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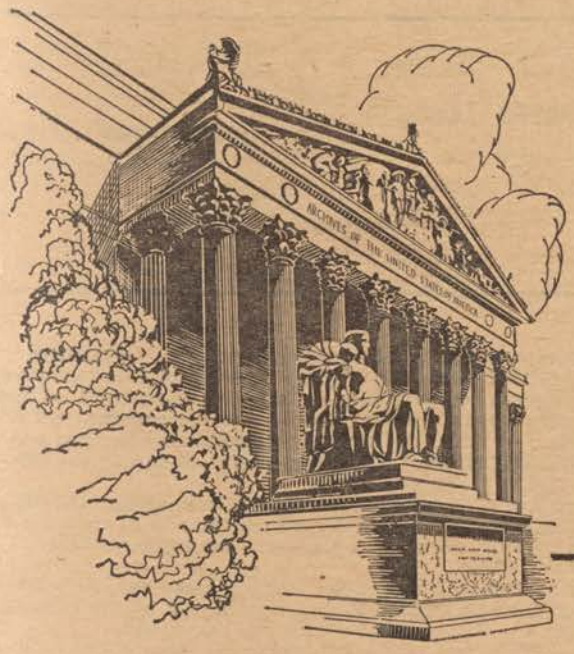

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Title 5—ADMINISTRATIVE PERSONNEL

Chapter I—Civil Service Commission

PART 213—EXCEPTED SERVICE

Department of State

Section 213.3304 of Chapter I of Title 5 of the Code of Federal Regulations is amended to bring the listing of the positions excepted under Schedule C up-to-date and to show that (1) one of two positions listed under Schedule C as Secretary and Personal Assistant to the U.S. Representative to the Council of the Organization of American States is no longer excepted under Schedule C and that the other is transferred to the Bureau of International Organization Affairs; (2) the position of the Administrator of the Bureau of Security and Consular Affairs is excepted by statute rather than under Schedule C; and (3) the positions of the Chief of Protocol, his two Staff Assistants, and his Private Secretary have been transferred to the Office of the Secretary. Effective on publication in the FEDERAL REGISTER, § 213.3304 is amended as set out below.

§ 213.3304 Department of State.

(a) *Office of the Secretary.* * * *
(6) [Revoked]

* * * * *

(19) [Revoked]

* * * * *

(21) [Revoked]
(22) [Revoked]
(23) The Chief of Protocol.
(24) Two Staff Assistants and One Private Secretary to the Chief of Protocol.
(b) *Bureau of Security and Consular Affairs.* (1) [Revoked]
(2) [Revoked]
(3) [Revoked]

* * * * *

(5) [Revoked]
(c) *Office of the Assistant Secretary for Congressional Relations.* * * *
(2) [Revoked]
(3) [Revoked]

* * * * *

(9) [Revoked]
(d) *Office of the Assistant Secretary for Public Affairs.* (1) [Revoked]

* * * * *

(4) [Revoked]

* * * * *

(7) [Revoked]
(e) *Bureau of Economic Affairs.* (1) [Revoked]

* * * * *

(f) *Bureau of Intelligence and Research.* * * *
(3) [Revoked]
(4) [Revoked]
(g) *Bureau of Near Eastern and South Asian Affairs.* (1) [Revoked]

* * * * *

(3) [Revoked]
(h) *Bureau of International Organization Affairs.* (1) [Revoked]

* * * * *

(3) [Revoked]
(4) [Revoked]
(5) One Secretary and Personal Assistant to the U.S. Representative to the Council of the Organization of American States.
(i) *Bureau of European Affairs.* (1) [Revoked]

* * * * *

(3) [Revoked]
(j) *Bureau of East Asian and Pacific Affairs.* (1) [Revoked]

* * * * *

(3) [Revoked]
(5) [Revoked]

* * * * *

(k) *Bureau of Inter-American Affairs.* (1) [Revoked]

* * * * *

(4) [Revoked]
(5) [Revoked]
(6) [Revoked]
(7) [Revoked]
(l) *Office of the Legal Adviser.* (1) [Revoked]

* * * * *

(m) *Executive Secretariat.* * * *
(2) [Revoked]
(n) *Policy Planning Council.* * * *
(2) [Revoked]
(3) [Revoked]

* * * * *

(o) *Office of the Assistant Secretary for Administration.* (1) [Revoked]
(2) [Revoked]
(p) *Office of the Deputy Under Secretary for Administration.* * * *
(2) [Revoked]

* * * * *

(4) [Revoked]
(5) [Revoked]

* * * * *

(7) [Revoked]
(8) [Revoked]
(9) [Revoked]
(10) [Revoked]
(q) *Office of the Deputy Under Secretary for Political Affairs.* * * *
(3) [Revoked]
(4) [Revoked]
(r) *Bureau of African Affairs.* (1) [Revoked]

* * * * *

(3) [Revoked]

* * * * *

(5) [Revoked]
(s) *Bureau of Educational and Cultural Affairs.* * * *
(2) [Revoked]
(3) [Revoked]
(4) [Revoked]

* * * * *

(5 U.S.C. 3301, 3302, E.O. 10577, 19 F.R. 7521, 3 CFR 1954–58 Comp., p. 218)

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

[F.R. Doc. 68–8143; Filed, July 9, 1968; 8:48 a.m.]

PART 213—EXCEPTED SERVICE

Department of Defense

Section 213.3306 is amended to show that the position of Assistant to the Deputy Secretary of Defense is excepted under Schedule C. Effective on publication in the FEDERAL REGISTER, subparagraph (53) is added to paragraph (a) of § 213.3306 as set out below.

§ 213.3306 Department of Defense.

(a) *Office of the Secretary.* * * *
(53) One Assistant to the Deputy Secretary of Defense.

* * * * *

(5 U.S.C. 3301, 3302, E.O. 10577, 19 F.R. 7521, 3 CFR 1954–58 Comp., p. 218)

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

[F.R. Doc. 68–8142; Filed, July 9, 1968; 8:48 a.m.]

Title 12—BANKS AND BANKING

Chapter II—Federal Reserve System

SUBCHAPTER A—BOARD OF GOVERNORS OF THE FEDERAL RESERVE SYSTEM

PART 208—MEMBERSHIP OF STATE BANKING INSTITUTIONS IN THE FEDERAL RESERVE SYSTEM

PART 250—MISCELLANEOUS INTERPRETATIONS

Effective immediately this Part 250 is added. It is designed to include interpretations by the Board that do not

relate specifically to subjects on which the Board has adopted regulations. In this connection the following interpretations in Part 208, "Membership of State banking institutions in the Federal Reserve System", are transferred to Part 250 and redesignated as follows:

Former section number	*New section number*
208.102	250.101
208.103	250.102
208.104	250.103
208.105	250.120
208.106	250.160
208.107	250.121
208.108	250.161
208.109	250.122
208.111	250.162
208.113	250.123
208.114	250.181
208.115	250.180
208.118	250.140
208.119	250.141
208.120	250.142
208.121	250.200

The text of the new part reads as follows:

INTERPRETATIONS

Sec.

AUTHORITY: The provisions of this Part 250 issued under 12 U.S.C. 248(i) and as otherwise noted.

INTERPRETATIONS

§ 250.101 Necessity for Board approval of stock dividend by State member bank.

(a) The opinion of the Board of Governors has been requested as to whether section 5199(b) of the Revised Statutes of the United States, as amended September 8, 1959 (12 U.S.C. 60), requires the Board's approval for the declaration of a stock dividend by a State member bank in an amount which would exceed the total of net profits for the present year combined with the retained net profits of the preceding 2 years. This statute is made applicable to State member banks by the sixth paragraph of section 9 of the Federal Reserve Act (12 U.S.C. 324).

(b) The purpose of this provision is to prevent the depletion of the capital structure of a bank by the payment of excessive dividends. Since a stock dividend does not result in the distribution of cash or assets, the Board does not consider the term "dividend" in this statute as including stock dividends. Consequently, the Board's approval for the declaration of a stock dividend is not required.

(12 U.S.C. 60)

§ 250.102 Payment of dividends; effect of net losses.

(a) Section 5199(b) of the Revised Statutes (12 U.S.C. 60), as amended in 1959: *Provides,* That:

> The approval of the Comptroller of the Currency shall be required if the total of all dividends declared by [a national bank] in any calendar year shall exceed the total of its net profits of that year combined with its retained net profits of the preceding 2 years * * *

Under the sixth paragraph of section 9 of the Federal Reserve Act (12 U.S.C. 324), member State banks are required "to conform to the provisions of section 5199(b) * * * with respect to the payment of dividends", except that the approval of the Board of Governors is required in lieu of the approval of the Comptroller.

(b) The question has arisen whether it is necessary in determining whether a bank's dividends in a particular year "exceed the total of its net profits of that year combined with its retained net profits of the preceding two years", to take into consideration the amount of a net loss in the current year or in one or both of the preceding 2 years.

(c) The purpose of the 1959 amendment of section 5199(b) was to prevent a bank from paying a dividend (except with supervisory approval) unless it has on hand, from operations during the 3 latest years, sufficient net profits to cover the proposed dividend. If a net loss for one or more of those 3 years was disregarded in making the calculation called for by section 5199(b), a member State bank could pay dividends, without the approval of the Board of Governors, even though the aggregate results of the 3 latest years' operations was a net deficit. This was precisely the sort of situation in which Congress intended to prevent the payment of a dividend unless the supervisory authority was satisfied that special circumstances justified the proposed dividend.

(d) Accordingly, it is the position of the Board that, in making the calculation required by section 5199(b), it is necessary to take into consideration the actual results of operations during the current year and the 2 preceding years, whether the figures for those years are plus or minus figures. For example, if a bank had

(1) Retained net profits of $30,000 from 1959;

(2) A net loss of $40,000 in 1960 (and dividends of $10,000 were paid in that year, with the Board's approval); and

(3) Net profits of $20,000 in 1961,

It could not pay any dividend in 1961 without the Board's approval, since the calculation required by section 5199(b) would result in a zero figure ($30,000 minus $50,000 plus $20,000). It will be noted that, for the purposes of section 5199, any dividends paid in a loss year must be included in the "net loss" for that year, just as dividends paid in a profitable year must be deducted from "net profits" in calculating "retained net profits".

(12 U.S.C. 60)

§ 250.103 Payment of dividends exceeding net profits to date of declaration.

(a) Section 5199(b) of the Revised Statutes of the United States (12 U.S.C. 60) and the sixth paragraph of section 9 of the Federal Reserve Act (12 U.S.C. 324), provide in effect that "the approval of the Comptroller of the Currency (or the Board of Governors) shall be required if the total of all dividends declared by such association (a national bank or a member State bank) in any calendar year shall exceed the total of its net profits of that year combined with its retained net profits of the preceding two years."

(b) The question has been presented whether the Board's approval must be obtained when the amount of a dividend proposed to be declared by a member State bank, prior to the end of the calendar year, would exceed the total of the bank's net profits up to the date of the declaration, combined with its retained net profits of the preceding 2 years.

(c) If the question related only to the literal meaning of words, divorced from the statute's underlying purpose and from the factual situations to which it

relates, it might be contended that since the statute refers to "all dividends declared * * * in any calendar year" and "the total of its net profits of that year", its applicability cannot be determined until the calendar year is completed. As explained below, however, such an interpretation is not required by the language of the statute and would substantially defeat its purpose, as revealed by the legislative history; and consequently it is believed that the statute should be construed as relating to dividends declared, and to net profits, in the calendar year up to the date of such declaration.

(d) The purpose of the statute was described as follows by the Senate Banking Committee:

> This provision is designed to restrict the payment of dividends * * * where such payments would result in dissipating needed capital funds. This provision strengthens the regulatory authority of the Comptroller [and the Board of Governors]. Under it, he will be able to prevent the declaration of dividends which are not justified by current and recent accumulated earnings, and which would result in a weakened and undercapitalized bank and violate safe and sound banking practice.
>
> (S. Rep. No. 730, 86th Cong. (Aug. 19, 1959), pp. 6–7)

(1) It seems that Congress had in mind the following test: At the time the dividend is declared, does the bank have available, from profits of the current calendar year and the 2 preceding calendar years, enough profits to cover the dividend? If not, the dividend may not be declared and paid unless the Comptroller or the Board of Governors specifically approves, in view of the circumstances of the particular case.

(2) Bearing in mind the Senate Committee's reference to "dissipating needed capital funds," it is obvious that the danger that a proposed dividend would unduly weaken a bank's capital structure is just as great if the dividend is declared in June as if it is declared in December. If a bank does not have profits on hand sufficient to cover a proposed dividend, the fact that the declaration is made in 1 month rather than in another has little or no bearing on the extent to which payment of the dividend may unduly diminish the capital "cushion" on which depend the bank's continued existence and the safety of its depositors.

(e) An illustration may be helpful. For simplicity, let us assume that a member State bank opened for business on January 1, 1959, with a capital structure of $300,000, as required by the supervisory authorities. The bank had no net profit in 1959 or 1960. Up to June 30, 1961, it still has no net profits, but nevertheless the directors declare a dividend of $20,000 on that date. The bank's capital structure is thereby reduced from $300,000 to $280,000. It seems that this was precisely what Congress intended should not happen unless the Board of Governors approved the dividend, for adequate reasons. An undesirable situation would exist, and the Congressional purpose would be defeated, if such a weakening of the bank's capital structure were permissible if the dividend was declared and paid (without supervisory approval) in June, whereas the same action would involve a violation of the statute if the dividend was declared and paid, instead, in December. This might actually mean that no violation of section 5199(b) could occur except with respect to end-of-year dividends—unless, perhaps, it could be established that the bank's directors, when they declared the dividend earlier in the year, knew (or had reason to believe) that the bank's net profits for the entire year would not be sufficient.

(f) The statutory reference to "all dividends declared * * * in any calendar year" can be interpreted, even from the viewpoint of literal meaning, as referring to dividends declared in a calendar year up to the date of declaration. Particularly because the clear Congressional purpose would otherwise be largely defeated, it is concluded that this is the correct interpretation and that, consequently, the declaration by the member State bank, without the Board's approval, of a dividend in the amount of $20,000 would be in violation of the applicable statutes, since the amount of that dividend would exceed "the total of (the bank's) net profits of that year combined with its retained net profits of the preceding two years."

(12 U.S.C. 60)

§ 250.120 Underwriting bonds payable from proceeds of State sales taxes.

(a) The opinion of the Board of Governors of the Federal Reserve System has been requested with respect to the authority of member State banks to underwrite securities issued by States and political subdivisions thereof, with particular reference to $35,750,000 of Public Building Bonds, 1961, Series D, and Public School Plant Facilities Bonds, 1961, Series C, of the State of Washington. The Comptroller of the Currency has held that said bonds are eligible for underwriting by national banks.

(b) Paragraph Seventh of section 5136 of the Revised Statutes (12 U.S.C. 24) provides that a national bank "shall not underwrite any issue of securities", but further provides that this restriction "shall not apply to * * * general obligations of any State or of any political subdivision thereof". The 20th paragraph of section 9 of the Federal Reserve Act (12 U.S.C. 335) subjects State member banks to the same limitations with respect to the underwriting of investment securities "as are applicable in the case of national banks under paragraph 'Seventh' of section 5136."

(c) Under the statutory provisions quoted above, member banks are prohibited from underwriting securities issued by a State unless those securities are "general obligations". In the opinion of the Board of Governors, securities are not "general obligations" unless they are backed by the full faith and credit of the issuer. As stated in paragraph 520 of the "Digest of Opinions of the Office of the Comptroller of the Currency", "Securities payable only out of particular funds or out of the obligor's revenues from a particular source are not general obligations." In order to be eligible for underwriting by member banks, the issuer must possess the power of general property taxation and the securities must be supported by that power, as a part of the "full faith and credit" of the issuer.

(d) The bonds in question are issued pursuant to Washington Laws of 1961, Ex. Sess., Chapters 3 and 23. These statutes provide that the bonds "shall not be a general obligation of the state of Washington but shall be payable * * * from the proceeds of retail sales taxes * * *." The statutes also provide that "the state undertakes to continue to levy the taxes referred to herein and to fix and maintain said taxes in such amounts as will provide sufficient funds to pay said bonds and interest thereon until all such obligations have been paid in full."

(e) The statutory provisions that the bonds in question "shall not be a general obligation of the State of Washington" and "shall be payable * * * from the proceeds of retail sales taxes" appear to indicate that the bonds will not be supported by the full faith and credit of the state, including its power of general property taxation. If this is correct, it follows, on the principles previously stated, that these bonds would not be "general obligations" of the State within the meaning of R.S. 5136 and would not be eligible to be underwritten by member banks. The undertaking to levy retail sales taxes that will provide sufficient funds to pay the bonds in full reflects the intent of the State that the bonds (and interest thereon) shall be paid, but it does not negate the plain statement in the Washington statute that the bonds shall be payable from a particular source—namely, the proceeds of retail sales taxes—and are not general obligations.

(f) This conclusion does not conflict with the decision of the Supreme Court of Washington in State of Washington v. Martin, decided August 7, 1963. It was there held that bonds of this nature are "issued upon the credit of the state and are in truth debts of the state." However, the Court made it quite clear that such bonds are not supported by the full faith and credit of the State and its plenary taxing power. Under the State constitutional and statutory provisions dealt with in that decision, bonds of the State of Washington that are payable from a particular source of revenue constitute a debt of that State but are not general obligations thereof.

(g) For these reasons, the Board concludes that the bonds in question are not "general obligations" within the purview of section 5136 of the Revised Statutes and consequently are not eligible for underwriting by State banks that are members of the Federal Reserve System.

(12 U.S.C. 24, 335)

§ 250.121 Application of investment securities regulation to member State banks.

(a) *General.* A revision of the Investment Securities Regulation (Part 1 of this title) was issued recently by the Comptroller of the Currency. Under section 9 of the Federal Reserve Act (12 U.S.C. 335) the regulation is applicable to member State banks as well as to national banks, insofar as it conforms to paragraph Seventh of section 5136 of the Revised Statutes (R.S. 5136; 12 U.S.C. 24).

(b) *Provisions of regulation with respect to "exempt securities".* (1) Paragraph Seventh refers to two areas of securities transactions by a bank: (i) Underwriting and dealing, which are grouped as "underwriting" herein, and (ii) investing (called "purchasing for its own account" in the statute).

(2) The statute contains a general prohibition against a member bank (i) underwriting securities or (ii) investing more than 10 percent of its capital and surplus in the securities of any one obligor. In addition to this 10 percent limitation, the power of national banks and member State banks to purchase securities for investment is subject to "such limitations and restrictions as the Comptroller of the Currency may by regulation prescribe". The term "investment securities" is defined in paragraph Seventh and is subject to "such further definition * * * as may by regulation be prescribed by the Comptroller".

(3) The statute also provides, however, that "The limitations and restrictions herein contained as to dealing in, underwriting and purchasing for [the bank's] own account, investment securities shall not apply to obligations of the United States or general obligations of any State or of any political subdivision thereof," or certain other securities. In other words, national banks and member State banks are legally free (i) to underwrite such "exempt securities" and (ii) to invest therein without regard to the 10 percent limitation mentioned in this section.

(4) The authority of the Comptroller of the Currency to issue investment regulations pursuant to R.S. 5136 does not include authority to exempt additional kinds of securities from the prohibition against underwriting or the prohibition against investing more than 10 percent of capital and surplus in securities of any one obligor. Despite this, § 1.3 of this title, the Comptroller's recent revision of the Investment Securities Regulation, contains a definition of "public security" and § 1.4 of this title states that "A bank may deal in, underwrite, purchase and sell for its own account a public security subject only to the exercise of prudent banking judgment." The term "public security" is so defined that, in effect, the regulation purports to authorize national banks and member State banks to underwrite, and to purchase without limitation on amount, securities that are not exempted by law from the statutory prohibition against underwriting and against investing in excess of the 10 percent limitation. For example, the terms of the regulation would authorize such banks to underwrite some securities of public corporations that are payable solely out of revenues derived from the operation of a tunnel, turnpike, bridge, or the like, despite the fact that the applicable statute does not exempt such securities from the general prohibition against underwriting by banks.

(5) Since the Comptroller is not authorized by law to expand the category of exempt securities established and described in paragraph Seventh of R.S. 5136, the current regulation does not have the force and effect of law insofar as it attempts to do this. Accordingly, member State banks are informed, that, in the opinion of the Board of Governors, the only securities that are exempt from the limitations and restrictions of paragraph Seventh are those specified in R.S. 5136. Unless a particular issue of securities is exempt by virtue of that provision of law, member State banks may not underwrite the issue, and the 10 percent limit is applicable to investments therein. Since so-called "revenue obligations" of the kinds mentioned above, as well as other revenue obligations, are not exempt from the limitations and restrictions of R.S. 5136, it would be unlawful for a member State bank to underwrite such securities or to invest in them in excess of the 10 percent limit.

(c) *Convertible securities.* (1) From time to time corporations issue debentures or similar securities that constitute an obligation to pay a specified dollar amount of principal (as well as interest) and in addition give the holder an option to convert the security into a specified number of shares of the corporation's stock. When the market value of the stock into which such a debenture is convertible is substantially less than the face value of the debenture, the debenture ordinarily will sell at a price that reflects principally its value as a corporate obligation, without regard to the conversion option. However, the market value of the stock sometimes increases to such an extent that the shares into which a debenture is convertible have a market value that is much greater than the face value of the debenture. For example, a number of convertible debentures traded on the New York Stock Exchange sell at prices of $2,000, $3,000, or more, for securities with a face value of $1,000. These prices approximate very closely the current market value of the shares of stock for which the convertible may be exchanged at the holder's option.

(2) A question has arisen as to the circumstances in which a member State bank may purchase convertible debentures for its investment portfolio under the provisions of the Investment Securities Regulation of the Comptroller of the Currency, as recently revised.

(3) Section 1.3(b) of this title defines "investment security" to exclude securities "which are predominantly speculative in nature", so that, under R.S. 5136 and the regulation, the purchase of "predominantly speculative" securities is not permissible. When the market price of a convertible debenture is far in excess of its face value because of the conversion feature, and its price fluctuations parallel the fluctuations in the price of the stock into which it is convertible, the debenture is necessarily speculative. Market conditions may induce price fluctuations that may have no relationship to the quality of the debenture or even of the particular stock into which it can be converted.

