation. Notice of the application was published on September 5, 1973, in The Globe-Times a newspaper circulated in Amarillo, Potter County, Texas, and on

September 5, 1973, in The Guyman Daily Herald, a newspaper circulated in Texas County, Oklahoma.

Applicant states that the proposed subsidiary would engage de novo in the activities of agricultural commodity financing and servicing such financing, and in general making, servicing or acquiring, for its own account or for the account of others, loans and other extensions of credit to agricultural enterprises or secured by agricultural commodities. Such activities have been specified by the Board in § 225.4(a) of Regulation Y as permissible for bank holding companies, subject to board approval of individual proposals in accordance with the procedures of § 225.4(b).

Interested persons may express their views on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices." Any request for a hearing on this question should be accompanied by a statement summarizing the evidence the person requesting the hearing proposes to submit or to elicit at the hearing and a statement of the reasons why this matter should not be resolved without a hearing.

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Dallas or Boston.

Any views or requests for hearing should be submitted in writing and received by the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551, not later than December 10, 1973.

Board of Governors of the Federal Reserve System, November 13, 1973.

[SEAL] THEODORE E. ALLISON,
*Assistant Secretary of the Board.*

[FR Doc.73-24736 Filed 11-20-73;8:45 am]

## SOUTHEAST BANKING CORP.

### Order Approving Acquisition of Bank

Southeast Banking Corporation, Miami, Florida, a bank holding company within the meaning of the Bank Holding Company Act, has applied for the Board's approval under section 3(a)(3) of the Act (12 U.S.C. 1842(a)(3)) to acquire 80 percent or more of the voting shares of Peoples National Bank, Naples, Florida ("Bank").

Notice of the application, affording opportunity for interested persons to submit comments and views, has been given in accordance with section 3(b) of the Act. The time for filing comments and views has expired, and none has been timely received. The Board has considered the application in light of the factors set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

Applicant, the largest banking organization in Florida, controls 23 banks with aggregate deposits of about $1.6 billion, which represents approximately 8.3 percent of total deposits in commercial banks in Florida.[1] Consummation of the proposed acquisition of Bank, with deposits of about $14.7 million, would neither significantly increase Applicant's share of commercial bank deposits in Florida nor result in any significant increase in concentration of banking resources in any section of the State.

Bank controls about 7 percent of total deposits in commercial banks in the Naples banking market (approximated by Collier County, Florida, excluding the town of Immokalee), and is the fifth largest of six commercial banks, and the third of four banking organizations in said market. Applicant's nearest subsidiary bank, the Peoples Bank of Venice, is located about 80 miles north of Bank. There is no meaningful competition between Bank and any of Aplicant's present or proposed banking subsidiaries; nor does it appear likely that such competition will develop in the future in light of the distances involved and Florida's restrictive branching laws. Moreover, since Applicant, through Bank, would compete in the Naples market with two banks that are more than four times the size of Bank, and a third almost twice its size, consummation of the proposed acquistion would not enable Applicant to dominate that banking market. Accordingly, the Board concludes that consummation of the proposed transaction would not adversely affect competition in any relevant area.

The financial and managerial resources and future prospects of Applicant and its present subsidiary banks are generally satisfactory; and future prospects of Bank are considered favorable. Considerations relating to the convenience and needs of the communities to be served lend some weight toward approval, since Applicant will apply its expertise and resources to assist Bank to create and staff a trust facility which will provide an alternative source of trust services in the Naples banking market. It is the Board's judgment that the proposed acquisition is in the public interest and that the application should be approved.

On the basis of the record, the application is approved for the reasons summarized above. The transaction shall not be made (a) before the thirtieth calendar day following the effective date of this Order or (b) later than three months after the effective date of this Order, unless such period is extended for good cause by the Board, or by the Federal Reserve Bank of Atlanta pursuant to delegated authority.

By order of the Board of Governors,[2] effective November 12, 1973.

[SEAL] CHESTER B. FELDBERG,
*Secretary of the Board.*

[FR Doc.73-24734 Filed 11-20-73;8:45 am]

## NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[Notice (73-86)]

### NASA RESEARCH AND TECHNOLOGY ADVISORY COUNCIL COMMITTEE ON AERONAUTICS

#### Notice of Meeting

The NASA Research and Technology Council Committee on Aeronautics will meet on November 28-30, 1973, at the NASA Ames Research Center, Moffet Field, California 94035. The meeting will be held in Conference Room 116 of Building 227. All sessions will be closed to the public; since they contain classified information concerning high-performance military combat fighter aircraft.

The NASA Research and Technology Advisory Council Committee on Aeronautics serves in an advisory capacity only. There are 12 members. The agenda for the meeting, which will be chaired by Mr. E. Blake Maske, is set forth in the following list. For further information, please contact Mr. J. Lloyd Jones, Area Code 202, 755-2397.

NOVEMBER 28, 1973

1. Presentation of Navy and Air Force classified data and views of the problems of propulsion/airframe interference in the design of high-performance aircraft.
2. Presentation by the aircraft industry participants of classified data and their views of the problem.
3. Presentation by the engine manufacturer participants of their views.
4. Discussion.

NOVEMBER 29, 1973

1. Review by NASA inter-Center group of the current NASA R&T programs related to the problem under consideration, including classified data, and their initial recommendations for rebalancing, redirecting, or supplementing the overall effort.
2. Discussion.
3. Working session of Committee to prepare written report.

NOVEMBER 30, 1973

1. Continuation of working session (Classified data included).
2. Recap and summation.

HOMER E. NEWELL,
*Associate Administrator, National Aeronautics and Space Administration.*

NOVEMBER 16, 1973.

[FR Doc.73-24769 Filed 11-20-73;8:45 am]

[1] Banking data are as of December 31, 1972, adjusted to reflect holding company acquisitions and formations approved through August 7, 1973.

[2] Voting for this action: Vice Chairman Mitchell and Governors Brimmer, Sheehan, Bucher and Holland. Absent and not voting: Chairman Burns and Governor Daane.

## NATIONAL ENDOWMENT FOR THE HUMANITIES

### YOUNGER HUMANIST FELLOWSHIPS PANEL

#### Notice of Meeting

NOVEMBER 13, 1973.

Pursuant to Public Law 92-463, the Federal Advisory Committee Act, notice is hereby given that a meeting of the Younger Humanist Fellowships Panel will take place in Washington, D.C. on December 7, 1973.

The purpose of the meeting is to review Younger Humanist Fellowship applications submitted to the Endowment for individual fellowship grants.

Based on section b (4) and (6) of 5 U.S.C. 552, the meeting will not be open to public participation. It is suggested that those desiring more specific information contact the Advisory Committee Management Officer Mr. John W. Jordan, 806 15th Street, N.W., Washington, D.C. 20506, or call Area Code 202-382-3031.

JOHN W. JORDAN,
*Advisory Committee,*
*Management Officer.*

[FR Doc.73-24784 Filed 11-20-73;8:45 am]

### YOUNGER HUMANIST FELLOWSHIPS PANEL

#### Notice of Meeting

NOVEMBER 14, 1973.

Pursuant to Public Law 92-463, the Federal Advisory Committee Act, notice is hereby given that a meeting of the Younger Humanist Fellowships Panel will take place in Washington, D.C. on December 8, 1973.

The purpose of the meeting is to review Younger Humanist Fellowship applications submitted to the Endowment for individual fellowship grants.

Based on section b (4) and (6) of 5 U.S.C. 552, the meeting will not be open to public participation. It is suggested that those desiring more specific information contact the Advisory Committee Management Officer Mr. John W. Jordan, 806 15th Street, NW., Washington, D.C. 20506, or call Area Code 202-382-3031.

JOHN W. JORDAN,
*Advisory Committee*
*Management Officer.*

[FR Doc.73-24785 Filed 11-20-73;8:45 am]

### YOUNGER HUMANIST FELLOWSHIPS PANEL

#### Notice of Meeting

NOVEMBER 14, 1973.

Pursuant to Public Law 92-463, the Federal Advisory Committee Act, notice is hereby given that a meeting of the Younger Humanist Fellowships Panel will take place in Washington, D.C. on December 10, 1973.

The purpose of the meeting is to review Younger Humanist Fellowship applications submitted to the Endowment for individual fellowship grants.

Based on section b (4) and (6) of 5 U.S.C. 552, the meeting will not be open to public participation. It is suggested that those desiring more specific information contact the Advisory Committee Management Officer Mr. John W. Jordan, 806 15th Street, NW., Washington, D.C. 20506, or call Area Code 202-382-3031.

JOHN W. JORDAN,
*Advisory Committee*
*Management Officer.*

[FR Doc.73-24786 Filed 11-20-73;8:45 am]

### YOUNGER HUMANIST FELLOWSHIPS PANEL

#### Notice of Meeting

NOVEMBER 14, 1973.

Pursuant to Public Law 92-463, the Federal Advisory Committee Act, notice is hereby given that a meeting of the Younger Humanist Fellowship, Panel will take place in Washington, D.C. on December 12, 1973.

The purpose of the meeting is to review Younger Humanist Fellowship applications submitted to the Endowment for individual fellowship grants.

Based on section b (4) and (6) of 5 U.S.C. 552, the meeting will not be open to public participation. It is suggested that those desiring more specific information contact the Advisory Committee Management Officer Mr. John W. Jordan, 806 15th Street, NW., Washington, D.C. 20506, or call Area Code 202-382-3031.

JOHN W. JORDAN,
*Advisory Committee*
*Management Officer.*

[FR Doc.73-24787 Filed 11-20-73;8:45 am]

### YOUNGER HUMANIST FELLOWSHIPS PANEL

#### Notice of Meeting

NOVEMBER 14, 1973.

Pursuant to Public Law 92-463, the Federal Advisory Committee Act, notice is hereby given that a meeting of the Younger Humanist Fellowships Panel will take place in Washington, D.C. on December 14, 1973.

The purpose of the meeting is to review Younger Humanist Fellowship applications submitted to the Endowment for individual fellowship grants.

Based on section b(4) and (6) of 5 U.S.C. 552, the meeting will not be open to public participation. It is suggested that those desiring more specific information contact the Advisory Committee Management Officer Mr. John W. Jordan, 806 15th Street, NW., Washington, D.C. 20506, or call Area Code 202—382-3031.

JOHN W. JORDAN,
*Advisory Committee*
*Management Officer.*

[FR Doc.73-24788 Filed 11-20-73;8:45 am]

### YOUNGER HUMANIST FELLOWSHIPS PANEL

#### Notice of Meeting

NOVEMBER 14, 1973.

Pursuant to Public Law 92-463, the Federal Advisory Committee Act, notice is hereby given that a meeting of the Younger Humanist Fellowships Panel will take place in Washington, D.C. on December 17, 1973.

The purpose of the meeting is to review Younger Humanist Fellowship applications submitted to the Endowment for individual fellowship grants.

Based on section b(4) and (6) of 5 U.S.C. 552, the meeting will not be open to public participation. It is suggested that those desiring more specific information contact the Advisory Committee Management Officer Mr. John W. Jordan, 806 15th Street, NW., Washington, D.C. 20506, or call Area Code 202—382-3031.

JOHN W. JORDAN,
*Advisory Committee*
*Management Officer.*

[FR Doc.73-24789 Filed 11-20-73;8:45 am]

## NATIONAL SCIENCE FOUNDATION

### ADVISORY COMMITTEE ON ETHICAL AND HUMAN VALUE IMPLICATIONS OF SCIENCE AND TECHNOLOGY

#### Notice of Meeting

Pursuant to the Federal Advisory Committee Act (P.L. 92-463), notice is hereby given of a meeting of the Advisory Committee on Ethical and Human Value Implications of Science and Technology to be held in conjunction with the Advisory Committee, Program on Science, Technology and Human Values of the National Endowment for the Humanities. The meeting will be convened at 9:30 a.m. on December 12, 1973, in Room 540 at 1800 G Street NW., Washington, D.C. 20550.

The purpose of the Advisory Committee on Ethical and Human Value Implications of Science and Technology is to provide advice and recommendations concerning support of scholarly activities in the field of ethical and human value implications of scientific and technological progress.

The agenda for this meeting shall include:

1. Opening remarks; Director, National Science Foundation and the Chairman, National Endowment for the Humanities
2. Synopsis of activities of the Advisory Committee on Ethical and Human Value Implications of Science and Technology of NSF and the Advisory Committee, Program on Science, Technology and Human Values, NEH; Chairmen of both groups
3. Discussion of areas of social concern in which ethical and human value questions may be raised
4. Discussion of definitional scope of the parallel programs at NSF and NEH
5. Discussion of program priorities
6. Recommendations of the Committee
7. Summary and consensus for date of next meeting

This meeting shall be open to the public. Individuals who wish to attend

should notify Mr. Charles Maechling, Jr., Special Assistant to the Director, Office of the Director, by telephone (202–632–5700) or by mail (Room 251, 1800 G Street NW., Washington, D.C. 20550) not later than close of business on December 10, 1973. Persons requiring further information concerning this Committee should contact Mr. Charles Maechling, Jr. at the above address. Summary minutes relative to this meeting may be obtained from the Management Analysis Office, Room K–720, 1800 G Street NW., Washington, D.C. 20550.

T. E. JENKINS,
*Assistant Director for Administration.*

NOVEMBER 12, 1973.

[FR Doc.73-24768 Filed 11-20-73;8:45 am]

## ADVISORY COMMITTEE FOR RESEARCH

### Notice of Ad Hoc Task Group Meeting

Pursuant to the Federal Advisory Committee Act (P.L. 92–463), notice is hereby given of a meeting of Ad Hoc Task Group No. 2 of the Advisory Committee for Research to be held at 9 a.m. on December 6 and 7, 1973, in Room 338 at 1800 G Street, NW., Washington, D.C. 20550. The purpose of the Committee is to provide advice and counsel concerning research activities and potential in the United States and to consult on problems in the administration of research support. This informal subgroup of the Committee is meeting to consider and discuss specific topics of interest to the full Committee.

The agenda for this meeting shall include discussion on how the scientific community can assist the National Science Foundation in developing long-range plans for Foundation support of scientific equipment and facilities. This meeting shall be open to the public. Individuals who wish to attend should notify Mr. Leonard F. Gardner, Special Assistant, Directorate for Research, by telephone (202–632–4278) or by mail (Room 320, 1800 G Street, NW., Washington, D.C. 20550) prior to the meeting. Persons requiring further information concerning the Committee or Task Group should contact Mr. Leonard F. Gardner at the above address. Summary minutes relative to this meeting may be obtained from the Management Analysis Office, Room K–720, 1800 G Street NW., Washington, D.C. 20550.

T. E. JENKINS,
*Assistant Director for Administration.*

NOVEMBER 12, 1973.

[FR Doc.73-24767 Filed 11-20-73;8:45 am]

## OFFICE OF MANAGEMENT AND BUDGET

### SUBPANEL ON THE ROLE OF INDUSTRY IN ENERGY RESEARCH AND DEVELOPMENT OF THE ENERGY RESEARCH AND DEVELOPMENT ADVISORY COUNCIL

### Notice of Meeting

Pursuant to P.L. 92–463, the Energy Policy Office hereby gives notice of a public meeting of the Subpanel on the Role of Industry in Energy Research and Development of the Energy Research and Development Advisory Council, to be held at 9 a.m., November 28, 1973, in Room 517, National Science Foundation, 1800 G Street NW., Washington, D.C. 20550. The purpose of the Subpanel is to provide advice on ways to promote cooperation between industry and the Federal Government in energy research and development.

The agenda for the meeting will include a discussion of the Federal and industry roles envisioned in the AEC's preliminary 5-year energy research and development plan presented at the November 14, 1973, meeting of the Energy Research and Development Advisory Council. There will also be presentations and opportunities for discussion of alternative forms of incentives for private investment in energy research and development, and of alternative organizational structures for Federal/industry cooperation.

Members of the public will be admitted on a first-come, first-served basis up to the capacity of the meeting room. The Chairman of the Subpanel will be responsible for determining procedures for public participation in the discussions. Members of the public wishing to submit material to be considered for inclusion on the agenda should mail such material to Dr. James Walker, Room 8104, New Executive Office Building, 726 Jackson Place NW., Washington, D.C. 20503. For additional information on the Subpanel, contact Dr. Walker at the above address.

JAMES A. WALKER,
*Executive Secretary to the Subpanel on the Role of Industry in Energy and Research Development.*

[FR Doc.73-24929 Filed 11-20-73;8:45 am]

## SAINT LAWRENCE SEAWAY DEVELOPMENT CORPORATION

[Ref: SLS–2–5610.1B]

### ENVIRONMENTAL IMPACTS

### Proposed Procedures for Consideration

Pursuant to guidelines of the Council on Environmental Quality (CEQ) appearing as 40 CFR Part 1500, published in the FEDERAL REGISTER of August 1, 1973 (38 FR 20549), the Saint Lawrence Seaway Development Corporation herewith publishes its proposed procedures for consideration of environmental impacts required by section 102(2)(C) of the National Environmental Policy Act of 1969 (NEPA) (January 1, 1970, P.L. 91–190, section 102(2)(C), 83 Stat. 853; 42 U.S.C. 4332(2)(C)). These procedures implement DOT Order No. 5610.1B, Procedures for Considering Environmental Impacts, published in the FEDERAL REGISTER of November 1, 1973 (38 FR 30215) and replace SLS 2–5610.1A, dated 11/71. The attachments to DOT Order No. 5610.1B were published as part of the Order on November 1, 1973 and are being incorporated by reference in the Corporation's procedures because they are lengthy and it is felt that republication of identical material is unnecessary. Attachment 1 to the Order are "Guidelines" which define actions requiring preparation of an environmental statement. Attachment 2 sets out the "Form and Content of Statement" to be used in its preparation and covers the required content in detail. Attachment 3, "Research Activities", sets forth guidelines for development of procedures for determining the necessity for, and the content of statements pertaining to research and development activities. Attachment 4 is a listing of "Areas of Environmental Impact and Federal Agencies and Federal-State Agencies with Jurisdiction by Law or Special Expertise to Comment Thereon". Attachment 5 is a listing of "Offices within Federal Agencies and Federal-State Agencies [which may be contacted] For Information Regarding the Agencies' NEPA Activities and For Receiving Other Agencies' Impact Statements for Which Comments are Requested".

The proposed procedures are as follows:

PROCEDURES FOR IMPLEMENTATION OF DOT ORDER 5610.1B

1. *Purpose.* DOT Order 5610.1B establishes procedures for consideration of environmental impacts through preparation and use in decision making of detailed environmental impact statements which serve, where required, as the single vehicle for all environmental findings, determinations, and clearances on proposals for legislation and other major Federal actions significantly affecting the quality of the human environment. These procedures provide for implementation of DOT Order 5610.1B, and cancel "Procedures for Implementation of DOT Order 5610.1A."

2. *Scope.* These procedures provide instructions for implementation of section 102(2)(C) of the National Environmental Policy Act of 1969 (P.L. 91–190) (hereafter "the NEP Act"); section 2(b) and section 4(f) of the Department of Transportation Act of 1966 (P.L. 89–670) (hereafter "the DOT Act"); section 309 of the Clean Air Act of 1970 (P.L. 91–604) (hereafter "the Clean Air Act"); section 106 of the National Historic Preservation Act of 1966 (P.L. 89–665) (hereafter "the Historic Preservation Act"); sections 303 and 307 of the Coastal Zone Management Act of 1972 (P.L. 92–583); section 662 of the Fish and Wildlife Coordination Act (P.L. 85–624); and various Executive Orders relating to environmental impacts. In addition, the Order provides instructions for implementing, where environmental statements are required, sections 136 and 109 of Federal-aid highway legislation (Title 23, U.S.C.) (hereafter "the Highway Act"), Sections 16 and 18(4) of the Airport and Airway Development Act of 1970 (P.L. 91–258) (hereafter "the Airport Act"), and Section 14 of the Urban Mass Transportation Act of 1964 (49 U.S.C. 1601 et seq.) (hereafter "the Mass Transportation Act").

3. *Policy.* It is the policy of the Department of Transportation, in compliance with court decisions, that Depart-

mental officials must comply with both the procedures and the intent of the NEP Act. (Refer to Paragraph 5, Page 7, DOT Order 5610.1B.)

4. *Applicability.* The requirements in DOT Order 5610.1B calling for either a negative declaration or a statement pursuant to section 102(2)(C) of the NEP Act apply to, but are not limited to the following: All contracts, purchases, leases, construction, research, and development involving construction, rulemaking and regulatory actions, certifications, licensing, permits, plans, legislative proposals, directives, program or budget proposals or actions (except for continuation of existing programs at approximately current levels, i.e. plus or minus 25 percent); and any renewals or reapprovals of the foregoing. Exceptions to the foregoing are: (1) Administrative procurements (e.g., general supplies) and contracts for personal services; (2) normal personnel actions (promotions and hirings); (3) project amendments (e.g., increases in costs) which do not alter the environmental impact of the action; (4) legislative proposals not originating in DOT and relating to matters not the primary responsibility of DOT; (5) issuance of vessel passage permits as a matter of routine Seaway procedures; and (6) reports to Congress setting forth policy recommendations to be followed by proposed legislation. (See Definitional Guidelines, Attachment 1.)[1]

5. *Requirements.* a. All Office Heads are required to forward a description of proposed major programs and actions such as: Construction, waste disposal, regulations, operation of Federal facilities, etc., to the Chief Engineer for review *prior to or no later than the time such program or action is submitted to the Office of the Administrator for approval.*

b. All such proposed programs received by the Chief Engineer will be reviewed, and within five days, a determination will be made of whether a section 102(2)(C) statement is required, or whether a declaration will be made that the proposed action will not have a significant impact on the environment. When a negative statement is prepared, it need not be coordinated outside this Agency.

c. When a determination is made that a section 102(2)(C) statement is required, the Chief Engineer, within fifteen days of such determination shall prepare a draft statement.

6. *Research activities.* Guidance for Departmental officials engaged in major research and development programs is set forth in Attachment 3.[2]

7. *Preparation of environmental statements.* Guidelines for the form and content of environmental statements are set forth in Attachment 2.[3]

[1] Attachments to DOT Order No. 5610.1B, published in the FEDERAL REGISTER of November 1, 1973, are incorporated by reference. For explanation of Attachments, see preamble of this document.

[2] Ibid.

[3] Ibid.

a. *Applications.* Applicants for permits will be required to submit, together with the original application, either a draft 102(2)(C) statement or a negative declaration. In all cases, the Chief Engineer will make an evaluation of the environmental issues and take responsibility for the scope and context of the draft and final environmental statements. Actions taken by the applicant prior to completion and review of the final application shall be limited to study and design and no action construction or operating activities will be allowed.

b. *Actions originating within the Corporation.* In the case of proposals originating within the Corporation for an action to which these procedures are applicable, the originator of the proposal will state when forwarding the proposed program to the Chief Engineer for review whether or not the action, in his judgment, will require a 102(2)(C) statement.

c. *Scope of Statement.* The scope of the action covered by the statement should avoid segmentation of projects and be sufficiently broad that alternatives to the proposed action can be meaningfully evaluated.

d. *Negative declarations.* Any proposal for action to which these procedures are applicable (in accordance with Item 4 of these Procedures) will include either a statement as required by section 102(2)(C) of the NEP Act or a declaration that the proposed action will not have a significant impact on the environment.

(1) Negative declarations need not be coordinated outside of the Saint Lawrence Seaway Development Corporation, but must be made available to the public upon request.

(2) Negative declarations should be supported by sufficient documentation so that the basis for the determination that the proposed action does not have a significant impact on the environment is clear.

(3) However, if the Chief Engineer decides that an environmental statement is not necessary for a proposed action (a) which has been identified as normally requiring preparation of a statement; (b) which is similar to actions for which a statement has been prepared; (c) which has been previously announced to be the subject of a statement; or (d) for which a negative declaration has been made in response to a request from CEQ pursuant to Paragraph 16, the Chief Engineer shall prepare a publicly available record briefly setting forth his decision and the reasons for that determination. Lists of such negative determinations, and any determinations made that preparation of a statement is not yet timely, shall be prepared and made available in the same manner as provided in Paragraph 9f, DOT 5610.1B, for lists of statements under preparation.

e. *Citizen involvement.* As soon as the decision is made by the Chief Engineer that an Environmental Statement is to be prepared, a press release shall be issued informing the public of the decision to prepare a statement.

f. *Community involvement.* For any action requiring a public hearing, as determined by the Chief Engineer, the draft statement will be made available to the public at least thirty days prior to the hearing. The notice of the hearing will indicate that the statement is available from the Technical Information Officer, Saint Lawrence Seaway Development Corporation, Administration Building, Massena, New York.

g. *Interdisciplinary approach.* The resulting environmental impacts of proposed projects will be provided in detail and shall reflect the utilization of a systematic interdisciplinary approach, not only in preparation of the impact statement, but also in the early planning stages of the proposed action.

h. *Lead agency.* As required by DOT Order 5610.1B, where more than one agency directly sponsors an action, or is directly involved in an action through funding, licenses, or permits, or is involved in a group of actions directly related to each other because of functional interdependence and geographic proximity, to the maximum extent possible one statement should be prepared for all Federal actions involved. Administrations and secretarial offices in such cases should consider the possibility of joint preparation of a statement by all agencies concerned, or designation of a single "lead agency" to assume supervisory responsibility for preparation of the statement. Where a lead agency prepares the statement, the other agencies involved should provide assistance with respect to their areas of jurisdiction and expertise. In either case, the statement should contain an environmental assessment of the full range of Federal actions involved, should reflect the views of all participating agencies, and should be prepared before major or irreversible actions have been taken by any of the participating agencies. Factors relevant in determining an appropriate lead agency include the time sequence in which the agencies become involved, the magnitude of their respective involvement, and their relative expertise with respect to the project's environmental effects. As necessary, the Council on Environmental Quality will assist in resolving questions of responsibility for statement preparation in the case of multiagency actions. Situations where a geographic or regionally focused statement would be desirable because of cumulative effects of multiagency actions should be brought to the attention of CEQ through TES. For projects serving and primarily involving land owned by or under the jurisdiction of another Federal agency, the owner agency may be appropriate to be the lead agency.

i. *Legislative proposals.* As stated in DOT Order 5610.1B, before the Department submits or makes a favorable report on proposed legislation involving matters for which it is primarily responsible or proposes draft legislation to the Congress, the office which develops the Departmental position on the report or originates legislation shall prepare,

circulate, and file with CEQ an environmental statement or prepare a negative declaration. The draft of the environmental statement should be cleared with TES and may be submitted by TGC-40 to the Office of Management and Budget for circulation along with normal legislative clearances. The statement and any comments that have been received should be available to the Congress and to the public for consideration in connection with the proposed legislation or report. In cases where the scheduling of congressional hearings on recommendations or reports on proposals for legislation which the Department has forwarded to the Congress does not allow adequate time for the completion of a final environmental statement, a draft environmental statement may be furnished to the Congress and made available to the public pending transmittal of the comments as received and the final text. Negative declarations shall not be forwarded to the Congress.

8. A list shall be maintained in the Office of the Chief Engineer of actions for which environmental statements are being prepared and the current list shall be submitted quarterly to TES and CEQ. The list will be made available to the public upon request to the Technical Information Officer.

9. *Processing of environmental statement.*—a. *Federal review.* (1) The draft 102(2)(C) statement shall be circulated by the Office of the Chief Engineer for comment to all Federal agencies which have jurisdiction by law or special expertise with respect to the environmental impact involved (see Attachment 4),[4] allowing 45 days for comment. Ten copies of the draft statement shall also be sent to CEQ and two copies to TES for review.

(2) For actions within the jurisdiction of the Environmental Protection Agency (air or water quality, solid wastes, pesticides, radiation standards, noise), the proposal shall be referred to EPA for review and comment, allowing 45 days.

(3) For actions which affect any object that is included in the National Register of Historic Projects, the proposal will be referred to the Executive Director of the Advisory Council on Historic Preservation and the State Liaison Officer for Historic Preservation (see paragraph 3 of Attachment 2[5] for details).

(4) For actions which propose or authorize the impoundment, diversion, channel deepening, or dredging of the waters of any stream or other body of water, or which may in any way significantly affect the wildlife of the region, the statement shall be referred to the U.S. Fish and Wildlife Service, Department of the Interior and to the head of the agency exercising administration over the wildlife resources of the particular State wherein the action is to take place.

[4] Ibid.
[5] Ibid.

b. *State or local review.* (1) Where review of the proposed action by State and local agencies is relevant, such State and local review shall be provided for as follows:

(a) Where review of direct Federal development projects and projects assisted under programs listed in Attachment D of OMB (issued as BOB) Circular A-95, as implemented by DOT Order 4600.4, Evaluation, Review and Coordination of DOT Assistance Programs and Projects, takes place prior to preparation of an environmental statement, comments on the environmental effects of the proposed project are inputs to the environmental statement. The comments of reviewing agencies should be attached to the draft statement when it is circulated for review and copies of the draft sent to those who commented. A-95 clearinghouses or other agencies designated by the Governor may also secure reviews of environmental statements. Clearinghouses should in all cases be sent copies of the draft and final environmental statements, as should any applicant whose project is the subject of the statement.

(b) Project applicant or administrations shall obtain comments directly from appropriate State and local agencies, except where review is secured by agreement through A-95 clearinghouses. Comments should be solicited from municipalities and counties for all projects located therein.

(c) State and local review of agency procedures, regulations, and policies for the administration of Federal programs of assistance to State and local governments will be conducted pursuant to procedures established by OMB (issued as BOB) Circular No. A-85.

(2) Environmental statements on legislative proposals are not generally subject to State and local review. Similarly, budget proposals may be excluded from such review.

10. *Utilization of comments.* Comments received from Federal, State and local agencies will accompany the draft statement through the normal internal project or program review process.

11. *Final statements.* Draft statements shall be revised, as appropriate, to reflect comments received, issues raised through the community involvement and public hearing process, or other considerations before being put into final form for approval of the responsible official. Final statements (two copies), together with all comments received on the draft from the responsible Federal, State, and local agencies and from private organizations, will then be submitted to TES for concurrence, with the following exceptions:

a. Certain categories of environmental statements may be approved at other levels when recommended by TES and approved by the Secretary.

b. All SLSDC final environmental impact statements will be reviewed for legal sufficiency by the General Counsel.

c. No final environmental impact statement may be transmitted to CEQ until all pertinent concurrences have been secured.

d. The statement shall be deemed concurred in by TES unless other notification is provided within two weeks after received in TES, except for items requiring other OST concurrence under this Order.

e. Proposed final statements may be made available to the public and Federal, State, or local agencies pending final approval and filing with CEQ, with a notation that the statement is not approved and filed.

12. *Availability of Statements to the President, the CEQ and the Public.* After approval, the originating office is responsible for transmitting ten copies of each final statement to CEQ, which transmittal shall be deemed transmittal to the President. The draft and final versions of the statements and the comments received will be made available to the public from the Technical Information Officer at the Saint Lawrence Seaway Development Corporation, Seaway Circle, Massena, New York, and will be furnished to the appropriate 3tate and regional clearinghouses. Copies of final statements, with comments attached, will be sent to appropriate office of EPA, and to all Federal, State, and local agencies and private organizations who commented substantially on the draft statement or requested copies of the final statement, and to individuals who requested copies of the the final statement. Others who requested copies of the final statement, comments, or final statement beyond those listed above, will be advised of their availability from the National Technical Information Service, U.S. Department of Commerce, Springfield, Virginia 22151, at a nominal cost.

13. *Timing of agency decision.* No administrative action (i.e. any proposed action to be taken by the Corporation other than Corporation proposals for legislation to Congress, budget proposals, or Corporation reports on legislation) subject to section 102(2)(C) is to be taken sooner than ninety days after a draft environmental statement has been circulated for comment, furnished to the Council and, except where advance public disclosure will result in significantly increased costs of procurement to the Corporation made available to the public pursuant to these guidelines. Neither should such administrative actions be taken sooner than thirty days after the final approved text of a statement (with comments) has been made available to the CEQ and to the public. If the final text of an environmental statement is filed within ninety days after a draft statement has been circulated for comment, furnished to CEQ and made public pursuant to this section of these guidelines, the 30-day period and 90-day period may run concurrently to the extent that they overlap. The time periods are measured from the date of publication in the FEDERAL REGISTER of the weekly filings with the CEQ.