(4) Accordingly, it would appear that a bank is prohibited from purchasing convertible debentures in the circumstances described. However, uncertainty as to this matter could arise from the terms of § 1.10 of this title (Comptroller's Revised Regulation), which might be read as indicating that a bank may purchase convertible securities generally, provided that the cost of such a security is written down promptly "to an amount which represents the investment value of the security considered independently of the conversion feature".

(5) Quite apart from questions of interpretation of the revised regulation, however, it is to be noted that the law itself (paragraph Seventh of R.S. 5136) in effect forbids national banks and member State banks to purchase "any shares of stock of any corporation". When the market price of a convertible security reaches 200 percent or 300 percent of its face value due to a rise in the price of the related stock, purchase of the convertible security is, for practical purposes, equivalent to the purchase of the stock it represents.

(6) In the light of these statutory and regulatory provisions, it is the position of the Board of Governors that a member State bank may not lawfully invest in a convertible security whose price exceeds, by more than an insignificant amount, the investment value of the obligation, considered independently of the conversion feature. Adherence to this principle will avoid violations of the statute and regulation that would occur if a bank were to purchase convertible securities in such circumstances that the security necessarily would be "predominantly speculative in nature", for the reasons described, and the transaction would be tantamount to a purchase of corporate stock.

(12 U.S.C. 24, 335)

§ 250.122 Underwriting of public Authority bonds payable from rents under lease with governmental entity having general taxing powers.

(a) The Board of Governors has been asked whether securities of a public Authority that are to be paid from rents payable under a lease of the Authority's facilities to a governmental entity that possesses general powers of taxation, including property taxation, constitute "general obligations" within the meaning of section 5136 of the U.S. Revised Statutes (12 U.S.C. 24). In cases where this question can be answered in the affirmative, member State banks of the Federal Reserve System may lawfully underwrite and deal in such securities, and invest therein without limitation on

amount, as far as Federal banking law is concerned.

(b) The Board understands that the issuing Authorities usually have no taxing powers and that their obligations are not, under pertinent State constitutional and statutory provisions as interpreted by the courts, "debts" of the lessee—that is, the governmental entity with general powers of taxation. However, whether a security constitutes a "debt" for purposes of State law is not determinative as to whether it is a "general obligation" within the meaning of section 5136, a Federal statute. (See § 250.120.)

(c) During recent Hearings before the Committee on Banking and Currency of the House of Representatives, published under the title "Increased Flexibility for Financial Institutions—1963", the Board expressed its understanding of the meaning of the phrase "general obligations of any State or of any political subdivision thereof" as used in section 5136.

(d) As the House Committee was informed, the Board understands that phrase to include "only obligations that are supported by an unconditional promise to pay, directly or indirectly, an aggregate amount which (together with any other funds available for the purpose) will suffice to discharge, when due, all interest on and principal of such obligations, which promise (1) is made by a governmental entity that possesses general powers of taxation, including property taxation, and (2) pledges or otherwise commits the full faith and credit of said promisor; said term does not include obligations not so supported that are to be repaid only from specified sources such as the income from designated facilities or the proceeds of designated taxes." (Hearings, p. 1018.)

(e) A major requirement of the foregoing definition is that a "general obligation" must be supported by general powers of taxation, including property taxation. The Board recognizes, however, that such support by general powers of taxation may be indirect as well as direct.

(f) If a State (or other governmental entity having general powers of taxation) agrees unconditionally to pay to an Authority rentals that will be sufficient and will be used, in all events, to cover required payments of interest and principal on the relevant securities when due, the securities, in the opinion of the Board, are indirectly supported by general taxing powers, and, accordingly, constitute "general obligations" within the meaning of R.S. 5136. On the other hand, if the lease does not contain an unconditional promise of the State to provide sums sufficient, in all events, to cover required payments of interest and principal on the bonds of the lessor Authority as they become due, the securities cannot be considered "general obligations."

(g) The status of a particular issue of such lease-supported bonds thus depends upon the terms of the lease involved. Where the lease is for a term of years not less than the maximum maturity of the relevant bond issue, and the State unconditionally promises to pay rentals sufficient to cover all payments on the bonds as they become due, the bonds ordinarily will qualify as "general obligations". Where the promise of the State is to pay a fixed dollar rental, the securities will not qualify as "general obligations" unless the lease provides that rental payments in amounts sufficient to service the bonds cannot be expended by the authority for any other purpose than the payment of principal and interest thereon.

(h) This interpretation is intended to indicate the circumstances in which securities isssued by public Authorities without taxing powers constitute "general obligations" that are eligible for underwriting by member banks, under R.S. 5136. The status of any particular issue can only be determined through examination of all relevant laws and contracts, in order to ascertain the actual legal and financial arrangements.

(12 U.S.C. 24, 335)

§ 250.123 Underwriting of notes payable from proceeds of subsequent sale of general obligation bonds.

(a) The Board of Governors has received inquiries whether California Bond Anticipation Notes constitute "general obligations" of the State of California within the meaning of paragraph Seventh of section 5136 of the U.S. Revised Statutes (12 U.S.C. 24).

(b) The Board understands that, in anticipation of the sale of general obligation bonds duly authorized, Finance Committees of certain public authorities of the State are empowered, under section 16736 of the Government Code of California, to direct the State Treasurer to issue Bond Anticipation Notes whenever "the committee deems it in the best interests of the State".

(c) Although there appears to be no judicial decision as to the nature of Bond Anticipation Notes under California law, the State Attorney General has issued an opinion (No. 63/182 of Nov. 8, 1963) concluding that the Notes do not constitute "a general obligation of the State in the sense that they are secured by the State General Fund and general taxing power of the State".

(d) While the California Attorney General's opinion is not controlling in a determination as to whether the Notes are "general obligations" within the meaning of section 5136, a Federal statute, it is significant in such a determination insofar as it indicates that the Notes are not secured by the State's "general powers of taxation, including property taxation", a sine qua non of "general obligations" under section 5136. (See § 250.122.)

(e) Although the Board of Governors has recognized that the pledge of the "general powers of taxation, including property taxation" may be indirect as well as direct, with respect to payment of the principal of its Bond Anticipation Notes the State of California does not commit its general taxing powers either directly or indirectly. The principal of such Notes is payable solely from the proceeds of subsequent sale of other securities, which means that the State retires the Notes through the exercise of its borrowing powers as distinct from its taxing powers.

(f) That the general obligation bonds, from the proceeds of whose sale the Notes are expected to be paid, will pledge the State's taxing powers cannot be considered an indirect pledge of that power to secure the Notes, because the pledge of the State's taxing powers attaches to the general obligation bonds only after they are sold and can in no way be utilized for the payment of the Notes. In order for obligations to be secured directly or indirectly by general taxing power, that power must be available for use, if necessary, to provide funds for the required payments of both principal and interest.

(g) The Board of Governors accordingly concludes that California Bond Anticipation Notes do not constitute general obligations within the meaning of section 5136. The Notes, therefore, would not be eligible for underwriting and dealing in by member State banks.

(12 U.S.C. 24, 335)

§ 250.140 Member bank acquisition of stock of another bank.

(a) The Board of Governors has recently considered, in several cases, whether a member bank may lawfully acquire stock of another bank. In some instances, a direct acquisition was involved; in another, the stock was to be purchased by a wholly owned subsidiary of the member bank. In one instance, the bank stock was to be purchased for cash; in others, the consideration was to consist of newly issued shares of stock of the acquiring bank. All of the cases involved acquisition of a majority of the stock of the "subsidiary" bank.

(b) The Board reaffirmed its position, originally taken shortly after enactment of the Banking Act of 1933 (1933 Federal Reserve Bulletin 449), that such acquisitions by member banks are not legally permissible. Section 5136 of the U.S. Revised Statutes (12 U.S.C. 24) forbids a national bank to purchase "for its own account * * * any shares of stock of any corporation." That prohibition is also applicable to State member banks, under section 9 of the Federal Reserve Act (12 U.S.C. 335). Legislative history and judicial interpretations in this field support the view that Congress did not intend to permit national banks or State member banks to acquire, for their own account, the stock of other banks, either directly or through intermediary corporations. The statutory prohibition applies to any voluntary acquisition of the stock of another bank, whether the consideration given for the stock consists of cash, other bank assets, or shares of stock of the acquiring bank.

(c) The Board concluded that such acquisitions would also violate the provisions of section 5155 of the Revised Statutes and section 9 of the Federal Reserve Act (12 U.S.C. 36 and 321) that prohibit the establishment of branches

by member banks except under prescribed conditions. Those provisions of law were intended to permit national banks and State member banks to operate additional banking offices only with the prior approval of the Comptroller of the Currency or the Board of Governors, respectively. When one bank owns all or a majority of the stock of another, the offices and resources of the latter are a part of the banking organization owned by, and subject to the control of, the parent bank, despite the existence of separate corporate entities. Consequently, if such acquisitions of stock were permissible, member banks could conduct banking operations through additional offices without obtaining supervisory approval, which would undermine an important regulatory purpose of the Federal statutes relating to multiple-office banking.

(d) This incompatibility with the Federal banking statutes is particularly apparent when the offices of the "subsidiary" bank are situated in places where the acquiring bank may not lawfully establish and maintain direct branches, under applicable State and Federal laws. If a bank in those circumstances could acquire an existing bank or establish a new one, it could effectively circumvent public policy and accomplish indirectly what it could not accomplish directly—namely, ownership and control of banking offices in places (even in another State) where it is forbidden by law to conduct banking operations.

(12 U.S.C. 24, 36, 321, 335)

§ 250.141 Member bank purchase of stock of "operations subsidiaries."

(a) In response to several inquiries, the Board of Governors has reexamined the question whether member banks may establish and purchase the stock of "operations subsidiaries"; that is, organizations designed to serve, in effect, as separately incorporated departments of the bank, performing functions that the bank is empowered to perform directly. That question involves the interpretation of the following provision of section 5136 of the Revised Statutes (12 U.S.C. 24), the so-called "stock-purchase prohibition":

> Except as hereinafter provided or otherwise permitted by law, nothing herein contained shall authorize the purchase by [a national bank] for its own account of any shares of stock of any corporation.

(b) The Board's reexamination has confirmed its previous position that the stock-purchase prohibition, which is made applicable to member State banks by the 20th paragraph of section 9 of the Federal Reserve Act (12 U.S.C. 335), forbids the purchase by a member State bank "for its own account of any shares of stock of any corporation" (the statutory language), except as specifically permitted by provisions of Federal law or as comprised within the concept of "such incidental powers as shall be necessary to carry on the business of banking," referred to in the first sentence of paragraph "Seventh" of R.S. 5136.

(c) The Federal banking statutes explicitly permit the purchase of stock of a number of kinds of corporations, including stock of Federal Reserve Banks, bank premises subsidiaries, safe deposit companies, "Edge" and "Agreement" corporations, small business investment companies, bank service corporations, and certain foreign banks. In addition, it has been held that, in the process of collecting defaulted loans that were contracted in good faith, the "incidental powers" of national banks include the power to purchase corporate stock where that action constitutes a reasonable and appropriate step toward the collection of the indebtedness.

(d) In one proposal presented to the Board, the stock to be purchased would have been that of one or more corporations engaged in the business of leasing personalty to customers of the member bank and in the business of selling money orders. The Federal statutes contain no express permission for the purchase of stock of corporations of these kinds, and the Board of Governors concluded that the power to purchase the stock of such corporations may not properly be regarded as comprised within "such incidental powers as shall be necessary to carry on the business of banking", within the meaning of section 5136.

(e) One of the inquiring member banks contended that the above-cited provisions of the National Bank Act and Federal Reserve Act:

> were intended to restrict member banks in dealing in securities and stock in the sense of trading therein or in the sense of the purchase of the stock of a going concern and, perhaps, further to restrict national and member [State] banks from engaging through subsidiaries in activities in which such banks were not directly empowered to engage, but not in the sense of holding the entire stock of an operating corporation created by the bank.

Along the same lines, the contention has been advanced that the stock-purchase prohibition was intended by Congress only to prevent banks from investing depositors' funds in corporate stock for income and appreciation, in the way that banks invest in debt obligations of the Federal Government, municipalities, and private corporations.

(f) The Board did not adopt either of these constructions of the statutory provisions. Although the prevention of such investment in stocks undoubtedly was a major Congressional purpose, it appeared to the Board that the stock-purchase prohibition was intended generally to prevent the purchase of the stock of corporations, including those created to perform functions that could be performed by the bank itself. The provisions have been so interpreted and applied by the Board (and by the Comptroller of the Currency until recently) since their enactment in the Banking Act of 1933.

(g) One of the banking problems that principally concerned Congress in the early 1930's and that led to the enactment of the Banking Acts of 1933 and 1935 was the "affiliate system," including member banks' ownership of other corporations. Among the objectives of the Banking Act of 1933, as expressed by the Senate Banking Committee, was "To separate as far as possible national and member banks from affiliates of all kinds." (S. Rept. No. 77, 73d Cong., p. 10.) Together with a number of other provisions of the Banking Act of 1933, the stock-purchase prohibition of R.S. 5136 served the purpose of confining the bank-affiliate system by preventing banks from purchasing the stock of other corporations, except to the limited extent specified in that general prohibition.

(h) The Board also considered, among other contentions, the assertion that, despite the apparent intent of the terms of the pertinent statute and its legislative history, it should not be interpreted to prevent the separate incorporation of a banking department engaged in a legitimate activity. The supporting argument would be that, if a proposed course of action cannot possibly produce the evil effect at which a statutory provision was directed, a construction of the provision that would prevent such action would be unrealistic, and, by emphasizing statutory language rather than underlying purpose, would injure rather than safeguard the public interest.

(i) The Board agreed that, if a proposed course of action could not result in any evil at which a statute is aimed, interpretation of the statute to prohibit such action should be avoided, if possible. However, it appeared to the Board that this principle does not apply to the situation presented by the inquiries. Experience in the supervision of banks has revealed that the likelihood of unsafe and unsound practices, violations of law, and other developments contrary to the public interest is significantly greater when banks operate through subsidiary corporations. There appears to be an inevitable tendency for some banks, in time, to regard their subsidiary corporations as separate enterprises and thereupon to conduct their operations in a way that is unsuitable for a part of a banking enterprise, to disregard pertinent restrictions and requirements, and, in particular, to venture through their subsidiaries into activities that are beyond the powers of the parent bank. It is reasonable to infer that Congress, having in mind the predepression affiliate system, concluded that the American banking system and the general welfare would be benefited by limiting the authority of member banks to conduct their operations through separately incorporated organizations.

(12 U.S.C. 24, 335)

§ 250.142 Meaning of "obligor or maker" in determining limitation on securities investments by member State banks.

(a) From time to time the New York State Dormitory Authority offers issues of bonds with respect to each of which a different educational institution enters

into an agreement to make "rental" payments to the Authority sufficient to cover interest and principal thereon when due. The Board of Governors of the Federal Reserve System has been asked whether a member State bank may invest up to 10 percent of its capital and surplus in each such issue.

(b) Paragraph Seventh of section 5136 of the U.S. Revised Statutes (12 U.S.C. 24) provides that "In no event shall the total amount of the investment securities of any one obligor or maker, held by [a national bank] for its own account, exceed at any time 10 per centum of its capital stock * * * and surplus fund". That limitation is made applicable to member State banks by the 20th paragraph of section 9 of the Federal Reserve Act (12 U.S.C. 335).

(c) The Board considers that, within the meaning of these provisions of law, "obligor" does not include any person that acts solely as a conduit for transmission of funds received from another source, irrespective of a promise by such person to pay principal or interest on the obligation. While an obligor does not cease to be such merely because a third person has agreed to pay the obligor amounts sufficient to cover principal and interest on the obligations when due, a person that promises to pay an obligation, but as a practical matter has no resources with which to assume payment of the obligation except the amounts received from such third person, is not an "obligor" within the meaning of section 5136.

(d) Review of the New York Dormitory Authority Act (N.Y. Public Authorities Law §§ 1675–1690), the Authority's interpretation thereof, and materials with respect to the Authority's "Revenue Bonds, Mills College of Education Issue, Series A" indicates that the Authority is not an "obligor" on those and similar bonds. Although the Authority promises to make all payments of principal and interest, a bank that invests in such bonds cannot be reasonably considered as doing so in reliance on the promise and responsibility of the Authority. Despite the Authority's obligation to make payments on the bonds, if the particular college fails to perform its agreement to make rental payments to the Authority sufficient to cover all payments of bond principal and interest when due, as a practical matter the sole source of funds for payments to the bondholder is the particular college. The Authority has general borrowing power but no resources from which to assure repayment of any borrowing except from the particular colleges, and rentals received from one college may not be used to service bonds issued for another.

(e) Accordingly, the Board has concluded that each college for which the Authority issues obligations is the sole "obligor" thereon. A member State bank may therefore invest an amount up to 10 percent of its capital and surplus in the bonds of a particular college that are eligible investments under the Investment Securities Regulation of the Comptroller of the Currency (12 CFR Part 1), whether issued directly or indirectly through the Dormitory Authority.

(12 U.S.C. 24, 335)

§ 250.160 Federal funds transactions.

(a) It is the position of the Board of Governors of the Federal Reserve System that, for purposes of provisions of law administered by the Board, a transaction in Federal funds involves a loan on the part of the "selling" bank and a borrowing on the part of the "purchasing" bank.

(b) For example, for purposes of section 23A of the Federal Reserve Act (12 U.S.C. 371c), a "sale" of Federal funds by a member bank, whether State or national, to an affiliate of the member bank is subject to the limitations prescribed in that section.

(12 U.S.C. 371c)

§ 250.161 Capital notes and debentures as "capital," "capital stock," or "surplus."

(a) The Board of Governors has been presented with the question whether capital notes or debentures issued by banks, that are subordinated to deposit liabilities, may be considered as part of a bank's "capital stock," "capital," or "surplus," for purposes of various provisions of the Federal Reserve Act that impose requirements or limitations upon member banks.

(b) A "note" or "debenture" is an evidence of debt, embodying a promise to pay a certain sum of money on a specified date. Such a debt instrument issued by a commercial bank is quite different from its "stock," which evidences a proprietary or "equity" interest in the assets of the bank. Likewise, the proceeds of a note or debenture that must be repaid on a specified date cannot reasonably be regarded as "surplus funds" of the issuing corporation.

(c) Federal law (12 U.S.C. 51c) expressly provides that the term "capital," as used in provisions of law relating to the capital of national banks, shall mean "the amount of unimpaired common stock plus the amount of preferred stock outstanding and unimpaired." In addition, when Congress in 1934 deemed it desirable to permit certain notes and debentures—those sold by State banks to the Reconstruction Finance Corporation—to be considered as "capital" or "capital stock" for purposes of membership in the Federal Reserve System, Congress felt it necessary to implement that objective by a specific amendment to section 9 of the Federal Reserve Act (12 U.S.C. 321). These plain evidences of Congressional intent compel the conclusion that, for purposes of statutory limitations and requirements, "capital" notes and debentures may not properly be regarded as part or either "capital" or "capital stock."

(d) Accordingly, under the law, capital notes or debentures do not constitute "capital," "capital stock," or "surplus" for the purposes of provisions of the Federal Reserve Act, including, among others, those that limit member banks with respect to loans to affiliates (12 U.S.C. 371c), purchases of investment securities (12 U.S.C. 24, 335), investments in bank premises (12 U.S.C. 371d), loans on stock or bond collateral (12 U.S.C. 248(m)), deposits with nonmember banks (12 U.S.C. 463), and bank acceptances (12 U.S.C. 372, 373), as well as provisions that limit the amount of paper of one borrower that may be discounted by a Federal Reserve Bank for any member bank (12 U.S.C. 84, 330, 345).

(12 U.S.C. 24, 84, 248, 321, 330, 335, 345, 371c, 371d, 372, 373, 463)

§ 250.162 Whether undivided profits may be considered part of capital or surplus of member banks.

(a) The Board of Governors has been presented with the question whether a bank's undivided profits may be considered as part of its "capital stock," "capital," or "surplus" for the purposes of provisions of law imposing requirements or limitations upon member banks of the Federal Reserve System.

(b) It is obvious that undivided profits are not a part of a bank's "capital stock"; and Congress has explicitly indicated in the national banking laws that the more general term "capital" is limited to common stock and preferred stock (12 U.S.C. 51c).

(c) In the banking field, the undivided profits account traditionally represents a fluctuating amount as distinguished from the relatively fixed and permanent amount of a bank's "surplus" or "surplus fund." This distinction has been explicitly recognized by the Supreme Court of the United States:

> By incorporated banks the term [undivided profits] is commonly employed to designate the account in which profits are carried more or less temporarily, in contradistinction to the account called surplus in which are carried amounts treated as permanent capital, and which may have been derived from payments for stock in excess of par, or from profits which have been definitely devoted to use as capital. Edwards v. Douglas, 269 U.S. 204, 215 (1925)

(d) The Federal banking laws use the terms "undivided profits" and "surplus" as having different meanings. For example, with respect to the admission to membership in the Federal Reserve System of mutual savings banks having no capital stock, the Federal Reserve Act requires such a bank to have "surplus and undivided profits" not less than the amount of capital required for the organization of a national bank in the place in which the savings bank is located (12 U.S.C. 333). Similarly, various provisions of the National Bank Act distinguish between "undivided profits" and "surplus fund." Thus, a national bank may not declare dividends if its losses have exceeded its "undivided profits" (12 U.S.C. 56); and, until a national bank's "surplus fund" equals its common capital, it may not declare dividends unless a special percentage of its net profits is carried to its "surplus fund" (12 U.S.C. 60).

(e) If undivided profits were regarded as a part of a bank's surplus or "surplus fund," such provisions for transfer of

profits to surplus would be meaningless and the application of other provisions would be uncertain and impracticable. For example, subscriptions by member banks to Federal Reserve Bank stock are based upon the amount of the member bank's "capital stock and surplus" (12 U.S.C. 287), so that, if undivided profits were regarded as a part of "surplus," the amount of a bank's subscription to Reserve Bank stock would have to be increased and decreased continuously, an inconvenient and costly procedure that could not have been contemplated by Congress.

(f) It is recognized that the question whether undivided profits may be added to capital stock and surplus in calculating the lending limitations governing member banks is a matter for determination under applicable State law in the case of State banks and under the National Bank Act in the case of national banks, except as further limited by particular provisions of the Federal Reserve Act. For the reasons indicated above, it is the Board's opinion that undivided profits do not constitute "capital," "capital stock," or "surplus" for the purposes of provisions of the Federal Reserve Act, including those that limit member banks with respect to loans to affiliates (12 U.S.C. 371c), purchases of investment securities (12 U.S.C. 335), investments in bank premises (12 U.S.C. 371d), loans on stock or bond collateral (12 U.S.C. 248(m)), deposits with nonmember banks (12 U.S.C. 463), and bank acceptances (12 U.S.C. 372, 373), as well as provisions that limit the amount of paper of one borrower that may be discounted by a Federal Reserve Bank for any member bank or accepted as security for an advance to a member bank (12 U.S.C. 330, 345, 347).

(12 U.S.C. 24, 84, 248, 287, 345, 347, 371c, 371d, 372, 373, 463)

§ 250.180 Reports of changes in control of management.

(a) Under a statute enacted September 12, 1964 (Public Law 88–593; 78 Stat. 940) all insured banks are required to report promptly (1) changes in the outstanding voting stock of the bank which will result in control or in a change in control of the bank and (2) any instances where the bank makes a loan or loans, secured, or to be secured, by 25 percent or more of the outstanding voting stock of an insured bank.

(b) Reports concerning changes in control of a State member bank are to be made by the president or other chief executive officer of the bank, and shall be submitted to the Federal Reserve Bank of its district.

(c) Reports concerning loans by an insured bank on the stock of a State member bank are to be made by the president or other chief executive officer of the lending bank, and shall be submitted to the Federal Reserve Bank of the State member bank on the stock of which the loan was made.

(d) Paragraphs 3 and 4 of this legislation specify the information required in the reports which, in cases involving State member banks, should be addressed to the Vice President in Charge of Examinations of the appropriate Federal Reserve Bank.

(12 U.S.C. 1817)

§ 250.181 Reports of change in control of bank management incident to a merger.

(a) A State member bank has inquired whether Public Law 88–593 (78 Stat. 940) requires reports of change in control of bank management in situations where the change occurs as an incident in a merger.

(b) Under the Bank Merger Act of 1960 (12 U.S.C. 1828(c)), no bank with Federal deposit insurance may merge or consolidate with, or acquire the assets of, or assume the liability to pay deposits in, any other insured bank without prior approval of the appropriate Federal bank supervisory agency. Where the bank resulting from any such transaction is a State member bank, the Board of Governors is the agency that must pass on the transaction. In the course of consideration of such an application, the Board would, of necessity, acquire knowledge of any change in control of management that might result. Information concerning any such change in control of management is supplied with each merger application and, in the circumstances, it is the view of the Board that the receipt of such information in connection with a merger application constitutes compliance with Public Law 88–593. However, once a merger has been approved and completely effectuated, the resulting bank would thereafter be subject to the reporting requirements of Public Law 88–593.

(12 U.S.C. 1817)

§ 250.200 Investment in bank premises by holding company banks.

(a) The Board of Governors has been asked whether, in determining under section 24A of the Federal Reserve Act (12 U.S.C. 371d) how much may be invested in bank premises without prior Board approval, a State member bank, which is owned by a registered bank holding company, is required to include indebtedness of a corporation, wholly owned by the holding company, that is engaged in holding premises of banks in the holding company system.

(b) Section 24A provides, in part, as follows:

> Hereafter * * * no State member bank, without the approval of the Board of Governors of the Federal Reserve System, shall (1) invest in bank premises, or in the stock, bonds, debentures, or other such obligations of any corporation holding the premises of such bank or (2) make loans to or upon the security of the stock of any such corporation, if the aggregate of all such investments and loans, together with the amount of any indebtedness incurred by any such corporation which is an affiliate of the bank, as defined in section 2 of the Banking Act of 1933, as amended [12 U.S.C. 221a], will exceed the amount of the capital stock of such banks.

(c) A corporation that is owned by a holding company is an "affiliate of each of the holding company's majority-owned banks as that term is defined in said section 2. Therefore, under the explicit provisions of section 24A, each State member bank, any part of whose premises is owned by such an affiliate, must include the affiliate's total indebtedness in determining whether a proposed premises investment by the bank would cause the aggregate figure to exceed the amount of the bank's capital stock, so that the Board's prior approval would be required. Where the affiliate holds the premises of a number of the holding company's banks, the amount of the affiliate's indebtedness may be so large that Board approval is required for every proposed investment in bank premises by each majority-owned State member bank, to which the entire indebtedness of the affiliate is required to be attributed. The Board believes that, in these circumstances, individual approvals are not essential to effectuate the purpose of section 24A, which is to safeguard the soundness and liquidity of member banks, and that the protection sought by Congress can be achieved by a suitably circumscribed general approval.

(d) Accordingly the Board hereby grants general approval for any investment or loan (as described in section 24A) by any State member bank, the majority of the stock of which is owned by a registered bank holding company, if the proposed investment or loan will not cause either (1) all such investments and loans by the member bank (together with the indebtedness of any bank premises subsidiary thereof) to exceed 100 percent of the bank's capital stock, or (2) the aggregate of such investments and loans by all of the holding company's subsidiary banks (together with the indebtedness of any bank premises affiliates thereof) to exceed 100 percent of the aggregate capital stock of said banks.

(12 U.S.C. 221a, 371d)

§ 250.220 Whether member bank acting as trustee is prohibited by section 20 of the Banking Act of 1933 from acquiring majority of shares of mutual fund.

(a) The Board recently considered whether section 20 of the Banking Act of 1933 (12 U.S.C. 377) would prohibit a member bank, while acting as trustee of a tax exempt employee benefit trust or trusts, from, under the following circumstances, acquiring a majority of the shares of an open-end investment company ("Fund") registered under the Investment Company Act of 1940, or more than 50 percent of the number of Fund's shares voted at the preceding election of directors of the Fund.

(b) The bank has acted as trustee, since December 1963, pursuant to a trust agreement with a county medical society to administer its group retirement program, under which individual members of the society could participate in accordance with the provisions of the Self-Employed Individuals Tax Retirement Act of 1962 (commonly referred to as "H.R. 10").

(c) Under the trust agreement as presently constituted, each employer, who is a participating member of the medical society, directs the bank to invest his contributions to the retirement plan in such proportions as he may elect in insurance or annuity contracts or in a diversified portfolio of securities and other property. The diversified portfolio held by the bank is invested and administered by the bank solely at the direction of a committee of the medical society.

(d) It has now been proposed that the trust agreement be amended to provide that all investments constituting the trust fund, apart from insurance and annuity contracts, will be made exclusively in shares of a single open-end investment company to be named in the trust agreement and that the assets constituting the diversified portfolio now held by the bank, as trustee, will be exchanged for the Fund's shares. The bank will, in addition to holding the shares of the Fund, allocate income and dividends to the accounts of the various participants in the retirement program, invest and reinvest income and dividends, and perform other ministerial functions.

(e) In addition, it is proposed to amend the trust agreement so that voting of the shares held by the bank as trustee will be controlled exclusively by the participants. Under the proposed amendment, the bank will sign all proxies prior to mailing them to the participants, "it being intended that the Participant(s) shall vote the proxies notwithstanding the fact that the Trustee is the owner of the shares * * *".

(f) The bank believes that amendments are now under consideration that will also require investment of the assets of these plans exclusively in the Fund's shares. Accordingly, the bank may eventually own the Fund's shares in several separate trust accounts and in an aggregate amount equal to a majority of the Fund's shares.

(g) Section 20 of the Banking Act of 1933 provides in relevant part that "no member bank shall be affiliated in any manner described in section 2(b) hereof with any corporation * * * engaged principally in the issue, flotation, underwriting, public sale, or distribution at wholesale or retail or through syndicate participation of stocks * * * or other securities: * * *".

(h) Section 2(b) defines the term "affiliate" to include "any corporation, business trust, association or other similar organization (1) Of which a member bank, directly or indirectly, owns or controls either a majority of the voting shares or more than 50 per centum of the number of shares voted for the election of its directors, trustees, or other persons exercising similar functions at the preceding election, or controls in any manner the election of a majority of its directors, trustees, or other persons exercising similar functions; * * *".

(i) The Board has previously taken the position, in an interpretation involving the term "affiliate" under the Banking Act of 1933, that it would not require a member bank to obtain and publish a report of a corporation the majority of the stock of which is held by the member bank as executor or trustee, provided that the member bank holds such stock subject to control by a court or by a beneficiary or other principal and that the member bank may not lawfully exercise control of such stock independently of any order or direction of a court, beneficiary or other principal. 1933 Federal Reserve Bulletin 651. The rationale of that interpretation—which was reaffirmed by the Board in 1957—would appear to be equally applicable to the facts in the present case. In the circumstances, and on the basis of the Board's understanding that the bank will not vote any of Fund's shares or control in any manner the election of any of its directors, trustees, or other persons exercising similar functions, the Board has concluded that the situation in question would not fall within the purpose or coverage of section 20 of the Banking Act of 1933 and, therefore, would not involve a violation of the statute.

Dated at Washington, D.C., the third day of July 1968.

By order of the Board of Governors.

[SEAL] ROBERT P. FORRESTAL,
Assistant Secretary.

[F.R. Doc. 68-8113; Filed, July 9, 1968; 8:45 a.m.]

[Reg. Q]

PART 217—PAYMENT OF INTEREST ON DEPOSITS

Computation of Interest

§ 217.145 Payment of interest on basis that 360 days equals 1 year.

(a) The question has arisen whether a member bank may pay interest on 1-year deposits on the basis that 360 days entitles a depositor to a full year's interest and add interest at the maximum permissible rate on the type of deposit in question for the remaining days (5 or 6) of the calendar year. Under such a practice, the depositor would, in effect, receive 370 days of interest on the deposit in one year.

(b) The Board of Governors considers that practices of this type violate Regulation Q. Such regulation does not authorize a bank to use "grace periods" in computing interest on time deposits at the maximum permissible rate. In other words, the terms of Regulation Q are not designed to permit a bank to pay interest at the maximum rate for more days than funds are on deposit.

(c) Nevertheless, the Board of Governors has concluded that no useful purpose would be served by preventing banks from computing interest, as a matter of mathematical simplicity, on the basis that 30 days equals 1 month or one-twelfth of a year, 90 days equals 3 months or one-quarter of a year, 180 days equals 6 months or one-half of a year, or even that 360 days equals 1 year. Although it is recognized that a bank which computes interest on such a basis will be paying interest at an effective annual rate of interest slightly in excess of the applicable maximum simple interest rate compounded continuously for the number of days the funds are on deposit, the Board will disregard this insignificant violation of its regulation.

(d) However, a bank that does compute interest on the basis of 360 days equals 1 year, or the like, may not add any interest computed on a daily basis. The mathematical simplicity argument supporting disregard of the violation that arises from the 360-days-equals-1-year basis falls with respect to such a bank.

(e) The Board also considers that it would be inappropriate for a bank to advertise an effective annual rate of interest on deposits in excess of the rate that results from computing interest at the maximum permissible simple interest rate on the type of deposit involved, compounded continuously for a full year. This means, for example, that a member bank may not advertise an effective annual rate of interest in excess of 5.13 percent on a 5 percent multiple maturity time deposit.

(12 U.S.C. 248(i). Interprets and applies 12 U.S.C. 371b)

Dated at Washington, D.C., the first day of July 1968.

By order of the Board of Governors.

[SEAL] ROBERT P. FORRESTAL,
Assistant Secretary.

[F.R. Doc. 68-8112; Filed, July 9, 1968; 8:45 a.m.]

Chapter VI—Farm Credit Administration

SUBCHAPTER D—FEDERAL INTERMEDIATE CREDIT BANKS AND PRODUCTION CREDIT ASSOCIATIONS

PART 640—FEDERAL INTERMEDIATE CREDIT BANKS

Direct Loans to Production Credit Associations

Chapter VI of Title 12 of the Code of Federal Regulations is amended by revising § 640.231 (31 F.R. 16249) to read as follows:

§ 640.231 Direct loans to production credit associations.

The bank may make direct loans to production credit associations on an unsecured basis or secured by such collateral as may be approved by the Governor of the Farm Credit Administration. Except as otherwise approved by the Farm Credit Administration, the total of all direct loans (both secured and unsecured) to any production credit association shall not at any time exceed the total of its capital and surplus accounts less the total of (a) the amount of class B stock of the bank owned by the association and (b) the legal reserve of the bank allocated to the association.

(Sec. 209, 42 Stat. 1459, as amended; 12 U.S.C. 1101)

HAROLD T. MASON,
Acting Governor,
Farm Credit Administration.

[F.R. Doc. 68-8150; Filed, July 9, 1968; 8:48 a.m.]

Title 7—AGRICULTURE

Chapter XI—Consumer and Marketing Service (Marketing Agreements and Orders; Miscellaneous Commodities), Department of Agriculture

PART 1205—COTTON RESEARCH AND PROMOTION

Subpart—Cotton Board Rules and Regulations

MISCELLANEOUS AMENDMENTS

On May 15, 1968, a notice of proposed rule making was published in the FEDERAL REGISTER (33 F.R. 7157) regarding proposed amendments of the Subpart—Cotton Board Rules and Regulations (7 CFR 1205.500–1205.540; 32 F.R. 7068).

Interested persons were given 15 days to submit written data, views, or arguments regarding the proposed amendments. Comments were received from five sources. Copies of all comments were made available to the Cotton Board. The Cotton Board requested approval of the proposed amendments without change.

After consideration of the data, views, and arguments which were filed, the Cotton Board's request for approval, and all other relevant matters, the regulations are hereby amended as hereinafter set forth:

1. In § 1205.520, the first sentence of paragraph (b) is amended by adding the words "by such producer" at the end of the first sentence and as amended reads as follows:

§ 1205.520 Procedure for obtaining refund.

* * * * *

(b) *Submission of refund application to Cotton Board.* Any producer requesting a refund shall mail an application on the prescribed form to the Cotton Board within 90 days from the date the assessment was paid on the cotton by such producer. * * *

* * * * *

2. Section 1205.530 is revised to read as follows:

§ 1205.530 Gin reports and reporting schedule.

(a) *Gin reports.* Each year each cotton gin in the United States shall submit reports to the Cotton Board on forms or certificates made available or approved by the Cotton Board as follows:

(1) *End-of-season report.* Except as provided in subparagraph (2) of this paragraph, each gin shall report to the Cotton Board an alphabetical listing of producer names, their addresses, and the number of bales ginned for each such producer during its ginning season.

(2) *Certificate in lieu of end-of-season report.* If a gin is the collecting handler on every bale ginned at such gin and collecting handler reports and remittances of assessments have been made in accordance with § 1205.513, a certification to that effect may be made to the Cotton Board in lieu of an end-of-season report.

(b) *Reporting schedule.* The schedule for submitting gin reports is as follows:

(1) Each gin that completes ginning operations prior to January 16 shall make a report to the Cotton Board within 10 days after completion of ginning.

(2) Each gin that operates on or after January 16 will make a report to the Cotton Board not later than January 25 covering bales ginned through January 15.

(3) Each gin that operates after January 15 shall make a supplemental report to the Cotton Board within 10 days after the close of ginning operations covering bales ginned after January 15.

Effective date. This amendment shall become effective 30 days following the date of publication in the FEDERAL REGISTER.

Signed at Memphis, Tenn., this 28th day of June 1968.

GEORGE C. CORTRIGHT,
Chairman, Cotton Board.

Approved at Washington, D.C., this third day of July 1968.

JOHN C. BLUM,
Deputy Administrator,
Regulatory Programs.

Attest:

CARLTON H. POWER,
Assistant Secretary,
Cotton Board.

[F.R. Doc. 68-8146; Filed, July 9, 1968; 8:48 a.m.]

Title 14—AERONAUTICS AND SPACE

Chapter I—Federal Aviation Administration, Department of Transportation

[Airworthiness Docket No. 68-WE-21-AD; Amdt. 39-618]

PART 39—AIRWORTHINESS DIRECTIVES

Beech Model D55, 56TC and E95 Airplanes

Pursuant to the authority delegated to me by the Administrator (14 CFR 11.81), an airworthiness directive (AD) was adopted on May 29, 1968, and made effective by telegram immediately to all known owners of Beech Model D55, 56TC and E95 airplanes equipped with Beechcraft pneumatic de-icer system and Beechcraft Model B5 Autopilot (manufactured as Brittain Model B-5P). The AD requires that the Beechcraft Model B5 autopilot must not be operated simultaneously with the Beechcraft pneumatic de-icer system.

Telegraphic issuance of this directive was necessitated because of an unsafe condition wherein the simultaneous operation of the Model B5 Autopilot and the pneumatic de-icer system might cause the airplane to exceed the structural limits.

Since it was found that immediate corrective action was required, notice and public procedure thereon were impracticable and contrary to the public interest and good cause existed for making the airworthiness directive effective immediately as to all known owners of Beech Model D55, 56TC, and E95 airplanes. This condition still exists and the airworthiness directive is hereby published in the FEDERAL REGISTER as an amendment to § 39.13 of Part 39 of the Federal Aviation Regulations to make it effective as to all persons.

In consideration of the foregoing, and pursuant to the authority delegated to me by the Administrator (14 CFR 11.81), § 39.13 of Part 39 of the Federal Aviation Regulations is amended by adding the following new airworthiness directive:

BEECH. Applies to Model D55, 56TC and E95 airplanes equipped with Beechcraft pneumatic de-icer system and Beechcraft Model B5 Autopilot (manufactured as Brittain Model B-5P).

Compliance required as indicated.

An unsafe condition exists wherein the simultaneous operation of the Model B5 Autopilot and the pneumatic de-icer system might cause the airplane to exceed the structural limits. Since a potential unsafe condition exists, the following operating limitations are prescribed for all affected aircraft:

A. Aircraft must not be operated with Beechcraft Model B5 Autopilot and Beechcraft pneumatic de-icer system operating simultaneously.

B. Within the next 10 hours time in service after receipt of the telegram a placard must be installed in clear view of the pilot near the autopilot controller stating as follows: "Autopilot must be turned OFF whenever the de-icer system is ON."

C. Placard is to remain installed in aircraft until such time as Brittain Industries, Inc., Service Bulletin No. 68-1, Revision A, or a satisfactory equivalent modification approved by the Chief, Aircraft Engineering Division, FAA, Western Region, has been accomplished and incorporated into the autopilot system.

This amendment becomes effective on July 10, 1968, for all persons except those to whom it was made effective immediately by telegram dated May 29, 1968.

(Secs. 313(a), 601, 603, Federal Aviation Act of 1958; 49 U.S.C. 1354(a), 1421, 1423)

Issued in Los Angeles, Calif., on June 28, 1968.

LEE E. WARREN,
Acting Regional Director,
FAA Western Region.

[F.R. Doc. 68-8181; Filed, July 9, 1968; 8:51 a.m.]

[Airworthiness Docket No. 68-WE-22-AD; Amdt. 39-620]

PART 39—AIRWORTHINESS DIRECTIVES

Boeing Model 727 Series Airplanes

There has been a recent malfunction of the main landing gear downlock actuating system on a Boeing Model 727 airplane which caused the main landing gear on one side of the airplane to be jammed by the gear door in the partially retracted position. That malfunction

resulted from the rotation of a bellcrank on a torque tube. There is adequate reason to conclude that such a deficiency may exist in the torque tube assembly on other Model 727 airplanes. Accordingly, it is necessary to require inspection or rework to minimize the probability of recurrence of the malfunction.

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

In consideration of the foregoing, and pursuant to the authority delegated to me by the Administrator (14 CFR 11.81), § 39.13 of Part 39 of the Federal Aviation Regulations is amended by adding the following new Airworthiness Directive:

BOEING. Applies to all Model 727 Series Airplanes.

a. Unless already accomplished, within the next 250 hours time in service after the effective date of this AD, install in each main landing gear downlock actuating system, a torque tube assembly, Boeing P/N 65-26921 in which the brazed joint at each end has been inspected and found to be acceptable in the manner described in Boeing Alert Service Bulletin No. 32-160 dated July 1, 1968, or later FAA-approved revision, or which has been modified to incorporate special structural fasteners in the locations and in the manner described in that Bulletin or in another manner approved by the Chief, Aircraft Engineering Division, FAA Western Region.

b. Prior to return to service following the replacement of any torque tube assembly, Boeing P/N 65-26921, inspect the replacement assembly of the same part number in the manner described in Boeing Alert Service Bulletin No. 32-160 dated July 1, 1968, or later FAA-approved revision, unless the assembly has been modified to install structural fasteners in the manner prescribed in *a*, above, or unless there is conclusive evidence that the assembly has been inspected in the manner described in Boeing Service Bulletin No. 32-160 dated July 1, 1968, or later FAA-approved revision, and found to be satisfactory.

NOTE: Conclusive evidence may consist of markings or other identification placed on the assembly by the airplane manufacturer or airplane operator, when it is known that such marking or identification verifies compliance with the prescribed inspection and acceptance requirement.

c. Airplanes inspected and found to have downlock torque tube assemblies with unacceptable brazed joints may be flown in accordance with FAR 21.97 and with landing gear extended and locked to a base where replacement or modification of the torque tube assembly can be accomplished.

This amendment becomes effective July 11, 1968.

(Secs. 313(a), 601, 603, Federal Aviation Act of 1958; 49 U.S.C. 1354(a), 1421, 1423)

Issued in Los Angeles, Calif., on July 2, 1968.

A. E. HORNING,
Acting Director,
FAA Western Region.

[F.R. Doc. 68-8182; Filed, July 9, 1968; 8:51 a.m.]

[Airspace Docket No. 68-WE-22]

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

Alteration of Federal Airway

On March 30, 1968, a notice of proposed rule making was published in the FEDERAL REGISTER (33 F.R. 5223) stating that the Federal Aviation Administration was considering an amendment to Part 71 of the Federal Aviation Regulations that would extend VOR Federal airway No. 287 from North Bend, Oreg., 1,200 feet AGL to Medford, Oreg.