14. *Supplemental or amended statements.* Where substantial changes are made in proposed action, or where significant new information regarding environmental impacts or alternatives comes to light, a supplement or amend-

ment to a draft or final environmental statement may be appropriate. In such cases the Chief Engineer will consult with TES and CEQ with respect to the possible need for or desirability of recirculation of the statement for the appropriate period.

15. *Implementation of representations in environmental statements.* As required by DOT Order 5610.1B, following a decision with respect to the final statements as described in subparagraph 11 above, TES will transmit the decision to the originating administration or secretarial office. In order to follow up on representations made in environmental statements, the Corporation will take the necessary steps, through its funding agreements and other contacts with the applicant, to assure that the actions to minimize adverse environmental effects, as spelled out in the approved statement will be carried out. Proposals to deviate from these actions as approved should be cleared with TES.

16. *Requests from the Council on Environmental Quality (CEQ).* CEQ, in fulfilling its responsibilities under the Act and under Executive Order 11514, may request reports and other information dealing with issues arising in connection with the implementation of the Act. The Saint Lawrence Seaway Development Corporation will make every reasonable effort to be responsive to requests by CEQ for either the preparation or circulation of environmental statements, unless it is determined that an environmental statement is not required, in which case an environmental assessment will be prepared briefly setting forth the reasons for that determination and shall be made publicly available.

17. *Application of section 102(2)(C) procedure to existing projects and programs.* The section 102(2)(C) procedure shall be applied to further major Federal actions having a significant effect on the environment even though they arise from projects or programs initiated prior to enactment of the Act on January 1, 1970. While the status of the work and degree of completion may be considered in determining whether to proceed with the project, it is essential that the environmental impacts of proceeding are reassessed pursuant to the Act's policies and procedures and, if the project or program is continued, that further incremental major actions be shaped so as to enhance and restore environmental quality as well as to avoid or minimize adverse environmental consequences. It is also important in further action that account be taken of environmental consequences not fully evaluated at the outset of the project or program.

18. *Review of environmental statements prepared by other agencies.* Other agencies may consult with the Corporation in preparation of environmental statements. The purpose of Corporation review of and comment on environmental statements drafted by other agencies is to provide constructive assistance on proposals relating to functional areas of responsibility and expertise of the Corporation. The responsibility of the commenting Departmental official will generally be limited to the provision of a competent and cooperative advisory and consultant service. Departmental review of statements prepared by other agencies will consider the environmental impact of the proposal on areas within this Department's functional area of responsibility or special expertise.

a. Comments should be organized in a manner consistent with the structure of the draft statement and may include alternatives or modifications that will enhance environmental quality or avoid or minimize adverse environmental impacts.

b. Corporation projects that are environmentally related to the proposed action should be indicated so interrelationships may be included in the final statement.

c. The nature of any monitoring effects during construction startup or operation phases may be suggested and encouraged to assist the sponsor, to the extent the Corporation may have expertise in establishment and operation of environmental monitoring.

d. *Receipt from other agencies.* Other agencies may consult with the Corporation and will be requested to forward the draft environmental statements directly to the Office of the Chief Engineer.

e. *Headquarters.* There are several types of matters that should be referred to Departmental headquarters for comment. These generally include the following:

(1) Actions with national policy implications;

(2) Projects that involve natural, ecological, cultural, scenic, historic, or park or recreation resources of national significance;

(3) Legislation, regulations having national impacts, or national program proposals;

(4) Projects regarding the transportation of hazardous materials and natural gas and liquid-products pipelines;

(5) Water resource projects.

f. These items, except for water resources projects which are referred to the Water Resources Coordinator, U.S. Coast Guard (GWS), should be referred to the Assistant Secretary for Environment, Safety, and Consumer Affairs and, where appropriate, to headquarters of operating administrations. When referring the above matters to headquarters, the regional office is encouraged to prepare a proposed Departmental response and transmit the recommended response to headquarters.

g. *Regional offices.* Requests for comments on draft environmental statements for projects of local or regional significance with no national implications should be answered in regional offices. In such cases, comments on the draft environmental statements are to be made directly by the regional offices of DOT elements to the regional or area office of the originating agency. If the receiving office feels that there is another office within the Department of Transportation that is in a better position to respond or is also interested, the statement or a copy of the statement should be transmitted at once to the other office. Other than referrals to headquarters, requests for Departmental comments should be responded to where received. For statements where more than one administration will comment at the regional level, the comments will be coordinated by the Secretarial Representative of the region or his designee.

h. *Coordination.* When appropriate, the commenting office should provide for coordination of response with offices within the Department with special expertise in the subject matter.

i. *Timing and format.* Response to requests for comments should be within the time limits set forth in the request. The receiving office will be responsible for submission of comments within the time specified except where it has requested a specific extension of time. Any comments should be concise and specific as to what change is desired in either the action proposed or in the environmental statement, or both. Any lengthy analysis should be preceded by a summary of the principal areas of comment and conclusions and/or recommendations.

j. *Copies.* The original and a courtesy copy of the comments should be furnished to the requesting agency, and a copy transmitted to TES–70. Regional offices should also provide a copy of the comments to the Secretarial Representative of the region. Pursuant to directive of the CEQ, five copies should be transmitted to CEQ. Any requests by the public for copies of comments will be referred to the agency originating the statement.

k. DOT Order 5610.1B will be applicable to all draft and final statements filed with the CEQ after January 28, 1974, or earlier, to the extent possible.

Interested parties may submit written comments on the proposed procedures to the Saint Lawrence Seaway Development Corporation, Seaway Circle, Massena, New York 13662, Attention: General Counsel. Comments received on or before January 2, 1974 will be considered and will be available for public inspection and copying at the above address between 8:00 a.m. and 4:30 p.m. Monday through Friday, except Federal holidays.

(68 Stat. 92–97, 33 U.S.C. 981–990, as amended and National Environmental Policy Act, 42 U.S.C. 4321 et seq.; Executive Order 11514, 35 FR 4247; 40 CFR Part 1500.)

Issued: November 12, 1973.

ST. LAWRENCE SEAWAY DEVELOPMENT CORPORATION,
[SEAL] D. W. OBERLIN,
*Administrator.*

[FR Doc.73-24739 Filed 11-20-73;8:45 am]

## SECURITIES AND EXCHANGE COMMISSION

[File No. 500-1]

### AZTEC PRODUCTS, INC.

### Notice of Suspension of Trading

OCTOBER 30, 1973.

It appearing to the Securities and Exchange Commission that the summary suspension of trading in the common stock of Aztec Products, Inc., being traded otherwise than on a national securities exchange is required in the public interest and for the protection of investors;

Therefore, pursuant to section 15 (c)(5) of the Securities Exchange Act of 1934, trading in such securities otherwise than on a national securities exchange is suspended, for the period from October 31, 1973 through November 9, 1973.

By the Commission.

[SEAL] GEORGE A. FITZSIMMONS, *Secretary.*

[FR Doc.73-24773 Filed 11-20-73;8:45 am]

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[70-5422]

## CONNECTICUT LIGHT AND POWER CO. ET AL.

### Proposed Amendments to Charters To Increase Authorized Preferred Stock and Proposal To Continue Current Authorizations To Incur Short-Term Unsecured Indebtedness

NOVEMBER 13, 1973.

Notice is hereby given that The Connecticut Light & Power Company, Selden Street, Berlin, Connecticut 06037 ("CL&P"), The Hartford Electric Light Company, 176 Cumberland Avenue, Wethersfield, Connecticut 06109 ("HELCO"), and Western Massachusetts Electric Company, 174 Brush Hill Avenue, West Springfield, Massachusetts 01089 ("WMECO"), electric utility subsidiaries of Northeast Utilities ("Northeast"), a registered holding company, have filed a declaration with this Commission pursuant to the Public Utility Holding Company Act of 1935 ("Act"), designating sections 6(a), 7, and 12(e) of the Act and Rules 62 and 65 thereunder as applicable to the proposed transactions. All interested persons are referred to the declaration, which is summarized below, for a complete statement of the proposed transactions.

The charters of CL&P and HELCO each provide for a class of preferred stock which may be issued from time to time in series, at such times and on such terms as their respective boards of directors determine. CL&P's charter presently authorizes 3,500,000 shares of such preferred stock with a par value of $50 per share, of which 2,500,000 shares are now outstanding, and HELCO's charter authorizes 2,200,000 shares at a par value of $50 per share, of which 1,324,000 shares are now outstanding. The declaration states that CL&P and HELCO believe it is in the best interests of their shareholders that the two companies be in a position whereby they can promptly raise additional funds for construction in the future through the issuance and sale of mortgage bonds and preferred stock. Therefore, CL&P and HELCO propose to amend their respective charters to increase the authorized preferred stock from 3,500,000 to 6,000,000 shares in the case of CL&P, and from 2,200,000 to 3,000,000 shares in the case of HELCO. The issuance and sale of such additional shares of preferred stock, if authorized, will be the subject of further applications or declarations with this Commission.

The terms of the preferred stock of CL&P, HELCO and WMECO provide that the amount of unsecured indebtedness of each company having maturities of less than ten years which may be issued or assumed shall not exceed 10% of the sum of the principal amount of all bonds and other secured indebtedness and the capital stock, premium and surplus of the companies, and that all unsecured indebtedness issued or assumed shall not exceed 20% of such sum. Nevertheless, in 1971, the companies each received the consent of a majority of their respective preferred stockholders to exceed the aforementioned 10% limitation, but not the aforementioned 20% limitation, provided that such excess short-term indebtedness be issued or assumed prior to February 10, 1974, and mature by February 10, 1975, in the case of WMECO, and be issued or assumed prior to March 31, 1974, and mature by March 31, 1975, in the case of CL&P and HELCO. (Holding Company Act Release Nos. 16993, 17077, and 17073, respectively.) CL&P, HELCO, and WMECO now propose to continue their current authorization, subject to approval of their respective preferred stockholders, to issue or assume short-term unsecured indebtedness in excess of the 10% limitations provided: (i) Such indebtedness is issued or assumed on or prior to March 31, 1979 in the case of CL&P and HELCO, and February 10, 1979 in the case of WMECO; (ii) such indebtedness shall have a maturity not later than March 31, 1980 in the case of CL&P and HELCO, and February 10, 1980 in the case of WMECO; and, (iii) the 20% limitation on all unsecured indebtedness of each company shall continue. The declaration states that the principal reason underlying the request to continue such authorization is to assist the three companies in the timing and planning of long-term financing, and that greater availability of short-term financing will permit the declarants more time and flexibility in meeting and coverage requirements of their respective mortgage indentures and preferred stock provisions.

CL&P, HELCO and WMECO further propose to solicit the proxies from their respective preferred stockholders to be used at special meetings to be held on December 17, 1973, for the purpose of obtaining shareholder approval for the foregoing proposals. No proxies will be solicited from Northeast, the sole common stockholder of each of the companies. Approval for the proposals to increase authorization of preferred stock, by charter amendment, requires the affirmative vote of two-thirds of the outstanding shares of both preferred and common stock, each voting as a class. Northeast intends to vote its shares of common stock in CL&P and HELCO in favor of such amendments. Approval of the proposal to increase the short-term unsecured debt limitation requires the affirmative vote of a majority of the total shares of outstanding preferred stock voting as a class. In connection with the solicitation of shareholder consent, CL&P, HELCO and WMECO have filed the relevant proxy materials with the Commission and request accelerated Commission action thereon pursuant to Rule 62.

The fees, commissions, and expenses incurred or to be incurred in connection with the proposed transactions are estimated at $10,900, $8,700, and $7,800 for CL&P, HELCO and WMECO, respectively. It is stated that no State commission and no Federal commission, other than this Commission, has jurisdiction over the proposed transactions.

Notice is further given that any interested person may, not later than December 10, 1973, request in writing that a hearing be held on such matter, stating the nature of his interest, the reasons for such request, and the issues of fact or law raised by said declaration which he desires to controvert; or he may request that he be notified if the Commission should order a hearing thereon. Any such request should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request should be served personally or by mail (air mail if the person being served is located more than 500 miles from the point of mailing) upon the declarants at the above-stated addresses, and proof of service (by affidavit or, in case of an attorney-at-law, by certificate) should be filed with the request. At any time after said date, the declaration, as filed or as it may be amended, may be permitted to become effective as provided in Rule 23 of the General Rules and Regulation promulgated under the Act, or the Commission may grant exemption from such rules as provided in Rules 20(a) and 100 thereof or take such other action as it may deem appropriate. Persons who request a hearing or advice as to whether a hearing is ordered will receive notice of further developments in this matter, including the date of the hearing (if ordered) and any postponements thereof.

If appearing to the Commission that the declaration, insofar as it proposes the solicitation of the consents of the CL&P, HELCO and WMECO preferred stockholders, should be permitted to become effective forthwith pursuant to Rule 62:

*It is ordered*, That the declaration regarding the proposed solicitation of the consents of CL&P, HELCO and WMECO preferred stockholders be, and it hereby is, permitted to become effective forthwith pursuant to Rule 62 and subject to the terms and conditions prescribed in Rule 24 under the Act.

For the Commission, by the Division of Corporate Regulation, pursuant to delegated authority.

[SEAL] GEORGE A. FITZSIMMONS,
*Secretary.*

[FR Doc.73-24778 Filed 11-20-73;8:45 am]

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[File No. 500-1]

## EQUITY FUNDING CORPORATION OF AMERICA

### Notice of Suspension of Trading

NOVEMBER 12, 1973.

The Common stock of Equity Funding Corporation of America being traded on the New York Stock Exchange, the Midwest Stock Exchange, the Pacific-Coast Stock Exchange, the Philadelphia-Baltimore-Washington Stock Exchange, the Boston Stock Exchange; warrants to purchase the common stock being traded on the American Stock Exchange and the Philadelphia-Baltimore-Washington Stock Exchange; 9½ percent debentures due 1990 being traded on the New York Stock Exchange; and 5½ percent convertible subordinated debentures due 1991 being traded on the New York Stock Exchange pursuant to provisions of the Securities Exchange Act of 1934 and all other securities of Equity Funding Corporation of America being traded otherwise than on a national securities exchange; and

It appearing to the Securities and Exchange Commission that the summary suspension of trading in such securities on such exchanges and otherwise than on a national securities exchange is required in the public interest and for the protection of investors;

Therefore, pursuant to Sections 19(a)(4) and 15(c)(5) of the Securities Exchange Act of 1934, trading in such securities on the above mentioned exchanges and otherwise than on a national securities exchange is suspended, for the period from November 13, 1973 through November 22, 1973.

By the Commission.

[SEAL] GEORGE A. FITZSIMMONS,
*Secretary.*

[FR Doc.73-24777 Filed 11-20-73;8:45 am]

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[File No. 500-1]

## GIANT STORES CORP.

### Notice of Suspension of Trading

NOVEMBER 12, 1973.

The common stock of Giant Stores Corp. being traded on the American Stock Exchange pursuant to provisions of the Securities Exchange Act of 1934 and all other securities of Giant Stores Corp. being traded otherwise than on a national securities exchange; and

It appearing to the Securities and Exchange Commission that the summary suspension of trading in such securities on such exchange and otherwise than on a national securities exchange is required in the public interest and for the protection of investors;

Therefore, pursuant to Sections 19(a)(4) and 15(c)(5) of the Securities Exchange Act of 1934, trading in such securities on the above mentioned exchange and otherwise than on a national securities exchange is suspended, for the period from November 13, 1973 through November 22, 1973.

By the Commission.

[SEAL] GEORGE A. FITZSIMMONS,
*Secretary.*

[FR Doc.73-24774 Filed 11-20-73;8:45 am]

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[File No. 500-1]

## INDUSTRIES INTERNATIONAL, INC.

### Notice of Suspension of Trading

NOVEMBER 12, 1973.

It appearing to the Securities and Exchange Commission that the summary suspension of trading in the common stock of Industries International, Inc. being traded otherwise than on a national securities exchange is required in the public interest and for the protection of investors:

Therefore, pursuant to section 15(c)(5) of the Securities Exchange Act of 1934, trading in such securities otherwise than on a national securities exchange is suspended, for the period from November 13, 1973 through November 22, 1973.

By the Commission.

[SEAL] GEORGE A. FITZSIMMONS,
*Secretary.*

[FR Doc. 73-24776 Filed 11-20-73;8:45 am]

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[File No. 500-1]

## SANITAS SERVICE CORP.

### Notice of Suspension of Trading

NOVEMBER 12, 1973.

The common stock of Sanitas Service Corporation being traded on the American Stock Exchange pursuant to provisions of the Securities Exchange Act of 1934 and all other securities of Sanitas Service Corporation being traded otherwise than on a national securities exchange; and

It appearing to the Securities and Exchange Commission that the summary suspension of trading in such securities on such exchange and otherwise than on a national securities exchange is required in the public interest and for the protection of investors;

Therefore, pursuant to sections 19(a)(4) and 15(c)(5) of the Securities Exchange Act of 1934, trading in such securities on the above mentioned exchange and otherwise than on a national securities exchange is suspended, for the period from November 13, 1973 through November 22, 1973.

By the Commission.

[SEAL] GEORGE A. FITZSIMMONS,
*Secretary.*

[FR Doc.73-24775 Filed 11-20-73;8:45 am]

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# SMALL BUSINESS ADMINISTRATION

[Notice of Disaster Loan Area 1023]

## ALASKA

### Notice of Disaster Relief Loan Availability

As a result of the President's declaration of the State of Alaska as a major disaster area following heavy rains and flooding beginning on or about October 25, 1973, applications for disaster relief loans will be accepted by the Small Business Administration from flood victims in the following Borough: Ketchikan Gateway.

Applications may be filed at the:

Small Business Administration, District Office, Suite 200, Anchorage Legal Center, 1016 West Sixth Avenue, Anchorage, Alaska 99501.

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 January 7, 1974.

Dated: November 9, 1973.

THOMAS S. KLEPPE,
*Administrator.*

[FR Doc.73-24738 Filed 11-20-73;8:45 am]

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# SOUTHEASTERN REGIONAL MANPOWER ADVISORY COMMITTEE

### Notice of Meeting

The Southeastern Regional Manpower Advisory Committee will meet at the Riviera Motel, Atlanta, Georgia, on December 16 and 17, 1973. Appointed by the Secretary of Labor, the Committee makes recommendations to the regional representatives of the Department of Labor's Manpower Administration and Department of Health, Education, and Welfare concerning specific manpower problems in Region IV, in the administration of the Manpower Development and Training Act. Members of the Committee are chosen from representatives of labor, management, agriculture, education, training and the public at large. The chairman is Dr. James D. McComas, Dean of Education, University of Tennessee.

The meeting on December 16 and 17 will be the initial meeting of the reconstituted Committee with the agenda primarily concerned with an orientation on the role, purpose, and function of the Committee plus an update on the current problems, programs and developments in the manpower training field.

The meeting will open with a dinner meeting in the Club Room, Riviera Motel, Atlanta, Georgia, at 7:00 p.m., on December 16, 1973, and continue during the day of December 17 with adjournment scheduled at 4:30 p.m. The meeting will be open to the public.

Signed at Atlanta, Georgia, this 13th day of November, 1973.

WILLIAM U. NORWOOD, Jr.,
*Assistant Regional Director for Manpower.*

[FR Doc.73-24761 Filed 11-20-73;8:45 am]

## INTERSTATE COMMERCE COMMISSION

[Notice No. 390]

### ASSIGNMENT OF HEARINGS

NOVEMBER 16, 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-52110 Sub 138, Brady Motorfrate, Inc., now being assigned hearing November 26, 1973 (2 weeks), in Room 609, Federal Office Bldg., 911 Walnut Street, Kansas City, Mo.

MC-74321 Sub 77, B. F. Walker, Inc., now assigned January 17, 1974 at Albuquerque, N.M., is canceled and transfer to Modified Procedure.

MC-F-11704, Mohawk Motor, Inc.—Purchase (portion)—Michigan Express, Inc., & MC-F-11707, Indianhead Truck Line, Inc.—Purchase (Portion)—Michigan Express, Inc., now assigned December 10, 1973, will be held in Room 226, Federal Bldg., 231 West Lafayette Street, Detroit, Mich.

MC-C-8076, Quick Air Freight, Inc—Investigation and Revocation of Certificates—MC-F-11805 Quick Air Freight, Inc.,—Control—Vandalia Air Freight, Inc., MC-120265-2, Vandalia Air Freight, Inc., now assigned December 6, 1973, will be held in Room 120, Federal Bldg., 85 Marconi Blvd., Columbus, Ohio.

[SEAL] ROBERT L. OSWALD,
*Secretary.*

[FR Doc.73-24807 Filed 11-20-73;8:45 am]

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[Notice No. 151]

### MOTOR CARRIER TEMPORARY AUTHORITY APPLICATIONS

NOVEMBER 5, 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 Part 1131) published in the FEDERAL REGISTER, issue of April 27, 1965, effective July 1, 1965. These rules provide that protests to the granting of an application must be filed with the field official named in the FEDERAL REGISTER publication, within 15 calendar days after the date of notice of the filing of the application is published in the FEDERAL REGISTER. One copy of such protests must be served on the applicant, or its authorized representative, if any, and the protests must certify that such service has been made. The protests must be specific as to the service which such protestant can and will offer, and must consist of a signed original and six (6) copies.

A copy of the application is on file, and can be examined at the Office of the Secretary, Interstate Commerce Commission, Washington, D.C., and also in field office to which protests are to be transmitted.

MOTOR CARRIERS OF PROPERTY

No. MC 52460 (Sub-No. 128 TA), filed October 24, 1973. Applicant: HUGH BREEDING, INC., 1420 W. 35th Street, P.O. Box 9515, Tulsa, Okla. 74107. Applicant's representative: Steve B. McCommas (same address as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Malt beverages and related advertising material and empty malt beverage containers* returned to origin, from Memphis, Tenn., to Manhattan and Marysville, Kans., for 180 days. SUPPORTING SHIPPERS: Myron Rooks, Rooks Sales Company, Inc., 131 Colorado Street, Manhattan, Kans. 66502 and Henry G. Wassenberg, Pepsi Cola Bottling Co., 602-04 Center St., Marysville, Kans. 66508. SEND PROTESTS TO: C. L. Phillips, District Supervisor, Interstate Commerce Commission, Bureau of Operations, Room 240, Old Post Office Building, 215 Northwest Third, Oklahoma City, Okla. 73102.

No. MC 98896 (Sub-No. 2 TA), filed October 25, 1973. Applicant: WOMICK TRANSFER, INC., P.O. Box 811, Carbondale, Ill. 62901. Applicant's representative: John Womick, P.O. Box 379, Jonesboro, Ill. 62952. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Wrought iron pipe or tubing*, from Seymour, Ind., to DuQuoin, Ill., for 180 days. SUPPORTING SHIPPER: Ron Cowley, Purchasing Agent, Turco Manufacturing Company, Inc., DuQuoin, Ill. 62832. SEND PROTESTS TO: Harold C. Jolliff, District Supervisor, Interstate Commerce Commission, Bureau of Operations, LeLand Office Building, 527 East Capitol Avenue, Room 414, Springfield, Ill. 62701.

No. MC 107496 (Sub-No. 916 TA), filed October 23, 1973. Applicant: RUAN TRANSPORT CORPORATION, Third and Keosauqua Way, P.O. Box 855 (Box zip 50304), Des Moines, Iowa 50309. Applicant's representative: E. Check (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Liquid feed and liquid feed supplements*, in bulk, in tank vehicles, from Oskaloosa, Iowa, to points in Missouri, for 150 days. SUPPORTING SHIPPER: International Multifoods Corporation, 1200 Multifoods Building, Minneapolis, Minn. 55402. SEND PROTESTS TO: Herbert W. Allen, Transportation Specialist, Interstate Commerce Commission, Bureau of Operations, 875 Federal Building, Des Moines, Iowa 50309.

No. MC 113908 (Sub-No. 291 TA), filed October 23, 1973. Applicant: ERICKSON TRANSPORT CORPORATION, 2105 East Dale Street, P.O. Box 3180, Glenstone Station, Springfield, Mo. 65804. Applicant's representative: B. B. Whitehead (same address as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Neutral spirits*, in bulk, in tank and hopper type vehicles, from Bakersfield, Delano, Fresno, Lodi, and Madera, Calif., to Canandaigua, N.Y.; Patrick, S.C.; and Petersburg, Va., for 180 days. SUPPORTING SHIPPER: Canandaigua Wine Company, Inc., 116 Buffalo Street, Canandaigua, N.Y. 14424. SEND PROTEST TO: John V. Barry, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 600 Federal Office Building, 911 Walnut Street, Kansas City, Mo. 64106.

No. MC 113908 (Sub-No. 292 TA), filed October 23, 1973. Applicant: ERICKSON TRANSPORT CORPORATION, 2105 East Dale Street, P.O. Box 3180 Glenstone Station, Springfield, Mo. 65804. Applicant's representative: B. B. Whitehead (same address as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Alcoholic liquors*, in bulk, in tank and hopper type vehicles, from Port of Entry on the International Boundary line between the United States and Canada at or near Sweetgrass, Mont., to Cincinnati, Ohio, for 180 days. SUPPORTING SHIPPER: National Distillers Products Company, 11750 Chesterdale Road, Atkinson Square, Cincinnati, Ohio 45246. SEND PROTESTS TO: John V. Barry, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 600 Federal Office Building, 911 Walnut Street, Kansas City, Mo. 64106.

No. MC 114533 (Sub-No. 285 TA), filed October 25, 1973. Applicant: BANKERS DISPATCH CORPORATION, 4970 South Archer Avenue, Chicago, Ill. 60632. Applicant's representative: Stanley Komosa (same address as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Laboratory specimens and reports*, between Omaha, Nebr., on the one hand, and, on the other, Wichita and Shawnee Mission, Kans., for 180 days. SUPPORTING SHIPPER: Stat Labs, P.O. Box 2180, Wichita, Kans. 67201. SEND PROTESTS TO: R. G. Anderson, District Supervisor, Interstate Commerce Commission, Bureau of Operations, Everett McKinley Dirksen Bldg., 219 S. Dearborn St., Room 1086, Chicago, Ill. 60604.

No. MC 118060 (Sub-No. 2 TA), filed October 24, 1973. Applicant: CAPITOL

PACKING CO., 1050 Yuma Street, Suite 109, Denver, Colo. 80204. Applicant's representative: Billy James, 530 Denargo Market, Denver, Colo. 80216. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Meat and packinghouse products*, fresh and frozen, from Gering, Nebr., to Minneapolis-St. Paul Commercial Zone, Minn.; Madison and Milwaukee Commercial Zone, Wis.; Streater and Chicago Commercial Zone, Ill., for 180 days. SUPPORTING SHIPPER: Allied Packing Company, Inc., P.O. Box 127, Gering, Nebr. SEND PROTESTS TO: District Supervisor Herbert C. Ruoff, Bureau of Operations, Interstate Commerce Commission, 2022 Federal Bldg., Denver, Colo. 80202.

No. MC 118142 (Sub-No. 56 TA), filed October 25, 1973. Applicant: M. BRUENGER & CO., INC., 6250 North Broadway, Wichita, Kans. 67219. Applicant's representative: Lester C. Arvin, 814 Century Plaza Bldg., Wichita, Kans. 67202. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Meat, meat products, meat byproducts and articles distributed by meat packinghouses*, as described in Sections A and C of Appendix I to the Report in *Descriptions in Motor Carriers Certificates*, 61 M.C.C. 209 and 766 (except hides and commodities in bulk), from Wichita, Kans., to Denver, Colo., for 180 days.

NOTE.—Applicant intends to tack with MC 118142 (Sub-No. 34).

SUPPORTING SHIPPER: Dold Packing Co., Inc., 421 East 21st Street, Wichita, Kans. 67214. SEND PROTESTS TO: M. E. Taylor, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 501 Petroleum Building, Wichita, Kans. 67202.

No. MC 119789 (Sub-No. 185 TA), filed October 25, 1973. Applicant: CARAVAN REFRIGERATED CARGO, INC., P.O. Box 6188, 1612 East Irving Blvd., Dallas, Tex. 75222. Applicant's representative: James K. Newbold, Jr. (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Recreational equipment and sporting goods*, from Old Forge, Pa., to points in Arizona, Arkansas, California, Colorado, Kansas, Louisiana, New Mexico, Oklahoma, Texas, and Utah, for 180 days. SUPPORTING SHIPPER: J. Roberts Division, Gabriel Industries, Inc., 1 Maxson Drive, Old Forge, Pa. 18518. SEND PROTESTS TO: Gerald T. Holland, Transportation Specialist, Interstate Commerce Commission, Bureau of Operations, 1100 Commerce Street, Room 13C12, Dallas, Tex. 75202.

No. MC 120737 (Sub-No. 25 TA), filed October 26, 1973. Applicant: STAR DELIVERY & TRANSFER, INC., P.O. Box 39, Canton, Ill. 61520. Applicant's representative: Donald Wallington Smith, Suite 2465, One Indiana Square, Indianapolis, Ind. 46204. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes transporting: (1) *Castings*, from the plantsite and warehouse facilities of International Harvester Company at Louisville, Ky., to Muscatine, Iowa, and (2) *Tractor parts*, from Muscatine, Iowa, to the plantsite and warehouse facilities of International Harvester Company at Louisville, Ky., for 180 days. SUPPORTING SHIPPER: James M. Gamble, General Traffic Manager, International Harvester Company, 401 North Michigan Avenue, Chicago, Ill. 60611. SEND PROTESTS TO: District Supervisor Richard K. Shullaw, Interstate Commerce Commission, Bureau of Operations, Everett McKinley Dirksen Building, 219 S. Dearborn Street, Room 1086, Chicago, Ill. 60604.

No. MC 134599 (Sub-No. 91 TA), filed October 25, 1973. Applicant: INTERSTATE CONTRACT CARRIER CORPORATION, Mail: P.O. Box 748 (Mail zip 84110), Off.: 265 W. 2700 South (Off. zip 84115), Salt Lake City, Utah. Applicant's representative: Richard A. Peterson, P.O. Box 81849, Lincoln, Nebr. 68501. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Toys, games, and parts and supplies used in the manufacture thereof*, from the plantsite of Standard Plastics, a Division of Mattel, Inc., at South Plainfield, N.J., to the plantsites and warehouse facilities of Mattel, Inc., in Los Angeles County, Calif., under continuing contract with Mattel, Inc., for 180 days. SUPPORTING SHIPPER: Mattel, Inc., 5150 Rosecrans Avenue, Hawthorne, Calif. 90250. SEND PROTESTS TO: District Supervisor Lyle D. Helfer, Interstate Commerce Commission, Bureau of Operations, 5239 Federal Building, 125 South State Street, Salt Lake City, Utah 84138.

No. MC 136166 (Sub-No. 6 TA), filed October 25, 1973. Applicant: CF TANK LINES, INC., 175 Linfield Drive, Menlo Park, Calif. 94025. Applicant's representative: Robert M. Bowden, P.O. Box 3062, 1621 NW. 21st, Portland, Oreg. 97208. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Soy sauce*, in bulk, in tank vehicles, from Walworth, Wis., to Oakland and San Francisco, Calif., for 90 days. SUPPORTING SHIPPER: Kikkoman Foods, Inc., P.O. Box H, Walworth, Wis. 53184. SEND PROTESTS TO: District Supervisor Claud W. Reeves, Bureau of Operations, Interstate Commerce Commission, 450 Golden Gate Avenue, Box 36004, San Francisco, Calif. 94102.

No. MC 136632 (Sub-No. 3 TA) (Correction), filed August 27, 1973, published in the Federal Register issue of September 13, 1973, and republished as corrected this issue. Applicant: COPELAND TRANSPORTATION CO., INC., 4159 North Broadway, Wichita, Kans. 67204. Applicant's representative: Clyde N. Christey, 641 Harrison, Topeka, Kans. 66603. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Commodities* dealt in by truck equipment dealers, from Cedar Falls and Grundy Center, Iowa; Montgomery, Ala.; Fort Payne, Melrose Park, and Chicago, Ill., commercial zone: Meridian, Miss.; Lake Crystal, Minn.; Houston and Cleburne, Tex.; Oklahoma City, Okla.; West Bend, Wis.; and Denver, Colo., to Topeka, Kansas City, Wichita, Colby, Dodge City, Haven, Great Bend, Hays, Beloit, and Parsons, Kans., and Springfield, Colo., and also between Topeka, Kansas City, Wichita, Colby, Dodge City, Haven, Great Bend, Hays, Beloit, and Parsons, Kans., on the one hand, and Springfield, Colo., on the other hand, for 150 days. SUPPORTING SHIPPERS: O. J. Watson Co., Inc., 4159 N. Broadway, Wichita, Kans. 67204; Scherer Truck Equipment, Inc., 540 South 12th St., Kansas City, Kans.; Capitol Body and Equipment Company, Inc., 2325 North Clay, Topeka, Kans. 66618; O. J. Watson Solid Waste Division, Inc., 4163 N. Broadway, Wichita, Kans. 67204; and Solid Waste Equipment Corporation, 1725 Meriam Lane, Kansas City, Kans. SEND PROTESTS TO: M. E. Taylor, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 502 Petroleum Bldg., Wichita, Kans. 67202.

NOTE.—The purpose of this republication is to add Topeka, Kansas City, Wichita, Colby, Dodge City, and Haven, Kans., as destination points.

No. MC 136647 (Sub-No. 13 TA), filed October 24, 1973. Applicant: GREEN MOUNTAIN CARRIERS, INC., Mailing: P.O. Box 1319, Albany, N.Y. 12201, and Office: Car Road, Dormansville, N.Y. 12055. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Paper printing, envelopes, and blanks or forms printed or not printed*, from Groveton and North Stratford, N.H., to points in Arkansas, Illinois, Indiana, Iowa, Kansas, Kentucky, Louisiana, Michigan, Minnesota, Missouri, Nebraska, Ohio, Oklahoma, Tennessee, Texas, and Wisconsin, for 180 days. SUPPORTING SHIPPER: Groveton Papers Company, Groveton, N.H. 03582. SEND PROTESTS TO: Joseph M. Barnini, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 518 New Federal Building, Albany, N.Y. 12207.

No. MC 138104 (Sub-No. 6 TA), filed October 25, 1973. Applicant: MOORE TRANSPORTATION CO., INC., 3509 N. Grove, Fort Worth, Tex. 76106. Applicant's representative: Bernard H. English, 6270 Firth Road, Fort Worth, Tex. 76116. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Radioactive spent nuclear fuel, reactor control elements, related reactor core components, and radioactive waste materials* to include, but not restricted to *contaminated machinery, iron and steel articles, heavy and cumbersome items, animals, dirt, and rubble*, destined to be buried, from Carswell Air Force Base, Tex., to points in Barnwell, S.C., for 180 days. SUPPORTING SHIPPER: Mr. Frederick P. Beierle, Assistant to the President, Chem-Nuclear Systems, Inc., P.O. Box 1866, Bellevue, Wash. 98009. SEND PROTESTS TO: H. C. Morrison, Sr., District Supervisor, Bureau of Operations, In-

terstate Commerce Commission, Room 9A27 Federal Building, 819 Taylor Street, Fort Worth, Tex. 76102.

No. MC 138989 (Sub-No. 1 TA), filed October 25, 1973. Applicant: ROAD & SEA TRANSPORT LIMITED, 225 Thorne Avenue, St. John, New Brunswick, Canada. Applicant's representative: Kenneth B. Williams, 111 State Street, Boston, Mass. 02109. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Liquid chemicals*, in bulk, in tank vehicles, from a point on the international boundary line between the United States and Canada at or near Calais, Maine, to Woodland, Maine, under contracts with Tidal Chemical, Ltd., and J. D. Irving Limited, both of St. John, New Brunswick, Canada, for 180 days. SUPPORTING SHIPPERS: (1) Tidal Chemical, Ltd., 284 Union Street, St. John, New Brunswick, Canada, and (2) J. D. Irving, Limited, 284 Union Street, St. John, New Brunswick, Canada. SEND PROTESTS TO: Donald G. Weiler, District Supervisor, Interstate Commerce Commission, Bureau of Operations, Rm. 307, 76 Pearl Street, Portland, Maine 04112.

By the Commission.

[SEAL] ROBERT L. OSWALD, *Secretary.*

[FR Doc.73-24808 Filed 11-20-73;8:45 am]

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[Notice No. 37]

## MOTOR CARRIER ALTERNATE ROUTE DEVIATION NOTICES

NOVEMBER 16, 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(c)(11)) and notice thereof to all interested persons is hereby given as provided in such rules (49 CFR 1042.4(c)(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 10424.4(c)(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.

No. MC-263 (Deviation No. 12), GARRETT FREIGHTLINES, INC., P.O. Box 4048, Pocatello, Idaho 83201, filed October 26, 1973 (Correction).

NOTE.—The purpose of this republication is to indicate that No. MC-263 (Deviation No. 12) is the Docket Number assigned to this proceeding, and that No. MC-262 (Deviation No. 12) as published in the FEDERAL REGISTER issue of November 14, 1973, is incorrect. The rest of the notice remains as previously published.

No. MC-33641 (Deviation No. 46), IML FREIGHT, INC., P.O. Box 2277, Salt Lake City, Utah 84110, filed October 31, 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 Los Angeles, Calif., over Interstate Highway 10 to Blythe, Calif., thence over U.S. Highway 60 to Phoenix, Ariz., and return over the same route, for operating convenience only. The notice indicates that the carrier is presently authorized to transport the same commodities over a pertinent service route as follows: From Los Angeles, Calif., over U.S. Highway 66 to Barstow, Calif., thence over U.S. Highway 91 (Interstate Highway 15) to Harrisburg, Utah, thence over Utah Highway 17 to LaVerkin, Utah, thence over Utah Highway 15 to Mt. Carmel Junction, Utah, thence over U.S. Highway 89 to Kanab, Utah, thence over Alternate U.S. Highway 89 to junction U.S. Highway 89 near Bitter Springs, Ariz., thence over U.S. Highway 89 to Flagstaff, Ariz., thence over Arizona Highway 79 and Interstate Highway 17 to Phoenix, Ariz., and return over the same route.

No. MC-33641 (Deviation No. 47), IML FREIGHT, INC., P.O. Box 2277, Salt Lake City, Utah 84110, filed October 31, 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 Oakland, Calif., over Interstate Highway 580 to junction Interstate Highway 5 near Vernalis, Calif., thence over Interstate Highway 5 to Los Angeles, Calif., thence over Interstate Highway 10 to Blythe, Calif., thence over U.S. Highway 60 to Phoenix, Ariz., and return over the same route, for operating convenience only. The notice indicates that the carrier is presently authorized to transport the same commodities over a pertinent service route as follows: From Oakland, Calif., over U.S. Highway 40 (Interstate Highway 80) to junction U.S. Highway 95 near Fernley, Nev. (now shown as Alternate U.S. Highway 95), thence over Alternate U.S. Highway 95 to junction U.S. Highway 50 near Fallon, Nev., thence over U.S. Highway 50 to Ely, Nev., thence over U.S. Highway 93 to Glendale, Nev., thence over U.S. Highway 91 (Interstate Highway 15) to Harrisburg, Utah, thence over Utah Highway 17 to LaVerkin, Utah, thence over Utah Highway 15 to Mt. Carmel Junction, Utah, thence over U.S. Highway 89 to Kanab, Utah, thence over Alternate U.S. Highway 89 to junction U.S. Highway 89 near Bitter Springs, Ariz., thence over U.S. Highway 89 to Flagstaff, Ariz., thence over Arizona Highway 79 and Interstate Highway 17 to Phoenix, Ariz., and return over the same route.

No. MC-33641 (Deviation No. 48), IML FREIGHT, INC., P.O. Box 2277, Salt Lake City, Utah 84110, filed October 31, 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 Portland, Oreg., over Interstate Highway 5 to Los Angeles, Calif., thence over Interstate Highway 10 to Blythe, Calif., thence over U.S. Highway 60 to Phoenix, Ariz., and return over the same route, for operating convenience only. The notice indicates that the carrier is presently authorized to transport the same commodities over a pertinent service route as follows: From Portland, Oreg., over U.S. Highway 30 to Arlington, Oreg., thence over Oregon Highway 19 to junction U.S. Highway 26, thence over U.S. Highway 26 to junction Oregon Highway 201 near Ontario, Oreg., thence over Oregon Highway 201 to junction U.S. Highway 20, thence over U.S. Highway 20 via Parma, Idaho, to junction U.S. Highway 30, thence over U.S. Highway 30 via Caldwell, Boise, Bliss, and Twin Falls, Idaho, to Burley, Idaho, thence over U.S. Highway 30S to Brigham City, Utah, thence over U.S. Highway 91 to Anderson, Utah, thence over Utah Highway 15 to Mt. Carmel Junction, Utah, thence over U.S. Highway 89 to Kanab, Utah, thence over Alternate U.S. Highway 89 to junction U.S. Highway 89 near Bitter Springs, Ariz., thence over U.S. Highway 89 to Flagstaff, Ariz., thence over Arizona Highway 79 and Interstate Highway 17 to Phoenix, Ariz., and return over the same route.

No. MC-52953 (Deviation No. 19), ET&WNC TRANSPORTATION COMPANY, 132 Legion Street, Johnson City, Tennessee 37601, filed October 31, 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 Greenville, S.C., over Interstate Highway 85 to Atlanta, Ga., thence over Interstate Highway 20 to Tuscaloosa, Ala., thence over U.S. Highway 82 to Greenwood, Miss., and return over the same route, for operating convenience only. The notice indicates that the carrier is presently authorized to transport the same commodities over a pertinent service route as follows: From Greeenville, S.C., over U.S. Highway 25 to Asheville, N.C., thence over U.S. Highway 70 to Knoxville, Tenn., thence over U.S. Highway 11 to Chattanooga, Tenn., thence over U.S. Highway 64 to Memphis, Tenn., thence over U.S. Highway 61 to Clarksdale, Miss., thence over U.S. Highway 49 to Tutwiler, Miss., thence over U.S. Highway 49E to Greenwood, Miss., and return over the same route.

No. MC-69512 (Deviation No. 3), THUNDERBIRD FREIGHT LINES, INC., 1515 S. 22d Avenue, Phoenix, Arizona 85009, filed October 31, 1973. Carrier's representative: Donald E. Fernaays, 4040 E. McDowell Road, Suite 312, Phoenix, Arizona 85008. 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 Interstate Highway 10 and U.S. Highway 60 at or near Brenda, Ariz., over Interstate Highway 10 to Tonopah, Ariz., thence over county FAS road to Buckeye, Ariz., thence over U.S. Highway 80 to Phoenix, Ariz., and return over the same route, for operating convenience only. The notice indicates that the carrier is presently authorized to transport the same commodities over a pertinent service route as follows: From junction Interstate Highway 10 and U.S. Highway 60 at or near Brenda, Ariz., over U.S. Highway 60 to Phoenix, Ariz., and return over the same route.

No. MC-59583 (Deviation No. 47), THE MASON AND DIXON LINES, INC., P.O. Box 969, Kingsport, Tennessee 37662, filed October 16, 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 Elmira, N.Y., over New York Highway 14 to Geneva, N.Y., and return over the same route, for operating convenience only. The notice indicates that the carrier is presently authorized to transport the same commodities over a pertinent service route as follows: From Elmira, N.Y., over New York Highway 13 to Ithaca, N.Y., thence over New York Highway 96 to Ovid, N.Y., thence over New York Highway 96A to Geneva, N.Y., and return over the same route.

No. MC-64832 (Deviation No. 1), MAGNOLIA TRUCK LINE, INC., P.O. Box 16587, Memphis, Tennessee 38116, filed October 10, 1973. Carrier's representative: Donald B. Morrison, P.O. Box 22628, Jackson, Mississippi 39205. Carrier proposes to operate as a *common carrier*, by motor vehicle, of *general commodities*, with certain exceptions, over deviation routes as follows: (1) From Memphis, Tenn., over Interstate Highway 55 to Jackson, Miss., thence over Interstate Highway 20 to Vicksburg, Miss., (2) From Memphis, Tenn., over Interstate Highway 55 to Hazlehurst, Miss., thence over Mississippi Highway 28 to Fayette, Miss., and (3) From Memphis, Tenn., over Interstate Highway 55 to Brookhaven, Miss., thence over U.S. Highway 84 to Natchez, Miss., 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 Memphis, Tenn., over U.S. Highway 61 to Natchez, Miss., thence over U.S. Highway 84 to Jena, La., and return over the same route.

By the Commission.

[SEAL] ROBERT L. OSWALD, *Secretary.*

[FR Doc.73-24809 Filed 11-20-73;8:45 am]

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[Notice No. 91]

## MOTOR CARRIER APPLICATIONS AND CERTAIN OTHER PROCEEDINGS

NOVEMBER 16, 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

No. MC 13123 (Sub-No. 60) (Republication), filed August 21, 1970, published in the FEDERAL REGISTER issue of September 11, 1970, and republished this issue. Applicant: WILSON FREIGHT COMPANY, a Corporation, 3636 Follett Avenue, Cincinnati, Ohio 45223. Applicant's representative: Walter Harwood, 1822 Parkway Towers, Nashville, Tenn. 37219, and Milton H. Bortz (same address as applicant). An Order of the Commission, Division 1, Acting as an Appellate Division, dated November 1, 1973, and served November 9, 1973, finds that the present and future public convenience and necessity require operation by applicant, in interstate or foreign commerce, as a *common carrier* by motor vehicle, over regular routes, of *general commodities* (except those of unusual value, Classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), (1) between Nashville, Tenn., and Dover, Tenn., from Nashville over U.S. Highway 41-A to Clarksville, Tenn., and thence over U.S. Highway 79 to Dover, and return over the same route, serving Clarksville for the purpose of joinder only, and serving no other intermediate points, and (2) between Hopkinsville, Ky., and Clarksville, Tenn., over U.S. Highway 41-A, serving no intermediate points, and serving Clarksville for the purpose of joinder only, restricted in (1) and (2) above against the transportation of traffic: (a) Originating or received from connecting carriers at Nashville and destined to or delivered to connecting carriers at Hopkinsville, and (b) originating or received from connecting carriers at Hopkinsville and destined to or delivered to connecting carriers at Nashville; that applicant is fit, willing, and able properly to perform such service and to conform to the requirements of the Interstate Commerce Act and the Commission's rules and regulations thereunder. Because it is possible that other parties who have relied upon the notice of the application as published, may have an interest in and would be prejudiced by the lack of proper notice of the authority described above, issuance of a certificate in this proceeding will be withheld for a period of 30 days from the date of this publication of the authority actually granted, during which period any proper party in interest may file an appropriate petition for intervention or other relief in this proceeding setting forth in detail the precise manner in which it has been so prejudiced.

No. MC 136646 (Sub-No. 1) (Republication), filed October 30, 1972, published in the FEDERAL REGISTER issue of November 30, 1972, and republished this issue. Applicant: DYKSTRA TRANSPORT, INC., 317 Fourth Avenue SE., Sioux Center, Iowa 51250. Applicant's representative: Earl H. Scudder, Jr., Post Office 82028, 605 South 14th Street, Lincoln, Nebr. 68501, A Report and Order of the Commission, Review Board Number 3, dated October 3, 1973, and served November 8, 1973, finds that the present and future public convenience and necessity require operation by applicant, in interstate or foreign commerce, as a *common carrier* by motor vehicle, over irregular routes, of *anhydrous ammonia*, in bulk, in tank vehicles, (1) from Algona, Early, Fort Dodge, Garner, and Spencer, Iowa, to points in Minnesota, and (2) from the facilities of Apple River Chemical Corp., near East Dubuque, Ill., to points in Iowa, Minnesota, and Wisconsin; that applicant is fit, willing, and able properly to perform such service and to conform to the requirements of the Interstate Commerce Act and the Commission's rules and regulations thereunder. Because it is possible that other parties who have relied upon the notice of the application as published, may have an interest in and would be prejudiced by the lack of proper notice of the authority described above, issuance of a certificate in this proceeding will be withheld for a period of 30 days from the date of this publication of the authority actually granted, during which period any proper party in interest may file an appropriate petition for intervention or other relief in this proceeding setting forth in detail the precise manner in which it has been so prejudiced.

No. MC 136885 (Sub-No. 2) (Republication), filed March 22, 1973, published in the FEDERAL REGISTER issue of June 14, 1973, and republished this issue. Applicant: L. P. GUAY, INC., St. Henry, Levis County, Province of Quebec, Canada. Applicant's representative: Adrien R. Paquette, 200 St. James Street West, Montreal, Province of Quebec, Canada. An Order of the Commission, Operating Rights Board, dated October 9, 1973, and served November 6, 1973, finds that operation by applicant, in interstate or foreign commerce, as a *contract carrier* by motor vehicle, over irregular routes, of *lumber and lumber products*, from ports of entry on the international boundary line between the United States and Canada located at or near Champlain, N.Y., and Highgate Springs and Derby Line, Vt., to points in Maine, New Hampshire, Vermont, Massachusetts, Rhode Island, Connecticut, New York, New Jersey, Maryland, Pennsylvania, and Delaware, under a continuing contract or contracts with Leonard Ellen,

Inc., and G. A. Grier & Sons, Ltd., of Montreal, Quebec, Canada, restricted to the transportation of traffic originating at points in the Province of Quebec, Canada, and destined to the above-specified destinations, 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. The purpose of this republication is to include points in Maryland in the described destination territory. 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 thies proceeding setting forth in detail the precise manner in which it has been so prejudiced.

No. MC 52938 (Sub-No. 8), (Notice of filing of petition to modify a vehicle restriction), filed August 20, 1973. Petitioner: MASHKIN FREIGHT LINES, INC., 115 Park Avenue, East Hartford, Conn. 06108. Petitioner's representative: Hugh M. Joseloff, 410 Asylum Street, Hartford, Conn. 06103. Petitioner presently holds a motor *common carrier* certificate in No. MC 52938 (Sub-No. 8) issued December 27, 1972, authorizing transportation, over irregular routes, of *food and foodstuffs* (except commodities in bulk, in tank vehicles), in vehicles equipped with mechanical refrigeration, from the facilities of Kraft Foods Division of Kraftco Corporation at or near Fogelsville, Pa., to points in Connecticut, Maine, Rhode Island, Massachusetts, New Hampshire, and Vermont, restricted to traffic originating at the named origins and destined to the named destination points. By the instant petition, petitioner seeks to modify its vehicle restriction to either (a) "in vehicles equipped to protect such products from heat or cold", (b) "in vehicles equipped with insulation", or (c) deletion of the restriction "in vehicles equipped with mechanical refrigeration". 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 on or before December 21, 1973.

No. MC 104896 (Sub-No. 40) (Correction of a notice of filing of petition to modify a vehicle restriction), filed October 19, 1973, published in the FEDERAL REGISTER issue November 14, 1973, and republished, as corrected, this issue. Petitioner: WOMELDORF, INC., P.O. Box 877, Washington, Pa. 15301. Petitioner's representative: V. Baker Smith, 123 South Broad Street, Philadelphia, Pa. 19109. Petitioner presently holds a motor *common carrier* certificate in No. MC 104896 (Sub-No. 40) issued January 31, 1973, authorizing transportation, over irregular routes, of *food and foodstuffs* (except commodities in bulk, in tank vehicles), in vehicles equipped with mechanical refrigeration, from the facilities of Kraft Foods Division of Kraftco Corporation at or near Fogelsville, Pa., to points in Delaware, Maryland, Connecticut, Maine, Massachusetts, New Jersey, New Hampshire, New York, Ohio, Rhode Island, Vermont, Virginia, and West Virginia, restricted to traffic originating at the named origin points and destined to the named destination points. By the instant petition, petitioner seeks to modify its vehicle restriction to either (a) "in vehicles equipped to protect such products from heat or cold", (b) "in vehicles equipped with insulation," or (c) deletion of the restriction "in vehicles equipped with mechanical refrigeration".

NOTE.—The purpose of this republication is to indicate the correct modification of petitioner's vehicle restriction sought in (b) above, previously published in error. 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 on or before December 21, 1973.

No. MC 127872 (Notice of filing of petition for removal of a restriction), filed November 2, 1973. Petitioner: GREENFIELD AND MONTAGUE TRANSPORTATION AREA, a Corporation, 382 Deerfield St. Greenfield, Mass. 01301. Petitioner's representative: Arthur S. Walder, 4 Court Square, Greenfield, Mass. 01301. Petitioner presently holds a motor *common carrier* certificate in No. MC 127872 issued August 12, 1966, authorizing transportation, over irregular routes, of *passengers and their baggage*, in round-trip charter operations, beginning and ending at Deerfield, Greenfield, Montague, and Shelbourne, Mass., and extending to points in Connecticut, Delaware, Maine, Maryland, New Hampshire, New Jersey, New York, Pennsylvania, Rhode Island, Vermont, Virginia, and the District of Columbia, restricted to the transportation of school children and counselors and supervisors accompanying school children. By instant petition, petitioner seeks removal of the above stated restriction. 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 on or before December 21, 1973.

## 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

APPLICATION(S) FOR CERTIFICATES OR PERMITS WHICH ARE TO BE PROCESSED CONCURRENTLY WITH APPLICATION(S) UNDER SECTION 5 GOVERNED BY SPECIAL RULE 240 TO THE EXTENT APPLICABLE.

No. MC 107993 (Sub-No. 29) (Correction), filed August 3, 1973, published in the FEDERAL REGISTER issue of November 7, 1973, and republished as corrected this issue. Applicant: J. J. WILLIS TRUCKING COMPANY, a Corporation, 2608 Electronic Lane, Dallas, Tex. 75220. Applicant's representative: J. G. Dail, Jr., 1111 E Street NW., Washington, D.C. 20004. Authority sought to operate as a *common carrier*, by motor vehicle, over regular routes, transporting: (1) *Property of the type necessary or incidental to the establishment, maintenance or dismantling of oil, gas, or water wells, pipe lines, refineries, and cracking or casing head plants;* (2) *material and equipment of the type used in the construction of roads, dams, and bridges;* and (3) *materials and equipment of the type used in construction of power and compressor plants;* between points on and within 50 miles laterally of the following named highways: (1) U.S. Highways 101 and 101 By-Pass between the Oregon-California State line and the California-Mexico boundary line; (2) U.S. Highways 99, 99–E and 99–W between Oregon-California State line and the Mexican border; (3) U.S. Highway 299 between Redding and Alturas, Calif.; (4) U.S. Highway 395 between the Oregon-California and the California-Nevada State lines, via Alturas and Johnstonville; (5) California Highway 36 between junction U.S. Highway 99–E near Red Bluff, Calif., and junction U.S. Highway 39E at Johnstonville; (6) California Highway 20 between Marysville, Calif., and junction U.S. Highway 40; (7) U.S. Highway 40 between San Francisco, Calif., and the California-Nevada State line; (8) U.S. Highway 50 between Sacramento, Calif., and the California-Nevada State line;

(9) U.S. Highway 395 between the California-Nevada State line at Topaz Lake and junction U.S. Highway 66; (10) U.S. Highway 66 between Los Angeles and Needles, Calif.; (11) U.S. Highway 60 between Los Angeles, Calif., and the California-Arizona State line; (12) U.S. Highway 91 and 466 Betwen Barstow and the Nevada-California State line; (13) U.S. Highway 80 between State line; and the California-Arizona State line; and (14) California Highway 127 between Baker and the Nevada-California State line.

NOTE.—Common control may be involved. Applicant states that the requested authority can be tacked with its existing authority at points in Arizona within the California commercial zone and the points named above to permit a through service to and from points in Arizona, Utah, Wyoming, Colorado, New Mexico, Texas, Oklahoma, Kansas, Arkansas, and Louisiana. Applicant seeks by this application to convert a Certificate of Registration into a Certificate of Public Convenience and Necessity. This is a matter directly related to the Section 5 purchase proceeding in MC–F–

11913, published in the FEDERAL REGISTER issue of June 27, 1973. The purpose of this republication is to correct the commodity description under (1) to read, "*Property of the type necessary or incidental to the establishment, maintenance or dismantling of oil, gas or water wells, pipe lines, refineries and cracking or casing head plants.*" If a hearing is deemed necessary, applicant requests it be held at Dallas, Tex. or Los Angeles, Calif.

No. MC–F–11714 (AMENDMENT) (RECOR INTERNATIONAL—CONTROL—CROUCH BROS.), INC., published in the November 22, 1972, issue of the FEDERAL REGISTER on page 24863.

This supplemental notice reflects approval of the transaction, subject to conditions as authorized by the Commission, Review Board Number 5, entered November 13, 1973, in its report and order.

Acquisition of control by United Truck Service, 2800 West Bayshore Road, Palo Alto, Calif. 94303, of Crouch Bros., Inc., Highway 36 West, P.O. Box 1059, St. Joseph, Mo., through purchase of capital stock, and acquisition by O.N.C. Freight Systems, and, in turn, by Rocor International, and, by David P. Roush and Diane G. Roush (as custodian for David H. Roush, Gregory B. Roush, and Brian G. Roush) both of 2800 W. Bayshore Road, Palo Alto, Calif. 94303, of control of operating rights and property, subject to terms and conditions set out in the report. Operating rights authorized to be controlled: Crouch Bros., Inc., operates as a common carrier of General Commodities with the usual exceptions, primarily over regular routes to Omaha, Nebraska, and Wichita, Kansas, and Kansas City, Mo., on the west, Chicago, Ill., on the north, and New York, N.Y., and Boston, Mass., on the east and of specified commodities over irregular routes, in Texas, Oklahoma, Louisiana, Arkansas, Missouri, Kansas, Nebraska, Iowa, Ohio, Indiana, Illinois, Minnesota, Massachusetts, and Connecticut.

NOTE.—All the capital stock of United Truck Service is owned by O.N.C. Freight Systems. All the capital stock of O.N.C. Freight Systems is owned by Rocor International. Rocor International also owns all of the capital stock of O.N.C. Forwarding, a freight forwarder. Rocor International itself, however, holds no authority from this Commission.

No. MC–F–11971. (Correction) (ROADWAY EXPRESS, INC.—CONTROL AND MERGER—SHUMPERT TRUCK LINE, INC.), published in the September 6, 1973, issue of the FEDERAL REGISTER on page 24288. Prior notice should be changed to read: ROADWAY EXPRESS, INC. — *PURCHASE* — SHUMPERT TRUCK LINE, INC., and for acquisition by GALEN J. ROUSH, of control of such rights and property through the purchase. Operating rights sought to be transferred.

No. MC–F–12023. (Correction) (NOVO PACKAGE DELIVERY, INC.—PURCHASE (PORTION)—HOURLY MESSENGERS, INC., doing business as H. M. PACKAGE DELIVERY SERVICE), published in the November 7, 1973 issue of the FEDERAL REGISTER on page 30803. Prior notice should read: Such merchandise, equipment, and supplies as are sold, used and distributed by a manufacturer of cosmetics, as a *common carrier* over irregular routes, from the plantsite and and storage facilities of Avon Products, Inc., at Newark, Del., to points in the District of Columbia, Maryland, and Virginia.

No. MC–F–12039. Authority sought for purchase by TRANSPORT MOTOR EXPRESS, INC., P.O. Box 958, Fort Wayne, IN 46801, of the operating rights and property of MEYERS MOTOR TRANSPORTATION CO., 2040 W. 43d St., Chicago, IL 60603, and for acquisition by ESSEX INTERNATIONAL, INC., 1601 Wall St., Fort Wayne, IN 46804, of control of such rights and property through the purchase. Applicants' attorney: Carl L. Steiner, 39 S. La Salle St., Chicago, IL 60603. Operating rights sought to be transferred: Under a certificate of registration, in Docket No. MC–121328 (Sub-No. 1), covering the transportation of general commodities, as a common carrier, in interstate commerce, within the State of Illinois. Vendee is authorized to operate as a *common carrier* in Indiana, Kentucky, Pennsylvania, Illinois, Ohio, West Virginia, Delaware, New York, New Jersey, Maryland, Virginia, Massachusetts, Connecticut, Rhode Island, Wisconsin, Missouri, and the District of Columbia. Application has been filed for temporary authority under section 210a(b).

NOTE.—MC–107906 (Sub-No. 31), is a matter directly related.

No. MC–F–12040. Authority sought for merger by SCHWERMAN TRUCKING CO., 611 South 28th St., Milwaukee, WI 53246, of the operating rights and property of LES JOHNSON CARTAGE CO., and for acquisition by FRED J. SCHWERMAN AND CARL L. SCHWERMAN, of control of such rights and property through the transaction. Applicants' attorney: James R. Ziperski, all of Milwaukee, WI 53246. Operating rights sought to be merged: *General commodities*, excepting, among others, household goods and commodities in bulk, as a common carrier, over irregular routes, between points in Denmark, Wis., on the one hand, and, on the other, those in the town of New Denmark, Brown County, Wis.; *machinery, materials, supplies*, and *equipment* used in connection with highway construction, between points in Wisconsin, on the one hand, and, on the other, those in that part of Michigan known as the Upper Peninsula of Michigan; *boilers, motors, portable mills*, and *equipment* used in connection with logging operations, between points in that part of Wisconsin east and north of a line beginning at Ashland and extending along Wisconsin Highway 13 to Abbotsford, Wis., thence along Wisconsin Highway 29 to Green Bay, Wis., including points on the indicated portions of the highways specified, on the one hand, and, on the other, points in the Upper Peninsula of Michigan; *machinery*, between points within 15 miles of Denmark, Wis., including Denmark; *cement*, from Green Bay and Manitowoc, Wis., to points in the Upper Peninsula of Michigan, from Manitowoc, Wis., to points in Illinois, Indiana, Iowa, North Dakota, South Dakota, Minnesota, and the Lower Peninsula of Michigan, from Madison, Wis., to points in Illinois, from Green Bay, Wis., to points in Minnesota, from Manitowoc, Wis., to points in Missouri, Ohio, Kentucky, Kansas, and Nebraska; (1) *precast, prestressed and preformed concrete slabs, columns, beams, purlins, channels and panels*, and (2) *parts, accessories, materials, supplies, and equipment* used in the construction, erection and completion of the commodities specified in (1), except (a) commodities in bulk, (b) lime and limestone products from Dodge, Fond du Lac and Manitowoc Counties, Wis., and (c) wood and wood products, from points in Wisconsin, to points in Illinois, Indiana, Iowa, Michigan, Missouri, Minnesota, and Ohio; *commodities* the transportation of which by reason of size or weight, require the use of special equipment (except paper and paper products), between points in Wisconsin (except those on and south of a line beginning at Port Washington, Wis., and extending along Wisconsin Highway 33 to junction U.S. Highway 51 at Portage, Wis., thence along U.S. Highway 51 to the Wisconsin-Illinois State line) and points in the Upper Peninsula of Michigan; *steel beams*, from Wausau, Wis., to points in Illinois; *lightweight aggregate*, in bulk, and limestone, from Green Bay, Wis., to points in the Upper Peninsula of Michigan; *such commodities* which, by reason of size or weight require the use of special equipment or special handling, between points in Wisconsin, except those on and south of Wisconsin Highway 33, and, on and east of U.S. Highway 51, on the one hand, and, on the other, points in the Upper Peninsula of Michigan; *salt*, in bulk, from Green Bay, Wis., to points in the Upper Peninsula of Michigan. SCHWERMAN TRUCKING CO., is authorized to operate as a *common carrier* in Kentucky, Tennessee, Iowa, Illinois, Wisconsin, Minnesota, Missouri, Indiana, Georgia, Alabama, South Carolina, Florida, North Carolina, Mississippi, Kansas, West Virginia, Nebraska, North Dakota, Oklahoma, Texas, Ohio, Michigan, South Dakota, Louisiana, Pennsylvania, Maryland, Virginia, Colorado, Montana, New Mexico, Vermont, Wyoming, Massachusetts, Connecticut, New Hampshire, Rhode Island, New Jersey, Delaware, California, and the District of Columbia. Application has not been filed for temporary authority under section 210a(b).