Interested persons were offered an opportunity to participate in the proposed rule making through the submission of comments. Due consideration was given to all comments received.

The Department of the Navy objected in principle to the proposed airway.

The Departments of the Navy and the Air Force both expressed concern about the increased designation of small segments of controlled airspace for en route operations with the resultant reduction of "elsewhere area" airspace available to the military and other users who have a requirement for various types of flying activity incompatible with airway route structure and procedures.

The Department of the Air Force was of the opinion that if there were supporting factors for designation of the airway sufficient to outweigh the obvious disadvantages, the adverse impact of the reduction in "elsewhere area" could be partially offset by revoking the segment of the Medford transition area extending from Medford to Rouge River Intersection.

All other comments received were favorable.

The proposed airway would make it possible to provide air traffic service to aircraft operating between Medford and North Bend during IFR weather conditions. It is the policy of the agency to provide such service where possible.

There is no known national defense activity nor known use of this airspace by other operators. Contrary to the opinions expressed by the Departments of the Navy and the Air Force, the agency believes that it would be in the public interest to provide the measure of safety attendant to air traffic services to IFR operations along this route.

Consideration was given to revocation of the segment of the Medford transition area between Medford and Rouge River Intersection. However, this controlled airspace is used for a standard instrument departure procedure from Medford and its revocation would require cancellation of the procedure with the resultant derogation to air traffic service.

In consideration of the foregoing, Part 71 of the Federal Aviation Regulations is amended effective 0901 G.m.t., September 19, 1968, as hereinafter set forth.

Section 71.123 (33 F.R. 2009) is amended as follows: In V-287 "From North Bend, Oreg.," is deleted and "From Medford, Oreg., 12 AGL North Bend, Oreg.;" is substituted therefor.

(Sec. 307(a), Federal Aviation Act of 1958; 49 U.S.C. 1348)

Issued in Washington, D.C., on June 28, 1968.

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

[F.R. Doc. 68-8130; Filed, July 9, 1968; 8:46 a.m.]

[Airspace Docket No. 68-EA-35]

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

Alteration of Transition Area

On page 6939 of the FEDERAL REGISTER for May 8, 1968, the Federal Aviation Administration published a proposed regulation which would alter the Jamestown, N.Y., transition area.

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

In reviewing the proposed regulation, it was determined that there is still a need for the extension predicated on a 060° bearing from the airport. It will therefore be retained, but described by reference to the Jamestown, N.Y., RBN. In addition, the description will be rewritten.

The amendment to the proposed regulation is clarifying in nature and therefore notice and public procedure herein are unnecessary and may be made effective in less than 30 days.

In view of the foregoing, the proposed regulations are hereby adopted effective 0901 G.m.t., August 22, 1968, as follows:

Amend § 71.181 of Part 71 of the Federal Aviation Regulations by deleting the description of the Jamestown, N.Y., transition area and insert in lieu thereof:

JAMESTOWN, N.Y.

That airspace extending upward from 700 feet above the surface within a 7-mile radius of the center of Jamestown Municipal Airport, Jamestown, N.Y. (42°09'10" N., 79°-15'30" W.); within 2 miles each side of the Jamestown VOR 071° and 251° radials, extending from the 7-mile radius area to 8 miles northeast of the VOR; and within 2 miles each side of a 053° bearing from the Jamestown, N.Y., RBN (42°11'02" N., 79°-11'15" W.) extending from the 7-mile radius area to 8 miles northeast of the RBN; within 2 miles each side of the Jamestown, N.Y., ILS localizer northeast course extending from the 7-mile radius area to 8 miles northeast of the ILS OM.

(Sec. 307(a), Federal Aviation Act of 1958; 72 Stat. 749; 49 U.S.C. 1348)

Issued in Jamaica, N.Y., on June 24, 1968.

WAYNE HENDERSHOT,
Acting Director, Eastern Region.

[F.R. Doc. 68-8131; Filed, July 9, 1968; 8:47 a.m.]

[Airspace Docket No. 68-EA-23]

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

Alteration of Control Zone and Transition Area

On page 6937 of the FEDERAL REGISTER for May 8, 1968, the Federal Aviation Administration published a proposed regulation which would alter the Covington, Ky., control zone and Cincinnati, Ohio, 700-foot floor transition area.

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

In view of the foregoing, the proposed regulations are hereby adopted effective 0901 G.m.t., August 22, 1968.

(Sec. 307(a), Federal Aviation Act of 1958; 72 Stat. 749; 49 U.S.C. 1348)

Issued in Jamaica, N.Y., on June 24, 1968.

WAYNE HENDERSHOT,
Acting Director, Eastern Region.

1. Amend § 71.171 of Part 71 of the Federal Aviation Regulations so as to delete in the description of the Covington, Ky., control zone the coordinates "39°02'56" N., 84°39'53" W.," and insert in lieu thereof "39°02'50" N., 84°40'00" W.". Following the words "for 5 miles" add "and within 2 miles each side of the Greater Cincinnati Airport ILS localizer south course, extending from the 5-mile radius zone to the Runway 36 OM."

2. Amend § 71.181 of Part 71 of the Federal Aviation Regulations so as to delete in the description of the Cincinnati, Ohio, transition area the coordinates "39°02'56" N., 84°39'53" W.," and insert in lieu thereof "39°02'50" N., 84°40'00" W.,".

[F.R. Doc. 68-8132; Filed, July 9, 1968; 8:47 a.m.]

[Airspace Docket No. 68-SW-23]

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

Alteration of Control Zone and Transition Area

The purpose of this amendment to Part 71 of the Federal Aviation Regulations is to alter controlled airspace in the Roswell, N. Mex., terminal area.

On May 16, 1968, a notice of proposed rule making was published in the FEDERAL REGISTER (33 F.R. 7259) stating the Federal Aviation Administration proposed to alter the Roswell, N. Mex., control zone and transition area.

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

A review of the proposed extensions to the Roswell, N. Mex., transition area has indicated that utilization of the Wink, Tex., VOR 322° radial (311° magnetic) would be more accurate than the 321° radial (310° magnetic) as was proposed in the notice. The airspace description is being altered accordingly by substituting the Wink, Tex., VORTAC 322° radial for the 321° radial as was initially proposed. As this correction or refinement is considered minor in nature and imposes no additional burden on the public, notice and public procedure are deemed unnecessary.

In consideration of the foregoing Part 71 of the Federal Aviation Regulations is amended, effective 0901 e.s.t., August 22, 1968, as hereinafter set forth.

In § 71.171 (33 F.R. 2120) (33 F.R. 2628), the Roswell, N. Mex., control zone is amended as follows:

ROSWELL, N. MEX.

That airspace within a 6-mile radius of the Roswell Industrial Air Center Airport (lat. 33°17'59" N., long. 104°31'48" W.); within 2 miles each side of the extended centerline of runway 3 extending from the 6-mile radius zone to the LOM; and within 2 miles each side of the extended centerline of runway 21 extending from the 6-mile radius zone to 6 miles southwest of the lift-off end of runway 21. This control zone is effective during the dates and times published in the Airman's Information Manual.

In § 71.181 (33 F.R. 2248) the Roswell, N. Mex., transition area is amended as follows:

ROSWELL, N. MEX.

That airspace extending upward from 700 feet above the surface bounded by a line beginning at lat. 33°35'25" N., long. 104°46'40" W., thence to lat. 33°37'00" N., long. 104°20'00" W., to lat. 33°29'15" N., long. 104°10'05" W., to lat. 33°24'30" N., long. 104°07'00" W., to lat. 33°07'00" N., long. 104°12'00" W., to lat. 33°06'25" N., long. 104°32'30" W., to lat. 33°12'40" N., long. 104°43'25" W., to lat. 33°30'35" N., long. 104°49'55" W., thence to the point of beginning; and that airspace extending upward from 1,200 feet above the surface bounded by a line beginning at lat. 32°50'40" N., long. 105°15'00" W., thence to lat. 32°58'00" N., long. 105°09'00" W., to lat. 33°41'30" N., long. 105°09'00" W., thence clockwise via the arc of a 45-mile radius circle centered at lat. 33°17'59" N., long. 104°31'48" W., to lat. 32°43'35" N., long. 104°54'55" W., to lat. 32°40'38" N., long. 104°58'25" W., thence to the point of beginning; within 5 miles each side of the Roswell VORTAC 319° radial and the Albuquerque, N. Mex., VORTAC 128° radial extending from the 45-mile radius area to 93.5 miles northwest of the Roswell VORTAC, including that airspace within lines diverging at 4.5° from the Albuquerque VORTAC 128° radial extended to intersect with the bisector of the angle formed by the Albuquerque VORTAC 128° radial and the Roswell VORTAC 319° radial and extending from those points of intersection to the Roswell VORTAC, excluding that portion within the Corona, N. Mex., and Albuquerque, N. Mex,. transition areas; within 5 miles each side of the Roswell VORTAC 051° radial extending from the 45-mile radius area to 93.5 miles northeast of the VORTAC including that airspace within lines diverging at 4.5° each side of the 051° radial from the VORTAC but excluding that portion within the Clovis, N. Mex., transition area; within 5 miles each side of the Roswell VORTAC 141° radial and of the Wink, Tex. 322° radial extending from the 45-mile radius area to 93.5 miles southeast of the Roswell VORTAC; within 5 miles each side of the Roswell VORTAC 215° radial extending from the 45-mile radius area to 93.5 miles southwest of the VORTAC, including that airspace within lines diverging at 4.5° each side of the 215° radial from the VORTAC but excluding that portion within the El Paso, Tex., transition area.

(Sec. 307(a), Federal Aviation Act of 1958; 49 U.S.C. 1348)

Issued in Fort Worth, Tex., on June 27, 1968.

A. L. COULTER,
Acting Director, Southwest Region.

[F.R. Doc. 68-8133; Filed, July 9, 1968; 8:47 a.m.]

[Airspace Docket No. 68-EA-62]

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

Designation of Federal Airway Segment

The purpose of this amendment to Part 71 of the Federal Aviation Regulations is to designate VOR Federal airway No. 431 segment from Keene, N.H., direct to Gardner, Mass., VOR Federal airway No. 431 is presently designated from Boston, Mass., to Gardner, Mass., and from Keene, N.H., via Glens Falls, N.Y., to the Gateway, N.Y., intersection. Action is being taken herein to designate V-431 segment as a common airway segment with V-151 between Gardner and Keene, thereby facilitating flight planning and route continuity of air traffic operating between Glens Falls and Boston.

Since this action is editorial in nature and does not require the designation of additional airspace and imposes no additional burden on any person, notice and public procedure hereon are unnecessary. However, since it is necessary that sufficient time be allowed to permit appropriate changes to be made on aeronautical charts, this amendment will become effective more than 30 days after publication.

In consideration of the foregoing, Part 71 of the Federal Aviation Regulations is amended effective 0901 G.m.t., September 19, 1968, as hereinafter set forth.

In § 71.123 (33 F.R. 2009) V-431 is amended by deleting "12 AGL Gardner. From" and substituting "12 AGL Gardner; 12 AGL" therefor.

(Sec. 307(a), Federal Aviation Act of 1958; 49 U.S.C. 1348)

Issued in Washington, D.C., on June 28, 1968.

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

[F.R. Doc. 68-8134; Filed, July 9, 1968; 8:47 a.m.]

[Airspace Docket No. 68-EA-58]

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

Revocation of Transition Area

The Federal Aviation Administration is amending § 71.181 of Part 71 of the

Federal Aviation Regulations so as to revoke the Bristol, Pa., transition area.

The instrument approach to 3 M Airport, Bristol, Pa., has been canceled thereby withdrawing the need for the Bristol, Pa., transition area.

Since the amendment relieves a restriction and imposes no burden on any person, notice and public procedure herein are unnecessary and the amendment may be made effective in less than 30 days.

In view of the foregoing, § 71.181 of Part 71 of the Federal Aviation Regulations is amended, effective upon publication in the FEDERAL REGISTER, by revoking the Bristol, Pa., transition area.

(Sec. 307(a), Federal Aviation Act of 1958; 72 Stat. 749; 49 U.S.C. 1348)

Issued in Jamaica, N.Y., on June 24, 1968.

WAYNE HENDERSHOT,
Acting Director, Eastern Region.

[F.R. Doc. 68-8135; Filed, July 9, 1968; 8:47 a.m.]

Title 18—CONSERVATION OF POWER AND WATER RESOURCES

Chapter V—Federal Water Pollution Control Administration, Department of the Interior

PART 620—WATER QUALITY STANDARDS

Adoption, Identification, and Availability of State Standards

1. Section 10(c)(1) of the Federal Water Pollution Control Act provides as follows:

> If the Governor of a State or a State water pollution control agency files, within 1 year after the date of enactment of this subsection, a letter of intent that such State, after public hearings, will before June 30, 1967, adopt (A) water quality criteria applicable to interstate waters or portions thereof within such State, and (B) a plan for the implementation and enforcement of the water quality criteria adopted, and if such criteria and plan are established in accordance with the letter of intent, and if the Secretary determines that such State criteria and plan are consistent with paragraph (3) of this subsection, such State criteria and plan shall thereafter be the water quality standards applicable to such interstate waters or portions thereof.

In accordance with that provision, the Secretary of the Interior issued regulations on January 30, 1968, at 33 F.R. 2632.

Part 620 is revised to read as follows:

Sec.

AUTHORITY: The provisions of this Part 620 issued under sec. 1, 70 Stat. 506, as amended; 33 U.S.C. 466i.

§ 620.1 Scope and purpose.

This part applies to procedures for the adoption of water quality standards pursuant to section 10(c) of the Federal Water Pollution Control Act, as amended, 33 U.S.C. 466g(c), hereinafter the Federal Act, and identifies and describes those State-adopted water quality standards which the Secretary of the Interior, hereinafter the Secretary, has determined meet the criteria of the Federal Act.

§ 620.2 State adoption.

(a) Water quality standards consisting of water quality criteria and a plan for the enforcement and implementation of such criteria, if adopted by a State after notice and public hearing, and if determined by the Secretary to be such standards as will protect the public health or welfare, enhance the quality of water and serve the purposes of the Federal Act, shall thereafter be the water quality standards applicable to the interstate waters or portions thereof for which adopted.

(b) Determination by the Secretary that State-adopted water quality standards meet the criteria of paragraph (a) of this section shall be published in the FEDERAL REGISTER. Documents containing such standards shall be incorporated by reference into this part.

§ 620.3 Availability.

State-adopted water quality standards which the Secretary has determined meet the criteria of § 620.2 shall be available for inspection at the Regional Offices of the Federal Water Pollution Control Administration and at the Headquarters of the Federal Water Pollution Control Administration in Washington, D.C., where the official historic file of water quality standards shall be maintained.

§ 620.10 Standards adopted.

Water quality standards consisting of water quality criteria and plans of enforcement and implementation thereof which the Secretary has determined meet the criteria of section 10(c) of the Federal Act, except as otherwise noted, have been established by the States as follows:

2. Pursuant to the authority of section 10(c) of the Federal Water Pollution Control Act, as amended, 33 U.S.C. 466g(c), the Secretary of the Interior hereby determines that the water quality standards adopted by the States listed, and contained in the documents identified in § 620.10, except as otherwise indicated, are consistent with paragraph (3) of section 10(c) of the Federal Water Pollution Control Act, as amended, and are such standards as protect the public health or welfare, enhance the quality of water and serve the purposes of the Federal Act; such standards shall hereafter be the standards applicable to the interstate waters for which adopted.

The documents containing such standards are incorporated herein and made a part hereof.

Section 620.10 is amended by adding the following:

ALABAMA

Water quality standards established by Alabama on May 5, 1967, for interstate waters subject to its jurisdiction, and which are contained in the document entitled, "Water Quality Standards for Waters of Alabama and a Plan of Implementation, June 1967," except for temperature and dissolved oxygen criteria for those interstate waters for which shellfish harvesting, and fish and wildlife propagation are the established uses, together with appendixes and supporting documents; as amended.

ALASKA

Water quality standards established by Alaska on June 29, 1967, for interstate waters subject to its jurisdiction, and which are contained in the document entitled "Water Quality Standards for Interstate Waters Within the State of Alaska and A Plan for Implementation and Enforcement of the Criteria, June 29, 1967," as amended by "Water Quality Standards for Interstate Waters Within the State of Alaska, revised November 10, 1967," except for items 8 and 9 entitled "Sediment" and "Toxic Or Other Deleterious Substances, Pesticides and Related Organic and Inorganic Materials."

ARKANSAS

Water quality standards established by Arkansas on May 26, 1967, for interstate waters subject to its jurisdiction, and which are contained in the document entitled, "Water Quality Criteria and Plan of Implementation of the State of Arkansas, Arkansas Pollution Control Commission," consisting of one volume with six sections, section VI thereof containing criteria for interstate streams, which criteria are identified as "Regulation No. 2 of the Arkansas Pollution Control Commission," and section V thereof containing the "Implementation and Enforcement Plan," together with appendixes and supporting documents; as amended.

CONNECTICUT

Water quality standards established by Connecticut on June 19, 1967, for interstate waters subject to its jurisdiction, and which are contained in the document entitled "Water Quality Standards, State of Connecticut, Submitted to the Secretary of the Interior by the Water Resources Commission, State of Connecticut, June 28, 1967," except for the dissolved oxygen criteria for waters with a use designation of "Protection of Fish, Shellfish and Wildlife" in waters classified as "C," "CC," "SC," and "SCC"; as amended.

DELAWARE

Water quality standards established by Delaware on May 17, 1967, for interstate waters subject to its jurisdiction, and which are contained in the document entitled "Water Quality Standards For Interstate Streams, June 1967," as amended; except for treatment requirements for Delaware City and Milton, and except for dissolved oxygen criteria of 50 percent saturation where so designated for fresh waters.

DISTRICT OF COLUMBIA

Water quality standards established by the District of Columbia on June 29, 1967, for interstate waters subject to its jurisdiction, and which are contained in the document entitled "Water Quality Criteria, Implementation And Enforcement Plan, Potomac River And Tributaries, June 1967," as amended; except for temperature and dissolved oxygen criteria.

GEORGIA

Water quality standards established by Georgia in June 1967, for interstate waters subject to its jurisdiction, and which are contained in the documents entitled "Establishment of Water Quality Standards and Classifications For Interstate Waters In the State of Georgia In Compliance With the Federal Water Pollution Control Act, As Amended by the Water Quality Act of 1965—Section 10(c)(1), Under Authority of the Georgia Water Quality Control Act, Act 870, As Amended Through 1966," consisting of 11 sections, including criteria contained in "Rules of State, Water Quality Control Board, Chapter 730-3, Water Use Classifications and Water Quality Standards" adopted by the State Water Quality Control Board on April 21, 1967, and contained in section 1 of the aforesaid 11 sections, together with appendixes and supporting documents.

HAWAII

Water quality standards established by Hawaii on June 29, 1967, for interstate waters subject to its jurisdiction, and which are contained in the document entitled "Water Quality Standards, June 29, 1967," including Chapter 37-A of the Public Health Regulations containing the water quality criteria, as amended.

IDAHO

Water quality standards established by Idaho in June 1967, for interstate waters subject to its jurisdiction, and which are contained in the documents entitled "Rules And Regulations For Standards of Water Quality For The Interstate Waters Of Idaho And Disposal Therein Of Sewage And Industrial Wastes," and "Implementation, Enforcement And Surveillance Plan For The Interstate Waters of Idaho," together with appendixes and supporting documents, as amended.

INDIANA

Water quality standards established by Indiana in June 1967, for interstate waters subject to its jurisdiction, and which are contained in the following documents:

1. "Report On Water Quality Criteria And Plan Of Implementation, Whitewater River Basin, June 1967," as amended.

2. "Report On Water Quality Criteria And Plan Of Implementation, St. Joseph River Basin, June 1967," as amended.

3. "Report On Water Quality Criteria And Plan Of Implementation, Maumee River Basin, June 1967," as amended.

4. "Report On Water Quality And Plan Of Implementation, Upper And Middle Wabash River Basins (Down to Terre Haute), June 1967," as amended.

5. "Report On Water Quality And Plan Of Implementation, Patoka River Basin And The Indiana Waters Of The Lower Wabash River Basin Excluding The Waters Of The White River Basin, June 1967," as amended.

6. "Report On Water Quality And Plan Of Implementation, The Indiana Waters Of The Main Stem Of The Ohio River And Its Indiana Tributary Basins Excluding The Waters Of The Wabash River Basin, June 1967," as amended.

7. "Report On Water Quality And Plan Of Implementation, Indiana Waters Of The Kankakee River Basin, June 1967," as amended.

8. "Report On Water Quality And Plan Of Implementation, Lake Michigan Basin, June 1967," as amended.

LOUISIANA

Water quality standards established by Louisiana on June 27, 1967, for interstate waters subject to its jurisdiction, and which are contained in the documents entitled "Louisiana Stream Control Commission, Baton Rouge, Louisiana, Water Quality Criteria for Waters of the State of Louisiana," and "Plan For Implementation and Enforcement of Water Quality Standards, Louisiana Stream Control Commission," together with appendixes and supporting documents, as amended; except for dissolved oxygen criteria for those interstate waters for which a use includes the propagation of acquatic life, and for which the dissolved oxygen criterion is established at "not less than 50 percent of saturation at existing water temperature."

MARYLAND

Water quality standards established by Maryland for interstate waters subject to its jurisdiction and which are contained in the documents entitled, "Water Resources Regulation 4.8, General Water Quality Criteria and Specific Water Quality Standards for All Maryland Waters," of the Maryland Water Resources Commission, May 22, 1967; and "Maryland's Water Quality Program, Maryland Plan, Binder No. 1," together with appendixes and supporting documents.