NOTE.—Pursuant to order dated August 28, 1969, in No. MC–F–10468, Transferee acquired control of Transferor.

No. MC-F-12041. Authority sought for purchase by BOUMA CARTAGE COMPANY, 146 Pleasant St. SW., Grand Rapids, MI 49502, of the operating rights of ELSTON-RICHARDS STORAGE COMPANY, 733 Wealthy St., SE., Grand Rapids, MI 49503, and for acquisition by T. J. BOUMA AND ALICE BOUMA, both of Grand Rapids, MI 49502, of control of such rights through the purchase.

Applicants' attorney: William B. Elmer, 21635 East Nine Mile Rd., St. Clair Shores, MI 48080. Operating rights sought to be transferred: *New furniture*, as a *common carrier* over irregular routes, between Muskegon and Grand Rapids, Mich., on the one hand, and, on the other, Chicago, Ill., Milwaukee, Wis., St. Louis, Mo., Syracuse and Jamestown, N.Y., and points in Indiana and Ohio. Vendee is authorized to operate as a *common carrier* in Michigan. Application has not been filed for temporary authority under section 210a(b).

NOTE.—MC-120456 (Sub-No. 3), is a matter directly related.

No. MC-F-12042. Authority sought for control by MITCHELL G. BOWER, JR., 701 W. 21st St., Vancouver, WA 98660, GORDON L. BOWER, 2913 Northwest 151st St., Vancouver, WA 98665, and ALVIN D. BYRNE, 2902 Northwest 151st St., Vancouver, WA 98660, of NORTHWESTERN TRANSFER COMPANY, 215 Southeast Morrison St., Portland, OR 97214. Applicants' attorney: Jerry R. Woods, 620 Blue Cross Bldg., 100 Southwest Market St., Portland, OR 97201. Operating rights sought to be controlled: *General commodities*, excepting among others, class A and B explosives, household goods and commodities in bulk, as a *common carrier* over regular routes, between Portland, Oreg., and Vancouver, Wash., serving no intermediate points; *general commodities*, with exceptions as specified above, over irregular routes, between points within three miles of Portland, Oreg., including Portland; *household goods* and *heavy machinery*, between Portland, Oreg., on the one hand, and, on the other points in that part of Washington west of the Cascade Mountains; *electric refrigerators*, between Portland, Oreg., on the one hand, and, on the other, points in Clark County, Wash. MITCHELL G. BOWER, JR., GORDON L. BOWER, and ALVIN D. BYRNE, holds no authority from this Commission. However, they are affiliated with BOWER TRUCKING & WAREHOUSE COMPANY, 1101 W. 11th St., P.O. Box 609, Vancouver, WA 98660, which is authorized to operate as a *common carrier* in Oregon, and Washington. Application has not been filed for temporary authority under section 210a(b).

By the Commission.

[SEAL] ROBERT L. OSWALD, *Secretary.*

[FR Doc. 73-24811 Filed 11-20-73;8:45 am]

## NOTICE OF FILING OF MOTOR CARRIER INTRASTATE APPLICATIONS

NOVEMBER 16, 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 § 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.

Kansas Docket No. 10,610M; Route No. 329, filed September 12, 1973. Applicant ELDON O. BRIGHT, doing business as BRIGHT'S FREIGHT SERVICE, Route 3, Topeka, Kans. 66612. Applicant's representative: Floyd E. Gehrt, American Savings Building, 400 Croix Street, P.O. Box 5186, Topeka, Kans. 66605. Certificate of public convenience and necessity sought to operate a freight service as follows: Transportation of *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, To extend present authority to include the following: Between Topeka, Kans., and Manhattan, Kans., with service to all intermediate points and the off-route points of Onaga Reservoir and Dam Site and Grove, Kans., and Grove Reservoir and Dam Site. From Topeka, Kans., via U.S. Highway 24 to Manhattan, Kans., and return over the same route. With right of joinder to all authority presently held in Route 329. Intrastate, interstate and foreign commerce authority sought.

*HEARING:* December 10, 1973, at the State Office Building, 4th Floor, Topeka, Kans., at 10 A.M. Requests for procedural information should be addressed to the State Corporation Commission, Fourth Floor, State Office Bldg., Topeka, Kans., 66612, and should not be directed to the Interstate Commerce Commission.

New York Docket No. Case T-4048, filed November 5, 1973. Applicant: MONK'S EXPRESS, INC., Phelps Street/Port Dickinson, Binghamton, N.Y. 13901. Applicant's representative: Herbert M. Canter, 315 Seitz Building, 201 East Jefferson Street, Syracuse, N.Y. 13202. Certificate of public convenience and necessity sought to operate a freight service as follows: Transportation of *general commodities* as defined in 16 NYCRR Part 800.1, over irregular routes, from all points in the New York counties of Cayuga, Chenango, Delaware, Madison, Oneida, Onondaga, Oswego, Schuyler, Seneca, Tioga, Tompkins, and Wayne, to all points in Cortland County, N.Y.

NOTE.—Applicant already holds the subject authority *from* all points in Cortland County to all points in the above-named counties. By this application, applicant seeks the reverse direction authority in reliance upon *Application of Jungermann*, Case MT-1120. Intrastate, interstate and foreign commerce authority sought.

*HEARING:* Date, time, and place not shown. Requests for procedural information should be addressed to the New York State Department of Transportation, 1220 Washington Avenue, State Campus, Albany, N.Y. 12226, and should not be directed to the Interstate Commerce Commission.

Tennessee Docket No. MC 2078 (Sub-No. 2), filed November 2, 1973. Applicant: F & W EXPRESS, INC., 575 South Front Street, Memphis, Tenn. 38103. Applicant's representative: C. N. Finleyson, Sr. (same address as applicant). Certificate of public convenience and necessity sought to operate a freight service as follows: Transportation of *General commodities*, except household goods, explosives, commodities requiring special equipment or commodities in bulk—all routes to be used in conjunction with present routes: (a) serving all points in Dyer County and Lake County, in conjunction with its present routes, and Nashville, Tenn.; (b) between Union City, Tenn., and Nashville, Tenn.: From Union City, Tenn. via Tennessee Highway 22 to its junction with Interstate Highway 40 to Nashville, and return over the same route, serving Nashville, but no intermediate points; (c) between Dyersburg, Tenn., and Nashville, Tenn.: From Dyersburg, Tenn., via Tennessee Highway 104 to junction U.S. Highway 45W, thence via U.S. Highway 45W to junction U.S. Highway 45, thence via U.S. Highway 45 to junction Interstate Highway 40, thence via Interstate Highway 40 to Nashville, and return over the same route, serving Nashville, but no intermediate points; and (d) between Dyersburg, Tenn., and Union City, Tenn., via U.S. Highway 51 and return over the same route, serving all intermediate points. Applicant seeks corresponding interstate authority.

*HEARING:* February 19, 1974, at the Commission's Courtroom, C-1 Cordell Hull Building, Nashville, Tenn., at 9:30 a.m. Requests for procedural information 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.

Tennessee Docket No. MC 4291 (Sub-No. 2), filed October 26, 1973. Applicant: SARTAIN TRUCK LINES, INC., P.O. Box 7237, 1354 North Second Street, Memphis, Tenn. 38107. Applicant's representative: Edward G. Grogan, 2020 First National Bank Bldg., Memphis, Tenn. 38103. Certificate of public convenience and necessity sought to operate a freight service as follows: Transportation of *General commodities*, except household goods, commodities in bulk, commodities requiring special equipment and explosives. Between all points on its present authority and Nashville, Tenn. Route No. 1: Between Gleason and Nashville from Gleason, Tenn., over Tennessee Highway 22 to its junction with Interstate Highway 40, thence over Interstate Highway 40 to Nashville and return over the same route. Serving all intermediate points between Gleason and the junction of Tennessee Highway 22 and Interstate Highway 40. Route No. 2: Between Bells and Nashville from Bells, Tenn., over U.S. Highway 70 alternate to its junction with U.S. Highway 70 thence over U.S. High-

way 70 to Tennessee Highway 69 thence over Tennessee Highway 69 to its junction with Interstate Highway 40 and return over the same route, serving all intermediate points. Route No. 3: Between Dresden and Paris from Dresden to Paris over Tennessee Highway 54 and return over the same route serving all intermediate points. Route No. 4: Between Union City and Dyersburg, Tenn.; from Union City over Tennessee Highway 22 to Tiptonville thence over Tennessee Highway 78 to Dyersburg, and return over the same route serving all intermediate points, also the removal of closed door restriction at Dyersburg, Tenn. Route No. 5: Between Memphis, Tenn., and the junction of Interstate Highway 40 and Tennessee Highway 22 over Interstate Highway 40, for operating convenience only. All the above routes to be used in conjunction with present authority. Corresponding interstate authority is sought.

*HEARING:* January 16, 1974, at the Commission's Courtroom, C–1, Cordell Hull Building, Nashville, Tenn., at 9:30 a.m. Requests for procedural information 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.

By the Commission.

[SEAL] ROBERT L. OSWALD,
*Secretary.*

[FR Doc.73-24810 Filed 11-20-73;8:45 am]

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PART II

# DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

## Social and Rehabilitation Service

■

## Supplemental Security Income Program

## Proposal Regarding Medical Eligibility

## DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

### Social and Rehabilitation Service

### [ 45 CFR Parts 205, 248 ]

### SUPPLEMENTAL SECURITY INCOME PROGRAM

### Proposal Regarding Medicaid Eligibility

Notice is hereby given that the regulation set forth in tentative form below is proposed by the Administrator, Social and Rehabilitation Service, with the approval of the Secretary of Health, Education, and Welfare. The proposed regulation relates to the medical assistance (Medicaid) program under Title XIX of the Social Security Act and more specifically relates to the application of the provisions of that title to individuals who are aged, blind or disabled under the provisions of Title XVI of the Social Security Act, effective January 1, 1974, as enacted by section 301 of P.L. 92-603. The proposed regulation also implements the provisions of sections 230, 231, 232, and 233 of P.L. 93-66 concerning carryover Medicaid eligibility provisions. Also included for the convenience of reviewers are other changes in eligibility provisions required by P.L. 92-603, which were contained in a notice of proposed rulemaking published June 21, 1973 (38 FR 16309). The existing sections on coverage and general and financial eligibility conditions (§§ 248.10 and 248.21) are ebing ditions (§§ 248.10 and 248.21) are being revoked and their content reorganized into four new sections in order to simplify and clarify State plan requirements and conditions, State options, and Federal matching provisions. In general, the proposed regulations would become effective January 1, 1974.

Since its enactment in 1965, title XIX of the Social Security Act has authorized Federal financial assistance to enable the States to furnish medical assistance to needy children, members of families with dependent children under title IV of the Act and the aged, blind and disabled, under title I, X, XIV, or XVI of the Act. In P.L. 92-603, Congress repealed titles I, X, and XIV and XVI of the Social Security Act and substituted a new title XVI under which, effective January 1, 1974, the aged, blind and disabled would receive benefits under a new national program providing supplemental security income to such individuals. In substituting this new national program for the presently operating State programs for the aged, blind and disabled, however, the Congress made no explicit provision for Medicaid coverage under title XIX for those falling within the category eligible for cash benefits or state supplement payments under the new title XVI.

Although the Congress has made no explicit provision for Medicaid coverage for the aged, blind and disabled after January 1, 1974, the Department is of the view that the Congress, in enacting P.L. 92-603, could not have intended to totally discontinue such coverage. However, because of the differences between the new national program for supplemental security income and the present state programs of cash assistance and because of the absence of any express statutory direction regarding how Medicaid coverage shall be applied to the category of persons eligible to receive benefits under the new title XVI, the Department has had little legislative guidance for detailed, comprehensive and reasonable rules consistent with the purposes of both title XIX and the new title XVI. In these areas where there is no specific legislative direction, the Department has endeavored to carry out the general intent of Congress and the President, as expressed in P.L. 93-66 and P.L. 92-603, by allowing States to continue Medicaid coverage of persons whom they are now required to cover, and continuing in the States the option of providing coverage of certain persons whose coverage is now optional. In the absence of these provisions, such individuals could lose eligibility for assistance under the Medicaid program as a result of the changes in standards which will occur when the new Supplemental Security Income program becomes effective.

The Department has proposed to the Congress certain technical amendments to the Social Security Act specifically providing for the application of the title XIX Medicaid provisions to the eligible categories under title XVI and making consistent the various provisions in the two titles. Pending congressional action on the proposed amendments, however, the Department must prepare for the administration of the Medicaid program upon the effective date of title XVI on January 1, 1974. In anticipation of the enactment of the proposed amendments and to give notice to the States and other interested parties of how the Department intends to administer the program, the regulation set forth in tentative form below is proposed.

The proposed regulations do not apply to Puerto Rico, Guam and the Virgin Islands, which will continue to operate their Medicaid programs under the provisions of the regulations which govern the title XIX program prior to January 1, 1974.

Prior to the adoption of the proposed regulations, consideration will be given to any comments, suggestions, or objections thereto which are submitted in writing to the Administrator, Social and Rehabilitation Service, Department of Health, Education, and Welfare, 330 Independence Avenue, S.W., Washington, D.C. 20201, on or before December 21, 1973. Comments received will be available for public inspection in Room 5224 of the Department's offices at 301 C Street, S.W., Washington, D.C. on Monday through Friday of each week from 8:30 a.m. tc 5 p.m. (area code 202-245-0365).

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

Dated August 13, 1973.

JAMES S. DWIGHT, JR.,
*Administrator, Social and Rehabilitation Service.*

Approved: November 12, 1973.

CASPAR W. WEINBERGER,
*Secretary of Health, Education, and Welfare.*

Chapter II, Title 45, Code of Federal Regulations is amended as set forth below.

1. Section 205.100 is revised to read as follows:

**§ 205.100 Single State agency.**

(a) *State plan requirements.* (1) A State plan under title IV-A, or XIX of the Social Security Act must:

(i) Provide for the establishment or designation of a single State agency with authority to administer or supervise the administration of the plan.

(ii) Include a certification by the attorney general of the State identifying the single State agency and citing the legal authority under which such agency administers, or supervises the administration of, the plan on a statewide basis including the authority to make rules and regulations governing the administration of the plan by such agency or rules and regulations that are binding on the political subdivisions, if the plan is administered by them.

(2) In addition, the State plan under title XIX must:

(i) Specify the agency which determines eligibility.

(A) For families, this must be either:

(*1*) The single State agency administering the medical assistance program, or

(*2*) The State agency administering the title IV-A program.

(B) For the aged, blind, and disabled, this must be:

(*1*) The single State agency administering the medical assistance program, or

(*2*) The State agency administering the title IV-A program, or

(*3*) The Federal agency administering the supplemental security income program under title XVI if such agency has an agreement with the State. In this case the plan must also specify whether the agency named in (*1*) or (*2*) will make determinations for groups not covered in the agreement.

(ii) Provide for a written agreement between the single State title XIX agency and the State agency administering the title IV-A program (if that agency is different from the single State title XIX agency), or the Federal agency administering the title XVI program, when eligibility determinations are made by either such agency. The agreements must state the relationships and respective responsibilities of the agencies.

(b) *Conditions for implementing the requirements of paragraph (a) of this section.* (1) The State agency will not delegate to other than its own officials its authority for exercising administrative discretion in the administration or supervision of the plan including the issuance of policies, rules, and regulations on program matters.

(2) In the event that any rules and regulations or decisions of the single State agency are subject to review, clearance, or other action by other offices or agencies of the State government, the requisite authority of the single State agency will not be impaired.

(3) In the event that any services are performed for the single State agency by other State or local agencies or offices,

such agencies and offices must not have authority to review, change, or disapprove any administrative decision of the single State agency, or otherwise substitute their judgment for that of the agency as to the application of policies, rules, and regulations promulgated by the State agency.

§§ 248.10, 248.11, 248.21 [Revoked]

2. Sections 248.10, 248.11, and 248.21 are revoked. Their content is revised and transferred to new §§ 248.1 through 248.4, which read as follows:

**§ 248.1 State plan requirements and options for coverage under the medical assistance program.**

(a) *General provisions governing eligibility for medical assistance.*—(1) *Categorically needy.*—(i) *General.* In order to be considered as categorically needy for purposes of title XIX, an individual must in general be receiving financial assistance or sufficiently in need to be financially eligible for financial assistance under title IV–A or XVI of the Social Security Act, or under a State supplement to title XVI assistance.

(ii) *States limiting coverage by returning to earlier Medicaid standard.* (A) In a State which covers both the categorically needy and medically needy under its title XIX plan, and in addition has exercised its option under section 209(b) of P.L. 92–603 to limit Medicaid coverage of aged, blind, and disabled individuals, an individual who meets the more restrictive eligibility criteria through having his title XVI payment (if any) and incurred medical expenses deducted from income is considered as categorically needy if he is eligible for a cash payment under title XVI of the Social Security Act or a State supplementary payment which meets the conditions specified in § 248.2(d).

(B) In a State which covers only the categorically needy under its title XIX plan, and in addition has exercised its option under section 209(b) of P.L. 92–603 to limit Medicaid coverage of aged, blind, and disabled individuals, all individuals establishing eligibility for medical assistance by deducting their title XVI payments (if any) and incurred medical expenses from income will be considered categorically needy regardless of whether their income would allow them to qualify for cash assistance.

(2) *Medically needy.* (i) An individual is considered to be medically needy if he has income and resources which exceed the amount of income and resources allowed to the categorically needy but which are insufficient to meet the costs of necessary medical and remedial care and services.

(ii) In determining whether an individual's income is above the medically needy level, medical expenses are not deducted from income. However, in determining eligibility for medical assistance, incurred medical expenses must be deducted from income for a medically needy individual.

(b) *Required coverage of the categorically needy.* A State plan under title XIX of the Social Security Act must specify what groups of individuals are covered as categorically needy for Medicaid. These groups must, as a minimum—(1) In the case of families and children, include: (i) All individuals receiving aid under the State's approved plan under title IV–A;

(ii) All individuals under 21 who are (or would be, except for age or school attendance requirements) dependent children under the State's approved AFDC plan; and

(iii) All families which were receiving assistance under the State's plan under title IV–A in at least 3 of the 6 months immediately preceding the month in which such family became ineligible for such assistance because of increased income from employment. As long as a member of the family is employed, such families will continue to be eligible for medical assistance, for a period of 4 calendar months beginning with the month in which such family became ineligible for assistance under title IV–A because of increased earnings, to the same extent and under the same conditions as it is furnished to the categorically needy under the title XIX plan in effect during such months.

(2) In the case of the aged, blind and disabled, include one of the groups listed in paragraph (b)(2) (i), (ii) or (iii) of this section, and in addition, those listed in paragraph (b)(2)(iv), (v) and (vi) of this section:

(i) Individuals receiving a benefit under title XVI, or

(ii) Individuals receiving a benefit under title XVI or a State supplementary payment which meets the conditions specified in § 248.2(d), or

(iii) Individuals who meet the eligibility criteria used for medical assistance on January 1, 1972 (or any other criteria which are less restrictive than the January 1, 1972 criteria but no less restrictive than the comparable criteria under title XVI or for a State supplementary payment which meets standards described in § 248.2(d)), after the amount of the title XVI payment (if any) and incurred medical expenses are deducted from income;

(iv) All individuals who in December 1973 were eligible as essential spouses under the State title XIX plan which for such month provided for medical assistance to individuals described in section 1905(a)(vi) of the Social Security Act, provided that:

(A) The individual with whom such an essential spouse is living continues to meet the December 1973 criteria for aid or assistance under one of the State plans under titles I, X, XIV or XVI as in effect in such month.

(B) The essential spouse continues to be the spouse of and to live with such individual, and under the State plan approved under title I, X, XIV or XVI as in effect in December 1973, would still be considered to be essential to the well being of such individual, and such spouse's needs would be taken into consideration in determining the amount of aid or assistance furnished to such individual under such State plan.

(v) All individuals who, for all (or any part of) the month of December 1973:

(A) Were eligible under the State title XIX plan as inpatients or residents in institutions qualified for reimbursement under title XIX of the Act; and

(B)(*1*) Would (except for being an inpatient or resident in such institution) have been eligible to receive aid or assistance under a State plan approved under title I, X, XIV, or XVI of such Act; or

(*2*) Were, on the basis of need for care in such institution, considered to be eligible for aid or assistance under a State plan under title I, X, XIV or XVI for purposes of determining their eligibility for medical assistance under a State plan approved under title XIX of the Act (whether or not such individuals actually received aid or assistance under a State plan under title I, X, XIV or XVI) provided that:

(*i*) Such individuals continue to be (for all of any month after December 1973) inpatients or residents in such an institution and would (except for being inpatients or residents in such institution) continue to meet the conditions of eligibility to receive aid or assistance under such plan (as such plan was in effect for December 1973), and

(*ii*) Such individuals are determined (under the utilization review and other professional audit procedures applicable to State plans approved under title XIX of the Act) to be in need of care in such an institution.

(vi) All individuals who:

(A) Although they were not actually receiving cash assistance, in December 1973 met all the conditions of eligibility, including financial eligibility, for aid under a State plan approved under title X, XIV, or XVI of the Act (by reason of their having been previously determined to meet the criteria for blindness or disability established by such a State plan) and

(B) they were eligible under the State title XIX plan in effect in that month if, for each consecutive month after December 1973 such individuals continue to meet the criteria for blindness or disability, and the financial criteria, established by the State plan, approved under title X, XIV or XVI as it was in effect for December 1973.

(3) With respect to both families with children and aged, blind, or disabled individuals include:

(i) Any individual who would be eligible for aid under title IV–A of the Act or benefits or supplementary payments under title XVI (as may be applicable) except for any eligibility condition or other requirement that is specifically prohibited in a program of medical assistance under title XIX.

(ii) for any month prior to July 1, 1975, any individual:

(A) Who, for the month of August 1972, was receiving or eligible for financial assistance under the State's plan

approved under title I, IV–A, X, XIV, or XVI of the act and who was also entitled to monthly insurance benefits under title II of the act for the month of August 1972, and

(B) Who, except for the increase in monthly insurance benefits under title II resulting from enactment of Public Law 92–336, would have been eligible for financial assistance for the current month. Under this requirement:

(1) An individual qualifies as receiving or eligible for financial assistance for August 1972 if, with respect to such month:

(*i*) He was receiving financial assistance; or

(*ii*) He met all conditions of eligibility for financial assistance under title I, IVA, X, XIV, or XVI as in effect in August 1972 but had not applied, provided the State title XIX plan included such individuals as categorically needy in August 1972; or

(*iii*) He was in a medical facility or interminate care facility, and had he left, would have been eligible for financial assistance, provided the State title XIX plan included such individuals as categorically needy in August 1972.

(2) An individual is considered as though he were eligible for financial assistance for the current month (after August 1972 and prior to July 1, 1975) if with respect to such month, except for the increase in monthly insurance benefits under title II resulting from enactment of Public Law 92–336:

(*i*) He would meet all conditions of eligibility for financial assistance (however, he need not file an application). In such case he is eligible under the current title XIX plan to the same extent as individuals who are receiving financial assistance; or

(*ii*) He is in a medical or intermediate care facility and, if he left, would be eligible for financial assistance, provided the State title XIX plan includes such individuals as categorically needy. In such case he is considered as though he were categorically needy and is eligible under the title XIX plan to the same extent as other categorically needy individuals in such a facility. Countable income for categorically needy individuals in such a facility does not include the amount specified as a pass-along in sections 306 of P.L. 92–603 and 1007 of P.L. 91–172.

(c) *Options for coverage of categorically needy.* A State may at its option also cover additional groups of individuals as categorically needy provided they are so specified in the plan. These groups may include any of the following:

(i) Individuals who meet all the conditions of eligibility, including financial eligibility, for aid under title IV–A, benefits under title XVI or State supplementary payments (provided such supplementary payments meet standards specified in § 248.2(d), and the State plan approved under title XIX specifies that recipients of such payments are treated as categorically needy) but have not applied for such assistance.

(ii) Individuals in a facility eligible for reimbursement for services rendered under title XIX who, if they left such facility would be eligible for aid under title IV–A, benefits under title XVI or State supplementary payments (provided such payments meet standards specified in § 248.2(d), and the State plan approved under title XIX specifies that recipients of such payments are treated as categorically needy). This includes individuals who have enough income to meet their personal needs while in the facility, but not enough to meet their needs outside the facility according to the applicable program. Children may be included in this group if they would meet all conditions of eligibility under the State's AFDC plan if outside the facility.

(iii) Individuals who would be eligible for financial assistance under the State public assistance plan approved under title IV–A except that the State plan imposes eligibility conditions more stringent than, or in addition to, those required under the Social Security Act. For example, individuals who would be eligible for AFDC if the State's program covered families with children deprived of parental support or care to the full extent permitted under title IV–A of the Act, including AFDC for families with unemployed fathers.

(iv) All individuals under 21 who qualify on the basis of financial eligibility, but do not qualify as dependent children under a State's AFDC plan: or groups of such individuals if based on reasonable classifications. Children in foster homes or private institutions for whom public agencies are assuming financial responsibility, in whole or in part, constitute a reasonable classification. The additional inclusion of children placed in foster homes or private institutions by private, nonprofit agencies would also be considered reasonable. Individuals under age 21 who are in intermediate care facilities, including institutions for the mentally retarded, or in psychiatric hospitals, also constitute a reasonable classification.

(v) Caretaker relatives enumerated in section 406(a)(1) of the Act who have in their care one or more children under 21 who, except for age or school attendance requirements, would be dependent children under the State's AFDC plan.

(vi) Individuals who would be eligible for financial assistance if their work-related child care costs were paid out of earnings rather than as a service expenditure by the agency, provided the State plan for financial assistance otherwise recognizes child care costs in determining the amount of the payment.

(d) *Coverage of the medically needy.* If the State opts to include medically needy individuals under title XIX, the State plan must specify that it covers:

(1) All medically needy groups that correspond to the categorically needy groups covered in the plan; except that this requirement will not apply with respect to individuals required to be covered pursuant to paragraph (b)(1)(iii), (2)(iv), (v), and (vi), and (3)(ii) of this section (with the exception of an individual qualifying pursuant to paragraph (d)(2) of this section); and

(2) All individuals, who, for the month of December 1973, were eligible as medically needy persons by reason of their having been previously determined to meet the criteria for blindness or disability established by a State plan approved under title X, XIV, or XVI of the Act, if, for each consecutive month after December 1973, such individuals continue to meet the criteria for blindness or disability so established by the State plan (as it was in effect for December 1973), and continue to meet the financial criteria established under the title XIX plan as in effect for December 1973.

(e) *Conditions of eligibility.* The State plan must specify all conditions of eligibility that must be met by members of all optional groups included in the plan.

**§ 248.2 Conditions for State plan approval.**

(a) All groups the State elects to include in the program are based on reasonable classifications that do not result in arbitrary or inequitable treatment of individuals or groups and are not otherwise inconsistent with the broad objectives of title XIX of the Act.

(b) Except for financial eligibility, the conditions of eligibility that are imposed on elective groups

(1) In the case of families and children, are not more stringent or more numerous than those imposed on families and children receiving aid under the approved State title IV–A plan, and

(2) In the case of aged, blind, or disabled individuals, are not more stringent or more numerous than those imposed on such individuals receiving benefits under title XVI (except for individuals receiving a State supplementary payment as provided in paragraph (d) of this section, or individuals who become eligible for medical assistance as provided in § 248.1(b)(2)(iii)).

(c) No age, residence, citizenship, or other requirement is imposed that is prohibited by title XIX of the Act.

(d) If individuals who receive only a State supplementary payment (but no title XVI payment) are covered as categorically needy, the supplementary payment meets the following standards. It is

(1) Regular, in cash and based on need;

(2) Made to some reasonable classification of aged, blind, and disabled individuals who, except for the level of their income, would be eligible for benefits under title XVI; such reasonable classifications are limited to any of the following, or any combination thereof:

(i) The aged, or the blind, or the disabled;

(ii) The aged, or the blind, or the disabled who (A) Are in long-term care institutions of the types covered under title XIX; these may be hospitals, skilled nursing facilities, intermediate care facilities, or institutions for tuberculosis or mental diseases;

(B) Are in domiciliary facilities or other group-living arrangements as defined in title XVI regulations;

(C) Received a cash payment under title I, X, XIV, or XVI on a specified date prior to January 1, 1974;

(D) Are receiving a supplemental payment which is administered by the Federal government in accordance with an agreement made pursuant to Section 1616(a) of the Social Security Act, provided, however, that such payment meets conditions specified in paragraph (d)(3) and (4) of this section;

(iii) Other additional classifications as may be specified by the Secretary;

(3) Available to the reasonable classifications of individuals covered on a Statewide basis, and any variations in level of payment by political subdivision are demonstrated to the satisfaction of the Secretary to be based on cost-of-living differentials; and

(4) Equal to the difference between income and the financial standard used to determine eligibility for the supplement. Such standard may not exceed 133⅓ percent of the adjusted payment level for the State under title XVI, or 133⅓ percent of the payment standard reported to the National Center for Social Statistics for July 1972 under title I, X, XIV, or XVI, except for those persons required to be covered pursuant to § 248.1(b)(2)(v) or persons receiving a mandatory supplement under Section 212 of P.L. 93-66.

**§ 248.3 State plan requirements on financial eligibility for medical assistance programs.**

(a) With respect to the categorically needy, a State plan under title XIX of the Social Security Act must:

(1) Specify the financial eligibility conditions that apply to the covered categorically needy groups.

(i) In the case of families and children, the financial eligibilty conditions of the State plan approved under title IV-A shall be applied.

(ii) In the case of aged, blind and disabled individuals, either:

(A) If the State plan provides for categorically needy coverage only for individuals receiving or eligible for a benefit under title XVI, the financial eligibility conditions of title XVI shall be applied;

(B) If the State plan provides for categorically needy coverage for all individuals receiving or eligible for a benefit under title XVI and in addition provides for coverage of defined classifications of persons receiving a State supplementary payment, (*1*) the financial eligibility conditions of title XVI shall be applied for individuals who are receiving or eligible for only a title XVI benefit and are not eligible for a State supplementary payment, and (2) the financial eligibility conditions of the State supplementary payment program shall be applied to individuals receiving such payments, provided that the financial standard for the supplementary payment program does not exceed the higher of 133⅓ percent of the adjusted payment level or 133⅓ percent of the payment standard reported to the National Center for Social Statistics for July 1972 (except that these conditions will not apply to individuals in institutions required to be covered pursuant to § 248.1(b)(2)(v) or individuals receiving a mandatory State supplement under sec. 212 of P.L. 93-66); or

(C) If the State plan limits coverage by applying any eligibility requirement as restrictive as or less restrictive than those in its January 1, 1972 medical assistance plan but more restrictive than the eligibility criteria for title XVI or supplementary payment recipients, financial eligibility criteria must be specified. These criteria may be: (*1*) As low as those of the January 1, 1972 medical assistance standard, or (2) up to or as high as the standards which would be allowed for title XVI beneficiaries, or for recipients of State supplementary payments as specified in subdivision (B) of this subparagraph.

(2) Provide for the application of income first to maintenance costs, except that this does not preclude imposition of copayments or deductibles pursuant to § 249.40 of this chapter.

(b) With respect to both the categorically needy and, if they are included in the plan, the medically needy, a State plan must:

(1) Provide that only such income and resources as are actually available will be considered and that income and resources will be reasonably evaluated.

(2) Provide that financial responsibility of any individual for any applicant or recipient of medical assistance will be limited to the responsibility of spouse for spouse and of parents for children under age 21, or blind, or disabled.

(3) Specify the extent to which the financial responsibility of any such relatives is taken into account.

(4) Provide that a lower income level for maintenance shall be used for individuals not living in their own homes but receiving care in hospitals, skilled nursing facilities, intermediate care facilities, and institutions for tuberculosis or mental diseases which are covered under title XIX. This lower income level must be reasonable in amount for clothing and personal needs for such individuals, and

(i) For aged, blind, and disabled individuals, such income level must be at a minimum of $25.00 per month;

(ii) For others, States may establish reasonable standards different from that specified in subdivision (i), provided they are based on a reasonable differential in personal needs.

When such an individual's home is maintained for a spouse or other dependents, the appropriate income level for such dependents, plus the individual's income level for maintenance in a long-term care facility, shall be applied.

(5) Provide, for individuals in long-term care facilities specified in paragraph (b)(4) of this section, for the application of income first to personal needs, and provide for the application of the remainder to the cost of medical or remedial care.

(6) Provide that, with respect to an aged, blind, or disabled individual receiving a benefit under title XVI or a State supplemental payment, who is not eligible for medical assistance unless he can meet additional eligibility criteria from the January 1972 standard, the amount of such individual's title XVI benefit and State supplemental payment will be disregarded in determining eligibility for medical assistance.

(c) With respect to the medically needy, the State plan must:

(1) Provide levels of income and resources for maintenance, in total dollar amounts, as a basis for establishing financial eligibility for medical assistance. Under this requirement:

(i) Such income levels must be comparable as among individuals and families of varying sizes;

(ii) The income levels for maintenance must be, as a minimum, at the level of the payment standard used as a measure of financial eligibility in the appropriate money payment program, that is:

(A) In the case of families and children, at the level of the payment standard of the State plan approved under title IV-A;

(B) In the case of aged, blind, and disabled individuals, at least the highest level of payment which is available to individuals in the three groups (aged, blind, and disabled) who are (or would be, except for income) eligible for benefits under title XVI, except that it may be less if:

(*1*) The level for which Federal financial participation available pursuant to § 248.4(b)(4) is less; or

(2) The State limits coverage of the aged, blind, and disabled by applying eligibility requirements from the 1972 medical assistance standard and covered the medically needy, such a State may set the income level for maintenance for aged, blind, or disabled medically needy persons at any level between that in effect for the medically needy on January 1, 1972 and the level required in paragraph (c)(1)(ii)(B) or (B)(*1*) of this section.

(iii) Resources which may be held must, as a minimum, be at the level allowed for the comparable group of the categorically needy.

(2) Provide that there will be a flexible measurement of available income which will be applied in the following order of priority:

(i) First, for maintenance, so that any income in an amount at or below the established level will be protected for maintenance, except that this does not preclude imposition of the enrollment fee, premium or similar charge, or of copayments or deductibles pursuant to § 249.40 of this chapter;

(ii) Next, income will be applied to costs incurred for medical insurance premiums in addition to the enrollment fee, premium, or similar charge, and any copayments or deductibles imposed under § 249.40 of this chapter, and for necessary medical or remedial care recognized under State law and not encompassed within the State plan for medical assist-

ance. States may set reasonable limits on such medical services for which excess income may be applied. Any medical resource of an individual in the form of insurance or other entitlement will also be applied to such costs. (See also § 250.31 of this chapter regarding third party liability.);

(iii) All of the remaining excess income and medical resources in the form of insurance or other entitlement will be applied to costs of medical assistance included in the State plan. Once such income and resources are exhausted, the full amount, duration and scope of care and services provided by the plan are available.

(3) Provide that all income and resources will be considered in establishing eligibility, and for the flexible application of income to medical costs not in the plan, and for payment toward the medical assistance costs. In considering all income and resources when establishing eligibility, the State plan must provide for:

(i) In the case of families and children, consideration of all disregards applicable to income and resources which are utilized when determining eligibility, or setting aside for future needs under the State's approved title IV–A plan;

(ii) In the case of the aged, blind, or disabled, the highest of:

(A) The disregards applied in title XVI, or

(B) The disregards applied in the State supplementary payment program which are available to all individuals who are or would be (except for their income level) eligible for a title XVI benefit,

except that in a State which has limited coverage of the categorically needy by applying eligibility requirements which are the same as or at a level between those in its January 1, 1972 plan and those under title XVI, disregards which similarly fall within January 1, 1972 and title XVI levels, provided that they are at least the same as those allowed to the aged, blind, and disabled categorically needy.

(4) Provide that only such income and resources will be considered as will be "in hand" within a period, not in excess of six months ahead, including the month in which medical services which are covered under the plan were rendered.

§ 248.4 Federal financial participation.

(a) *Administrative costs.* Federal financial participation is available in the administrative costs of providing medical care and services to all individuals covered under the plan, in the cost of whose medical care and services the Federal government shares.

(b) *Medical assistance.* (1) Except for the exclusion in paragraph (b) (2) of this section, and subject to the provisions of paragraphs (b) (3) and (4) of this section and of Part 250 of this chapter, Federal financial participation is available in payments for medical care and services provided under the State plan to any financially eligible individual who is:

(i) Under the age of 21 (or under age 22 and receiving inpatient psychiatric hospital services pursuant to § 249.10(b) (16) of this chapter); or

(ii) A parent or other caretaker relative specified in section 406(a) (1) of the Act (see § 233.90(c) (1) (v) (a) of this chapter) with whom a child under the age of 21 is living, if such relative is eligible or would, except that the child is not regularly attending school or a course of vocational training, and except for need, be eligible to receive payments within the scope of Federal financial participation under title IV–A of the Act. Only one such parent or other caretaker relative, plus the spouse of such parent or caretaker relative who meets the conditions specified in section 406(b) (1) of the Act (see § 237.50(b) (3) and (4) of this chapter), are within the scope of Federal financial participation under title IV–A of the Act; or

(iii) An aged, blind, or disabled individual, as specified in section 1614 of the Social Security Act.

(2) Federal financial participation is not available for care or services provided to any individual who is an inmate of a public institution (except as a patient in a medical institution or a resident in an intermediate care facility), or who is under age 65 and a patient in an institution for tuberculosis or mental diseases (see exception in paragraph (b) (1) (i) of this section for individuals under age 22). See § 248.60.

(3) Federal financial participation is available in payments made on behalf of individuals specified in the plan as categorically needy, subject to the condition, in respect to aged, blind or disabled individuals receiving State supplementary payments, that the State's eligibility standard for the supplementary payment does not exceed the higher of 133⅓ percent of the adjusted payment level, or 133⅓ percent of the payment standard reported to the National Center for Social Statistics for July 1972, except for those individuals required to be covered pursuant to § 248.1(b) (2) (v) of this chapter or individuals receiving a mandatory supplement under section 212 of P.L. 93–66.

(4) Payments in behalf of medically needy individuals are subject to Federal financial participation only to the extent that they are made for a member of a family which has annual income within the following levels:

(i) 133⅓ percent of the amounts specified in paragraph (b) (4) (ii) of this section. Any total yearly income levels established by applying the above percentage which are not multiples of $100 shall be rounded to the next higher multiple of $100. Federal financial participation is available for an individual whose annual income exceeds this level to the extent that medical expenses exceed the income excess (see paragraph (b) (4) subdivision (ii) (C) of this section).

(ii) The amounts to be applied in calculating the income levels referred to in paragraph (b) (4) (i) of this section are the highest money payments which would ordinarily be made to a family of the same size without any income or resources, under the State's approved AFDC plan, subject to the following modifications:

(A) In the case of a single individual the amount of the income level shall be reasonably related to the amounts payable under such plan to families consisting of two or more individuals who are without income or resources.

(B) If the amounts established under such plan are subject to a maximum family limit, the income level for families which exceed such limit will be determined by adding an amount for each member of the family to such limit. The amounts to be added shall be reasonably related to those established under the plan for families which are within the maximum family limit.

(C) In computing a family's or individual's income for purposes of paragraph (b) (4) (i) and (ii) of this section, there shall be excluded any costs (whether in the form of insurance premiums or otherwise) incurred by such family or individual for medical care or for any other type of remedial care recognized under State law, provided that such costs are not subject to reimbursement by a third party.

(5) Federal financial participation is available in medical assistance provided to individuals who were eligible therefor in the month in which the medical care or services were provided, except that this does not apply to costs incurred for medical care by families and individuals in process of establishing eligibility for medical assistance through the incurrment of medical expenses which are deducted from income. (See § 206.10(a) (6) of this chapter for retroactive entitlement.)

(6) Federal financial participation is available in medical assistance for individuals, in accordance with the State plan, during a temporary period through the second month following the month in which eligibility ceases, or for the period of time during which financial assistance is received, while the effects of certain eligibility conditions such as blindness, disability, continued absence or incapacity of a parent, or unemployment of a father are being overcome.

(7) Federal financial participation will be available in medical assistance for individuals during a reasonable period of time from the effective date an aged, blind, or disabled individual is no longer eligible for title XVI benefits (in order for the State to determine whether he is still eligible for Medicaid and to allow for notification by the State to such individual of his ineligibility for medical assistance). If the notice is received from the Social Security Administration on or before the 15th of the month, such period may not extend beyond the end of that month, unless the recipient has timely requested a hearing; in any case, it may not extend beyond the end of the next month. The State must take the necessary steps promptly upon receipt of notice from the Social Security Administration.

(8) Notwithstanding any other provision of this section, Federal financial participation is available in medical as-

sistance provided to individuals in groups listed in § 248.1(b)(1)(iii); (2) (iv), (v), and (vi); (3)(ii); and (d)(2).

(c) *Limitation.* If a State furnishes medical assistance on the basis of income levels which are higher than those specified in this section, the State agency must submit to the Department of Health, Education, and Welfare for its approval income levels which are calculated on the basis provided in this section, and must establish procedures to assure that claims for Federal financial participation are limited accordingly.

(d) *Agreement for supplementary payments.* No Federal financial participation is available under title XIX for any given quarter in which the State does not have in effect in such quarter an agreement with the Secretary for State supplementary payments as specified in section 212 of P.L. 93-66. This provision does not apply with respect to any State which meets the conditions specified in section 212(f) of P.L. 93-66 or to Puerto Rico, Guam, and the Virgin Islands.

3. Sections 248.30, 248.50, 248.70, and 248.80 are revised to read as follows:

**§ 248.30 Age.**

(a) *Conditions for plan approval.* A State plan under title XIX of the Social Security Act may not impose:

(1) Any age requirement of more than 65 years;

(2) Any age requirement which excludes any individual who has not attained the age of 21 and is or would, except for the provisions of section 406(a)(2) of the Act (regarding attendance at school or a training course), be a dependent child under the State's AFDC plan; or

(3) Age requirements more stringent than are imposed in the State's approved plan for financial assistance under title IV-A.

(b) *Federal financial participation.* (1) Federal financial participation is available in medical assistance provided to otherwise eligible persons who were, for any portion of the month in which they received medical care or services, under 21 years of age (or under 22 years of age and receiving inpatient psychiatric services pursuant to § 249.10(b)(16) of this chapter), or 65 years of age or over. There is no Federal requirement as to age for blind or disabled persons.

(2) Federal determination of whether an individual meets the age requirements of the Social Security Act will be made according to the common-law method (under which a specific age is attained the day before the anniversary of birth), unless the State plan specifies that the popular usage method (under which an age is attained on the anniversary of birth) is used, or that the determination of age by the SSI agency is used.

(3) The State agency may adopt an arbitrary date such as July 1 as the point from which age will be computed in all instances where the month of an individual's birth is not available, but the year can be established.

**§ 248.50 Citizenship and alienage.**

*Conditions for plan approval.* A State plan under title XIX of the Social Security Act shall include an otherwise eligible individual who is a resident of the United States but only if he is either (a) a citizen or (b) an alien lawfully admitted for permanent residence or otherwise permanently residing in the United States under color of law (including any alien who is lawfully present in the United States as a result of the application of the provisions of section 203(a)(7) or section 212(d)(5) of the Immigration and Nationality Act).

**§ 248.70 Blindness.**

(a) *State plan requirements.* A State plan under title XIX of the Social Security Act must:

(1) Contain a definition of blindness in terms of ophthalmic measurement. This may be the same definition as is used in the Supplemental Security Income program under title XVI of the Act, or a more restrictive definition; however it may not be more restrictive than the definition used by the State in its approved title XIX plan as in effect on January 1, 1972. The definition may be broader than the title XVI definition only for blind individuals who, for the month of December 1973, were eligible for medical assistance by reason of their having been previously determined to meet the criteria for blindness established by a State plan under title X or XVI of the Act. (See § 248.1(b)(2)(vi) and 248.1(d)(2).)

(2) Provide that, in any instance in which a determination is to be made whether an individual is blind according to the State's definition, there will be an examination by a physician skilled in the diseases of the eye or by an optometrist, whichever the individual may select. Under this requirement, no examination is necessary when both eyes are missing.

(3) Provide that each eye examination report will be reviewed by a State supervising ophthalmologist who is responsible for making the agency's decision that the applicant or recipient does or does not meet the State's definition of blindness, and for determining if and when reexaminations are necessary.

(b) *Exception.* The requirements of paragraph (a)(2) and (3) of this section may be waived for individuals who are determined to be eligible for payments under title XVI on the basis of blindness unless the State's title XIX plan includes a different definition of blindness as described in paragraph (a)(1) of this section.

(c) *Federal financial participation—*(1) *Assistance payments.* Federal financial participation is available in medical assistance provided to any otherwise eligible person who is blind. Blindness may be considered as continuing until an examination by a qualified examiner establishes the fact that the recipient's vision has improved beyond the State's definintion of blindness.

(2) *Administrative expenses.* Federal financial participation is available in any expenditures incident to the eye examination necessary to determine whether an individual is blind.

**§ 248.80 Disability.**

(a) *State plan requirements.* A State plan under title XIX of the Social Security Act must:

(1) Contain a definition of disability. This may be the same definition as is used in the Supplemental Security Income program under title XVI of the Act, or a more restrictive definition; however it may not be more restrictive than the definition used by the State in its approved title XIX plan as in effect on January 1, 1972. The definition may be broader than the title XVI definition only for disabled individuals who, for the month of December 1973, were eligible for medical assistance by reason of their having been previously determined to meet the criteria for disability established by a State plan under title XIV or XVI of the Act. (See § 248.1(b)(2)(vi) and 248.1(d)(2).)

(2) Provide for the review of each medical report and social history by technically competent persons—not less than a physician and a social worker qualified by professional training and pertinent experience—acting cooperatively, who are responsible for the agency's decision that the applicant does or does not meet the State's definition of disability. Under this requirement:

(i) The medical report must include a substantiated diagnosis, based either on existing medical evidence or upon current medical examination;

(ii) The social history must contain sufficient information to make it possible to relate the medical findings to the activities of the "useful occupation" and to determine whether the individual is totally disabled; and

(iii) The review physician is responsible for setting dates for reexamination; the review team is responsible for reviewing reexamination reports in conjunction with the social data, to determine whether disabled recipients whose health condition may improve continue to meet the State's definition of disability.

(b) *Exception.* The requirements of paragraph (a)(2) of this section are waived for individuals who are determined to be eligible for payments under title XVI on the basis of disability unless the State's title XIX plan includes a different definition of disability as described in paragraph (a)(1) of this section.

(c) *Federal financial participation—*(1) *Assistance payments.* Federal financial participation is available in medical assistance provided to any otherwise eligible individual who is disabled. Disability may be considered as continuing until the review team establishes the fact that the recipient's disability is no longer within the State's definition of

permanent and total disability, except that a determination by the Social Security Administration that a title XVI recipient's disability is no longer within the Federal definition of disability may be utilized by the State in lieu of a State review team's determination for individuals who are determined to be eligible for payments under title XVI on the basis of disability unless the State's title XIX plan includes a different definition of disability as described in paragraph (a)(1) of this section.

(2) *Administrative expenses.* Federal financial participation is available in any expenditures incident to the medical examination necessary to determine whether an individual is disabled.

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PART III

# DEPARTMENT OF TRANSPORTATION

## Federal Railroad Administration

■

# RAILROAD FREIGHT CAR SAFETY STANDARDS

## Addition of Safety and Inspection Standards

Title 49—Transportation

CHAPTER II—FEDERAL RAILROAD ADMINISTRATION, DEPARTMENT OF TRANSPORTATION

[Dockets RSFC–1, 2, and 3]

## PART 215—RAILROAD FREIGHT CAR SAFETY STANDARDS

### Addition of Safety and Inspection Standards

This amendment establishes a new Part 215 in Title 49 of the Code of Federal Regulations. Part 215 contains minimum Federal safety standards for railroad freight cars; including requirements in Subpart B for inspection of cars before they are operated; and the prohibition against and restrictions on use of certain equipment in Subpart J. This amendment responds to the need for safety standards as a result of larger, more complex freight cars which are operated at high speeds in longer trains, and which are often laden with hazardous materials.

New standards were proposed in three notices of proposed rulemaking. On September 22, 1972, the Federal Railroad Administration (FRA) issued a notice proposing to add Part 215 to the Code of Federal Regulations to establish railroad freight car safety standards and standards for freight car inspection (37 FR 19821, Docket No. RSFC–1). In addition to the standards proposed in that notice, on November 13, 1972, the FRA issued a notice (37 FR 24444, Docket No. RSFC–2) proposing to include requirements in Part 215 governing the lubrication of journal bearings and to revise, in part, the stenciling requirements proposed in Docket RSFC–1 in § 215.11. Also on November 13, 1972, the FRA issued a notice (37 FR 24445, Docket No. RSFC–3) proposing to include additional rules in Part 215 to prohibit the use of cars more than 50 years old and cars equipped with certain designs or types of components.

Interested persons were invited to participate in each of these rulemaking proceedings by submitting written comments on Docket RSFC–1 before December 1, 1972, and on Dockets RSFC–2 and RSFC–3 before January 15, 1973. In consideration of a request by the Association of American Railroads, the deadline for filing written comments with respect to Docket RSFC–1 was extended to January 14, 1973. In addition, public hearings were held on the proposed rules on January 23 and 24 and February 8, 1973, in Washington, D.C. Participants at the hearing on Docket RSFC–1 were permitted to file rebuttal statements by February 2, 1973. Participants at the hearings on Docket RSFC–1 were given until February 5, 1973, to file rebuttal statements. Participants at the hearing on Docket RSFC–2 could file rebuttal statements until February 20, 1973. The disposition of the most significant comments received is discussed hereafter.

The FRA anticipates that these new safety standards will reduce the number of railroad accidents caused by defective freight cars and will thereby reduce total accident costs to the industry. Contrary to the view expressed by some commenters, the FRA believes that the total costs which the new standards should reduce are appreciably greater than the expenses included in the monthly reports of accidents submitted to the FRA. Total costs related to a railroad accident are not incorporated in those reports. The accident reports normally include the dollar amount of estimated damage to equipment, track, and roadbed but not expenses such as overhead, cost of clearing the wreck, loss and damage to lading, or contingent expenses due to personal injuries.

Both the railroad industry and labor organizations participated in formulating the Railroad Freight Car Safety Standards. Their oral and written comments were of great assistance in making changes to the proposed standards, as discussed hereafter. The interest and comments expressed by all participants are appreciated by the FRA.

Because, as proposed in the notices, Part 215 is based primarily on the railroad industry's recommended standards, those proposed standards which would have provided for tolerances different from the industry's recommended limits have been changed in the final rules to the industry limits. FRA will consider modifying these rules when substantive safety data become available upon which less restrictive limits can be based. In this regard, several commenters suggested the establishment of tolerances for certain standards which were proposed without them, claiming that the industry recommendations are not strictly safety related. Those suggestions have not been adopted because supporting data is not available to justify the establishment of tolerances.

Numerous commenters recommended that certain defects be proscribed only at the time the particular component involved is disassembled on a repair track. The FRA is aware that many defects will be detected primarily on repair tracks. However, persons designated under § 215.15 to conduct inspections should be able to detect evidence of the existence of defects regardless of the location of an inspection. Therefore, the defects proscribed by Part 215 are not confined to discovery at any particular place.

With respect to Docket No. RSFC–2, some commenters objected to or would modify the proposed codification of industry standards on lubrication of journal bearings. As stated in the notice, many railroads have not followed the industry standards, as indicated by the large number of accidents caused by journal bearing failures. Furthermore, the need for codification of the industry's recommended standards is apparent because out of the fifteen accidents involving journal failures which FRA investigated during 1970–1973 three were caused by cars overdue for lubrication under the industry standards from 2 months to 3 years. The FRA issued a Journal Failure Report in October 1972, which indicated that certain geographic areas and certain carriers had a greater percentage of the journal bearing failures, even though the industry standards are intended to apply uniformly. The railroad with the worst record, based on freight car mileage, had 32 times the failure rate of the railroad with the best performance record. Concerning modification of the proposed periods for lubrication, the railroad industry conducted laboratory and service performance tests on extending its recommended lubrication periods. However, the increased failure rate which resulted dictated that the current periods, which FRA has adopted, be maintained. It appears that a disproportionately large number of plain journal bearings fail within a month after lubrication. FRA will monitor this situation closely and solicit information concerning this experience.

The FRA received comments from many railroads concerned that, because of their unique situations, the safety standards would be unduly burdensome. Even though the rules are intended to have general application, § 215.17 provides that exemptions may be granted. A railroad that believes that its special circumstances justify an exemption may apply under that section for a waiver from one or more of the requirements in Part 215.

After carefully considering all of the comments, both written and oral, a number of rules proposed in the notices have been substantively modified. Also, minor editorial changes have been made in some sections. The changes relating to Dockets RSFC–1 and RSFC–2 are discussed below by individual sections. Because the changes relating to Docket RSFC–3 involve significant structural changes in the regulations and in Appendix B, those changes are discussed separately under the heading "Docket RSFC–3." However, one change relating to Docket RSFC–3 involving stenciling is discussed below under § 215.11.

*Section 215.1* A minor editorial change was made to this section by transferring a portion of the sentence to § 215.3(a).

*Section 215.3* In this section reference to the October 1972 edition of "The Official Railway Equipment Register" has been deleted. The reference was included in the notice for the purpose of identifying railroad freight cars that would be covered by the regulations. Because the October 1972 edition is now out of print and later editions do not include all the cars classified by the 1972 edition, the "Equipment Register" was deemed inappropriate for incorporation by reference in the regulations.

The cars to which the regulations apply are now listed by their generic names under the definition of "railroad freight car" added to § 215.5. Any railroad freight car which is not described by one of the generic names would be covered by the regulations if it is "designed to carry freight or railroad personnel by rail" as stated in the definition.

The new definition of "railroad freight car" must not be interpreted as including certain maintenance of way equipment which was not included in the notice and not intended to be covered by Part 215. This equipment is specifically described under the heading General Service Maintenance of Way Equipment Cars in "The Official Railway Equipment Register." Notwithstanding exclusion of the

maintenance of way equipment for purposes of Part 215, a railroad freight car must comply with Part 215 when it is being used for maintenance of way purposes.

Several commenters stated that because Class V (ventilator) and Class Y (yard) cars have been eliminated from "The Official Railway Equipment Register" as of January 1, 1973, and now are used only in yard movements these cars should not be covered by the safety standards. The FRA considered this argument but believes that the number of accidents which occur in yard movements warrant application of the standards to the V and Y cards. In addition, the "Equipment Register" is a valuable reference for identifying types of freight cars, but its purposes are primarily related to cars in interchange. The FRA is concerned with the safety of all railroad freight car movements.

*Section 215.5* A definition of "railroad freight car" has been added to this section. (See discussion under § 215.3, *supra*.) Also a definition of the word "break" has been added.

Several comments were received concerning the proposed definition of the word "reconditioned". Most of them concerned the possible interpretations of the terms "original condition" and "better than original condition", as included in the proposed definition. As a result, paragraph (c)(2) of § 215.5 has been rewritten to read "A physical and functional condition which is equivalent to or better than their original conditions." The wording has been changed to clarify the purpose of "reconditioned" as that of maintaining and improving the ability of a component to perform safely in service. The term "reconditioned" has been adopted in lieu of "rebuilt" because in the railroad industry the latter term has a meaning relating to accounting and depreciation matters in addition to the physical condition of a car.

*Section 215.7* This section prescribes the duty of each railroad that knows, has notice, or should have known that a car which it operates has a component described as defective in Part 215. The railroad must remove the car from service, repair the car, or as provided in § 215.9, move the car to another location where it can be repaired. The phrase "should have known" has been added to the final rule to limit the defense of no knowledge in situations, for example, where an obvious defect is present within a short time after inspection, or where strong indications of a defect are ignored.

*Section 215.9* Comments on this section generally favored the concept of movement of a defective car for repair after inspection by a qualified person. Several of the commenters preferred that a defective car be permitted to move to its destination. Other commenters objected to the proposed requirement for written notification of crew members of restrictions on movement of the defective car. The FRA considered all the comments but felt that allowing the movement of a defective car to its destination would not be a safe operating practice in all cases. Also, the requirement for written notification of all crew members on the train in which a defective car is moved is necessary to ensure that each member is aware of the defective car so as to minimize the risk of injury.

*Section 215.11* In response to comments concerning the proposal in paragraph (a) that reporting marks and car numbers be stenciled in letters and numbers at least 3 inches high, the FRA adopted the current industry standard of 7-inch letters and numerals in the final rule. In making this change, the FRA felt that a 3-inch marking would have been too small for distant visibility of car numbers.

Several changes were made in paragraph (b) (now redesignated paragraph (c)) as a result of comments. The proposed stenciling requirements have been revised to permit the use of understandable abbreviations wherever possible; and for stenciling only a "month and year" in place of a complete "date." A new stenciling requirement has been added with respect to periodic inspections performed under § 215.25. This new requirement will enable each railroad to learn when a car is nearing its next periodic inspection date. It will also serve as the only recordkeeping requirement for inspection because the recordkeeping proposed under § 215.29 has been deleted as to onerous. Also new is the requirement for stenciling certain "high utilization" cars under paragraph (c)(6) of § 215.11. This is considered an essential means of identifying those "high utilization" cars permitted to be inspected at less frequent intervals under § 215.25(a). Examples of the stenciling required by § 215.11(c) are set forth in a new Appendix C.

There was some interest in making the stenciled markings visible both night and day through the use of reflective materials. The FRA does not consider it necessary to require reflective or luminescent materials for stenciling, although their use is not precluded by the rule and would facilitate visibility. Regardless of the method or material used for stenciling, the marking must be legible at all times. If markings are illegible, the car involved must be inspected or lubricated, as the case may be, as provided in paragraph (d). If the "high utilization" stenciling under paragraph (c)(6) is missing, incorrect, or illegible, then in accordance with § 215.25(a) the car involved may not be operated unless it meets the inspection requirements under § 215.25(a)(2).

As a result of comments received in Docket No. RSFC–3, a new requirement (designated as paragraph (b)) has been added to § 215.11 for additional stenciling immediately following the car number to highlight those cars whose operation is restricted under the new § 215.225. Marking the restricted cars is considered necessary for purposes of identification to ensure compliance with the operating restrictions. Also, many cars are subject to the restrictions because of components which are inconspicuous. These cars might go undetected by operating personnel but for an identifying marking on the car.

*Section 215.13* This section in the notice has been redesignated as § 215.19.

*Section 215.15 and 215.17* No changes were made in these sections.

*Section 215.19* The requirements proposed in this section have been modified as discussed hereafter under the heading "Docket RSFC–3" and are now contained in a new Subpart J.

*Section 215.29* The name of the inspection required by this section has been changed to "safety inspection" rather than "visual inspection," as proposed in the notice, to better reflect the purpose of the inspection and to permit the use of mechanical or electrical devices in addition to visual means in conducting the inspection. Substantively, each inspection must be carried out in accordance with instructions submitted for approval to the FRA before February 1, 1974 and approved by the Administrator. Because the June 30, 1973 date proposed in the notice for commencement of the inspections has passed, a new starting date has been set in paragraph (a) of § 215.23. Beginning on June 1, 1974, each railroad freight car in operation (loaded or empty) must be given a "safety inspection" by a qualified person designated under § 215.15 when the car is placed in a train. If a car is placed in a train at a location where a qualified person cannot make the inspection except where the train is originally made up, other available employees must inspect the car to ascertain whether or not it is in safe condition for movement. The car must then be given the required "safety inspection" at the next point where a qualified person is available. Cars must always be inspected by a qualified person where the train is originally made up. The notice would have required railroad freight cars to be inspected only at the initial terminal of a train, or where it is originally made up. The final rule has been broadened slightly to require the inspection of cars picked up en route after a train leaves its initial terminal.

*Section 215.25* The periodic inspections proposed in this section generated numerous comments which have resulted in modification of the final rule. The notice provided that a car would have to be inspected initially during the first 7 years or 150,000 miles after it is built or reconditioned, and every 2 years or 50,000 miles thereafter. However, certain "high utilization" cars would have been inspected strictly on the mileage basis.

Several commenters overstated the expense of moving a railroad freight car to a repair track for the purpose of the periodic inspection requirement. Although recognizing there will be an expense involved, the FRA believes that periodic inspections required by this section may be scheduled to coincide with industry or other Federal requirements, and thereby realize a savings in the cost of inspection. For instance, some commenters indicated that a freight car is normally placed on a repair track an average of 3 or 4 times annually. If this is the case, there will be ample opportunity to control and limit the movement of freight

cars to repair tracks for purposes of periodic inspections.

Most commenters stated that mileage accounting procedures are not currently used to establish the number of miles operated per car, and pointed out the difficulties of monitoring inspections on a mileage basis. Various alternates were suggested such as basing the periodic inspection on wheel wear, making the inspection coincident with the air brake C.O.T. & S. Inspections, inspecting on a 5-year basis to match the usual repainting schedules, or taking advantage of other normal shopping periods. Much concern was expressed that inspection requirements as proposed would have a serious impact on car utilization and supply, with possible delay in movement of loaded cars. One commenter remarked that all cars could not be brought into compliance before the proposed deadline and that an inflexible deadline would require cars to be withdrawn from service pending inspection. Unsupported estimates of time loss for periodic inspections varied from 4 or 5 hours to 10 days.

The handling of cars of private car ownership and cars leased to other railroads or operators was addressed by many commenters. A question was raised as to the need for such cars to be returned to home shops (either of railroad or private car owners), with loss due to empty transit and prohibitive costs resulting from tariff schedules. Certain commenters assumed that the locations at which periodic inspections could be made would be severely limited because of the need for qualified inspection personnel.

Various examples of apparent excessive frequency of inspection that would be required by a 50,000 mile limit were stated. One group of "high utilization" unit train cars with approximately 158,000 miles per year operation was estimated as requiring inspection three times per year, while another group in similar service but used 90,000 miles per year would need only three inspections in two years. Another example was that a certain low mileage service would operate less than 7,200 miles per year and yet require periodic inspection every two years. One commenter argued that certain high mileage cars, such as unit train cars, were not exposed to the rigorous conditions of general service and did not need the same frequency of periodic inspection.

After considering the comments received regarding § 215.25, the section has been modified. The final rule provides that after December 31, 1976, each railroad freight car in service, other than a high utilization car, must have been inspected within the preceding 48 months, unless the car was built or reconditioned within the preceding 96 months. Each high utilization car must have been inspected within the previous 12 months, unless the car was built or reconditioned within the preceding 24 months. However, a high utilization car for which a railroad maintains mileage records to show that the car traveled less than 25,000 miles in the preceding 12 months, and which is stenciled under § 215.11(c)(6), may be inspected at the same intervals applicable to other than high utilization cars. The final rules defines a "high utilization car" as one that is equipped to carry trucks, automobiles, containers, trailers, or removable trailer bodies, or that is assigned to a train operating on a continuous round trip cycle. By June 1, 1974, each railroad must submit to the FRA for approval, a program to bring its freight cars into compliance with § 215.25(a).