MICHIGAN

Water quality standards established by Michigan on June 28, 1967, for interstate waters subject to its jurisdiction, and which are contained in the following documents:

1. "Water Resource Uses, Present and Prospective for the St. Joseph River Basin in Michigan and Water Quality Standards and Plan of Implementation, Revised June 1967";

2. "Water Resource Uses, Present and Prospective for Lake Michigan and Water Quality Standards and Plan of Implementation, Revised June 1967";

3. "Water Resource Uses, Present and Prospective for Lake Huron and Water Quality Standards and Plan of Implementation, Revised June 1967";

4. "Water Resource Uses, Present and Prospective for St. Clair River, Lake St. Clair, Detroit River, Lake Erie, Maumee River Basin and Water Quality Standards and Plan of Implementation, Revised June 1967";

5. "Water Resource Uses, Present and Prospective for Lake Superior and the St. Marys River and Water Quality Standards and Plan of Implementation, Revised June 1967";

6. "Water Resource Uses, Present and Prospective for the Menominee and Montreal River Basins in Michigan and the Other Michigan-Wisconsin Interstate Boundary Waters and Water Quality Standards and Plan of Implementation, Revised June 1967";

as amended; except temperature criteria for waters classified for the protection of fish, wildlife and other aquatic life.

MISSISSIPPI

Water quality standards established by Mississippi on June 19, 1967, for interstate waters subject to its jurisdiction, and which are contained in the document entitled "Water Quality Standards For Interstate Waters, June 19, 1967," as amended; except for the dissolved oxygen criteria for fresh waters and open ocean waters classified for fish and wildlife or higher uses; and temperature change limits in waters classified for fish and wildlife or higher uses.

MISSOURI

Water quality standards established by Missouri in June 1967, for interstate waters subject to its jurisdiction, and which are contained in the following documents:

1. "St. Francis River, Little River, Lower Mississippi River Basin, Water Quality Standards, June 1967," as amended.

2. "Osage-Marais des Cygnes River, Lake of the Ozarks, Marmaton, and Little Osage Rivers, Missouri River Basin, Water Quality Standards, June 1967," as amended.

3. "Nishnabotna, Tarkio, West Tarkio, Nodaway, Platte, One Hundred And Two, Grand, East Fork Grand, Thompson, Little Weldon, and Chariton Rivers, Missouri River Basin, Water Quality Standards, June 1967," as amended.

4. "White, North Fork White, Spring, Eleven Point, Current and Black Rivers, White River Basin, Southwest Lower Mississippi, Water Quality Standards, June 1967," as amended.

5. "Missouri River, Water Quality Standards, June 1967," as amended; except for dissolved oxygen criteria.

6. "Mississippi River, Water Quality Standards, June 1967," as amended; except for dissolved oxygen criteria for portion below Alton Lock Dam.

7. "Big Blue River, Missouri River Basin, Water Quality Standards, June 1967," as amended.

8. "Des Moines, Fox, Wyaconda, and North Fabius Rivers, Upper Mississippi River Basin, Water Quality Standards, June 1967," as amended.

9. "Spring River, Shoal Creek, and Turkey Creek, Elk River, Buffalo Creek, and Lost Creek, Grand (Neosho) River Basin, South-West Lower Mississippi, Water Quality Standards, June 1967," as amended.

MONTANA

Water quality standards established by Montana on June 5, 1967, for interstate waters subject to its jurisdiction, and which are contained in the documents entitled "Missouri River Drainage, Water Quality Standards For The Surface Waters Of Montana," and "Columbia River Drainage, Water Quality Standards For The Surface Waters Of Montana," as amended by "Water Quality Standards For the Surface Waters Of Montana, September 27, 1967."

NEW JERSEY

Water quality standards established by New Jersey on August 10, 1964, for interstate waters subject to its jurisdiction, and which are contained in the document entitled "New Jersey State Department of Health, Division of Clean Air and Water, Water Pollution Control Program, Stream Classification, Standards of Quality—Implementation," as amended; except dissolved oxygen criteria in interstate waters classified for FW-2, FW-3, TW-1, CW-1, CW-2, and except for temperature criteria for all coastal and tidal waters, except Delaware Bay and Estuary, and except for temperature change limits for trout waters classified FW-2 and FW-3.

NEW YORK

Water quality standards established by New York for interstate waters subject to its jurisdiction, and which are contained in the following documents:

1. "Interstate Waters, Classifications, Water Quality Standards and Criteria and Implementation Plan for the Delaware River Drainage Basin, Volume I, November 1966;

2. "Interstate Waters, Classifications, Water Quality Standards and Criteria and Implementation and Enforcement Plan for the Susquehanna River Drainage Basin, Volume II, February 1967;

3. "Interstate Waters Classifications, Water Quality Standards and Criteria and Implementation and Enforcement Plan for the St. Lawrence River Basin, Volume III, May 1967;

4. "Interstate Waters, Classifications, Water Quality Standards and Criteria and Implementation Plan for the Lake Ontario Basin, Volume IV, June 1967;

5. "Interstate Waters, Classifications, Water Quality Standards and Criteria and Implementation and Enforcement Plan for the Hudson River Basin, Volume V, June 1967;

6. "Interstate Waters, Classifications, Water Quality Standards and Criteria and Implementation and Enforcement Plan for the

Lake Erie-Niagara River Basin, Volume VI, June 1967;

7. "Interstate Waters, Classifications, Water Quality Standards and Criteria and Implementation and Enforcement Plan for the Allegheny River Basin, Volume VII, June 1967;

8. "Interstate Waters, Classifications, Water Quality Standards and Criteria and Implementation and Enforcement Plan for the Coastal Waters of New York State, Volume VIII, June 1967;"

together with all appendixes and attachments thereto, and all of which as amended.

NORTH CAROLINA

Water quality standards established by North Carolina on June 23, 1967, for interstate waters subject to its jurisdiction, and which are contained in the document entitled "Excerpt: North Carolina Water Quality Standards and Plan of Implementation, Interstate and Coastal Waters," as amended; except for dissolved oxygen criteria for fresh waters classified as "A," "B," and "C," and open ocean waters classified as "SA," "SB," "SC," and except for maximum temperature limit of 95° F. and temperature change limits for trout propagation waters and all "S" classes.

NORTH DAKOTA

Water quality standards established by North Dakota on May 16, 1967, for interstate waters subject to its jurisdiction, and which are contained in the document entitled "Water Quality Standards for Surface Waters of North Dakota, Plan for Implementation of Water Quality Standards," together with appendixes and supporting documents, all of which as amended; except for the Red River of the North Drainage Basin.

OHIO

Water quality standards established by Ohio in June 1967, for interstate waters subject to its jurisdiction, and which are contained in the following documents:

1. "Water Quality Standards For Great Miami, Whitewater and Wabash River Basins, June 21, 1967," as amended; except for temperature and dissolved oxygen criteria in waters classified "Aquatic Life A".

2. "Water Quality Standards For Mahoning River, Yankee and Pymatuning Creeks, and Little Beaver Creek, June 20, 1967," as amended; except for the Mahoning River and except for odor criterion for Little Beaver, Yankee, and Pymatuning Creeks, and except for temperature and dissolved oxygen criteria for waters classified "Aquatic Life A".

3. "Water Quality Standards For The Ashtabula River, Conneaut Creek, and Turkey Creek, Including Interstate Waters of Ohio-Pennsylvania, June 1967," as amended; except for temperature and dissolved oxygen criteria for waters classified "Aquatic Life A".

4. "Water Quality Standards for Interstate Waters of the Ohio River Between Ohio-West Virginia and Ohio-Kentucky, June 26, 1967," as amended; except for temperature and dissolved oxygen criteria for waters classified "Aquatic Life A".

5. "Report on Water Quality Standards For The Maumee River Basin Including Interstate Waters, June 1967," as amended; except for temperature and dissolved oxygen criteria for waters classified "Aquatic Life A".

6. "Report on Water Quality Standards For Interstate Waters Of Lake Erie, May 1967, as amended; except for temperature and dissolved oxygen criteria for waters classified "Aquatic Life A".

OKLAHOMA

Water quality standards established by Oklahoma on October 10, 1967, for interstate waters subject to its jurisdiction, and which are contained in the document entitled "Water Quality Criteria And Stream Standards For Oklahoma, 1967," as amended; except for dissolved oxygen criteria for waters with a use designated "Protection of fish and wildlife propagation, including smallmouth bass fisheries."

OREGON

Water quality standards established by Oregon on June 1, 1967, for interstate waters subject to its jurisdiction, and which are contained in the document entitled "Chapter 334, Oregon Administrative Rules, State Sanitary Authority, Division 1, Water Pollution, Subdivision 1, Standards of Quality for Public Waters of Oregon and Disposal therein of Sewage and Industrial Wastes," together with appendixes and supporting documents, all of which as amended; except section 11-021, entitled "Special Water Quality Standards for Public Waters of Goose Lake in Lake County," and section 11-023 entitled "Special Water Quality Standards for Public Waters of the Main Stem Klamath River."

PENNSYLVANIA

Water quality standards established by Pennsylvania on June 28, 1967, for interstate waters subject to its jurisdiction, and which are contained in the document entitled "Water Quality Standards For Pennsylvania's Interstate Streams, June 1967," as amended, including criteria and use classifications contained in Article 301 of the Pennsylvania Sanitary Water Board's rules and regulations.

SOUTH DAKOTA

Water quality standards established by South Dakota on February 16, 1967, for interstate waters subject to its jurisdiction, and which are contained in the document entitled "Water Quality Standards For The Surface Waters Of South Dakota, February 16, 1967," together with appendixes and supporting documents, as amended.

TENNESSEE

Water quality standards established by Tennessee on May 26, 1967, for interstate waters subject to its jurisdiction, and which are contained in the document entitled "Water Quality Criteria And Implementation Plan For State Of Tennessee," as amended; except for temperature criteria in all interstate waters classified for fish and aquatic life.

TEXAS

Water quality standards established by Texas on June 26, 1967, for interstate waters subject to its jurisdiction, and which are contained in the document entitled "State of Texas, Water Quality Requirements," as amended.

WASHINGTON

Water quality standards established by Washington on June 29, 1967, for interstate waters subject to its jurisdiction, and which are contained in the documents entitled "A Regulation Relating to Water Quality Standards for Interstate and Coastal Waters of the State of Washington and A Plan For Implementation and Enforcement of Such Standards Promulgated June 29, 1967," and "Implementation and Enforcement Plan for Interstate and Coastal Waters, June 1967," as amended by "A Regulation Relating To Water Quality Standards For Interstate and Coastal Waters of the State of Washington and a Plan For Implementation and Enforcement of Such Standards, December 4, 1967" and "Implementation and Enforcement Plan for Interstate and Coastal Waters, December 1967," together with appendixes and supporting documents, as amended.

WEST VIRGINIA

Water quality standards established by West Virginia on January 26, 1967, for interstate waters subject to its jurisdiction and which are contained in the document entitled "Report On Water Quality Criteria And Plan Of Implementation, Interstate Streams Of West Virginia," as amended; except for iron and aluminum criteria for interstate waters classified under Section 5.03 (a) of State Regulations.

WISCONSIN

Water quality standards established by Wisconsin on April 26, 1967, for interstate waters subject to its jurisdiction, and which are contained in the document entitled "Water Quality Standards For Interstate Waters With Report On Implementation And Enforcement, June 1967," including Wisconsin Administrative Code Sections RD 2.01, RD 2.02, RD 2.03, RD 3.01 through RD 3.09, together with appendixes and supporting documents.

VIRGIN ISLANDS

Water quality standards established by the Virgin Islands on July 7, 1967, for interstate waters subject to its jurisdiction, and which are contained in the document entitled "Report On Water Quality Criteria And Plan Of Implementation, Virgin Islands, United States Of America, July 1967," as amended by "Report On Water Quality Criteria And Plan Of Implementation, Virgin Islands, United States Of America, August 25, 1967."

3. The water quality standards adopted by Massachusetts, and which have been determined by the Secretary of the Interior meet the criteria of section 10(c) of the Federal Water Pollution Control Act, as amended, 33 U.S.C. 466g(c), and which were published in the FEDERAL REGISTER of May 17, 1968 (33 F.R. 7332), are hereby added to section 620.10. The documents containing such standards are incorporated herein and made a part hereof.

Section 620.10 is amended by adding the following:

MASSACHUSETTS

Water quality standards established by Massachusetts for the interstate waters subject to its jurisdiction and which are contained in the documents entitled:

1. "Volume 1, Water Quality Standards, Laws, Policy and Standards," including "Water Quality Standards" adopted by the Commonwealth of Massachusetts Water Resources Commission, Division of Water Pollution Control, on March 3, 1967;

2. "Volume 2, Water Quality Standards, Blackstone, French and Quinebaug River Basins;

3. "Volume 3, Water Quality Standards, Housatonic and Hoosic River Basins;

4. "Volume 4, Water Quality Standards, Taunton and Ten Mile River Basins;

5. "Volume 5, Water Quality Standards, Nashua River Basin;

6. "Volume 6, Water Quality Standards, Connecticut River Basins;

7. "Volume 7, Water Quality Standards, Merrimack River Basin;

8. "Volume 8, Water Quality Standards, Coastal Waters;" together with appendixes and supporting documents.

(Sec. 1, 70 Stat. 506, as amended; 33 U.S.C. 466l)

Dated: July 3, 1968.

STEWART L. UDALL,
Secretary of the Interior.

NOTE: Incorporation by reference provisions in these regulations approved by the Director of the Federal Register on July 9, 1968.

[F.R. Doc. 68-8116; Filed, July 9, 1968; 8:45 a.m.]

Title 21—FOOD AND DRUGS

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

SUBCHAPTER B—FOOD AND FOOD PRODUCTS

PART 120—TOLERANCES AND EXEMPTIONS FROM TOLERANCES FOR PESTICIDE CHEMICALS IN OR ON RAW AGRICULTURAL COMMODITIES

Malathion

A petition (PP 8F0713) was filed with the Food and Drug Administration by the American Cyanamid Co., Post Office Box 400, Princeton, N.J. 08540, proposing the establishment of tolerances for residues of the insecticide malathion in or on the raw agricultural commodities grain sorghum and sorghum forage at 8 parts per million.

The Secretary of Agriculture has certified that this pesticide chemical is useful for the purposes for which the tolerances are being established.

Based on consideration given the data submitted in the petition, and other relevant material, the Commissioner of Food and Drugs concludes that the tolerances established by this order will protect the public health. Therefore, by virtue of the authority vested in the Secretary of Health, Education, and Welfare by the Federal Food, Drug, and Cosmetic Act (sec. 408(d)(2), 68 Stat. 512; 21 U.S.C. 346a(d)(2)) and delegated to the Commissioner (21 CFR 2.120), § 120.111 is amended to establish the subject tolerances by revising the third paragraph to read as follows:

§ 120.111 Malathion; tolerances for residues.

* * * * *

From preharvest application: 8 parts per million in or on apples, apricots, asparagus, avocados, barley, beans, beets (including tops), blackberries, blueberries, boysenberries, broccoli, brussels sprouts, cabbage, carrots, cauliflower, celery, cherries, collards, corn forage, cranberries, cucumbers, currants, dandelions, dates, dewberries, eggplants, endive (escarole), figs, garlic, gooseberries, grapefruit, grapes, guavas, horseradish, kale, kohlrabi, kumquats, leeks, lemons, lettuce, limes, loganberries, mangoes, melons, mushrooms, mustard greens, nectarines, oats, onions (including green onions), oranges, parsley, parsnips, passion fruit, peaches, pears, peas, peavines, peavine hay, pecans, peppermint, peppers, pineapples, plums, potatoes, prunes, pumpkins, quinces, radishes, raspberries, rice, rutabagas, rye, salsify (including tops), shallots, sorghum grain and sorghum forage, spearmint, spinach, squash (both summer and winter squash), strawberries, Swiss chard, tangelos, tangerines, tomatoes, turnips (including tops), walnuts, watercress, wheat.

* * * * *

Any person who will be adversely affected by the foregoing order may at any time within 30 days from the date of its publication in the FEDERAL REGISTER file with the Hearing Clerk, Department of Health, Education, and Welfare, Room 5440, 330 Independence Avenue SW., Washington, D.C. 20201, written objections thereto, preferably in quintuplicate. Objections shall show wherein the person filing will be adversely affected by the order and specify with particularity the provisions of the order deemed objectionable and the grounds for the objections. If a hearing is requested, the objections must state the issues for the hearing. A hearing will be granted if the objections are supported by grounds legally sufficient to justify the relief sought. Objections may be accompanied by a memorandum or brief in support thereof.

Effective date. This order shall become effective on the date of its publication in the FEDERAL REGISTER.

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

Dated: June 27, 1968.

J. K. KIRK,
Associate Commissioner for Compliance.

[F.R. Doc. 68-8155; Filed, July 9, 1968; 8:49 a.m.]

SUBCHAPTER D—HAZARDOUS SUBSTANCES

PART 191—HAZARDOUS SUBSTANCES: DEFINITIONS AND PROCEDURAL AND INTERPRETATIVE REGULATIONS

Foam Novelty; Exemption From Classification as Banned Hazardous Substance

The Commissioner of Food and Drugs has received a request, submitted pursuant to section 2(q)(1)(B)(i) of the Federal Hazardous Substances Act and § 191.62(c) of the regulations thereunder, to exempt the article described below from classification as a "banned hazardous substance," as defined by section 2(q)(1)(A) of the act, because the article's functional purpose requires inclusion of a hazardous substance, it bears labeling giving adequate directions and warnings for safe use, and it is intended for use by children who have attained sufficient maturity, and may reasonably be expected, to read and heed such directions and warnings.

The Commissioner has determined on the basis of the facts submitted, and other relevant information, that the requested exemption is consistent with the purpose of the act. Therefore, pursuant to the provisions of the act (sec. 2(q)(1)(B)(i), 74 Stat. 374, 80 Stat. 1304; 15 U.S.C. 1261) and under the authority delegated to the Commissioner by the Secretary of Health, Education, and Welfare (21 CFR 2.120), § 191.65(a) is amended by adding thereto a new subparagraph, as follows:

§ 191.65 Exemptions from classification as banned hazardous substances.

(a) * * *

(7) Games containing, as the sole hazardous component, a self-pressurized container of soap solution or similar foam-generating mixture provided that the foam-generating component has no hazards other than being in a self-pressurized container.

* * * * *

Notice and public procedure and delayed effective date are unnecessary prerequisities to the promulgation of this order, and I so find, since the Federal Hazardous Substances Act contemplates such exemptions under certain conditions.

Effective date. This order shall be effective upon publication in the FEDERAL REGISTER.

(Sec. 2(q)(1)(B)(i), 74 Stat. 374, 80 Stat. 1304; 15 U.S.C. 1261)

Dated: June 28, 1968.

J. K. KIRK,
Associate Commissioner for Compliance.

[F.R. Doc. 68-8156; Filed, July 9, 1968; 8:49 a.m.]

Title 29—LABOR

Subtitle A—Office of the Secretary of Labor

PART 4—LABOR STANDARDS FOR FEDERAL SERVICE CONTRACTS

On September 27, 1966, a revision of 29 CFR Part 4 was proposed with the subject matter of the present Part 4 included is Subpart A entitled "Service Contract Labor Standards Provisions and Procedures," and a new Subpart B entitled "Equivalents of Determined Fringe Benefits" (31 F.R. 12646). On July 8, 1967, a new Subpart C entitled "Application of the McNamara-O'Hara Service Contract Act" was proposed to be added. Comments of interested persons were invited on the new Subpart C, and additional time was given to comment on proposed Subparts A and B (32 F.R. 10132).

After consideration of all the comments received, it has been decided to adopt some of the suggested changes in Subparts A and B. In order to eliminate any conflict between § 4.4 and S.F. 98, the proposed § 4.4(a)(1) through § 4.4(a)(8) are eliminated. In their place, language is substituted making reference to S.F. 98. Another suggestion which is adopted was made by several respondents, that the requirement of intra-agency reports contained in the proposed paragraph § 4.4(b) be eliminated, as unduly burdensome. In response to several requests, the term "interested parties" is defined in § 4.6(b).

Several other changes, while not in response to specific suggestions, are made to clarify Part 4 and provide more precision in implementing the McNamara-O'Hara Service Contract Act of 1965. For example, proposed § 4.6(b)(5) is changed to conform it to an amendment to § 4.6 adopted on December 27, 1967 (32 F.R. 21037). Also, a new paragraph (n) is added to § 4.6 to incorporate a tolerance for apprentices, student-learners and handicapped workers, adopted as § 4.10 on February 28, 1967 (32 F.R. 3689), and to provide that tips may be treated under the Service Contract Act in the same manner as they are treated under the Fair Labor Standards Act of 1938. To permit compliance checks in cases where wages and fringe benefits are conformed for classes of service employees who are not included in a wage determination, paragraph (g)(5) is added to § 4.6 to require records concerning the conformed wages and fringe benefits. A new clause is added to §§ 4.6 and 4.7 to inform the parties that contracts which are subject to the Act are also subject to the interpretations expressed in Subpart C. Reference is also made to rules of practice for administrative proceedings enforcing labor standards in Federal service contracts. And, in Subpart B, the 2,000-hour standard year used for the determination of cash equivalents is changed to 2,080 in order to conform this standard with that followed for other statutes administered by the Wage and Hour and Public Contracts Divisions.

Comments regarding the interpretation of the Act as set forth in proposed Subpart C have also been given careful consideration. While it has been decided that no basic changes are required in the proposal, the section on contract modification (§ 4.143) is changed to accord with contract practices as revealed by further review, and § 4.167 is changed to conform its treatment of tips with that under the Fair Labor Standards Act of 1938 and the change in § 4.6(n)(2). Section 4.117 is changed to reflect that rates issued under section 22 of the Interstate Commerce Act will be given the same effect as published tariff rates within the exemption provided by section 7(3) of the McNamara-O'Hara Service Contract Act of 1965. Other minor changes are also made.

Effective 30 days after this document is published in the FEDERAL REGISTER, the table of contents, and Subpart A are revised to read as set forth below, and the proposed Subpart B and Subpart C are hereby adopted as proposed, subject to the changes set forth below.

1. In § 4.52 of Subpart B, the word "law" in the seventh line is changed to "statute".

2. In § 4.53(c) of Subpart B, the figure "$1.50" is changed to "$1.60" in each of the two places where it appears, and the figure "7½" is changed to "8".

3. In § 4.53(e) of Subpart B, the figure "2,000" is changed to "2,080" in each of the two places where it appears; the figure "$1.50" is changed to "$1.60" in each of the two places where it appears; the figure "$72" is changed to "$76.80"; and the figure "$.036" is changed to "$.0369."