Because of the absence of reliable information concerning useful mileage data, the frequency of the periodic inspection requirements have been established on a time basis. The time periods are related to an approximate mileage range for normal service. The time limits for other than high utilization cars are fixed to provide that new or reconditioned cars will be inspected within an initial 200,000 mile limit, and within an average 100,000 miles thereafter, assuming an annual car mileage of about 25,000 miles. The new time requirements should relieve the concern regarding excessive frequency of inspections.

FRA expects that freight cars which do not fall within the definition of a "high utilization car" in § 215.25(b) but which travels more than 25,000 miles annually, will be inspected at correspondingly more frequent intervals than are required by § 215.25(a)(1).

The Association of American Railroads (AAR) concept of inspecting freight cars whenever they are placed on repair tracks has considerable merit. FRA agrees that the more frequent inspections which would result in many instances would be desirable. Although FRA has not incorporated this concept in these standards, railroads are not precluded from adopting this as an industry-wide practice. FRA would welcome this development. However, all freight cars must receive the periodic inspections within the maximum intervals prescribed in § 215.25. Following the inspections under the requirements of § 215.27 the cars inspected must be restenciled accordingly to indicate the latest periodic inspection.

If it is assumed, as the AAR estimated, that a freight car receives repair track movement on the average of 3 or 4 times annually, their periodic inspection can be accomplished coincident with other normal maintenance. By taking advantage of normal repair track movements, the adverse effects on car utilization anticipated by some commenters should be minimized. It is expected that as inspection forces become familiar with requirements the estimated time out-of-service will be substantially reduced. Repair track facilities should be adequate for making all inspections; and there are more than 450 such facilities scattered throughout the Nation, in addition to the more complete repair shops. Also, shops which are not railroad owned should be able to perform the inspections. These shops, however, would have to cooperate with the related railroad managements in establishing qualifications of personnel as required by § 215.15. Railroads that accept cars inspected at privately owned or contract repair shops and place them in service are responsible for compliance of those cars with Part 215.

*Section 215.27* This section has been modified by adding the word "couplers" in paragraph (b) of the section to the list of components included in a draft system. The few comments received relate to the high cost-benefit ratio anticipated if disassembly of components were necessary to comply with the inspection requirements of § 215.25, as well as the service and utilization losses mentioned under § 215.25, *supra*. The FRA has not specified in § 215.27 that suspension and draft systems be dismantled for the required inspections because present industry inspection practices are adequate without disassembly in most instances. Knowledge of the components involved by the qualified person conducting an inspection should be sufficient to determine when disassembly is necessary. If components are inspected and found to be functioning as intended, without indication of excessive wear or malfunction, disassembly should not be necessary. It may be, however, that some arrangements, such as draft gears, will require disassembly, but these instances should be minimal.

This section has also been modified to make it clear that the required examination determined whether the suspension and draft systems and listed components, comply with the requirements of Part 215.

*Section 215.29* This section, which would have prescribed certain record-keeping requirements, has not been included in the regulations in view of the almost unanimous contention that it would impose an extremely expensive administrative burden on the railroads.

*Section 215.31* This section in the notice has been redesignated as § 215.29 without change.

*Section 215.33* This section in the notice has been redesignated as § 215.31 without change.

*Section 215.43* Most commenters requested that the various limits proposed to establish wheel defects under this section be increased. However, supporting data were not furnished to justify increasing the limits in the final rule above those proposed. The established limits are based on present industry standards and requirements of the Locomotive Inspection Regulations (49 CFR Part 230). The FRA accident reports and investigations indicate that the limits should not be changed.

A minor editorial change was made in paragraph (i) of § 215.43. Several commenters recommended that the word "continuous" be substituted for "contiguous" because the former is present industry terminology and well understood. To clarify any misunderstanding, the word "adjoining" has been added in parentheses following "contiguous."

One commenter recommended that paragraph (p) of § 215.43 be deleted because coloration is not a satisfactory indicator of overheating and that presently there is no adequate indicator. Nevertheless, coloration has been used for years by the railroad industry and is currently recommended by the Association of

American Railroads. Until a more adequate method is developed, the FRA has adopted the coloration test as the most practical safety standard.

*Section 215.55* In response to one comment, the "damage" which would render a journal defective, as originally proposed in subdivision (b), has been more explicitly stated in the final rule in terms of the type of damage.

Paragraph (d) of this section has been deleted as suggested by several commenters. In this paragraph (p) it was proposed that any journal stamped with the mark "RJ" would be considered defective. Commenters pointed out that failures normally occur on axles marked "RJ" in a relatively short time after reconditioning, and all the "RJ" axles in service now have been in service for seven years and will be removed by 1976. The FRA accident records indicate, however, that these axles are continuing to fail. Consequently, the proposal in paragraph (d) of this section to consider journals stamped "RJ" as defective has been modified and transposed to Section I of Appendix B in the list of prohibited railroad freight car components.

*Section 215.83* One commenter was confused by the FRA's use of the word "journal" to refer to the type of bearing commonly called "friction," "brass," or "plain." In recent years, for clarity, most publications have used the term "plain bearing." Therefore, to distinguish between the two types of journal bearings, the FRA has adopted the terms "plain bearing" and "roller bearing."

Changes were made to paragraphs (a), (b), and (c) of this section. Paragraph (a) now provides that a plain bearing box must have some free oil. The proposal that it must have at least one-fourth inch of oil was based on proper maintenance practices. The FRA decided, however, that the proposal was unrealistic from a safety standpoint. Paragraph (b) has been rewritten to reflect comments pointing out that a box lid must be closed to perform its intended function. Finally, in paragraph (c), the specifically named contaminants originally set forth were changed to the more general provision that the box cannot contain any foreign matter which has a detrimental effect on the lubricant.

*Sections 215.85 and 215.87* No substantive changes were made in these sections.

*Section 215.89* Paragraph (b)(3) in the notice was deleted from the final rule because several commenters pointed out that other methods to determine overheating listed in paragraph (b) are more accurate, and that conditions other than overheating sometimes cause the journal to have a blue color. Also, in this section the wear limits on the plain bearings have been changed to correspond to the industry standards. A sketch indicating the condemning dimensions have been added to the final rule.

*Section 215.91* The wear limits proposed for the wedges have been changed to correspond to the industry's recommended standards.

*Section 215.93* Several commenters contended that paragraph (a) would be too restrictive and that an exception should be provided for minor yard derailments. The FRA's records indicate that even in a minor yard derailment the outer ring and cage of a roller bearing can be damaged by the initial impact of the wheel contacting the road bed. Therefore, no change has been made in the final rule.

In paragraph (b)(1), the methods specified in the notice for determining overheating in excess of 200° F were deleted as unnecessary.

Several commenters felt that the requirement in paragraph (b)(2) condemning a roller bearing for a "loose or missing cap screw" would be too restrictive. Apparently, they confused the proposal with the industry practice of disassembling, inspecting, and repairing a bearing when two or more cap screws are missing. Paragraph (b)(2) does not require an inspection similar to paragraph (a) of this section. It only requires that the defect be corrected.

In response to several commenters the word "loose" has been deleted from paragraph (b)(4) of § 215.93. The FRA agrees that a side frame key can be loose and still perform its function. Several commenters felt that the truck side frame key had no connection with the performance of the roller bearing. The purpose of the key is to retain the wheel, axle, bearing, and adapter assembly in their normal positions when the truck side frame lifts in service. If these components are not retained in position, critical defects can develop.

Paragraph (b)(6) of § 215.93 has been deleted in response to one comment indicating that a fresh accumulation of grease, as described in that paragraph, would be an indicator of a nonfunctioning seal which would be proscribed under paragraph (b)(5).

*Section 215.95* One commenter suggested that paragraph (b) be modified to take into account markings on the seal assembly caused by a bearing of the wrong size. The suggestion has not been adopted because the language in paragraph (b) specifies that an adapter is defective only when the adapter is "marking the seal assembly." Marking is a sign that the adapter may be defective. The exact cause of the marking must be determined by inspection.

In response to some commenters, Figure 8 has been added to clarify the defect described in paragraph (c) of § 215.95.

Paragraph (d), of § 215.95 proposed in the notice, has been deleted as redundant for purposes of safety.

Paragraph (e) of § 215.95 in the notice has been redesignated as paragraph (d). With respect to this subdivision, one commenter requested that the proposed .025 inch limit for wear on the thrust shoulder of narrow adapters be changed to .050 inch. This request was not supported by data to justify an increase in the wear limit. The FRA believes that the proposed limit is a critical dimension with respect to bearing failure, and no change has been made in the final rule. Because wear usually occurs on the outer shoulder, the adapters can be reversed if not defective under this rule. Reversal would allow almost .050 inch of total wear. Figure 9 has been added to illustrate this defect.

*Section 215.97* At the recommendation of one commenter, paragraph (b)(7) has been changed to require the addition of free oil until an amount is visible in the bottom of the box after the lubricator is resaturated. The proposal that a specific measurement of oil be visible after resaturation has been deleted. The FRA believes the revised version is adequate for minimum safety and eliminates the likelihood of the loss of wheel traction caused by excess oil running out of a box which is not equipped with rear seal protection.

*Section 215.99* In paragraph (a), the typographical errors published in the chart have been corrected.

Several commenters felt that the time periods specified for lubrication of roller bearings under this section would deter the present rapid rate of technological development in the field. The FRA will evaluate technological progress and will not permit the rule to hinder further progress. The time periods may be amended whenever technology so justifies. In the meantime, the waiver provisions of § 215.17 provide the flexibility necessary to permit experimental use of new technology. The FRA has noted, as one commenter pointed out, that improved roller bearings may not require periodic lubrication. The original lubrication may last for the life of the parts. Therefore, this section has been modified to apply only to bearings which must be periodically lubricated by design.

One commenter pointed out, in response to paragraph (c)(2) of this section, that a dispensing device does not require "weekly" checking because of its reliability and restricted use. The FRA agrees, and the rule has been changed to require monthly checks on the accuracy of the device.

*Section 215.101* This section in the notice has been deleted as surplusage.

*Section 215.103* The provisions proposed in this section are incorporated in § 215.11.

*Section 215.123* Several commenters contended that the restriction of wear to 25 percent of cross section in paragraph (a)(4) would be prohibitive. These commenters stated that the industry standard is 40 percent in certain wear areas and that these areas could safely be built-up to original dimensions by welding. The FRA decided to change the final rule to allow for the greater wear limits in friction snubber pockets, gibs, column guides, and cast integral brake beam supports and to permit the weld buildup for repair.

Regarding paragraph (c) of § 215.123, commenters were primarily concerned that side bearings act in pairs while the wording in the notice addressed only a single side bearing. The wording of this subdivision has been changed to reflect the plurality of the foundation of side bearings. Also, a new paragraph (4) has been added, limiting the total clearance of diagonally opposite side bearings.

Several comments indicate that the term "spring package," as proposed in

paragraph (d) of § 215.123, could be construed to mean a prepackaged unit rather than an assembly made up of individual springs and snubbers. The FRA decided to change the wording from "spring package" to "spring assembly" to avoid possible confusion.

A few commenters pointed out that many car trucks do not have spring planks by design and would be defective under the "spring plank missing" provision proposed in paragraph (e) of § 215.123. As a result, this has been rewritten to apply only to trucks whose design includes spring planks.

*Section 215.125* (This section in the notice has been redesignated as § 215.153). Paragraph (a) provides that a car body is defective if it has less than 2½ inches clearance above the rail. Numerous commenters asked that this requirement be liberalized although no evidence was submitted to support the safety of allowing a closer clearance. The 2½ inches requirement comports with the Locomotive Inspection Regulations; and the FRA believes it would not be advisable to change the minimum clearance in the absence of supporting data.

Several commenters suggested that paragraph (d) of the section (now redesignated as paragraph (e)), regarding a broken, cracked, or bent center sill, be limited to that portion of the center sill which is between bolsters and not applied to the draft portions outside the bolsters. The FRA feels that the most critical portion of the center sill, from a safety standpoint, is the draft portion the commenters want to eliminate. A failure in the draft portion can result in a trainbreak and the inherent hazards involved. For this reason, the subdivision has not been changed.

With respect to paragraph (f) of the section (now redesignated as paragraph (g)), numerous commenters would limit the defect caused by a broken side sill, body bolster, or cross bearers to situations in which the car body bears on the truck and restricts swiveling or interferes with the running gear. The FRA feels that a break in these members is indicative of a serious problem which should be corrected before it deteriorates to where the car body bears on the track.

*Section 215.173* In paragraph (a)(3), the words "front face" have been changed to "guard arm" and "less than" changed to "more than" as a result of comments indicating the language in the proposal was incorrectly stated.

Comments from several sources reveal that the wear limit proposed for "F" type couplers is not the industry standard. Instead of 5/16 inch as proposed, the correct dimension is 7/16 inch, and the rule has been changed accordingly. The dimensions on "E" and "F" couplers are the same. Thus, the wear limits under paragraphs (a)(2) and (b)(1) of the section are the same.

*Section 215.175* Several commenters were concerned that knuckles cannot be gaged while in place in the coupler. Although this may be true, there is no need to gage the knuckle until the coupler assembly is condemnable by gages 3 and 4. When this occurs, the knuckle should be removed and gaged to determine if the knuckle or the coupler should be replaced.

In paragraph (c)(3) of this section, the phrase "open top car" has been replaced with "hopper car" and "gondola car." This change makes the defective condition applicable only to those cars which may be subject to roll-over dumping.

*Section 215.177* Several commenters pointed out that uncoupling levers were also covered by the Safety Appliance Acts and the attendant regulations. The FRA believes there is a need for double coverage because under the Safety Appliance Acts the coverage relates to intentional uncoupling of cars, whereas this new safety standard covers the problem of unintentional, or accidental, uncoupling and the inherent hazard therein.

*Section 215.179* Numerous commenters stated that the interlocking features on "F" couplers would not be a valid safety requirement because "E" couplers are not so equipped and the "F" coupler can function as an "E" coupler even if its interlocking features are defective. The FRA agrees with this general statement and has modified the requirement respecting an interlocking to apply only to cars covered by the Hazardous Materials Regulation, 49 CFR 179.14.

*Section 215.193* Commenters were concerned as to what constitutes a "break" under paragraph (a). In response to this query, the FRA has defined "break" in § 215.5 as a fracture or separation resulting in a loss of structural integrity so that the component can no longer perform the function for which it was designed.

The wear limits in paragraphs (b) and (d) of this section were the subject of numerous comments. Since an arbitrary dimension as proposed may not fully reflect the safety of a given part, especially if a difference in material is involved, the FRA decided that it is more reasonable to adopt a percentage of cross section limitation rather than a finite dimension.

*Section 215.195* This section has been revised to require that immobilization instructions for cushioning devices be affixed to the devices. Paragraphs (a) and (b) of this section, as proposed in the notice, have been rewritten and transferred to a new § 215.197. With respect to paragraph (b) in the notice, numerous commenters were concerned about the proper procedure for immobilizing a cushioning unit. Because proper immobilization is important and could affect the safe movement of the car, the FRA decided that instructions to effect immobilization must be readily available to railroad personnel by being affixed to each of the units. The instructions on each unit should conform to the manufacturer's recommendations for immobilization. Preferably, only the manufacturer's instructions should be used.

*Section 215.197* This is a new section which includes provisions proposed under § 215.195. Paragraph (b) requires immobilization of a cushioning unit in accordance with instructions affixed to the unit.

*Docket RSFC–3.* The FRA received many comments in Docket RSFC–3, Prohibited Equipment, 23 of which were from non-Class I railroads. These non-Class I railroads that commented have a combined reported ownership of 4,535 cars, or approximately three-tenths of one percent of the Nation's freight car fleet. These commenters requested the FRA to take into account their exceptional safety records which they attribute to operating cars at low speeds over short distances.

The FRA accident statistics reveal that the non-Class I railroads that commented reported a total of 51 derailments and three personal injuries for the years 1968–1972. A further investigation of accident data for the same period reveals that all Class I railroads reported 1.26 casualties per million train miles, whereas all non-Class I railroads had a combined casualty rate of .64 per million train miles. A casualty rate of almost one half the Class I railroads rate substantiates the claim of the non-Class I railroads that their low speed, low density, short haul operations are generally safer than the higher speed, longer haul operations of the Class I railroads.

In commenting on the proposed rules, the American Short Line Railroad Association (ASLRA) reported that its 152 members operate trains at an average speed of slightly over 13 m.p.h., over an average distance of 13.5 miles. The ASLRA also stated that its members operate a controlled fleet of cars, which are captive on an owning railroad's line because they are not interchanged with other railroads. Many of these cars are of the type that would have been prohibited by the proposed rules. In fact, the ASLRA indicated that about 16,000 cars operated by the short lines would have to be replaced or modified at great expense if the proposed rules were adopted.

Because the FRA accident data substantiates the claims made by the non-Class I railroads as to their generally safer operating environments when compared to that of Class I railroads, it was decided to revise the proposed prohibited car rules to permit the continued operation of cars more than 50 years old and cars with certain components, but only upon approval of the Federal Railroad Administrator.

Consequently, the proposed prohibited components included in the notice were divided into two categories. Section I of Appendix B contains those car components which have a high failure rate and a history of causing catastrophic accidents. Section 215.223 provides that beginning on January 1, 1975, these components are prohibited in all railroad freight car operations. The components may continue to be used until then, but not on a car transporting hazardous materials. Section II of Appendix B lists components which have a high failure rate in long haul, high speed, high density service but which have a history of lower failure rates in low speed, low mileage, low density, controlled operating conditions. Section 215.225 provides that cars equipped with these components, cars more than 50 years old, and cars with a Duryea underframe constructed before April 1, 1950, may only be operated upon approval of the Federal Rail-

road Administrator. Because of the slight danger involved, an exception is provided for a caboose with a Duryea underframe constructed before April 1, 1950, which is operated as the last car in a train.

As stated, Appendix B in the notice, which contained the list of components proposed to be prohibited from service, has been divided into two sections. Section I lists those components whose use is prohibited in railroad service by the final rules. Section II lists those components whose use in railroad service is restricted by a requirement that prior approval of the FRA must be obtained. The following analysis discusses the FRA's disposition of each model or type of component in the order in which it was included in the notice:

*"K" type air brake.* By an order effective December 31, 1954 (Docket No. 13528), the Interstate Commerce Commission effectively prohibited the use of "K" brake equipment in freight service by common carriers by rail. This order was adopted by the FRA effective April 1, 1967, at the inception of the Department (32 FR 5612). The prohibition of "K" brakes by Part 215 repeats the effect of that order to the extent that it applies to railroad freight cars operating on track which is in the general railroad system of transportation. (See § 215.3) Although the Association of American Railroads has forbidden "K" brakes to be used on cars in interchange, it should be noted that Part 215 and the 1954 ICC order apply irrespective of whether a car is interchanged.

Comments regarding "K" brakes were limited to such uses as "engaged in tourist summer operations," "museum and historical interests," and a "large mining operation." These uses would appear to be of the type not covered by Part 215, either because the use is not in the general railroad system of transportation or it involves a car once used to carry freight but which has been redesigned to carry passengers. This does not mean, however, that such users are exempt from the 1954 ICC order that is concurrently in effect prohibiting "K" brakes. The applicability of the ICC order is somewhat broader than Part 215 in that it affects all common carriers by rail in interstate commerce and applies to passenger cars as well as freight cars. Any inconsistency which may result between any waiver or exemption from the 1954 ICC order and Part 215 would be resolved in favor of Part 215, insofar as Part 215 applies to the facts involved.

*Axles.* Industry comments substantiate the high failure rate of "AAR alternate standard tubular type" axles. Therefore, the proposed prohibited use of this axle has not been modified in the final rule.

Because, as originally proposed under § 215.55, an axle stamped "RJ" would be defective and could not be used, this type of axle has been included in the list of prohibited components in section I of Appendix B. Contrary to some comments, in recent months the FRA has received reports of accidents resulting from the failure of axles with journals stamped "RJ."

*Plain bearings.* It was proposed to prohibit the solid cartridge type plain bearing because the AAR forbids its use on car in interchange and it was not believed to be acceptable for railroad service. However, the comments indicate that the solid cartridge bearing is an improvement over the regular plain bearing and that there are very few still in service. In view of these comments and since the failure rate is not high, the cartridge bearing has been included in section II of Appendix B for restricted usage only.

*Roller bearings.* The proposal to prohibit the use of three types of roller bearings respectively marked AAR 2, AAR 7, and AAR 11 has not been changed in the final rules. Most commenters sustained the FRA's opinion that these bearings are unsatisfactory for railroad service.

*Couplers.* The final rules permit the two couplers, AAR type D and AAR type E (5" x 7" shank), included in the notice to be used under limited conditions. The couplers are both listed under section II of Appendix B. The "D" coupler is an earlier design that has been replaced by the type "E" coupler. Many commenters disclosed, however, that the "D" coupler is still being used safely under low speed, low mileage, non-interchange operating conditions. The "E" coupler is also being used safely under the same controlled operating conditions, although in comparison with other designs it proved unsatisfactory in interchange service.

*Draft gears.* It was proposed to prohibit the Miner FR–16 and FR–19 draft gears because they close beyond their maximum travel, resulting in fatigue conditions from excessive impacts. Nevertheless, the comments indicate that these gears can be used safely in operations where there is an opportunity for adequate supervision and control. For this reason the FR–16 and FR–17 draft gears are now listed in Section II of Appendix B.

*Trucks.* The "arch bar" type truck is now listed in Section II of Appendix B based on comments which indicate it is being used safely in low speed, non-interchange service.

It was proposed to prohibit truck frames cast from a material other than steel. However, all recently constructed truck frames are cast in steel. The proposal would have applied to only a very few older truck frames. Therefore, because it would have very little effect on railroad safety, the proposal has been deleted.

The proposed prohibition of transom frame trucks has also been deleted in the final rules because it is evident that there are only a very few in existence. These few are in controlled, non-interchange service and are not a problem. This deletion also eliminates any confusion that might have existed in distinguishing between the old transom frame truck and the somewhat similar truck presently used on a number of cabooses.

Because all recently constructed truck bolsters are cast in steel, the proposal to prohibit bolsters cast from any other material has been deleted in the final rules. The proposal would have applied to a very few older truck bolsters, resulting in a slight effect on railroad safety.

A truck with a cast steel pedestal type side frame, a short wheel base, and no bolster was proposed to be prohibited because it had proved unsafe in interchange service. The comments, however, indicate that this truck is being operated safely in low speed, low capacity, non-interchange service. In consideration of these comments, this type of truck is now listed in section II of Appendix B, which allows its use only after approval of the FRA.

*Truck bolsters.* Bolsters cast prior to the year 1927 were proposed to be prohibited because they cannot meet the criteria for testing which became effective in 1927. However, as a result of many comments indicating their safe usage in non-interchange service, these bolsters have been included in section II of Appendix B and may be used under limited conditions.

The prohibition against bolsters that do not have identification marks or pattern numbers was proposed in the notice because these bolsters may be of questionable quality and capacity. However, because commenters indicated that these bolsters have been used safely in controlled, non-interchange service, they also have been included in section II of Appendix B.

Because of reported high failure rates, certain bolsters with pattern numbers listed under the manufacturers, A.S.F., Dresser (Symington), Birdsboro, and Lenoir car works, were proposed to be prohibited. The comments do not contain sufficient evidence to warrant a modification in the final rules. However, the list now included in section I of Appendix B was modified to (1) replace Birdsboro 1668 with Birdsboro 1468, correcting an error in the notice, and (2) delete A.S.F. 21413–D. The A.S.F. number has been removed because the FRA believes that there is no bolster with this number.

*Truck side frames.* Because of their high failure rates, certain truck side frames listed by pattern numbers were proposed to be prohibited from service. Most commenters verified the high failure rates; and no evidence was presented to warrant any modification of the proposal in the final rule. Therefore, as proposed in the notice, section I of Appendix B contains the list of prohibited side frames by pattern numbers according to the following manufacturers: A.S.F., National Castings, Buckeye, Dominion, Pittsburgh Steel Foundry, Scullin Steel, Bettendorf, and Canadian Steel Foundry. Scullin Steel 4451 has been deleted from the list because the FRA believes that there is no side frame with this number.

It was also proposed to prohibit the use of other side frames on a car truck—namely, those which (1) were cast prior to 1927, (2) do not have an identification

mark or pattern number, or (3) have an "I," "T," or "L" section compression or tension member. The comments, however, indicate that these side frames are being used safely in low speed, non-interchange service. Thus, instead of prohibiting entirely their use, FRA has decided that they may not be used without prior FRA approval.

*Wheels.* It was proposed to prohibit the use of cast iron wheels because of reported accidents caused by the failure of the wheels. Cast iron wheels have not been produced since the 1950's due to the tendency for shelling of rim metal and broken flanges. Many comments indicate that a number of these wheels are still being used in limited service without problems. Nevertheless, because the wheel is one of the most critical railroad freight car components, and a wheel failure can result in a catastrophic accident, the use of cast iron wheels has been prohibited as proposed.

Cast steel wheels marked "AAR X–2" are an experimental design manufactured with 1½ percent carbon. The FRA believes that railroad experience proves the high carbon content to be undesirable and many commenters are in accord. Therefore, these wheels are prohibited in the final rules.

The notice contained a proposal to prohibit the use of cast steel wheels marked "AAR X–4" because they are experimental wheels produced in very limited quantities, which were forbidden on cars in interchange by the AAR after the manufacturer withdrew them from production. Because of the small number in use and low failure rates, some commenters requested that these wheels be allowed to continue in service until the car truck involved is dismantled. In view of these comments, the FRA has included the "AAR X–4" wheel in section II of Appendix B for restricted usage.

Davis cast steel wheels are an early design withdrawn from production in the late 1930's. Because of the lack of information concerning the manufacturer's withdrawal, this wheel has also been included in section II of Appendix B for restricted usage.

Southern cast steel wheels manufactured before May 7, 1958, are an early design using 1½ percent carbon which was proposed to be prohibited because service performance with high carbon wheels has proved unsatisfactory. The comments sustain the placement of these wheels on the prohibited list in section I of Appendix B.

Griffin cast steel wheels, 70 ton, three riser, ball rim design, were proposed to be prohibited due to their failure rate. Evidence submitted by commenters verifies the high failure rate. Consequently, no change has been made in the final rule, and these wheels are now on the prohibited list in section I of Appendix B.

Wrought steel wheels manufactured before 1927 were forbidden by the AAR to be reused after the truck involved was dismantled. Commenters indicated that this requirement appeared to be based solely upon an orderly program to remove older wheels from service. Commenters also recommended that these wheels be removed on a car's initial trip to the repair track for "cyclical" repairs and inspections. Consideration was given to these comments, and as a result these weels have been placed in section II of Appendix B for use in restricted service.

Griffin cast steel wheels, 70 and 50 ton, 33 inch two-wear, three riser (marked "X5" or "CS–2") are prohibited in the final rules because commenters verified the FRA's evidence of premature failure when these wheels approach minimum rim thickness.

*Yokes.* Riveted, keyless, and vertical key type yokes were included in the list of proposed prohibited components because railroad experience with these yokes has been unsatisfactory. However, some commenters indicated that a number of these yokes are being used in non-interchange service without problems. Therefore, in consideration of these comments, these yokes are now included in section II of Appendix B which only permits their continued use upon approval of the FRA.

In the notice it was proposed to prohibit a Farlow draft attachment from use on a yoke. Commenters indicated that a superior method was developed to connect the draft components and the car body; and the subsequent elimination of the Farlow draft attachment lead to improvement in the rigid shank coupler. Commenters also indicated that Farlow draft attachments are being used in non-interchange service without problems. In view of these comments, the Farlow draft attachment has been included among the components in section II of Appendix B and may be used upon approval of the FRA.

In consideration of the foregoing, Title 49 of the Code of Federal Regulations is amended by adding a Part 215 to read as follows, effective January 1, 1974.

Issued in Washington, D.C. on November 12, 1973.

JOHN W. INGRAM,
*Administrator.*

**Subpart A—General**

*Sec.*

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Appendix B—Railroad freight car components.
Appendix C—Stenciling examples.


AUTHORITY: Secs. 202 and 209, 84 Stat. 971 and 975, 45 U.S.C. 431 and 438; and § 1.49(n) of the regulations of the Office of the Secretary of Transportation, 49 C.F.R. 1.49(n).

## Subpart A—General

### § 215.1 Scope of part.

This part prescribes minimum Federal safety requirements for railroad freight cars.

### § 215.3 Application.

(a) This part applies to railroad freight cars operating on standard gage track which is part of the general railroad system of transportation.

(b) This part does not apply to railroad freight cars which are operated only on track inside an installation which is not part of the general railroad system of transportation.

### § 215.5 Definitions.

As used in this part—

(a) "Break" means a fracture or separation resulting in a loss of structural integrity so that the component involved can no longer perform the function for which it was designed.

(b) "Railroad freight car" means a car designed to carry freight or railroad personnel by rail, and includes a—

(1) Boxcar;
(2) Refrigerator car;
(3) Ventilator car;
(4) Stock car;
(5) Gondola car;

(6) Hopper car;
(7) Flatcar;
(8) Special car;
(9) Caboose car;
(10) Tank car; or
(11) Yard car.

(c) "Reconditioned" means that all railroad freight car components subject to requirements of this part have been restored by repair or replacement to—

(1) Their original condition; or

(2) A physical and functional condition which is equivalent to or better than their original condition.

### § 215.7 Responsibility for defective cars.

Any railroad that knows, has notice, or should have known that a railroad freight car that it operates has any component which is described as defective in this part is responsible for compliance with this section. Subject to § 215.9, each railroad freight car which has a component described as defective in this part must be—

(a) Repaired; or

(b) Removed from service.

### § 215.9 Movement of defective cars for repair.

(a) Except as provided in paragraph (b) of this section and § 215.197(b), a railroad freight car which has any component described as defective in this part may be moved for repair only after—

(1) A person designated under § 215.15 determines—

(i) That it is safe to move the car; and

(ii) The maximum speed and other restrictions necessary for safely conducting the movement; and

(2) All operating personnel on the train in which the car is to be moved are notified in writing of the presence of the defective car and the maximum speed and other restrictions determined under paragraph (a)(1)(ii) of this section.

(b) For purposes of paragraph (a) of this section, when a railroad freight car is discovered to have any component described as defective in this part at a location where a person designated under § 215.15 is not on duty, but the car is inspected by available personnel and found to be safe to move, the car may be moved to the next location en route where a person designated under § 215.15 is on duty.

### § 215.11 Stenciling.

(a) The railroad or private car owner reporting mark and the car number must be stenciled in clearly legible letters and numbers at least 7 inches high on each side of each railroad freight car body. However, on tank cars the reporting mark and car number may appear in any location on the car that is visible to a person walking at track level alongside the car.

(b) After March 31, 1974, the following must be stenciled in clearly legible letters on each side of each railroad freight car described in § 215.225(a):

(1) Immediately following the car number, in the same color as the reporting mark, the symbol "—X" (a hyphen and the letter X), the letter X of which must be the same size as the reporting mark.

(2) Following the symbol "—X", in letters at least 1 inch high, as many of the following terms as are needed to completely indicate the basis for the restricted operation of the car under § 215.225:

(i) Age.
(ii) Coupler.
(iii) Draft.
(iv) Bearings.
(v) Truck.
(vi) Underframe.
(vii) Wheels.
(viii) Yoke.

(c) The following must be stenciled in a tabular form in clearly legible letters and numbers at least 1 inch high on each side of each railroad freight car body:

(1) The symbol "BLT" followed by the month and year the car was originally constructed.

(2) If the car has been reconditioned, the symbol "RCD" followed by—

(i) The month and year it was last reconditioned;

(ii) The reporting mark of the railroad that initially operated the car after it was last reconditioned; and

(iii) Letters or abbreviated words which identify the entity that last reconditioned the car.

(3) If the car is equipped with plain bearing boxes, the symbol "RPKD" followed by a hyphen and the number of months (24 or 30) within which the boxes must be lubricated under § 215.97.

(4) If the car is equipped with roller bearings which by design must be periodically lubricated, the symbol "LUB" followed by a hyphen and the number of months (12, 18, or 36) within which the bearings must be lubricated under § 215.99.

(5) Except for a car originally constructed or reconditioned within the period required by § 215.97 or § 215.99 for lubrication of its journal bearings, following the marks stenciled in accordance with paragraphs (c) (3) or (4) of this section:

(i) The month and year all journal bearings were last lubricated as required by § 215.97 or § 215.99;

(ii) The reporting mark of the railroad that initially operated the car after that lubrication; and

(iii) Letters or abbreviated words which identify the entity that performed the lubrication.

(6) In the case of a "high utilization" car for which a railroad maintains mileage records under § 215.25(a), the symbol "HU" followed by—

(i) The reporting mark of that railroad; and

(ii) Letters or abbreviated words which identify where the records are located.

(7) After December 31, 1976, except for a car originally constructed or reconditioned within the period required by § 215.25 for periodic inspection, the symbol "INSP" followed by—

(i) The month and year the car was last inspected as prescribed by § 215.27;

(ii) The reporting mark of the railroad that initially operated the car after that inspection; and

(iii) Letters or abbreviated words which identify the entity that performed the inspection. Appendix C to this part contains examples of stenciling required by this paragraph.

(d) Whenever any portion of the information which must be stenciled on a railroad freight car under paragraphs (c)(1)–(5) and (7) of this section is missing, incorrect, or illegible, the car must be inspected or lubricated as follows:

(1) With respect to the information under paragraphs (c)(1) and (2) of this section, the car must be—

(i) After December 31, 1976, inspected as prescribed by § 215.27 unless stenciling under paragraph (c)(7) of this section indicates that the car otherwise complies with the inspection requirements of § 215.25; and

(ii) Lubricated as prescribed by § 215.97 or § 215.99 unless stenciling under paragraphs (c)(3)–(5) of this section indicates that the car otherwise complies with the lubrication requirements of § 215.97 or § 215.99.

(2) With respect to the information under paragraph (c)(3)–(5) of this section, the car must be lubricated as prescribed by § 215.97 or § 215.99.

(3) With respect to the information under paragraph (c)(7) of this section, the car must be inspected as prescribed by § 215.27.

### § 215.15 Designation of qualified persons.

(a) Each railroad that operates railroad freight cars to which this part applies shall designate persons qualified to inspect railroad freight cars for defects prescribed by this part. Each person designated must have demonstrated to the railroad his knowledge and ability to inspect railroad freight cars for compliance with the requirements of this part.

(b) With respect to designations under paragraph (a) of this section, each railroad shall maintain written records of—

(1) Each designation in effect; and

(2) The basis for each designation.

### § 215.17 Waivers.

(a) A railroad may petition the Federal Railroad Administrator for a waiver of compliance with any requirement prescribed in this part.

(b) Each petition for a waiver under this section must be filed in the manner and contain the information required by § 211.11 of this chapter.

(c) If the Administrator finds that a waiver of compliance is in the public interest and is consistent with railroad safety, he grants the waiver subject to any conditions he deems necessary. Notice of each waiver granted, including a statement of the reasons therefor, is published in the FEDERAL REGISTER.

### § 215.19 Civil penalty.

Any railroad that operates a railroad freight car in violation of any requirement prescribed in this part is liable to a civil penalty of at least $250 but not more than $2,500 for each violation. Each

day of each violation constitutes a separate offense.

## Subpart B—Inspection

### § 215.21 Scope.

This subpart prescribes requirements for inspection of railroad freight cars.

### § 215.23 Safety inspection required.

(a) After May 31, 1974, each railroad freight car in a train must be given a safety inspection, in accordance with instructions approved by the Federal Railroad Administrator, by a qualified person designated under § 215.15 at the point where the car is placed in the train. However, except at the point where the train is originally made up, if a qualified person is not on duty at the point where the car is placed in the train but the car is inspected by available personnel for conditions adverse to safe movement, the safety inspection may be performed at the next point en route where a qualified person is on duty.

(b) Before February 1, 1974, each railroad that is in operation on January 1, 1974, and operates railroad freight cars to which this part applies shall submit to the Federal Railroad Administrator for approval under § 215.29 three copies of its instructions for safety inspections of railroad freight cars required by this section. Each railroad that commences operations after January 1, 1974, shall submit its instructions to the Administrator for approval at least 90 days before the date it commences operations. Instructions submitted to the Administrator for approval must include procedures to be followed by qualified persons to assure compliance with all applicable requirements of this part.

### § 215.25 Periodic inspection required.

(a) After December 31, 1976, a railroad may not operate a railroad freight car unless—

(1) In the case of cars other than high utilization cars, the car was inspected as prescribed by § 215.27 within the preceding 48 months or was originally constructed or reconditioned within the preceding 96 months; and

(2) In the case of high utilization cars, the car was inspected as prescribed by § 215.27 within the preceding 12 months or was originally constructed or reconditioned within the preceding 24 months.

However, a high utilization car for which a railroad maintains and makes available to the Federal Railroad Administration a mileage record sufficient to show that the car traveled less than 25,000 miles during the preceding 12 months may be operated if that car meets the inspection requirements of paragraph (a)(1) of this section and is stenciled in accordance with § 215.11(c)(6).

(b) For the purpose of this section, a "high utilization car" is a car—

(1) Specifically equipped to carry trucks, automobiles, containers, trailers, or removable trailer bodies for the transportation of freight; or

(2) Assigned to a train which operates in a continuous round trip cycle between the same two points.

(c) Before June 1, 1974, each railroad that is in operation on January 1, 1974, and has in service railroad freight cars to which this part applies shall submit to the Federal Railroad Administrator for approval under § 215.29 three copies of a program to bring all those cars into compliance with paragraph (a) of this section by January 1, 1977. Each railroad that commences operations after January 1, 1974, shall submit a program to the Administrator for approval at least 90 days before the date it commences operations. Each program submitted to the Administrator for approval must include procedures to be followed by inspection personnel to assure compliance with all applicable requirements of this part.

### § 215.27 Periodic inspection: Suspension and draft systems.

Each inspection under § 215.25 must include an examination, by a person designated under § 215.15, to determine that all components of a railroad freight car's—

(a) Suspension system, including wheels, axles, bearings, adapters, and truck components; and

(b) Draft system, including couplers, cushioning units, center sill, body bolsters, and center plates—comply with the requirements of this part.

### § 215.29 Approval procedures.

Within 90 days after receipt of safety inspection instructions or periodic inspection program filed under this subpart, the Administrator notifies the railroad of his approval or that modification is necessary to comply with the applicable requirements of this part. The railroad may petition the Administrator to reconsider the notice to modify. The petition must be filed within 30 days after the railroad receives the notice. Unless the Administrator specifically decides otherwise, the filing of the petition does not stay the effectiveness of the notice pending a decision by the Administrator.

### § 215.31 Amendment procedures.

(a) The Federal Railroad Administrator may amend any instructions for a safety inspection or periodic inspection program approved under this part—

(1) Upon application by the railroad concerned, if the Administrator determines that safety in rail transportation and the public interest allow the amendment; or

(2) On his own motion, if the Administrator determines that safety in rail transportation and the public interest require the amendment.

(b) In the case of an amendment proposed under paragraph (a)(2) of this section, the Administrator notifies the railroad in writing of the proposed amendment, fixing a reasonable period (but not less than 7 days) within which it may submit written information, views, and arguments on the amendment. After considering all relevant material the Administrator notifies the railroad of any amendment adopted, or rescinds the notice. The amendment becomes effective not less than 30 days after the railroad receives notice of its adoption, unless it petitions the Administrator to reconsider the amendment, in which case its effective date may be stayed by the Administrator. If the Administrator finds that there is an emergency requiring immediate action with respect to safety in rail transportation that makes the procedure in this paragraph impracticable or contrary to the public interest, he may issue an amendment effective on the date the railroad receives notice of it. In such a case, the Administrator incorporates the findings and a brief statement of the reasons for his action in the notice of amendment.

(c) An applicant must file its application for an amendment of instructions or inspection program with the Administrator at least 30 days before the date it proposes for the amendment to become effective.

## Subpart C—Wheels

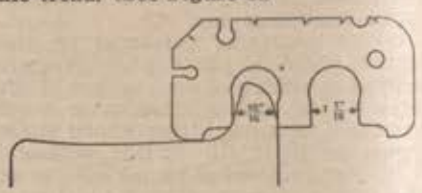
### § 215.41 Scope.

This subpart prescribes minimum safety requirements for wheels on railroad freight cars.

### § 215.43 Defective wheels.

A wheel is defective if it has any of the following conditions:

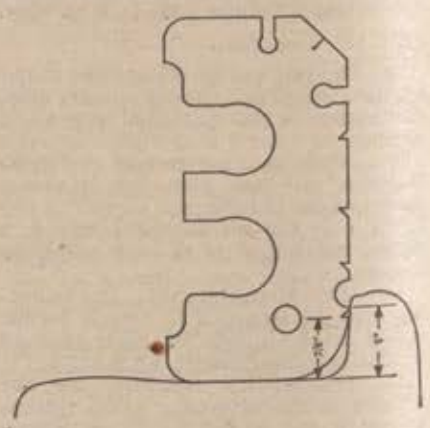
(a) The flange is worn to a thickness of fifteen-sixteenths inch or less measured at a point three-eighths inch above the tread. (See Figure 1.)



METHOD OF MEASURING WHEEL FLANGE THICKNESS USING GAGE NO. 1

FIGURE 1

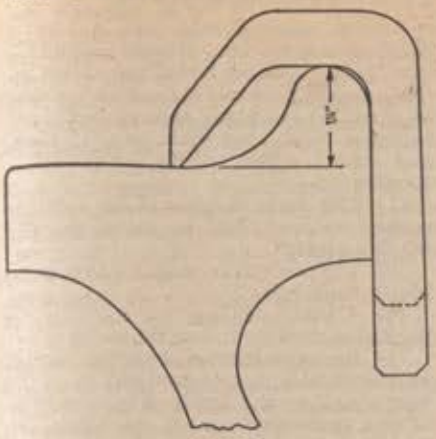
(b) The flange has a flat vertical surface extending 1 inch or more from the tread. (See Figure 2).



METHOD OF MEASURING FLAT VERTICAL SURFACE ON WHEEL FLANGE USING GAGE NO. 1

FIGURE 2

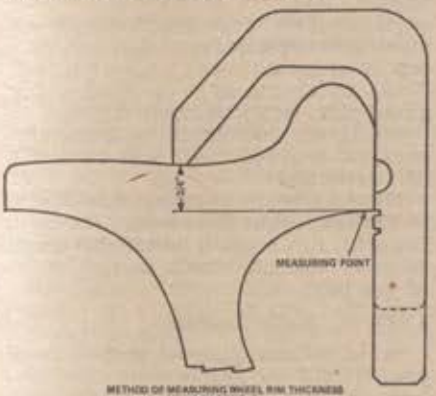
(c) The flange is 1½ inches or more from the tread to the top of the flange. (See Figure 3).



METHOD OF MEASURING WHEEL TREAD WEAR USING GAGE NO. 2

FIGURE 3

(d) The rim thickness is three-quarters inch or less. (See Figure 4.)




METHOD OF MEASURING WHEEL RIM THICKNESS USING GAGE NO. 2

FIGURE 4

(e) A cracked or broken rim, flange, plate, or hub.

(f) A chip in the rim which is—

(1) More than 1½ inches in circumferential length;

(2) More than one-half inch wide measured radially; or

(3) More than one-half inch deep.

(g) A chip on the throat side of the flange.

(h) A chip in the back side of the flange more than 1 inch in circumferential length, or one-half inch in width or depth.

(i) Contiguous (adjoining) pieces of metal shelled out of the circumference of the tread.

(j) A slid-flat spot more than 2½ inches in length or two adjoining flat spots each more than 2 inches in length.

(k) A hole through the wheel plate not intended by design.

(l) A circumferential groove in the tread more than one-eighth inch in depth.

(m) A scrape, dent, or gouge in the wheel plate surface more than one-eighth inch deep that causes an abrupt change in the finish of the plate surface.

(n) A loose wheel, as evidenced by movement on the wheel seat, or oil seepage on the back hub or plate from inside the wheel fit.

(o) Any welding on the wheel.

(p) A wheel which has been overheated, as evidenced by a reddish-brown color covering the front or back face of the rim and extending half way to the hub.

(q) Painted so as to conceal defects.

### § 215.45 Defective wheel sets.

A wheel set is defective if the wheels are out of gage so that the distance between the inside faces of the wheel rims is less than 53 inches or more than 53⅜ inches.

## Subpart D—Axles

### § 215.51 Scope.

This subpart prescribes minimum safety requirements for axles on railroad freight cars.

### § 215.53 Defective axles.

An axle is defective if it has any of the following conditions:

(a) A break or crack.

(b) A scrape, dent, or gouge between the wheel seats more than one-eighth inch deep.

(c) Welding on the axle.

(d) A bend in the axle which produces a runout of more than three-eighths inch at the center of the axle.

(e) In the case of journals on plain bearing axles, wear beyond the limits set forth in Figure 5.

PLAIN BEARING AXLES

| Journal size standard inches | Journal collar, inch (A) | Journal length, inches (B) | Journal diameter, inches (G) |
|---|---|---|---|
| 4¼ by 8 | 3/16 | 8 1/16 | 3¾ |
| 5 by 9 | 3/16 | 9 1/16 | 4½ |
| 5½ by 10 | 5/16 | 10 1/16 | 5 |
| 6 by 11 | 3/16 | 11 1/16 | 5½ |
| 6½ by 12 | 5/16 | 12 1/16 | 6 |
| 7 by 12 | 3/16 | 12 1/16 | 6½ |

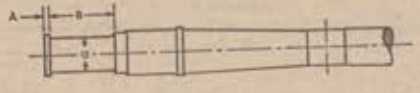



FIGURE 5

(f) Painted so as to conceal defects described by this section.

### § 215.55 Defective plain bearing journals.

A plain bearing journal is defective if it has any of the following conditions:

(a) A break in the journal collar.

(b) The surface of the journal or fillet has—

(1) A ridge;

(2) A depression;

(3) A circumferential score;

(4) Corrugation;

(5) A scratch;

(6) A continuous streak;

(7) Pitting;

(8) Rust; or

(9) Etching.

(c) A journal which has been overheated.

## Subpart E—Journal Bearings

### § 215.81 Scope.

This subpart prescribes minimum safety requirements for journal bearings on railroad freight cars.

### § 215.83 Defective plain bearing boxes.

A plain bearing box is defective if it has any of the following conditions:

(a) It does not contain free oil.

(b) The box lid is missing, broken, or otherwise not preventing contaminants from entering the box.

(c) It contains any foreign matter which has a detrimental effect on the lubricant.

(d) The box is cracked or has holes so as to permit leakage.

### § 215.85 Defective journal lubricating system.

A journal lubricating system is defective if a lubricating pad is missing or has any of the following conditions:

(a) An exposed core or metal part contacting the journal.

(b) The pad is not contacting the journal.

(c) A scorched or burned area.

(d) Glazing over half the pad surface.

(e) Deteriorated or decayed fabric.

(f) A tear along the top, front, back, or side more than half the length of the pad.

### § 215.87 Plain bearings and wedges required.

Each railroad freight car must be equipped with the full number of plain bearings and wedges for which it is designed.

### § 215.89 Defective plain bearings.

A plain bearing is defective if it is not located in its design position or has any of the following conditions:

(a) A break, or crack.

(b) Overheating as evidenced by—

(1) Melted babbit;

(2) Smoke from hot oil;

(3) Journal surface damaged; or

(4) Journal temperature of 400°F. or more.

(c) Wear at either end which reduces its length more one-fourth inch. (Dimension A in Figure 6.)

(d) Combined wear that reduces its length more than three-eighths inch. (Dimension A in Figure 6).

(e) A lug worn more than one-eighth inch. (Dimension B in Figure 6.)

(f) Combined wear on both sides of the lug extension more than one-fourth inch. (Dimension C in Figure 6.)

(g) A loose lining or section of lining broken out.

(h) Lining worn through to brass more than three-eighths inch above the lower edge of the brass sidewall. (Dimension D in Figure 6.)

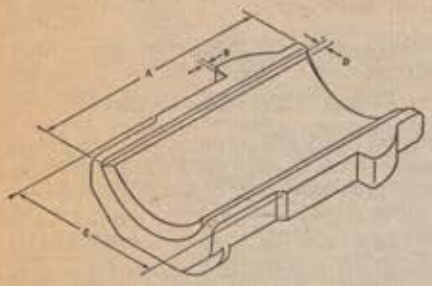


FIGURE 6

### § 215.91 Defective plain bearing wedges.

A plain bearing wedge is defective if it is not located in its design position or has any of the following conditions:

(a) A bend, break, or crack.

(b) Wear measured at the contact surfaces which reduces its overall length more than three-sixteenths inch. (Dimensions A in Figure 7.)

(c) A bottom surface unevenness of more than one-sixty fourth inch. (Dimension B in Figure 7.)

(d) Wear on top beyond the following limits:

| *Nominal journal size, inches* | *Wear limit flat lengthwise, inches (Dimension C in Figure 7)* |
|---|---|
| 4¼ by 8 | 3¼ |
| 5 by 9 | 4 |
| 5½ by 10 | 4½ |
| 6 by 11 | 5 |
| 6½ by 12 | 5½ |

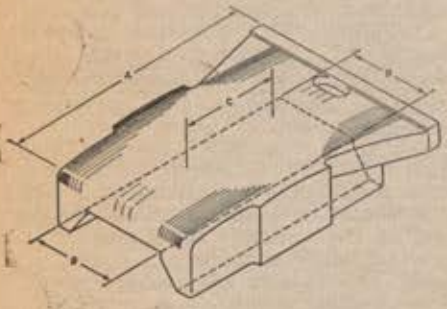


FIGURE 7

### § 215.93 Defective roller bearings.

(a) A roller bearing which has been subjected to any of the following conditions may not be used until it is inspected, and repaired if necessary:

(1) Derailment.

(2) Submerged in water.

(b) A roller bearing is defective if it has any of the following conditions:

(1) Overheating in excess of 200° F.

(2) A loose or missing cap screw.

(3) A broken, missing (unless by design), or improperly applied cap screw lock.

(4) A missing (unless by design) truck side frame key.

(5) A loose or nonfunctioning seal.

### § 215.95 Defective roller bearing adapters.

A roller bearing adapter is defective if it has any of the following conditions:

(a) A break or crack.

(b) Wear to the extent that the adapter is marking the seal assembly.

(c) Wear on the crown of the adapter to the extent that the frame bears on the relief portion of the adapter, as shown in Figure 8.

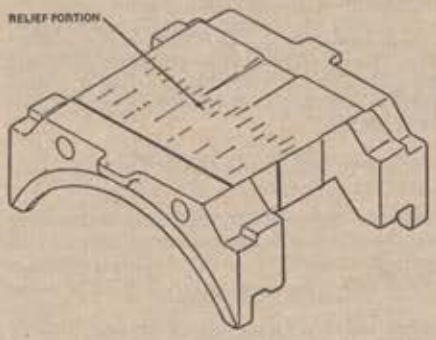
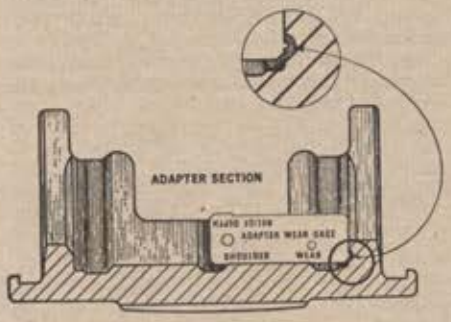



FIGURE 8

(d) Wear the thrust shoulder of narrow adapters more than .025 inch on either side, as measured by Gage No. 8. (See Figure No. 9).




METHOD OF MEASURING ROLLER BEARING ADAPTER THRUST SHOULDER WEAR USING GAGE No. 8.

FIGURE NO. 9

(e) Warp or other distortion.

JOURNAL BEARING LUBRICATION

### § 215.97 Plain bearing boxes.

(a) A railroad may not operate a railroad freight car which is equipped with plain bearing boxes unless within the preceding 24 months, or in the case of a car whose plain bearing boxes are equipped with rear seals, box lid seals, and journal stops, within the preceding 30 months—

(1) The plain bearing boxes were repacked as prescribed by paragraph (b) of this section; or

(2) The car was reconditioned or originally constructed.

(b) A plain bearing box must be repacked according to the following rules:

(1) Remove journal bearing, wedge, and lubricator, and thoroughly clean the box, including the inside of lid and front of box that may contact the lubricator, without using waste material for cleaning purposes;

(2) Examine the journal, journal bearing, wedge, journal stop, and box lid seal, and replace each defective part;

(3) Replace old lubricator with a new one;

(4) Replace dust guard plug when missing or defective and apply sealer to top of plug;

(5) In the case of a wooden dust guard plug, lock it securely in place;

(6) If the car truck is dismantled, examine the rear seal and replace if defective; and

(7) Add free oil to permit resaturation of the lubricator, then before the car is released for service, check to ensure there is free oil visible in the bottom of the box.

### § 215.99 Roller bearings.

(a) A railroad may not operate a railroad freight car which is equipped with roller bearings designed to be periodically lubricated unless—

(1) The roller bearings have been lubricated as prescribed by the following chart and by paragraphs (b) and (c) of this section; or

(2) The car was reconditioned or originally constructed within the number of months prescribed in the chart for lubricating its roller bearings:

| Description of bearing | Size of bearing | Amount of lubricant required | Lubricate bearings within the following number of months before car is oper. |
|---|---|---|---|
| Oil lubricated | All | Fill to maximum level | 12 |
| Grease lubricated; end caps do not rotate | All | 16 ounces | 18 |
| Grease lubricated; end caps rotate | 12 inches | 12 ounces | 35 |
| | 11 inches | 8 ounces | 30 |

(b) In the case of an oil lubricated roller bearing, the filling plug must be properly replaced after the bearing is lubricated.

(c) In the case of a grease lubricated roller bearing, perform the lubrication by—

(1) Immediately before the application of grease—

(i) Cleaning the grease fitting to prevent road dirt and foreign material from being forced into the bearings; and

(ii) Testing the grease fitting to ensure it has not been damaged; and

(2) Using a properly calibrated dispensing device which is equipped with a strainer and is checked monthly to accurately measure ounces of grease.

(d) In the case of grease lubricated roller bearings, only pressure type grease fittings may be used in lubricating the bearings.

### Subpart F—Other Truck Components

**§ 215.121 Scope.**

This subpart prescribes minimum safety requirements for truck side frames, bolsters, side bearings, spring assemblies, and spring planks on railroad freight cars.

**§ 215.123 Defective car trucks.**

A car truck is defective if it has any of the following conditions:

(a) A side frame or bolster which is—

(1) Broken, patched, cracked, or reinforced with plate, including a break or crack in a bolster gib;

(2) Painted so as to conceal defects described in this section;

(3) Welded and not stress relieved; or

(4) Worn or corroded through more than 25 percent of the cross section; except that surfaces in friction snubber pockets, gibs, column guides, and cast integral brake beam supports which have been worn or corroded through not more than 40 percent of the cross section may be restored to the original cross section by welding without the necessity for heat treatment, but all friction surface welds must be smooth and free of slag.

(b) Any part of the truck is less than 2½ inches above the top of rail under maximum spring deflection.

(c) With respect to the side bearings—

(1) One is broken or missing;

(2) The bearings at one end of the car on both sides are in contact with the body bolster, except by design;

(3) The bearings at one of the car have a total clearance from the body bolster of more than three-fourths inch; or

(4) At diagonally opposite sides of the car, the bearings have a total clearance from the body bolsters of more than three-fourths inch.

(d) A spring assembly—

(1) With a broken or missing snubber or outer spring;

(2) Which does not maintain travel or load; or

(3) Which is weakened so as to be compressed solid.

(e) In the case of a car truck whose design includes spring planks, a spring plank is missing, broken, worn, or corroded through more than 25 percent of its cross section.

### Subpart G—Car Bodies

**§ 215.151 Scope.**

This subpart prescribes minimum safety requirements for certain conditions on railroad freight car bodies.

**§ 215.153 Defective car bodies: Loaded or empty.**

A car body is defective if it has any of the following conditions:

(a) Clearance above top of rail less than 2½ inches.

(b) A male portion of a standard cylindrical type center plate extending less than 1 inch into the female portion of the center plate.

(c) A center plate not secured.

(d) A center plate cracked through more than 30 percent of the cross section.

(e) Center sill broken, cracked, or permanently bent more than 2½ inches in any 6-foot length.

(f) A broken or missing coupler carrier.

(g) Sidesill, crossbearer, or body bolster broken.

### Subpart H—Couplers

**§ 215.171 Scope.**

This subpart prescribes minimum safety requirements for couplers on railroad freight cars.

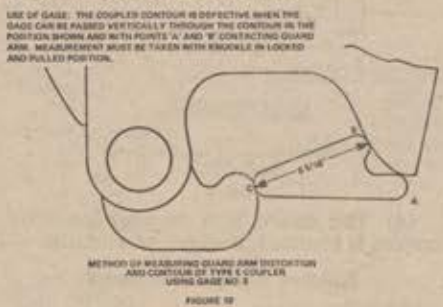
**§ 215.173 Defective couplers; generally.**

(a) A Type E coupler is defective if it has any of the following conditions:

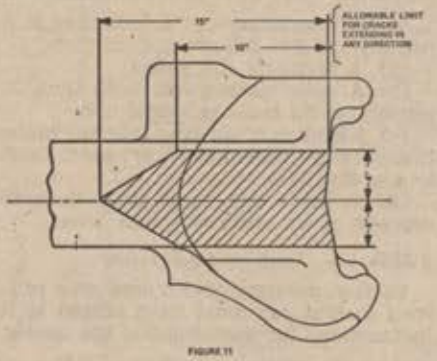
(1) The shank is bent out of alignment with the head more than nine-sixteenths inch.

(2) The shank is worn more than seven-sixteenths inch.

(3) The distance between the guard arm and the knuckle nose is more than 5⁹⁄₁₆ inches. (See Figure 10.)



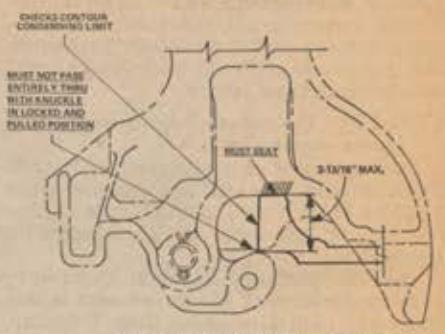
(4) There is a crack or break in the sidewall exceeding the limits shown in Figure 11, or any crack or break in the unshaded area shown in Figure 11.



(b) A Type F coupler is defective if it has any of the following conditions:

(1) A shank is worn more than seven-sixteenths of an inch.

(2) The distance between the front face and the knuckle nose is more than 3¹³⁄₁₆ inches (See Figure 12).



(c) A coupler is defective if it has any of the following conditions:

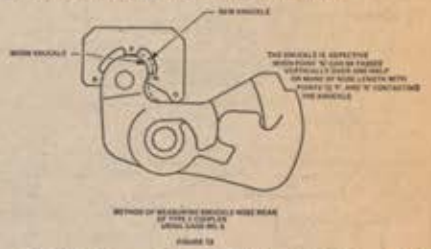
(1) The locklift is inoperative.

(2) The coupler assembly does not have anticreep protection.

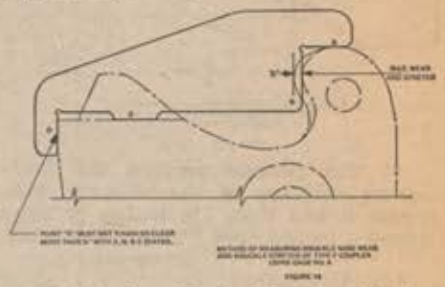
(3) The coupler lock is missing, inoperative, bent, cracked, or broken.

**§ 215.175 Defective knuckles.**

(a) A type E knuckle is defective if it is worn in excess of the limits indicated by Gage No. 5. (See Figure 13.)



(b) A Type F knuckle is defective if it is worn or stretched in excess of the limits indicated by Gage No. 6. (See Figure 14).



(c) Any knuckle is defective if it has any of the following conditions:

(1) It is cracked or broken.

(2) The knuckle pin or knuckle thrower is missing or inoperative.

(3) In the case of a hopper car, a gondola car, or a car with a spring supported coupler carrier, the knockle pin retainer or cotter key is missing.

**§ 215.177 Defective uncoupling devices.**

An uncoupling device is defective if it does not meet the following requirements:

(a) The device much have sufficient vertical and lateral movement to prevent

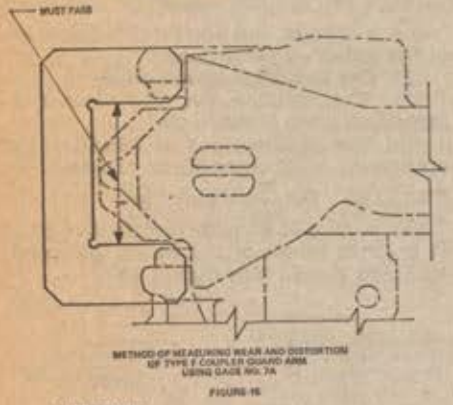
fouling on curves and unintentional uncoupling.

(b) In the case of a bottom operated coupler, the lever must have at least one-fourth inch clearance between the operating rod eye and the locklift level when the coupler is centered and the knuckle is fully closed and locked.

**§ 215.179 Defective interlocking features on couplers.**

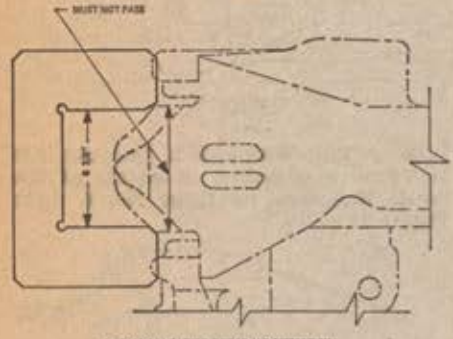
In the case of cars equipped with AAR Type F couplers in accordance with § 179.14 of this title, a coupler is defective if it has any of the following conditions:

(a) The distance between the interlocking surfaces of the guard arm is less than 6⅜ inches or more than 7 inches. (See Figures 15 and 16.)




METHOD OF MEASURING WEAR AND DISTORTION OF TYPE F COUPLER GUARD ARM USING GAGE NO. 7A

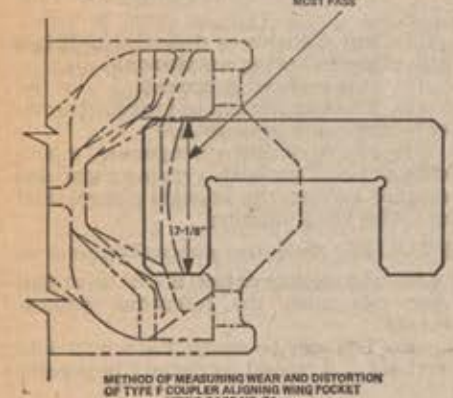
FIGURE 15




METHOD OF MEASURING WEAR AND DISTORTION OF TYPE F COUPLER GUARD ARM USING GAGE NO. 7B

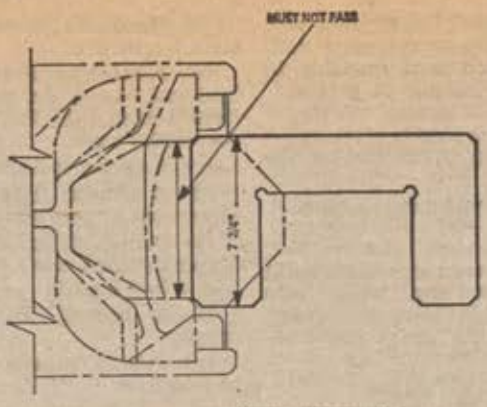
FIGURE 16

(b) The distance between the interlocking surfaces of the aligning wing pocket is less than 7⅛ inches or more than 7¾ inches. (See Figures 17 and 18).