4. In § 4.55 of Subpart B, the reference "section 7(d)" is changed to "section 7(e)" in each of the two places where it appears, and the reference "(29 U.S.C. 207(d))" is changed to "(29 U.S.C. 207(e))."

5. In Subpart C, the table of contents immediately following the subpart heading and the authority box are deleted.

6. In § 4.101 of Subpart C, the reference "§ 4.103" on the third line is changed to "§ 4.104."

7. In § 4.104 of Subpart C, paragraph symbol "(a)" for the first paragraph, and the paragraph symbols and texts of paragraphs (b), (c), (d) and (e) are deleted.

8. In § 4.112(b) of Subpart C, the reference "§ 4.6(c)(8) is changed to "§ 4.6(m)(8)", and "CFR" on the ninth line is changed to "§".

9. In § 4.113(a)(2) of Subpart C, the last sentence is changed to read as follows: "Also, any contract for professional services which is performed essentially by professional employees, with the use of service employees being only a minor factor in the performance of the contract, is not covered by the act. While the incidental employment of service employees will not render a contract for professional services subject to the act, a contract which requires the use of service employees to a substantial extent would be covered even though there is some use of professional employees in performance of the contract."

10. In § 4.117 of Subpart C, the fifth sentence is deleted, and the reference "§ 4.6(c)(9)" is changed to "§ 4.6(m)(9)".

11. In § 4.123 of Subpart C, the order of the 10th and 11th lines of paragraph (b) is reversed; the paragraph symbol "o" for the last paragraph is changed to "c"; and the reference "29 CFR 2.6" in said paragraph is changed to "29 CFR Part 70".

12. In § 4.143 of Subpart C, the phrase "by agreement of the parties" in the second and in the third sentences is deleted; the phrase "by the parties" in the fourth and in the fifth sentences is deleted; and the last two sentences are changed to read as follows: "However, contract modifications or amendments (other than contract extensions) that are unrelated to the labor requirements of a contract will not be deemed to create a new contract for purposes of the Act. In addition, only significant changes related to labor requirements will be considered as creating new contracts. This limitation on the application of the Act has been found to be a reasonable one, and necessary and proper in the public interest and to avoid serious impairment of the conduct of Government business in accordance with the provisions of section 4(b) of the Act. Also, a contract will be deemed entered into when the term of an existing contract is extended, pursuant to an option clause or otherwise, so that the contractor furnishes services over an extended period of time, rather than being granted extra time to fulfill his original commitment."

13. In § 4.144 of Subpart C, the phrases "by mutual consent" in the first sentence and "by mutual agreement" in the last sentence are deleted.

14. In § 4.153 of Subpart C, the reference "§ 4.6(b)(1)" at the end of the last sentence is changed to "§ 4.6(b)".

15. In § 4.160(a) of Subpart C, the phrase "which applies to every employer providing any contract services under a contract entered into on or after February 1, 1967 (H. Rept. No. 2004 89th Cong., 2d sess., p. 20) with the United States, or any subcontract thereunder." is deleted.

16. In § 4.164(c) of Subpart C, the reference "(See § 4.6(b)(1))" is changed to "See § 4.6(b))."

17. In § 4.167 of Subpart C, the last three sentences are changed to read as follows: "For purposes of this Act, tips may be included in wages in accordance with the regulations under the Fair Labor Standards Act, contained in Part 531. The general rule under that Act is that the amount paid a tipped employee by his employer is deemed to be increased on account of tips by an amount determined by the employer, not in excess of 50 percent of the minimum wage applicable under section 6 of that Act. Thus, the tip credit taken by an employer subject to the Service Contract Act may not exceed 80 cents per hour."

18. In § 4.173 of Subpart C, the following is added at the end: "Even where a contractor can segregate Government from non-Government work, it is necessary that he comply with the requirements of section 6(e) of the Fair Labor Standards Act discussed in § 4.160."

19. In § 4.183 of Subpart C, the reference "§ 4.6(b)(4)" is changed to "§ 4.6(e)".

20. In § 4.184 of Subpart C, the reference "§ 4.6(b)(4)" is changed to "§ 4.6(e)".

21. In § 4.185 of Subpart C, the phrase "in the performance of contracts" in the first sentence is deleted and the reference "§ 4.6(b)(6)" in the same sentence is changed to "§ 4.6(g)".

Signed at Washington, D.C., this 5th day of July 1968.

WILLARD WIRTZ,
Secretary of Labor.

Subpart A—Service Contract Labor Standards Provisions and Procedures

AUTHORITY: The provisions of this Part 4 issued under secs. 2(a) and 4, 79 Stat. 1034, 1035; 41 U.S.C. 351, 353, and under 5 U.S.C. 301.

Subpart A—Service Contract Labor Standards Provisions and Procedures

§ 4.1 Purpose and scope.

This part and Part 1516 of this title, which provides safety and health standards, contain the Department of Labor's rules relating to the administration of the McNamara-O'Hara Service Contract Act of 1965, referred to hereinafter as the Act. Rules of practice for administrative proceedings enforcing labor standards in Federal service contracts are contained in Part 6 of this chapter.

§ 4.2 Payment of minimum wage specified in section 6(a)(1) of the Fair Labor Standards Act of 1938 under all service contracts.

Section 2(b)(1) of the Service Contract Act of 1965 provides in effect that, regardless of contract amount, no contractor or subcontractor performing work under any Federal contract the principal purpose of which is to furnish services through the use of service employees shall pay any of his employees engaged in such work less than the minimum wage specified in section 6(a)(1) of the Fair Labor Standards Act of 1938, as amended ($1.60 per hour).

§ 4.3 Register of wage determinations and fringe benefits.

The Administrator of the Wage and Hour and Public Contracts Divisions will determine the minimum monetary wages and specify the fringe benefits to be furnished the various classes of service employees for the several localities in which they are to be employed under contracts subject to such determinations under the Act. These determinations and specifications will be issued as an orderly series constituting a register of such minimum wages and fringe benefits. Such a register will be available for public inspection during business hours at the national, regional, and district offices of the Wage and Hour and Public Contracts Divisions of the U.S. Department of Labor. Provisions may also be made, when practicable, for maintaining such a register at other locations where the needs of procurement agencies for the information contained therein may be better served by such action.

§ 4.4 Notice of intention to make a service contract.

(a) Not less than 30 days prior to any invitation for bids or the commencement of negotiations for any contract exceeding $2,500 which may be subject to the Act, the contracting agency shall file with the Administrator of the Wage and Hour and Public Contracts Divisions of the Department of Labor its notice of intention to make a service contract on Standard Form 98, Notice of Intention to Make a Service Contract, completed in accordance with the instructions on the reverse thereof. Copies of Standard Form 98 are available from the General Services Administration.

(b) If exceptional circumstances prevent the filing of the notice of intention required by this section on or before a date 30 days prior to any invitation for bids or the commencement of negotiations, the notice shall be submitted to the Administrator as soon as practicable with a detailed explanation of the special circumstances which prevented timely submission.

§ 4.5 Contract minimum wage determinations and fringe benefit specifications.

Any contract agreed upon in excess of $2,500 shall contain the minimum wages and fringe benefits specified in

any applicable currently effective determination including any expressed in any document referred to in paragraph (a) or (b) of this section.

(a) Any communication from the Administrator of the Wage and Hour and Public Contracts Divisions of the Department of Labor responsive to the notice required by § 4.4; or

(b) Any revision of the register of wages and fringe benefits prior to the award of the contract or contracts, but revisions received by the Federal agency later than 10 days before the opening of bids, in the case of contracts entered into pursuant to competitive bidding procedures, shall not be effective except where the Federal agency finds that there is a reasonable time to notify bidders of the revision. To avoid serious impairment of the conduct of Government business, it is hereby found necessary and proper to provide exemption (1) from the determined wage and fringe benefits section of the Act (2(a) (1) and (2)), but not the minimum wage specified under section 6(a)(1) of the Fair Labor Standards Act of 1938, as amended (2(b) of this Act), of all contracts for which no such wage or fringe benefit has been determined for any class of service employees to be employed thereunder and (2) from the fringe benefits section (2(a)(2)) of all contracts and of all classes of service employees employed thereunder if no such benefits have been determined for any such class of service employees. Accordingly, such exemptions are hereby provided. These exemptions do not extend to undetermined wages or fringe benefits in contracts for which one or more, but not all, classes of service employees are the subject of an applicable wage determination. See § 4.6(b).

§ 4.6 Labor standards clauses for Federal service contracts exceeding $2,500.

The clauses set forth in the following paragraphs shall be included in every contract (and any bid specification therefor) entered into by the United States or the District of Columbia, in excess of $2,500, the principal purpose of which is to furnish services through the use of service employees:

(a) Service Contract Act of 1965: This contract, to the extent that it is of the character to which the Service Contract Act of 1965 (79 Stat. 1034, 41 U.S.C. 351) applies, is subject to the following provisions and to all other applicable provisions of the Act and the regulations of the Secretary of Labor thereunder (this Part 4).

(b) Each service employee employed in the performance of this contract by the contractor or any subcontractor shall be paid not less than the minimum monetary wage and shall be furnished fringe benefits in accordance with the wages and fringe benefits determined by the Secretary of Labor or his authorized representative, as specified in any attachment to this contract. If there is such an attachment, any class of service employees which is not listed therein, but which is to be employed under this contract, shall be classified by the contractor so as to provide a reasonable relationship between such classifications and those listed in the attachment, and shall be paid such monetary wages and furnished such fringe benefits as are determined by agreement of the interested parties, who shall be deemed to be the contracting agency, the contractor, and the employees who will perform on the contract or their representatives. If the interested parties do not agree on a classification or reclassification which is, in fact, conformable, the contracting officer shall submit the question, together with his recommendation, to the Administrator of the Wage and Hour and Public Contracts Divisions of the Department of Labor or his authorized representative for final determination. Failure to pay such employees the compensation agreed upon by the interested parties or finally determined by the Administrator or his authorized representative shall be a violation of this contract. No employee engaged in performing work on this contract shall in any event be paid less than the minimum wage specified under section 6(a)(1) of the Fair Labor Standards Act of 1938, as amended ($1.60 per hour).

(c) The contractor or subcontractor may discharge the obligation to furnish fringe benefits specified in the attachment or determined conformably thereto by furnishing any equivalent combinations of fringe benefits, or by making equivalent or differential payments in cash, pursuant to applicable rules of the Administrator of the Wage and Hour and Public Contracts Divisions of the Department of Labor. (Subpart B of this part.)

(d) In the absence of a minimum wage attachment for this contract, neither the contractor nor any subcontractor under this contract shall pay any of his employees performing work under the contract (regardless of whether they are service employees) less than the minimum wage specified by section 6(a)(1) of the Fair Labor Standards Act of 1938 ($1.60 per hour). However, in cases where section 6(e)(2) of the Fair Labor Standards Act of 1938 is applicable, the rates specified therein will apply. Nothing in this provision shall relieve the contractor or any subcontractor of any other obligation under law or contract for the payment of a higher wage to any employee.

(e) The contractor and any subcontractor under this contract shall notify each service employee commencing work on this contract of the minimum monetary wage and any fringe benefits required to be paid pursuant to this contract, or shall post a notice of such wages and benefits in a prominent and accessible place at the worksite, using such poster as may be provided by the Department of Labor.

(f) The contractor or subcontractor shall not permit any part of the services called for by this contract to be performed in buildings or surroundings or under working conditions provided by or under the control or supervision of the contractor or subcontractor which are unsanitary or hazardous or dangerous to the health or safety of service employees engaged to furnish these services. Except insofar as a noncompliance can be justified as provided in § 1516.1(c) of this title, this will require compliance with the applicable standards, specifications, and codes developed and published by the U.S. Department of Labor, any other agency of the United States, and any nationally recognized professional organization such as, without limitation, the following:

National Bureau of Standards, U.S. Department of Commerce.
Public Health Service, U.S. Department of Health, Education, and Welfare.
Bureau of Mines, U.S. Department of the Interior.
United States of America Standards Institute (American Standards Association).
National Fire Protection Association.
American Society of Mechanical Engineers.
American Society for Testing and Materials.
American Conference of Governmental Industrial Hygienists.

Information as to the latest standards, specifications and codes applicable to the contract is available at the office of the Director of the Bureau of Labor Standards, U.S. Department of Labor, Railway Labor Building, 400 First Street NW., Washington, D.C. 20212, or at any of the regional offices of the Bureau of Labor Standards as follows:

1. North Atlantic Region, 341 Ninth Avenue, Room 920, New York, N.Y. 10001 (Connecticut, Maine, Massachusetts, New Hampshire, New York, Rhode Island, Vermont, New Jersey, and Puerto Rico).

2. Middle Atlantic Region, 1110–B Federal Building, Charles Center, 31 Hopkins Plaza, Baltimore, Md. 21201 (Delaware, District of Columbia, Maryland, North Carolina, Pennsylvania, Virginia, and West Virginia).

3. South Atlantic Region, 1371 Peachtree Street NE., Suite 723, Atlanta, Ga. 30309 (Alabama, Florida, Georgia, Mississippi, South Carolina, and Tennessee).

4. Great Lake Region, 848 Federal Office Building, 219 South Dearborn Street, Chicago, Ill. 60604 (Illinois, Indiana, Kentucky, Michigan, Minnesota, Ohio, and Wisconsin).

5. Mid-Western Region, 2100 Federal Office Building, 911 Walnut Street, Kansas City, Mo. 64106 (Colorado, Idaho, Iowa, Kansas, Missouri, Montana, Nebraska, North Dakota, South Dakota, Utah, and Wyoming).

6. Western Gulf Region, 411 North Akard Street, Room 601, Dallas, Tex. 75201 (Arkansas, Louisiana, New Mexico, Oklahoma, and Texas).

7. Pacific Region, 10353 Federal Building, 450 Golden Gate Avenue, Box 36017, San Francisco, Calif. 94102 (Alaska, Arizona, California, Hawaii, Nevada, Oregon, Washington, and Guam).

(g) The contractor and each subcontractor performing work subject to the Act shall make and maintain for 3 years from the completion of the work records containing the information specified below for each employee subject to the Act and shall make them available for inspection and transcription by authorized representatives of the Administrator of the Wage and Hour and Public Contracts Divisions of the U.S. Department of Labor.

(1) His name and address.

(2) His work classification or classifications, rate or rates of monetary wages and fringe benefits provided, rate or rates

of fringe benefit payments in lieu thereof, and total daily and weekly compensation.

(3) His daily and weekly hours so worked.

(4) Any deductions, rebates, or refunds from his total daily or weekly compensation.

(5) A list of monetary wages and fringe benefits for those classes of service employees not included in the minimum wage attachment to this contract, but for which such wage rates or fringe benefits have been determined by the interested parties or by the Administrator or his authorized representative pursuant to the labor standards clause in paragraph (b) of this section. A copy of the report required by the clause in paragraph (k) of this section shall be deemed to be such a list.

(h) The contracting officer shall withhold or cause to be withheld from the Government Prime Contractor under this or any other Government contract with the prime contractor such sums as he, or an appropriate officer of the Labor Department, decides may be necessary to pay underpaid employees. Additionally, any failure to comply with the requirements of these clauses relating to the Service Contract Act of 1965 may be grounds for termination of the right to proceed with the contract work. In such event, the Government may enter into other contracts or arrangements for completion of the work, charging the contractor in default with any additional cost.

(i) The contractor agrees to insert these clauses relating to the Service Contract Act of 1965 in all subcontracts. The term "contractor" as used in these clauses in any subcontract, shall be deemed to refer to the subcontractor, except in the term "Government Prime Contractor."

(j) As used in these clauses relating to the Service Contract Act of 1965, the term "service employee" means guards, watchmen, and any person engaged in a recognized trade or craft, or other skilled mechanical craft, or in unskilled, semiskilled, or skilled manual labor occupations; and any other employee including a foreman or supervisor in a position having trade, craft, or laboring experience as the paramount requirement; and shall include all such persons regardless of any contractual relationship that may be alleged to exist between a contractor or subcontractor and such persons.

(k) If there is a wage determination attachment to this contract and one or more classes of service employees which are not listed thereon are to be employed under the contract, the contractor shall report to the contracting officer the monetary wages to be paid and the fringe benefits to be provided each such class of service employee. Such report shall be made promptly as soon as such compensation has been determined as provided in the clause in paragraph (b) of this section.

(l) All interpretations of the Service Contract Act of 1965 expressed in Subpart C of this part, are hereby incorporated by reference in this contract.

(m) These clauses relating to the Service Contract Act of 1965 shall not apply to the following:

(1) Any contract of the United States or District of Columbia for construction, alteration and/or repair, including painting and decorating of public buildings or public works;

(2) Any work required to be done in accordance with the provisions of the Walsh-Healey Public Contracts Act (49 Stat. 2036);

(3) Any contract for the carriage of freight or personnel by vessel, airplane, bus, truck, express, railway line, or oil or gas pipeline where published tariff rates are in effect, or where such carriage is subject to rates covered by section 22 of the Interstate Commerce Act;

(4) Any contract for the furnishing of services by radio, telephone, telegraph, or cable companies, subject to the Communications Act of 1934;

(5) Any contract for public utility services, including electric light and power, water, steam, and gas;

(6) Any employment contract providing for direct services to a Federal agency by an individual or individuals;

(7) Any contract with the Post Office Department, the principal purpose of which is the operation of postal contract stations.

(8) Any services to be furnished outside the United States. For geographic purposes, the "United States" is defined in section 8(d) of the Service Contract Act to include any State of the United States, the District of Columbia, Puerto Rico, the Virgin Islands, Outer Continental Shelf Lands as defined in the Outer Continental Shelf Lands Act, American Samoa, Guam, Wake Island, Eniwetok Atoll, Kwajalein Atoll, Johnston Island. It does not include any other territory under the jurisdiction of the United States or any United States base or possession within a foreign country.

(9) Any of the following contracts exempted from all provisions of the Service Contract Act of 1965, pursuant to section 4(b) of the Act, which exemptions the Secretary of Labor hereby finds necessary and proper in the public interest or to avoid serious impairment of the conduct of Government business: Contracts entered into by the United States with common carriers for the carriage of mail by rail, air (except air star routes), bus, and ocean vessel, where such carriage is performed on regularly scheduled runs of the trains, airplanes, buses, and vessels over regularly established routes and accounts for an insubstantial portion of the revenue therefrom.

(n) Notwithstanding any of the clauses in paragraphs (b) through (l) of this section, relating to the Service Contract Act of 1965, the following employees may be employed in accordance with the following variations, tolerances, and exemptions, which the Secretary of Labor hereby finds pursuant to section 4(b) of the Act to be necessary and proper in the public interest or to avoid serious impairment of the conduct of Government business:

(1) (i) Apprentices, student-learners, and workers whose earning capacity is impaired by age, physical, or mental deficiency or injury may be employed at wages lower than the minimum wages otherwise required by section 2(a)(1) or 2(b)(1) of the Service Contract Act of 1965, without diminishing any fringe benefits or cash payments in lieu thereof required under section 2(a)(2) of that Act, in accordance with the procedures prescribed for the employment of apprentices, student-learners, handicapped persons, and handicapped clients of sheltered workshops under section 14 of the Fair Labor Standards Act of 1938, in the regulations issued by the Administrator of the Wage and Hour and Public Contracts Divisions of the Department of Labor (Parts 520, 521, 524, and 525 of this title).

(ii) The Administrator will issue certificates under the Service Contract Act of 1965 for the employment of apprentices, student-learners, handicapped persons, or handicapped clients of sheltered workshops not subject to the Fair Labor Standards Act of 1938, or subject to different minimum rates of pay under the two acts, authorizing appropriate rates of minimum wages (but without changing requirements concerning fringe benefits or supplementary cash payments in lieu thereof), applying procedures prescribed by the applicable regulations issued under the Fair Labor Standards Act of 1938 (Parts 520, 521, 524, and 525 of this title).

(iii) The Administrator will also withdraw, annul, or cancel such certificates in accordance with the regulations in Parts 525 and 528 of Title 29 of the Code of Federal Regulations.

(2) An employee engaged in an occupation in which he customarily and regularly receives more than $20 a month in tips may have the amount of his tips credited by his employer against the minimum wage required by section 2(a)(1) or section 2(b)(1) of the Act, in accordance with the regulations in Part 531 of this title: *Provided, however,* That the amount of such credit may not exceed 80 cents per hour.

§ 4.7 Labor standards clause for Federal service contracts not exceeding $2,500.

Every contract with the Federal Government which is not in excess of $2,500 but has as its principal purpose the furnishing of services through the use of service employees shall contain the following clause:

Service Contract Act of 1965. Except to the extent that an exemption, variation or tolerance would apply pursuant to 29 CFR 4.6 if this were a contract in excess of $2,500, the contractor and any subcontractor hereunder shall pay all of his employees engaged in performing work on the contract not less than the minimum wage specified under section 6(a)(1) of the Fair Labor Standards Act of 1938, as amended ($1.60 per hour). However, in cases where section 6(e)(2) of the Fair Labor Standards Act of 1938 is applicable, the rates specified therein will apply.

All regulations and interpretations of the Service Contract Act of 1965 expressed in 29 CFR Part 4 are hereby incorporated by reference in this contract.

§ 4.8 Notice of award.

Whenever an agency of the United States or the District of Columbia shall award a contract in excess of $2,500 subject to the Act, it shall furnish the Administrator of the Wage and Hour and Public Contracts Divisions, on the form used pursuant to 41 CFR 50–201.1201, the information required by such form.

Subpart B—Equivalents of Determined Fringe Benefits

§ 4.51 Discharging fringe benefit obligations by equivalent methods.

Section 2(a)(2) of the Act, which provides for fringe benefits that are separate from and additional to the monetary compensation required under section 2(a)(1), permits an employer to discharge his obligation to provide the specified fringe benefits by furnishing any equivalent combinations of "bona fide" fringe benefits or by making equivalent or differential payments in cash. However, credit for such payments is limited to the employer's fringe benefit obligations under section 2(a)(2), since the Act does not authorize any part of the monetary wage required by section 2(a)(1) and specified in the wage determination and the contract, to be offset by the fringe benefit payments or equivalents which are furnished or paid pursuant to section 2(a)(2).

§ 4.52 Equivalent fringe benefits.

Under this Act, fringe benefit obligations may be discharged by furnishing, in lieu of those fringe benefits determined by the Secretary and specified in the contract, other bona fide fringe benefits which the contractor or subcontractor is not required by statute to provide, or any combination of such bona fide fringe benefits: *Provided,* That they are "equivalent" in terms of monetary cost to the employer. Thus, if an applicable determination specifies that 10 cents per hour is to be paid into a pension fund, this fringe benefit obligation will be deemed to be met if instead, hospitalization benefits costing not less than 10 cents per hour are provided. The same obligation will be met if hospitalization benefits costing 5 cents an hour and holiday pay equal to 5 cents an hour in cash are provided. No benefit required to be furnished the employee by any other law, such as workmen's compensation, may be credited toward satisfying the fringe benefit requirements of the Act.

§ 4.53 Cash equivalents.

(a) Fringe benefit obligations may be discharged by paying, in addition to the monetary wage required, a cash amount per hour in lieu of the specified fringe benefits provided such amount is equivalent to the cost of the fringe benefits required. If, for example, an employee's monetary rate under an applicable determination is $1.90 an hour, and the fringe benefits to be furnished are hospitalization benefits costing 10 cents an hour and retirement benefits costing 10 cents an hour, the fringe benefit obligation is discharged if instead of furnishing the required fringe benefits the employer pays the employee, in cash, 20 cents per hour as the cash equivalent of the fringe benefits in addition to the $1.90 per hour required under the applicable wage determination.

(b) The hourly cash equivalent of those fringe benefits which are not listed in the applicable determination in terms of hourly cash amount may be obtained by mathematical computation through the use of pertinent factors such as the monetary wages paid the employee and the hours of work attributable to the period, if any, by which fringe benefits are measured in the determination. If the employee's regular rate of pay is greater than the minimum monetary wage specified in the wage determination and the contract, the former should be used for this computation, and if the fringe benefit determination does not specify any daily or weekly hours of work by which benefits should be measured, a standard 8-hour day and 40-hour week will be considered applicable. The application of these rules in typical situations is illustrated in paragraphs (c), (d), and (e) of this section.

(c) Where fringe benefits are stated as a percentage of the monetary rate, the hourly cash equivalent is determined by multiplying the stated percentage by the employee's regular or basic rate of pay. For example, if the determination calls for a 5 percent pension fund payment, and the employee is paid a monetary rate of $1.60 an hour, or if he earns $1.60 an hour on a piece-work basis in a particular workweek, the cash equivalent of that payment would be 8 cents an hour.

(d) If the determination lists a particular fringe benefit in such terms as $25 a year, or as $2 a week, the hourly cash equivalent is determined by dividing the amount stated in the determination by the number of working hours to which the amount is attributable. For example, if a determination lists a fringe benefit as "pension—$2 a week," and does not specify weekly hours, the hourly cash equivalent is 5 cents per hour, i.e., $2 divided by 40, the number of standard working hours in a week.

(e) In determining the hourly cash equivalent of those fringe benefits which are not listed in a determination in terms of hourly cash amount, but are stated, for example, as "six paid holidays per year" or "1-week paid vacation," the employee's hourly monetary rate of pay is multipled by the number of hours making up the paid holidays or vacation. Unless the hours contemplated in the fringe benefit are specified in the determination, a standard 8-hour day and 40-hour week will be considered applicable. The total annual cost so determined will be divided by 2,080, the typical number of nonovertime hours in a year of work, to arrive at the hourly cash equivalent. To illustrate, if a particular determination lists as a fringe benefit "six paid holidays per year," and the employee's hourly rate of pay is $1.60, the $1.60 is multiplied by 48 (6 days of 8 hours each) and the result, $76.80, is then divided by 2,080 to arrive at the hourly cash equivalent, $.0369 an hour. Similarly, where a determination requires 1-week's paid vacation during the year, a computation of this kind for a short term employee who does not receive the vacation with pay would be necessary to determine the cash equivalent payment to which he is entitled for the proportionate part of the vacation earned during his period of employment.

§ 4.54 Combination of equivalent fringe benefits and cash payments.

Fringe benefit obligations may be discharged by furnishing any combination of cash or fringe benefits as illustrated in §§ 4.52 and 4.53, in amounts the total of which is equivalent, under the rules there stated, to the determined fringe benefits specified in the contract.

§ 4.55 Effect of equivalents in computing overtime pay.

The Act (section 6) excludes from the regular or basic hourly rate of an employee, for purposes of determining the overtime pay to which he is entitled under any other Federal law, those fringe benefit payments computed under the Act which are excluded from the regular rate under the Fair Labor Standards Act by provisions of section 7(e) of that Act (29 U.S.C. 207(e)). Fringe benefit payments which qualify for such exclusion are described in Subpart C of Part 778 of this title. When such fringe benefits have been determined by the Secretary to be prevailing for service employees in the locality and are specified in the contract to be furnished to service employees engaged in its performance, the right to compute overtime pay in accordance with the above rule is not lost to a contractor or subcontractor because he discharges his obligation under this Act to furnish such fringe benefits through alternative equivalents as provided in this Subpart B. If he furnishes equivalent benefits or makes cash payments, or both, to such an employee as authorized herein, the amounts thereof, to the extent that they operate to discharge the employer's obligation to furnish such specified fringe benefits, may be excluded pursuant to this Act from the employee's regular or basic rate of pay in computing any overtime pay due the employee under any other Federal law. It is not necessary to consider in such a case whether such amounts would themselves be excludable under section 7(e) of the Fair Labor Standards Act. No such exclusion can operate, however, to reduce an employee's regular or basic rate of pay below the monetary wage rate specified as his minimum wage rate under section 2(a)(1) or 2(b) of this Act or under other law or by employment contract. The application of the rules set out in the regulations in this part will be considered and illustrated in the rulings and interpretations on application of this Act.

Subpart C—Application of the McNamara-O'Hara Service Contract Act

INTRODUCTORY

§ 4.101 Official rulings and interpretations in this subpart.

The purpose of this subpart is to provide, pursuant to the authority cited in § 4.104 official rulings and interpretations with respect to the application of the McNamara-O'Hara Service Contract Act for the guidance of the agencies of the United States and the District of Columbia which may enter into and administer contracts subject to its provisions, the persons desiring to enter into such contracts with these agencies, and the contractors, subcontractors, and employees who perform work under such contracts. This subpart supersedes all prior rulings and interpretations issued under the Act to the extent, if any, that they may be inconsistent with rules herein stated. Principles governing the application of the Act as set forth in this subpart are clarified or amplified in particular instances by illustrations and examples based on specific fact situations. Since such illustrations and examples cannot and are not intended to be exhaustive, no inference should be drawn from the fact that a subject or illustration is omitted. If doubt arises, inquiries with respect to matters other than safety and health standards should be directed to the Administrator of the Wage and Hour and Public Contracts Divisions, U.S. Department of Labor, Washington, D.C. 20210, or to any Regional or District Office of the Divisions. Safety and health inquiries should be addressed to the Director, Bureau of Labor Standards, U.S. Department of Labor, Washington, D.C. 20210, or to any Regional Office of the Bureau. A full description of the facts and any relevant documents should be submitted if an official ruling is desired.

§ 4.102 The Act.

The McNamara-O'Hara Service Contract Act of 1965 (Public Law 89-286, 79 Stat. 1034, 41 U.S.C. 351 et seq.), hereinafter referred to as the Act, was approved by the President on October 22, 1965 (1 Weekly Compilation of Presidential Documents 428). It establishes standards for minimum compensation and safety and health protection of employees performing work for contractors and subcontractors on service contracts entered into with the Federal Government and the District of Columbia. It applies to contracts entered into pursuant to negotiations concluded or invitations for bids issued on or after January 20, 1966.

§ 4.103 What the Act provides, generally.

The provisions of the Act apply to contracts, whether negotiated or advertised, the principal purpose of which is to furnish services in the United States through the use of service employees. Under its provisions, every contract subject to the Act (and any bid specification therefor) entered into by the United States or the District of Columbia in excess of $2,500 must contain stipulations requiring (a) that specified minimum monetary wages and fringe benefits determined by the Secretary of Labor (based on wage rates and fringe benefits prevailing in the locality) be paid to service employees employed by the contractor or any subcontractor in performing the services contracted for; (b) that working conditions of such employees which are under the control of the contractor or subcontractor meet safety and health standards; and (c) that notice be given to such employees of the compensation due them under the minimum wage and fringe benefits provisions of the contract. The Act does not permit the monetary wage rates specified in such a contract to be less than the minimum wage specified under section 6(a)(1) of the Fair Labor Standards Act, as amended (29 U.S.C. 206(a)(1)). In addition, it is a violation of the Act for any contractor or subcontractor under a Federal contract subject to the Act, regardless of the amount of the contract, to pay any of his employees engaged in performing work on the contract less than such Fair Labor Standards Act minimum wage (or, in the case of certain linen supply contractors, the alternative minimum wage provided under sec. 6(e)(2) of such Act). Contracts of $2,500 or less are not, however, required to contain the stipulations described above. These provisions of the Service Contract Act are implemented by the regulations contained in Subparts A and B of this Part 4, and are discussed in more detail in subsequent sections of this subpart.

§ 4.104 Administration of the Act.

As provided by section 4 of the Act and under provisions of sections 4 and 5 of the Walsh-Healey Public Contracts Act (49 Stat. 2036, 41 U.S.C. 38, 39) which are made expressly applicable for the purpose, the Secretary of Labor is authorized and directed to administer and enforce the provisions of the McNamara-O'Hara Service Contract Act, to make rules and regulations, issue orders, make decisions, and take other appropriate action under the Act, including the provision of reasonable limitations and the making of such rules and regulations allowing reasonable variations, tolerances, and exemptions to and from provisions of the Act as he may find necessary and proper in the public interest or to avoid serious impairment of the conduct of Government business.

AGENCIES WHOSE CONTRACTS MAY BE COVERED

§ 4.107 Federal contracts.

(a) Section 2(a) of the Act covers contracts (and any bid specification therefor) "entered into by the United States" and section 2(b) applies to contracts entered into "with the Federal Government." Within the meaning of these provisions, contracts entered into by the United States and contracts with the Federal Government include generally all contracts to which any agency or instrumentality of the U.S. Government becomes a party pursuant to authority derived from the Constitution and laws of the United States. The Act does not authorize any distinction in this respect between such agencies and instrumentalities on the basis of their inclusion in or independence from the executive, legislative, or judicial branches of the Government, the fact that they may be corporate in form, or the fact that payment for the contract services is not made from appropriated funds. Thus, contracts of wholly owned Government corporations, and those of nonappropriated fund instrumentalities under the jurisdiction of the Armed Forces, are included among those subject to the general coverage of the Act. Contracts with the Federal Government and contracts entered into "by the United States" within the meaning of the Act do not, however, include contracts for services entered into on their own behalf by agencies or instrumentalities of other Governments within the United States such as those of the several States and their political subdivisions, or of Puerto Rico, the Virgin Islands, Guam, or American Samoa.

(b) Where a Federal agency exercises its contracting authority to procure services for the Government or Government personnel, the method of procurement utilized by the contracting agency is not controlling in determining coverage of the contract as one entered into by the United States. Such contracts may be entered into by the United States either through a direct award by a Federal agency or through the exercise by another agency (whether governmental or private) of authority granted to it to procure services for or on behalf of a Federal agency. Thus, sometimes authority to enter into service contracts of the character described in the Act for and on behalf of the Government and on a cost-reimbursable basis may be delegated, for the convenience of the contracting agency, to a prime contractor with the Government under the terms of a contract having a principal purpose other than the furnishing of services through the use of service employees (as, for example, a contract to operate or manage a Federal installation or facility or a Federal program). The contracts entered into by such a prime contractor with secondary contractors for and on behalf of the Federal agency pursuant to such delegated authority, which have such services as their principal purpose, are deemed to be contracts entered into by the United States and contracts with the Federal Government within the meaning of the Act. However, service contracts entered into by Federal contractors or State or local public bodies with purveyors of services are not deemed to be entered into by the United States merely because such services are paid for with funds of the contractor or public body which have been received from the Federal Government as payment for contract work or as a grant under a Federal program. For example, a contract entered into by a municipal housing authority for tree trimming, tree removal, and landscaping for an urban renewal project financed by Federal funds is not a contract entered into by

the United States and is not covered by the Service Contract Act.

§ 4.108 District of Columbia contracts.

Section 2(a) of the Act covers contracts (and any bid specification therefor) in excess of $2,500 which are "entered into by the * * * District of Columbia." The contracts of all agencies and instrumentalities which procure contract services for or on behalf of the District or under the authority of the District Government are contracts entered into by the District of Columbia within the meaning of this provision. Such contracts are also considered contracts "entered into with the Federal Government" within the meaning of section 2(b) of the Act. The legislative history indicates no intent to distinguish District of Columbia contracts from the other contracts made subject to the Act, and traditionally, under other statutes, District Government contracts have been made subject to the same labor standards provisions as contracts of other agencies and instrumentalities of the United States.

COVERED CONTRACTS GENERALLY

§ 4.110 What contracts are covered.

The Act covers service contracts of the Federal agencies described in §§ 4.107–4.108. Except as otherwise specifically provided (see §§ 4.115 et seq.), all such contracts, the principal purpose of which is to furnish services in the United States through the use of service employees, are subject to its terms. This is true of contracts entered into by such agencies with States or their political subdivisions, as well as such contracts entered into with private employers; however, contracts between a Federal or District of Columbia agency and another such agency are not within the purview of the Act. It makes no difference in the coverage of a contract whether the contract services are procured through negotiation or through advertising for bids. Also, the mere fact that an agreement is not reduced to writing does not mean that the contract is not within the coverage of the Act. The amount of the contract is not determinative of the Act's coverage, although the requirements are different for contracts in excess of $2,500 and for contracts of a lesser amount. The Act is applicable to the contract if the principal purpose of the contract is to furnish services, if such services are to be furnished in the United States, and if service employees will be used in providing such services. These elements of coverage will be discussed separately in the following sections.

§ 4.111 Contracts "to furnish services".

(a) *"Principal purpose" as criterion.* Under its terms, the Act applies to a "contract (and any bid specification therefor) * * * the principal purpose of which is to furnish services * * *" If the principal purpose is to provide something other than services of the character contemplated by the Act and any such services which may be performed are only incidental to the performance of a contract for another purpose, the Act does not apply. However, as will be seen by examining the illustrative examples of covered contracts in §§ 4.130 et seq., no hard and fast rule can be laid down as to the precise meaning of the term "principal purpose." Whether the principal purpose of a particular contract is the furnishing of services through the use of service employees is largely a question to be determined on the basis of all the facts in each particular case. Even where tangible items of substantial value are important elements of the subject matter of the contract, the facts may show that they are of secondary import to the furnishing of services in the particular case.

(b) *Determining whether a contract is for "services", generally.* Except indirectly through the definition of "service employee" the Act does not define, or limit, the types of "services" which may be contracted for under a contract "the principal purpose of which is to furnish services". As stated in the congressional committee reports on the legislation, the types of service contracts covered by its provisions are varied. Among the examples cited are contracts for laundry and dry cleaning, for transportation of the mail, for custodial, janitorial, or guard service, for packing and crating, for food service, and for miscellaneous housekeeping services. Covered contracts for services would also include those for other types of services which may be performed through the use of the various classes of service employees included in the definition in section 8(b) of the Act (see § 4.113). Examples of some such contracts are set forth in §§ 4.130 et seq. In determining questions of contract coverage, due regard must be given to the apparent legislative intent to include generally as contracts for "services" those contracts which have as their principal purpose the procurement of something other than the construction activity described in the Davis-Bacon Act or the materials, supplies, articles, and equipment described in the Walsh-Healey Act. The Committee reports in both House and Senate, and statements made on the floor of the House, took note of the labor standards protections afforded by these two Acts to employees engaged in the performance of construction and supply contracts and observed: "The service contract is now the only remaining category of Federal contracts to which no labor standards protections apply" (H. Rept. 948, p. 1; see also S. Rept. 798, p. 1; daily Congressional Record Sept. 20, 1965, p. 23497). A similar understanding of contracts principally for "services" as embracing contracts other than those for construction or supplies is reflected in the statement of President Johnson upon signing the Act (1 Weekly Compilation of Presidential Documents, p. 428).

§ 4.112 Contracts to furnish services "in the United States."

(a) The Act covers contract services furnished "in the United States". The geographical area included in the "United States" is defined in section 8(d) as "any State of the United States, the District of Columbia, Puerto Rico, the Virgin Islands, Outer Continental Shelf lands as defined in the Outer Continental Shelf Lands Act, American Samoa, Guam, Wake Islands, Eniwetok Atoll, Kwajalein Atoll, Johnston Island." The definition expressly excludes any other territory under the jurisdiction of the United States (e.g. the Canal Zone) and any United States base or possession within a foreign country. Services to be performed exclusively on a vessel operating in international waters outside the geographic areas named in section 8(d) would not be services furnished "in the United States" within the meaning of the Act.

(b) A service contract to be performed in its entirety outside the geographic limits of the United States as thus defined is not covered and is not subject to the labor standards of the Act. See § 4.6(m)(8). However, if a service contract is to be performed in part within and in part without these geographic limits, the stipulations required by § 4.6 or § 4.7, as appropriate, must be included in the invitation for bids or negotiation documents and in the contract, and the labor standards must be observed with respect to that part of the contract services that is performed within these geographic limits. In such a case the requirements of the Act and of the contract clauses will not be applicable to the services furnished outside the United States.

§ 4.113 Contracts to furnish services "through the use of service employees".

(a) *Use of "service employees" in contract performance.* (1) As indicated in § 4.110, the Act covers service contracts in which "service employees" will be used in performing the services which it is the purpose of the contract to procure. A service contract otherwise subject to the Act ordinarily will meet this condition if any of the services which it is the principal purpose of the contract to obtain will be furnished through the use of any service employee or employees. Even where it is contemplated that the services (of the kind performed by service employees) will be performed individually by the contractor himself, the contract cannot be considered outside the reach of the Act unless it is known in advance that the contractor will in no event use any service employee during the term of the contract in furnishing the services called for. If the contracting officer knows when advertising for bids or concluding negotiations that no such employee will be used by the contractor in any event in providing the contract services, the Act will not be deemed applicable to the contract and the contract clauses required by § 4.6 or § 4.7 may be omitted. However, in all other cases such clauses must be included in the contract documents, for application in the event service employees are used in furnishing the services. The fact that the required services will be performed by municipal employees or employees of a State would not remove the contract from the purview of the Act, as this Act does not contain any exemption for contracts performed by such employees. Also, where the services the Government wants under the contract are principally of a type

that will require the use of service employees as defined in section 8(b) of the Act, including supervisory personnel in positions "having trade, craft, or laboring experience as the paramount requirement", the contract is not taken out of the purview of the Act by the fact that the manner in which the services of such employees are performed will be subject to the continuing overall supervision of professional personnel to whose services the Act would not be considered to apply.

(2) The coverage of the Act does not extend, however, to contracts which have as their principal purpose the procurement of a type of service in the furnishing of which no service employees will be used. A contract for medical services is an example of such a contract. So are other contracts under which the desired services called for by the Government are to be performed by bona fide executive, administrative, or professional personnel as defined in Part 541 of this title (see paragraph (b) of this section). Also, any contract for professional services which is performed essentially by professional employees, with the use of service employees being only a minor factor in the performance of the contract, is not covered by the Act. While the incidental employment of service employees will not render a contract for professional services subject to the Act, a contract which requires the use of service employees to a substantial extent would be covered even though there is some use of professional employees in performance of the contract.

(b) *"Service employees" defined.* In determining whether or not any of the contract services will be performed by service employees, the definition of "service employee" in section 8(b) of the Act is controlling. It provides:

> The term "service employee" means guards, watchmen, and any person engaged in a recognized trade or craft, or other skilled mechanical craft, or in unskilled, semiskilled, or skilled manual labor occupations; and any other employee including a foreman or supervisor in a position having trade, craft, or laboring experience as the paramount requirement; and shall include all such persons regardless of any contractual relationship that may be alleged to exist between a contractor or subcontractor and such persons.

It will be noted that the definition expressly includes certain supervisory employees. However, it is not deemed to include those employees who are employed in a bona fide executive, administrative, or professional capacity as defined in Part 541 of this title. The breadth of the definition is indicated by the fact that much of its language is identical with that in the Classification Act Amendments of 1954 (5 U.S.C. 1082(7)) defining the so-called "blue collar workers" or "wage board employees" in the Federal service. The legislative history indicates that such employees are the "counterpart" in Federal service of the contractors' employees to whom the Act was intended to extend. (H. Rept. No. 948, 89th Cong. 1st sess. p. 2.) The definition therefore includes as service employees those classes of employees described in some detail in the Handbook of Blue Collar Occupational Families and Series issued by the Civil Service Commission (the latest being October 1961). Some of the specific types of service employees who may be employed on service contracts are noted in subsequent sections which discuss the application of the Act to employees.

§ 4.114 Subcontracts.

(a) *Requirements applicable to subcontractors.* The Act's provisions apply to the performance not only of the contracts entered into with the United States or the District of Columbia which they cover but also to the performance of any subcontract thereunder. The Act and the regulations (§§ 4.6–4.7) require the Government prime contractor to agree that the required labor standards will be observed by his subcontractors as well as by himself, that the prescribed contract clauses relating thereto will be inserted in all subcontracts, and that appropriate sanctions provided under the Act may be invoked against him in the event of any failure to comply. Subcontractors responsible for violation of the contract stipulations are also liable for underpayments of wages which the stipulations require to be paid and are subject to the enforcement provisions of the Act. The payment by subcontractors to their employees, performing work on covered contracts with the Federal Government, of less than the minimum wage specified under section 6(a)(1) of the Fair Labor Standards Act (29 U.S.C. 206(a)(1)) is expressly prohibited, except as otherwise provided in the case of certain linen supply subcontractors under section 6(e)(2) of such Act.