METHOD OF MEASURING WEAR AND DISTORTION OF TYPE F COUPLER ALIGNING WING POCKET USING GAGE NO. 7P

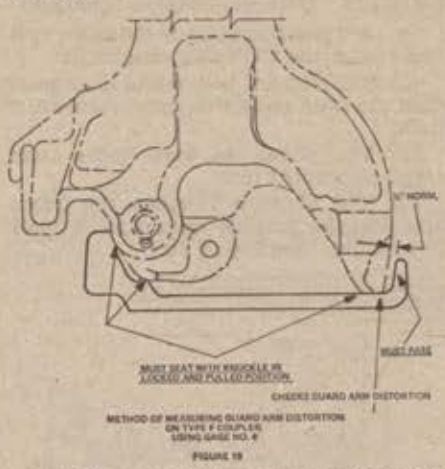
FIGURE 17




METHOD OF MEASURING WEAR AND DISTORTION OF TYPE F COUPLER ALIGNING WING POCKET USING GAGE NO. 7B

FIGURE 18

(c) The guard arm is distorted beyond limits indicated by Gage No. 4 (See Figure 19).




METHOD OF MEASURING GUARD ARM DISTORTION ON TYPE F COUPLER USING GAGE NO. 4

FIGURE 19

(d) The guard arm or aligning wing pocket is cracked, broken, or missing.

## Subpart I—Draft Systems

**§ 215.191 Scope.**

This subpart prescribes minimum safety requirements for draft systems for railroad freight cars.

**§ 215.193 Defective draft arrangement.**

A draft arrangement is defective if it has any of the following conditions:

(a) A break in the yoke.

(b) A yoke strap worn more than 25 percent of its cross sectional area.

(c) A broken or missing follower plate, draft lugs or fasteners, draft gear, draft key, or draft key retainer.

(d) A draft key worn more than 25 percent of its cross sectional area.

**§ 215.195 Cushioning devices.**

Each cushioning device used on a railroad freight car must have affixed to it instructions for immobilizing the device.

**§ 215.197 Defective cushioning devices.**

(a) A cushioning device is defective if it is broken, inoperative, or missing a part.

(b) Before a railroad freight car with a defective cushioning device is moved for repair, the cushioning device must be immobilized according to instructions affixed to the device under § 215.195.

## Subpart J—Prohibited and Restricted Equipment

**§ 215.221 Scope.**

This subpart prohibits the operation of railroad freight cars equipped with certain components and restricts the operation of cars equipped with other components and cars more than 50 years old.

**§ 215.223 Prohibited cars.**

A railroad may not operate a railroad freight car equipped with any design or type component listed in Section I of Appendix B to this part. However, until January 1, 1975, this section applies only to a car used to transport commodities covered by the Hazardous Materials Regulations in Parts 170–189 of this title.

**§ 215.225 Restricted cars.**

(a) This section restricts the operation of any railroad freight car which is—

(1) More than 50 years old, measured from the date of original construction;

(2) Equipped with any design or type component listed in section II of Appendix B to this part; or

(3) Equipped with a Duryea underframe constructed before April 1, 1950, except for a caboose which is operated as the last car in a train.

(b) Subject to the requirement of paragraph (d) of this section, after April 30, 1974 a railroad may operate railroad freight cars described in paragraph (a) of this section only under conditions approved by the Federal Railroad Administrator. Petitions for approval must be submitted to the Administrator in triplicate at least 90 days before the date operation is proposed to commence. Each petition for approval must state:

(1) The name and principal business address of the petitioning railroad;

(2) The name and address of the entity that controls the operation and maintenance of the cars involved;

(3) The number, type, capacity, reporting mark and car numbers of the cars;

(4) The maximum load the cars would carry;

(5) The maximum speed at which the cars would be operated;

(6) The territorial limits in which the cars would be operated; and

(7) If the cars would be interchanged with other railroads, the names of those railroads.

(c) Within 45 days after receipt of a petition for approval filed under paragraph (b) of this section, the Administrator notifies the railroad of his decision. The railroad may petition the Administrator to reconsider his decision. A petition for reconsideration must be filed within 30 days after the railroad receives notice of the decision.

(d) A railroad may not use a car described in paragraph (a) of this section to transport commodities covered by the Hazardous Materials Regulations in Parts 170–189 of this title.

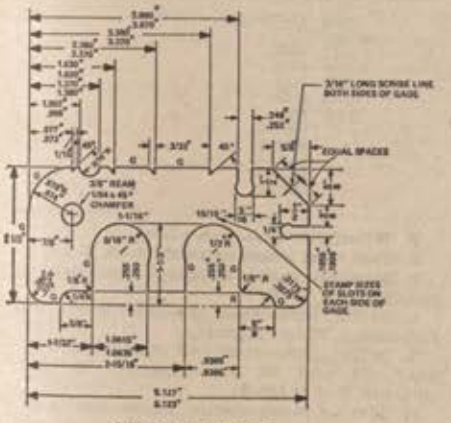
APPENDIX A—DEFECT DETECTION GAGES

*General.* Each gage must be—

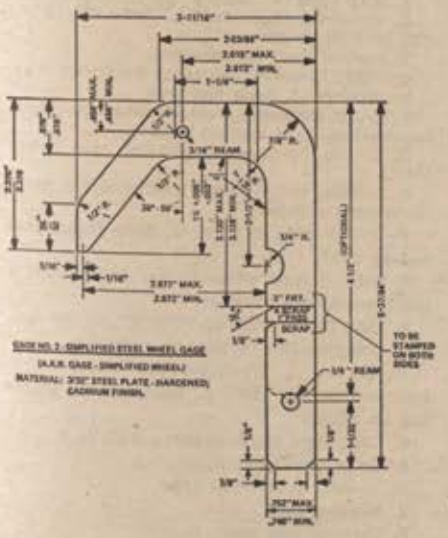
(a) Fabricated as specified in this appendix;

(b) Ground on all gaging surfaces; and

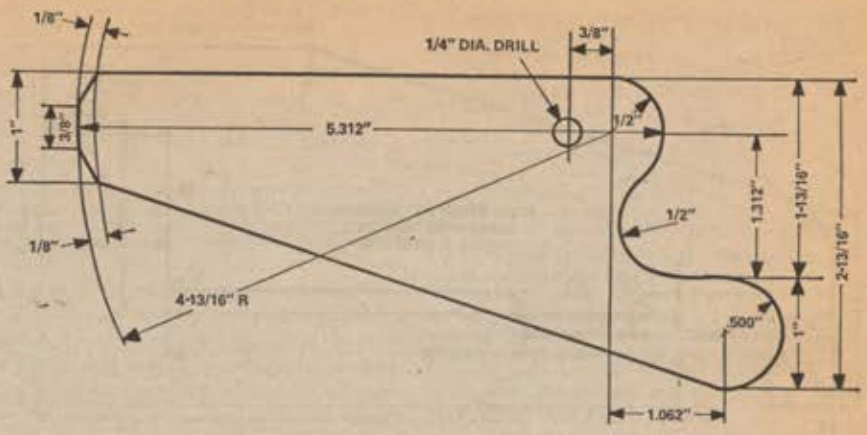
(c) Stamped with the appropriate markings.



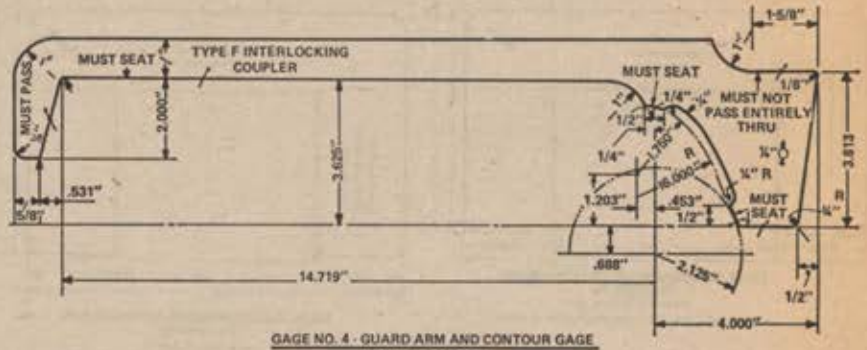
GAGE NO. 1 - WHEEL DEFECT GAGE
(A.A.R. GAGE NO. 34401)
MATERIAL: 3/32" STEEL PLATE HARDENED; CADMIUM PLATED FINISH.



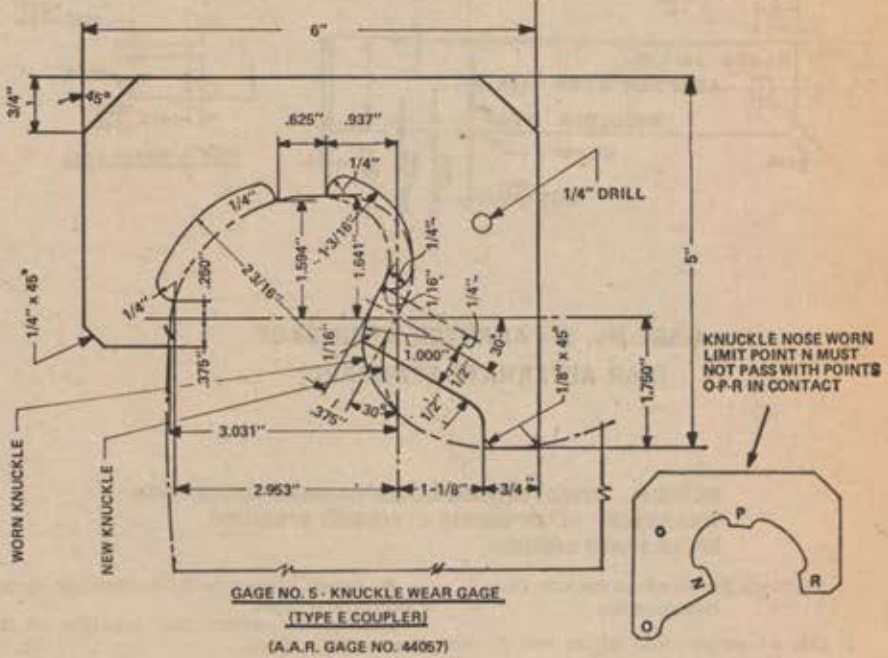
GAGE NO. 2 - SIMPLIFIED STEEL WHEEL GAGE
(A.A.R. GAGE - SIMPLIFIED WHEEL)
MATERIAL: 3/32" STEEL PLATE - HARDENED; CADMIUM FINISH.



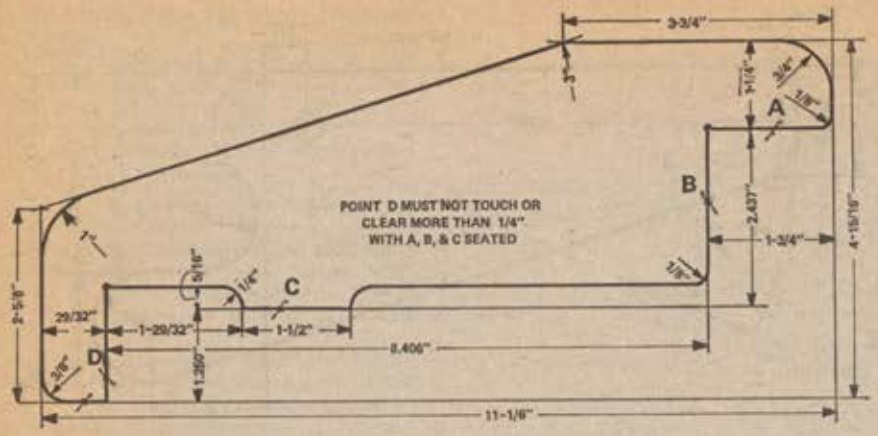

GAGE NO. 3 - GUARD ARM AND CONTOUR GAGE (TYPE E COUPLER)
(A.A.R. GAGE NO. 25623)
MATERIAL: 1/8" STEEL PLATE - HARDENED; CADMIUM PLATED FINISH



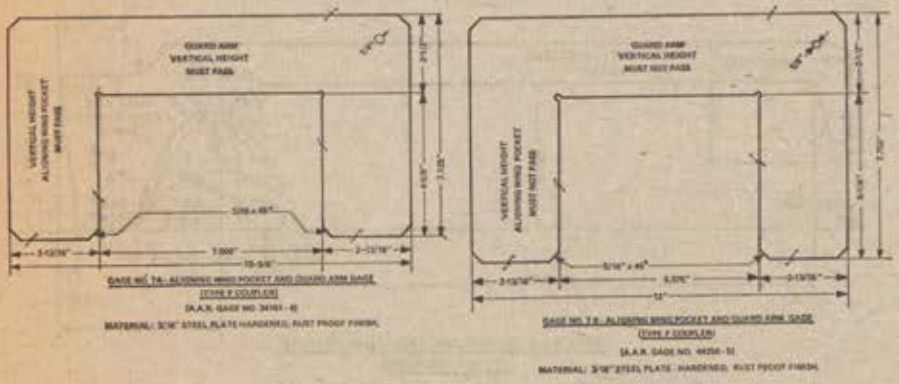

GAGE NO. 4 - GUARD ARM AND CONTOUR GAGE (TYPE F COUPLER)
(A.A.R. GAGE NO. 36527-2)
MATERIAL: 3/16" STEEL PLATE-HARDENED; CADMIUM PLATED FINISH.

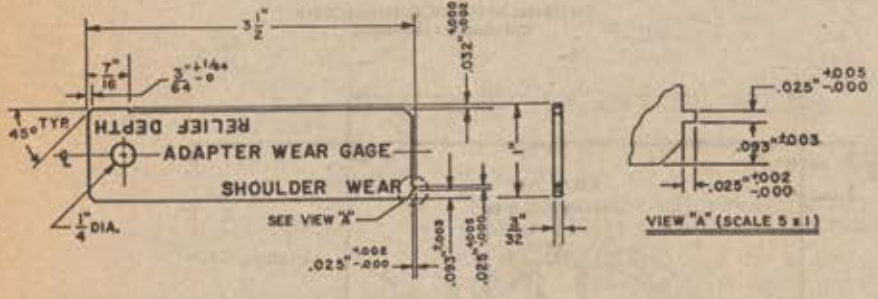



GAGE NO. 5 - KNUCKLE WEAR GAGE (TYPE E COUPLER)
(A.A.R. GAGE NO. 44057)
MATERIAL: 3/16" STEEL PLATE - HARDENED; CADMIUM PLATED FINISH.




GAGE NO. 6 — KNUCKLE WEAR AND STRETCH GAGE
(TYPE F COUPLER)
(A.A.R. GAGE NO. 44250 - 3)
MATERIAL: 3/16" STEEL PLATE HARDENED; CADMIUM PLATED FINISH.






## GAGE No. 8 - ADAPTER WEAR GAGE (AAR ALTERNATE STANDARD)

**MATERIAL: STEEL PLATE-HARDENED; CADMIUM PLATED FINISH.**
**TOLERANCE: +1/64"UNLESS OTHERWISE SPECIFIED.**
**BREAK SHARP CORNERS.**

APPENDIX B—RAILROAD FREIGHT CAR COMPONENTS

I. List of components whose use is prohibited by this part.

A. *Air brakes:* The "K" type.

B. *Axles:* 1. Former AAR alternate standard tubular type.

2. Axle with letters "RJ" stamped on the end of the journal.

C. *Roller bearings:* 1. Nippon Sieko Kabushiki Kaish (NSK) size 6½" by 12" (marked "AAR 11").

2. Hyatt cylindrical bearing, all sizes (marked "AAR 2").

3. SKF "Piggybacker" spherical roller, size 6" by 11' (marked "AAR 7").

D. *Truck bolsters:* A bolster with one of the following pattern numbers listed according to manufacturer:

| A.S.F. | Dresser (Symington) | Birdsboro | Lenoir car works |
|---|---|---|---|
| 21183-B | BO 5234 | 1458<br>1468 | CS-184. |
| 21183-N | BO 5363<br>BO 7076 | 1471 | CS-611. |
| 21648-C | BO 7076-A | | |
| 22056-E | BO 7115 | | |

E. *Truck side frames:* A side frame with one of the following pattern numbers listed according to manufacturer:

| A.S.F. | National castings | Buckeye | Dominion |
|---|---|---|---|
| 7273 | 33703-1B | 3-1776 | TF-5100 |
| 7323 | | F-420 | |
| 21362 (cast prior to June 1941). | | | |

| Pittsburgh steel foundry | Scullin steel | Bettendorf | Canadian steel foundry |
|---|---|---|---|
| 31673 | 42-CS-180 | UT 456 | 26563 |
| 4-1862 | | | |
| 3-1674 | 4665 | | |
| 4-2045 | 4770 | | |
| 12807 | 4942 | | |
| 12921 | 5220 | | |
| 21263 | 5364 | | |
| | 5364-C | | |
| | 5364-E | | |
| | 5811-A | | |
| | 5869-B | | |
| | 6577-A | | |

F. *Wheels:* 1. Cast iron wheel.

2. Cast steel wheel marked "AAR X-2."

3. Southern cast steel wheel manufactured before May 7, 1958.

4. Griffin, three-riser cast steel wheel, ball rim design, 70 ton capacity.

5. Griffin, three-riser cast steel wheel, two-wear, 70 and 50 ton capacity, 33 inch, (marked X-5 or CS-2).

II. List of components whose use is restricted by this part.

A. *Couplers:* 1. AAR type "D", top or bottom operated.

2. AAR type "E" with 5" by 7" shank.

B. *Draft arrangement:* 1. Miner FR-16 and FR-19-F draft gears.

2. Farlow draft attachment.

C. *Plain journal bearings:* Cartridge type.

D. *Trucks:* 1. Arch bar type.

2. Truck with cast steel pedestal side frame, short wheel base, and no bolster.

E. *Truck bolsters:* 1. Bolster cast before 1927.

2. Bolster without an identification mark or pattern number.

F. *Truck side frames:* 1. Side frame cast before 1927.

2. Side frame without an identification mark or pattern number.

3. Side frame with an "I", "T", or "L" section compression or tension member.

G. *Wheels:* 1. Wrought steel wheel manufactured before 1927, as indicated by marking on wheel.

2. Cast steel wheel marked AAR X-4.

3. Davis cast steel wheel.

H. *Yokes:* 1. Riveted type.

2. Keyless type.

3. Vertical key type.

APPENDIX C—STENCILING EXAMPLES

This appendix contains examples of stenciling required by § 215.11(c).

*Example 1.* In September 1980, a railroad operates a railroad freight car that was originally constructed in August 1958. It is a high utilization car, as defined by § 215.25(b), for which the Chessie System has records at its office in Baltimore, Maryland to show that the car traveled less than 25,000 miles in the preceding 12 months. The car has been reconditioned twice, the last time in July 1973, by the Best Forge and Foundry before it was released to the Penn Central. The car is equipped with plain bearing boxes with rear seals, box lid seals, and journal stops. The most recent lubrication under § 215.97 was performed by the Southern Pacific at its facility in Sacramento, California in June 1979.

| § 215.11(c), Clause | Stenciling | | | |
|---|---|---|---|---|
| (1) | BLT | 8-58 | | |
| (2) | RCD | 7-73 | PC | BFF |
| (3)–(5) | RPKD-30 | 6-79 | SP | SP |
| (6) | HU | C&O/B&O | BALTO | |
| (7) | | [1] | | |

[1] No entry required under clause (7) because under § 215.25 a high utilization car for which mileage records are kept need not be inspected within 96 months after the car is reconditioned.

*Example 2.* In August 1980, a railroad operates a railroad freight car that was originally constructed in February 1978. It is a high utilization car; and its first inspection under § 215.25 was performed in February 1980 by the XYZ Corporation which is served solely by the Burlington Northern. The car is equipped with grease lubricated roller bearings with end caps that rotate; and the bearings were designed to be periodically lubricated.

| § 215.11(c), Clause | Stenciling |
|---|---|
| (1) | BLT 2-78 |
| (2) | [1] |
| (3)–(5) | LUB-36 [2] |
| (6) | [3] |
| (7) | INSP, 2-80, BN, XYZ |

[1] No entry required under clause (2) because car has not been reconditioned.

[2] No entry required under clause (5), next to "LUB-36", because under § 215.99 the roller bearings need not be lubricated within 36 months after car is originally constructed.

[3] No entry required under clause (6) because mileage records are not kept for this high utilization car.

[FR Doc.73-24504 Filed 11-20-73;8:45 am]

federal register

WEDNESDAY, NOVEMBER 21, 1973

WASHINGTON, D.C.

Volume 38 ■ Number 224

PART IV

# DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

## Office of Education

■

## State Vocational Education Programs

### Volunteer Fireman and Industrial Arts

Title 45—Public Welfare

CHAPTER I—OFFICE OF EDUCATION, DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

PART 102—STATE VOCATIONAL EDUCATION PROGRAMS

Volunteer Fireman and Industrial Arts

Notice of proposed rulemaking was published in the FEDERAL REGISTER on July 12, 1973 (38 FR 18557), setting forth revisions to §§ 102.3(q) and 102.4(b)(1) of the regulations contained in 45 CFR Part 102. The revisions were proposed for the purpose of implementing the amendments made by sections 202 (a) and (b) of Pub. L. 92-318 which added industrial arts education to the definition of vocational education and included volunteer firemen in those programs designed to prepare individuals for gainful employment. (20 U.S.C. 1248(1))

1. Section 102.3 *Definitions—Comment.* Several commenters felt that the inclusion of industrial arts education programs under the Vocational Education Act would result in diluting the funds available for "true vocational career training."

*Response.* Section 202(a) of Pub. L. 92-318 requires the inclusion of certain industrial arts education programs within the term "vocational education." However, the decision as to the amount of funds under the Act which are used for such industrial arts education programs is the responsibility of the State board. Therefore, no change is appropriate.

*Comment.* A commenter suggested that industrial arts activities "are not intended to train for the fields by your own definition but are intended to train about the fields. This role can be clarified by changing the wording from § 102.3(a) where it reads 'which provide opportunities for creativity and problem solving' to 'which provide opportunities for informed and meaningful occupational education selection.'"

*Response.* The inclusion of the investigation of "processes which provide opportunities for creativity and problem solving" within the term industrial arts is designed to provide students with, among other things, opportunities to explore the industrial processes and their capacities to confront assignments and overcome obstacles. Such opportunities may constitute an important part of an industrial arts education program. Thus, the phrase relating to creativity and problem solving has not been deleted from the regulation. However, as the commenter suggests, assisting individuals in the making of informed and meaningful occupational selections is also an important part of industrial arts education. Thus, in § 102.3(q), following the words "creativity and problem solving," these words are added:

and assisting individuals in the making of informed and meaningful occupational choices;

2. Section 102.4 *Vocational Instruction—Comment.* A commenter suggested that the proposed regulation "makes no attempt to define an age level or subject matter" with regard to industrial arts education programs.

*Response.* Sections 102.4(b)(5) and 102.3 limit substantially the types of activities which may be undertaken in such an industrial arts education program. Without more specific comment we are unable to respond with a specific change in the scope of such activities.

Since industrial arts education programs are included in the term vocational education by section 202(a) of Pub. L. 92-318, they are subject to the same restrictions with regard to the age level of participants as those who participate in other vocational education programs. These age limits are provided in sections 122 (a), (b), and (c) and 143(a)(2)(A) of the Act. (20 U.S.C. 1262 (a), (b), and (c) and 1303(a)(2)(A).) Thus, no change in the regulations is deemed necessary.

*Comment.* A commenter suggested that "§ 102.4(b)(5)(i) be changed from 'Assist individuals in the making of informed and meaningful occupational choices in industry and technology' to 'assist individuals in the making of informed and meaningful occupational education choices through subsequent enrollment in programs designed to train individuals for employment in industry and technology.'" A second commenter suggested deleting the words "in industry and technology" from the section.

*Response.* It is not desired to restrict such assistance to those who will subsequently enroll in training programs. The assistance to those who may not ultimately enroll in such training programs may constitute an important and useful part of the program. Thus, the first suggestion is not deemed appropriate. However, the adoption of the second suggestion would permit the expansion of industrial arts education programs to encompass assisting individuals in the making of informed and meaningful occupational choices in all career areas rather than merely in the areas of industry and technology. In order to make an informed occupational selection one must have at least some awareness of opportunities outside industry and technology. Thus, the suggestion has been adopted and the final regulation omits the words "in industry and technology" from § 102.4(b)(5)(i). This change also makes the above section more consistent with § 102.4(b)(5)(i)(a)–(d) which do not limit the provision of occupational awareness to the fields of industry and technology.

*Comment.* A commenter suggested that the word "pre-vocational" be inserted in § 102.4(b)(5)(i)(a) such that only "pre-vocational" information and instruction could be provided. The regulation in the notice of proposed rulemaking permitted the provision of "occupational" information and instruction.

*Response.* As discussed in the preceding response, it is not desired to limit participants to those who will later participate in vocational education programs. Thus, no change is deemed appropriate.

*Comment.* One commenter felt that the phrase "to meet the specific requirements" contained in § 102.4(b)(5)(ii)(a) should be deleted. He felt that those words implied that all highly skilled technician programs must have specific entrance requirements.

*Response.* The phrase has been deleted.

*Comment.* A commenter suggested that instruction for volunteer firemen be limited to instances "when such firemen are paid for services performed."

*Response.* The legislative history of section 202(b) of Pub. L. 92-318 comments as follows:

Under present law, a training program is not considered to be a vocational education program unless that program leads to "gainful employment." Many communities do not have regularly paid firemen. They rely on volunteer firemen. Since these firemen serve on a volunteer basis, *without compensation*, they are not gainfully employed as firemen and therefore their training cannot be considered fundable vocational education. Section 203(b) amends the definition of vocational education to include training for volunteer firemen explicitly.

(Senate Report No. 92-346, August 3, 1971, 75)

Thus, no such change in the regulations is deemed appropriate.

*Comment.* A commenter suggested the inclusion of the following requirement:

Industrial Arts programs germane to this section shall be organized with vocational education leaders and designed in a manner that promotes entry into vocational education programs at the secondary and/or junior college levels.

*Response.* First, since the State plan is administered by the State board responsible for the administration of vocational education, the participation of certain "vocational education leaders" is already assured. Of course, the assistance of additional vocational education leaders may be enlisted by the State board at appropriate times. Second, it is not desired to require all industrial arts programs to promote entry into vocational education programs, since those who may not wish to pursue later vocational studies may also wish to receive assistance. Thus, no changes in the regulations are necessary or appropriate.

*Comment.* Several commenters suggested that the words "industrial arts" be omitted in all instances and the words "industrial education" substituted.

*Response.* Section 202(a) of Pub. L. 92-318 requires the inclusion of "industrial arts education programs." Thus, no change in the regulations is appropriate.

3. Section 102.134 *Allowable expenditures for State vocational education programs and services.*

*Comment.* A commenter suggested that § 102.134(a)(1)(ii) be amended to end:

except that in no case shall funds be used to supplant current salaries or other personnel costs or to pay cost-of-living or salary increases.

*Response.* Section 123(a)(11) of the Act requires that the State plan must

provide assurance that funds made available under the Act will:

Supplement, and to the extent practical, increase the amount of State and local funds that would in the absence of such Federal funds be made available * * * (20 U.S.C. 1263(a)(11)) (See also regulations at 45 CFR 102.58(a).)

Thus, no change in the regulations is necessary.

After consideration of the above comments, §§ 102.3(q) and 102.4(b)(1) are amended as set forth below.

1. In § 102.3(q), *Definition*, the words "and assisting individuals in the making of informed and meaningful occupational choices;" are added after the word "solving."

2. In § 102.4(b)(5)(i) add a period after "choices" and omit "in industry and technology."

3. In § 102.4(b)(1)(ii)(*a*), Vocational instruction, the words "to meet the specific requirements" after the word "experienced" are deleted.

*Effective date.* These regulations become effective on December 20, 1973.

(Catalog of Federal Domestic Assistance Programs Nos. 13.493 and 13.496–13.502, Vocational Education)

Dated: October 4, 1973.

JOHN OTTINA,
*U.S. Commissioner of Education.*

Approved: November 13, 1973.

CASPAR W. WEINBERGER,
*Secretary of Health, Education, and Welfare.*

Part 102 of Title 45 of the Code of Federal Regulations is amended as follows:

1. Section 102.3 is amended by adding a new paragraph (q) and redesignating current paragraphs (q) through (aa) as (r) through (bb). New paragraph (q) is amended to read as follows:

**§ 102.3 Definitions.**

* * * * *

(q) "Industrial arts education programs" means those education programs (1) which pertain to the body of related subject matter; or related courses, organized for the development of understanding about the technical, consumer, occupational, recreational, organizational, managerial, social, historical, and cultural aspects of industry and technology including learning experiences involving activities such as experimenting, designing, constructing, evaluating, and using tools, machines, materials, and processes which provide opportunities for creativity and problem solving and assisting individuals in the making of informed and meaningful occupational choices; and (2) which the Commissioner has determined, pursuant to § 102.4(b)(5), will accomplish or facilitate one or more of the purposes of the first sentence of section 108(1) of the Act.

(20 U.S.C. 1248(1))

2. Section 102.4 is amended by revising paragraph (b)(1)(i), by adding new paragraphs (b)(5) and (b)(6), by adding a new pargraph (j) and by redesignating current paragraph (j) as paragraph (k), as follows:

**§ 102.4 Vocational instruction.**

(b) *Objective of instruction.* (1) Vocational instruction shall be designed to—

(i) Prepare individuals for gainful employment, including volunteer firemen, as semiskilled or skilled workers or technicians or semiprofessionals in recognized occupations and in new or emerging occupations, or

* * * * *

(5) Industrial arts education instructional programs with the objectives specified in subparagraph (1) of this paragraph shall be designed to:

(i) Assist individuals in the making of informed and meaningful occupational choices. In order to accomplish or facilitate this purpose, such programs shall:

(*a*) Provide occupational information and instruction pertaining to a broad range of occupations, including training requisites, working conditions, salaries or wages, and other relevant information;

(*b*) Provide exploratory experiences in shops, laboratories, and observations in business or industry to acquaint students with jobs in the occupations included in this purpose;

(*c*) Provide guidance and counseling for students enrolled in the industrial arts program under § 102.4(b)(5) of this part to assist them in making informed and meaningful choices in selected occupational fields; and

(*d*) Employ industrial arts teachers who have qualifications as provided in the State plan pursuant to § 102.38; or

(ii) Prepare individuals for enrollment in advanced or highly skilled vocational and technical education programs. In order to accomplish or facilitate this purpose, such programs shall:

(*a*) Provide individuals with occupational information and exploratory experience for enrollment in such programs;

(*b*) Provide occupational information and exploratory experiences directly related to current practices in industry; and

(c) Be conducted in an institution approved by the State Board of Vocational Education and by industrial arts teachers and guidance and counseling personnel who have qualifications as provided in the State plan pursuant to § 102.38.

(6) Instruction for volunteer firemen with the objectives specified in paragraph (b)(1)(i) of this section, whether or not such firemen are paid for services performed, shall include instruction of the type described in subparagraph (2) of this paragraph.

(20 U.S.C. 1248(1))

(j) *Industrial arts youth organizations.* Industrial arts education programs may provide for students to participate in club activities as an integral part of the instruction which are offered as indicated by § 102.4 and which are supervised by industrial arts personnel.

(20 U.S.C. 1248(1))

[FR Doc.73-24594 Filed 11-20-73;8:45 am]

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