(b) *"Contractor" as including "subcontractor."* Except where otherwise noted or where the term "Government prime contractor" is used, the term "contractor" as used in this Part 4 shall be deemed to include a subcontractor. The term "contractor" as used in the contract clauses required by Subpart A in any subcontract under a covered contract shall be deemed to refer to the subcontractor, or, if in a subcontract entered into by such a subcontractor, shall be deemed to refer to the lower level subcontractor.

Specific Exclusions

§ 4.115 Exemptions and exceptions generally.

The Act, in section 7, specifically excludes from its coverage certain contracts and work which might otherwise come within its terms as procurements the principal purpose of which is to furnish services through the use of service employees. In addition, as noted in § 4.104 provision is made in section 4 of the Act for administrative action by the Secretary of Labor providing reasonable limitations and allowing reasonable variations, tolerances, and exemptions to and from provisions of the Act in accordance with standards set forth in the section. These provisions of the Act apply as explained in the following discussion. The limitations stated in this subpart in defining the scope of the statutory exemptions are reasonable limitations that have been found necessary and proper in the public interest in accordance with the provisions of section (4)b of the Act.

§ 4.116 Contracts for construction activity.

(a) *General scope of exemption.* The Act, in paragraph (1) of section 7, exempts from its provisions "any contract of the United States or District of Columbia for construction, alteration and/or repair, including painting and decorating of public buildings or public works." This language corresponds to the language used in the Davis-Bacon Act to describe its coverage (40 U.S.C. 270a). The legislative history of the McNamara-O'Hara Service Contract Act indicates that the purpose of the provision is to avoid overlapping coverage of the two acts by excluding from the application of the McNamara-O'Hara Act those contracts (and any bid specification therefor) to which the Davis-Bacon Act is applicable and in the performance of which the labor standards of that Act are intended to govern the compensation payable to the employees of contractors and subcontractors on the work. (See H. Rept. 798, pp. 2, 5, and H. Rept. 948, pp. 1, 5, also Hearing, Special Subcommittee on Labor, House Committee on Education and Labor, p. 9 (89th Cong., 1st sess.).) The intent of section 7(1) is simply to exclude from the provisions of the Act those construction contracts which involve the employment of persons whose wage rates and fringe benefits are determinable under the Davis-Bacon Act.

(b) *Contracts not within exemption.* (1) Section 7(1) does not exempt contracts which, for purposes of the Davis-Bacon Act, are not considered to be of the character described by the corresponding language in that Act, and to which the provisions of such Act are therefore not applied. Such contracts are accordingly subject to the McNamara-O'Hara Act where their principal purpose is to furnish services in the United States through the use of service employees. For example, a contract for clearing timber or brush from land or for the demolition or dismantling of buildings or other structures located thereon may be a contract for construction activity subject to the Davis-Bacon Act where it appears that the clearing of the site is to be followed by the construction of a public building or public work at the same location. If, however, no further construction activity at the site is contemplated the Davis-Bacon Act may be considered inapplicable to such clearing, demolition, or dismantling work. In such event, the exemption in section 7(1) of the McNamara-O'Hara Act has no application and the contract will be subject to the Act in accordance with its general coverage provisions.

(2) Also, where the principal purpose of a contract is to furnish services in the United States through the use of service employees whose wage rates and fringe benefits are not determinable under the Davis-Bacon Act, the fact that the contract may, by a literal reading of section

7(1), be considered to come within its exemptive language does not justify an application of the exemption where this would result in no wage determinations for these employees under either Act. This is found to be a reasonable limitation on the exemption, consistent with the rule of narrow construction of exemptions from remedial statutes and with the legislative history of this Act, which is necessary and proper in the public interest, in accordance with the provisions of section 4(b) of the Act.

(3) It should be noted also that contracts in the amount of $2,000 or less and contracts to be performed in geographic areas outside the boundaries of the 50 States and the District of Columbia are not subject to the Davis-Bacon Act. Such a contract is within the general coverage provisions of the McNamara-O'Hara Act, however, if it is to be performed within the "United States" as defined in such Act and if its principal purpose is to furnish services through the use of service employees. If the contract meets these tests, it will not be deemed exempt under section 7(1) of the Act even though it calls for construction activity, since there is no suggestion in the legislative history that the Congress intended this exclusion to apply to contracts not subject to the Davis-Bacon Act or to leave employees performing such contracts outside the protection of either Act. This is found to be a reasonable limitation of the exemption which is necessary and proper in the public interest in accordance with the provisions of section 4(b) of the Act.

(c) *Partially exempt contracts.* Instances may arise in which, for the convenience of the Government, instead of awarding separate contracts for construction work subject to the Davis-Bacon Act and for services of a different type to be performed by service employees, the contracting officer may include separate specifications for each type of work in a single contract calling for the performance of both types of work. For example, a contracting agency may invite bids for the installation of a plumbing system in a public building and for the maintenance of the system for one year, under separate bid specifications. In such a case, the exemption provided by section 7(1) will be deemed applicable only to that portion of the contract which calls for construction activity subject to the Davis-Bacon Act. The contract documents are required to contain the clauses prescribed by § 4.6 for application to the contract obligation to furnish services through the use of service employees, and the provisions of the McNamara-O'Hara Act will apply to that portion of the contract. This is a reasonable limitation of the application of the exemption found to be necessary and proper in the public interest in accordance with the provisions of section 4(b) of the Act.

§ 4.117 Contracts for carriage subject to published tariff rates.

The Act, in paragraph (3) of section 7, exempts from its provisions "any contract for the carriage of freight or personnel by vessel, airplane, bus, truck, express, railway line or oil or gas pipeline where published tariff rates are in effect". In order for this exemption to be applicable, the contract must be for such carriage by a common carrier described by the terms used. It does not, for example, apply to contracts for taxicab or ambulance service, because taxicab and ambulance companies are not among the common carriers specified by the statute. Also, a contract for transportation service does not come within this exemption unless the service contracted for is actually governed by published tariff rates in effect pursuant to State or Federal law for such carriage. The contracts excluded from the reach of the Act by this exemption are typically those where there is on file with the Interstate Commerce Commission or an appropriate State or local regulatory body a tariff rate applicable to the transportation involved, and the transportation contract between the Government and the carrier is evidenced by a bill of lading citing the published tariff rate. It should be noted further that only such contracts for the carriage of "freight or personnel" are exempt. This exemption thus does not exclude any contracts for the transportation of mail from the application of the Act, because the term "freight" does not include the mail. (For an administrative exemption of certain contracts with common carriers for carriage of mail, see § 4.6(m)(g).

§ 4.118 Contracts for services of communications companies.

The Act, in paragraph (4) of section 7, exempts from its provisions "any contract for the furnishing of services by radio, telephone, telegraph, or cable companies, subject to the Communications Act of 1934." This exemption is applicable to contracts with such companies for communication services regulated under the Communications Act. It does not exempt from the Act any contracts with such companies to furnish any other kinds of services through the use of service employees.

§ 4.119 Contracts for public utility services.

The Act, in paragraph (5) of section 7, exempts from its provisions "any contract for public utility services, including electric light and power, water, steam, and gas." This exemption is applicable to contracts for such services with companies whose rates therefor are regulated under State, local, or Federal law governing operations of public utility enterprises. Contracts entered into with public utility companies to furnish services through the use of service employees, other than those subject to such rate regulation, are not exempt from the Act. Among the contracts included in the exemption would be those between Federal electric power marketing agencies and investor-owned electric utilities, Rural Electrification Administration cooperatives, municipalities and State agencies engaged in the transmission and sale of electric power and energy. (See H. Rept. No. 948, 89th Cong., 1st sess., p. 4.)

§ 4.120 Contracts for operation of postal contract stations.

The Act, in paragraph (7) of section 7, exempts from its provisions "any contract with the Post Office Department, the principal purpose of which is the operation of postal contract stations." The exemption is limited to postal service contracts having the operation of such stations as their principal purpose. A provision of the legislation which would also have exempted contracts with the Post Office Department having as their principal purpose the transportation, handling, or delivery of the mails was eliminated from the bill during its consideration by the House Committee on Education and Labor (H. Rept. 948, p. 1, 89th Cong., 1st sess.).

§ 4.121 Contracts for individual services.

The Act, in paragraph (6) of section 7, exempts from its provisions "any employment contract providing for direct services to a Federal agency by an individual or individuals." This exemption, which applies only to an "employment contract" for "direct services," makes it clear that the Act's application to Federal contracts for services is intended to be limited to service contracts entered into with independent contractors. If a contract to furnish services (to be performed by a service employee as defined in the Act) provides that they will be furnished directly to the Federal agency by the individual under conditions or circumstances which will make him an employee of the agency in providing the contract service, the exemption applies and the contract will not be subject to the Act's provisions. The exemption does not exclude from the Act any contract for services of the kind performed by service employees which is entered into with an independent contractor whose individual services will be used in performing the contract, but as noted earlier in § 4.113, such a contract would be outside the general coverage of the Act if only the contractor's individual services would be furnished and no service employee would in any event be used in its performance.

§ 4.122 Work subject to requirements of Walsh-Healey Act.

The Act, in paragraph (2) of section 7, exempts from its provisions "any work required to be done in accordance with the provisions of the Walsh-Healey Public Contracts Act (49 Stat. 2036)." It will be noted that this like the similar provision in the Contract Work Hours Standards Act (40 U.S.C. 329(b)), is an exemption for "work" rather than for "contracts" subject to the Walsh-Healey Act. The purpose of the exemption was to eliminate possible overlapping of the differing labor standards of the two Acts, which otherwise might be applied to employees performing work on a contract covered by the McNamara-O'Hara Act if such contract and their work under it should also be deemed to be covered by

the Walsh-Healey Act. The Walsh-Healey Act applies to contracts in excess of $10,000 for the manufacture or furnishing of materials, supplies, articles or equipment. There is no overlap of coverage, therefore, in the case of contracts in amounts not in excess of $10,000. Nor is there an overlap if the principal purpose of the contract is the manufacture or furnishing of such materials etc., rather than the furnishing of services of the character referred to in the McNamara-O'Hara Act, for such a contract is not within the general coverage of the latter Act. In such cases the exemption in section 7(2) is not pertinent. It is pertinent, however, in the case of contracts exceeding $10,000 which are covered by the McNamara-O'Hara Act, because they have as their principal purpose the furnishing of services through the use of service employees, and are also covered by the Walsh-Healey Act, because it applies to contracts in the required amount, irrespective of their principal purpose, if the furnishing of materials, supplies, articles, or equipment in a substantial amount is called for by the contract or is a significant or independent purpose of the contract. Under such contracts, the "work required to be done in accordance with the provisions of the Walsh-Healey Public Contracts Act," which is exempted by section 7(2), includes only the work of those employees who are "engaged in or connected with the manufacture, fabrication, assembling, handling, supervision, or shipment of materials, supplies, articles, or equipment required under the contract" (41 CFR 50–201.102). Service employees engaged in such work on a contract covered by both Acts are thus exempt under section 7(2) from the provisions of the McNamara-O'Hara Act and subject only to the provisions of the Walsh-Healey Act, while other employees such as guards, watchmen, and employees performing only general office or clerical work are not covered by the Walsh-Healey Act or within this exemption, and are covered by the provisions of the McNamara-O'Hara Act when performing work on a contract subject to its terms.

§ 4.123 Administrative limitations, variations, tolerances, and exemptions.

(a) *Authority of the Secretary.* The Act, in section 4(b) authorizes the Secretary to "provide such reasonable limitations" and to "make such rules and regulations allowing reasonable variations, tolerances, and exemptions to and from any or all provisions of this Act as he may find necessary and proper in the public interest or to avoid serious impairment of the conduct of Government business." This authority is similar to that vested in the Secretary under section 6 of the Walsh-Healey Public Contracts Act (41 U.S.C. 40) and under section 105 of the Contract Work Hours Standards Act (40 U.S.C. 331).

(b) *Administrative action under section 4(b) of the Act.* The authority conferred on the Secretary by section 4(b) of the Act will be exercised with due regard to the remedial purpose of the statute to protect prevailing labor standards and to avoid the undercutting of such standards which could result from the award of Government work to contractors who will not observe such standards, and whose saving in labor cost therefrom enables them to offer a lower price to the Government than can be offered by the fair employers who maintain the prevailing standards. Administrative action consistent with this statutory purpose may be taken under section 4(b) with or without a request therefor, when found necessary and proper in accordance with the statutory standards. No formal procedures have been prescribed for requesting such action. However, a request for exemption from the Act's provisions will be granted only upon a strong and affirmative showing that it is necessary and proper in the public interest or to avoid serious impairment of Government business. If the request for administrative action under section 4(b) is not made by the headquarters office of the contracting agency to which the contract services are to be provided, the views of such office on the matter should be obtained and submitted with the request or the contracting officer may forward such a request through channels to the agency headquarters for submission with the latter's views to the Administrator of the Wage and Hour and Public Contracts Divisions, Department of Labor.

(c) *Documentation of official action under section 4(b).* All papers and documents made a part of the official record of administrative action pursuant to section 4(b) of the Act are available for public inspection in accordance with the regulations in 29 CFR Part 70. Limitations, variations, tolerances and exemptions of general applicability and legal effect promulgated pursuant to such authority are published in the FEDERAL REGISTER and made a part of the rules incorporated in this Part 4. For convenience in use of the rules they are set forth in the sections of this part covering the subject matter to which they relate, rather than as a separate listing. (See, for example, the exemption provided in § 4.5(b) and the limitations set forth in §§ 4.115 et seq.) Any rules that are promulgated under section 4(b) of the Act relating to subject matter not dealt with elsewhere in this Part 4 will be set forth immediately following this paragraph.

PARTICULAR APPLICATIONS OF CONTRACT COVERAGE PRINCIPLES

§ 4.130 Types of covered service contracts illustrated.

The types of contracts, the principal purpose of which is to furnish services through the use of service employees, are too numerous and varied to permit an exhaustive listing. The following list is illustrative, however, of the types of services called for by such contracts that have been found to come within the coverage of the Act.

(a) Aerial spraying.
(b) Aerial reconnaissance for fire detection.
(c) Ambulance service.
(d) Cafeteria and food service.
(e) Chemical testing and analysis.
(f) Clothing alteration and repair.
(g) Custodial and janitorial services.
(h) Electronic equipment maintenance and operation.
(i) Flight training.
(j) Forest fire fighting.
(k) Geological field surveys.
(l) Grounds maintenance.
(m) Guard or watchman service.
(n) Landscaping (other than part of construction).
(o) Laundry and dry cleaning.
(p) Linen supply service.
(q) Lodging and meals.
(r) Mail hauling.
(s) Maintenance and repair of motor equipment.
(t) Maintenance and repair of office equipment.
(u) Miscellaneous housekeeping.
(v) Motor Pool operation.
(w) Packing and crating.
(x) Parking services.
(y) Snow removal.
(z) Stenographic reporting.
(aa) Support services at military installations.
(bb) Taxicab services.
(cc) Tire and tube repairs.
(dd) Transporting property or personnel (except as explained in § 4.117).
(ee) Trash and garbage removal.
(ff) Warehousing or storage.
(gg) Drafting and illustrating.
(hh) Mortuary services.

§ 4.131 Furnishing services involving more than use of labor.

(a) If the principal purpose of a contract is to furnish services in the performance of which service employees will be used, the Act will apply to the contract, in the absence of an exemption, even though the use of nonlabor items may be an important element in the furnishing of the services called for by its terms. The Act is concerned with protecting the labor standards of workers engaged in performing such contracts, and is applicable if the statutory coverage test is met, regardless of the proportion of the labor cost to the total cost of furnishing the contract services, the form in which the contract is drafted, or the necessity of providing tangible nonlabor items in performing the contract obligations. A procurement that requires tangible items to be supplied as a part of the service furnished is covered by the Act so long as the facts show that the contract is chiefly for services, and that the furnishing of tangible items is of secondary importance.

(b) Some examples of covered contracts illustrating these principles may be helpful. One such example is a contract for the maintenance and repair of typewriters. Such a contract may require the contractor to furnish typewriter parts, as the need arises, in performing the contract services. Since this does not change the principal purpose of the contract, which is to furnish the maintenance and repair services through the use of service employees, the contract remains subject to the Act.

The same is true of contracts for maintenance or repair of motor vehicles or other equipment. (As noted in § 4.122, if such contracts exceed $10,000 in amount, the Walsh-Healey Public Contracts Act may also apply to them, in which event the employees performing work required to be done in accordance with its provisions would be exempt from the application of the Service Contract Act.)

(c) Another example of the application of the above principle is a contract for the recurrent supply to a Government agency of freshly laundered items on a rental basis. It is plain from the legislative history that such a contract is typical of those intended to be covered by the Act. Although tangible items owned by the contractor are provided on a rental basis for the use of the Government, the service furnished by the contractor in making them available for such use when and where they are needed, through the use of service employees who launder and deliver them, is the principal purpose of the contract. Similarly, a contract in the form of rental of equipment with operators for the plowing and reseeding of a park area is a service contract. The Act applies to it because its principal purpose is the service of plowing and reseeding, which will be performed by service employees, although as a necessary incident the contractor is required to furnish equipment. For like reasons the contracts for aerial spraying and aerial reconnaissance listed in § 4.130 are covered, even though the use of airplanes, an expensive item of equipment, is essential in performing such services. Contracts under which the contractor agrees to provide the Government with vehicles or equipment on a rental basis with drivers or operators are similarly deemed contracts to furnish services, in the performance of which service employees will be used. (Such contracts are not considered contracts for furnishing equipment within the meaning of the Walsh-Healey Public Contracts Act.)

§ 4.132 Services and other items to be furnished under single contract.

If the principal purpose of a contract specification is to furnish services through the use of service employees within the meaning of the Act, the contract to furnish such services is not removed from the Act's coverage merely because, as a matter of convenience in procurement, it is combined in a single contract document with specifications for the procurement of different or unrelated items. For example, a contracting agency may invite bids for supplying a quantity of new typewriters and for the maintenance and repair of the typewriters already in use, under separate bid specifications. The principal purpose of the latter, but not the former, would be the furnishing of services through the use of service employees. A typewriter company might be the successful bidder on both items and the specifications for each might be included in a single contract for the convenience of the parties. In such a case, the contract obligation to furnish the maintenance and repair services would be subject to the provisions of the Act. The "principal purpose" test would be applicable to the specification for such services rather than to the combined contract. The Act would not apply in such case to the contract obligation to furnish new typewriters, although its performance would be subject to the provisions of the Walsh-Healey Public Contracts Act if the amount was in excess of $10,000.

§ 4.133 Government as beneficiary of contract services.

(a) *In general.* The Act does not say to whom the services under a covered contract must be furnished; so far as its language is concerned, it is enough if the contract is "entered into" by and with the Government and if its principal purpose is "to furnish services in the United States through the use of service employees." The legislative history indicates an intention to cover at least contracts for services of direct benefit to the Government, its property, or its civilian or military personnel for whose needs it is necessary or desirable for the Government to make provision for such services. Such contracts as those for furnishing food service and laundry and dry cleaning service for personnel at military installations, for example, were specifically referred to. Where the principal purpose of the Government contract is to provide these or other services to the Government or its personnel through the use of service employees, the contract is within the general coverage of the Act regardless of the source of the funds from which the contractor is paid for the service and irrespective of whether he performs the work in his own establishment, on a Government installation, or elsewhere. The fact that the contract permits him to provide the services directly to individual personnel as a concessionaire, rather than through the contracting agency, does not require a different conclusion.

(b) *Special situations.* It is not considered that the Act was intended to cover every contract, however, which is entered into with the Government by a contractor to furnish services, no matter how indirect or remote a benefit the Government may derive therefrom. If, for example, a contract with the Government grants the contractor the privilege of operating as a concessionaire in a Government park for the purpose of furnishing services to the public generally rather than to the Government or to personnel engaged in its business, the contract is not considered subject to the Act. Since the statute itself provides no clear line of demarcation, questions of contract coverage where doubt arises because of remoteness of benefit to the Government from the services to be furnished should be referred to the Administrator of the Wage and Hour and Public Contracts Divisions for resolution.

§ 4.134 Contracts outside the Act's coverage.

(a) Contracts entered into by agencies other than those of the Federal Government or the District of Columbia as described in §§ 4.107–4.108 of this subpart are not within the purview of the Act. Thus, the Act does not cover service contracts entered into with any agencies of Puerto Rico, the Virgin Islands, American Samoa, or Guam acting in behalf of their respective local governments. Similarly, it does not cover service contracts entered into by agencies of States or local public bodies, not acting as agents or for or on behalf of the United States or the District of Columbia, even though Federal financial assistance may be provided for such contracts under Federal law of the terms and conditions specified in Federal law may govern the award and operation of the contract.

(b) Further, as already noted in §§ 4.111–4.113, the Act does not apply to Government contracts which do not have as their principal purpose the furnishing of services, or which call for no services to be furnished within the United States or through the use of service employees as those terms are defined in the Act. Clearly outside the Act's coverage for these reasons are such contracts as those for the purchase of tangible products which the Government needs (e.g. fuel, vehicles, office equipment, and supplies), for the logistic support of an air base in a foreign country, or for the services of a lawyer to examine the title to land. Similarly, where the Government contracts for a lease of building space for Government occupancy and as an incidental part of the lease agreement the building owner agrees to furnish janitorial and other building services through the use of service employees, the leasing of the space rather than the furnishing of the building services is the principal purpose of the contract, and the Act does not apply. Another type of contract which is outside the coverage of the Act because it is not for the principal purpose of furnishing services may be illustrated by a contract for the rental of parking space under which the Government agency is simply given a lease or license to use the contractor's real property. Such a contract is to be distinguished from contracts for the live storage of vehicles which are delivered into the possession or custody of the contractor, who will provide the required services including the parking or retrieval of the vehicles.

(c) There are a number of types of contracts which, while outside the Act's coverage in the usual case, may be subject to its provisions under the conditions and circumstances of a particular procurement, because these may be such as to require a different view of the principal purpose of the contract. Thus, the ordinary contract for the recapping of tires would have as its principal purpose the manufacture and furnishing of rebuilt tires for the Government rather than the furnishing of services through the use of service employees, and thus would be outside the Act's coverage. Similarly, contracts calling for printing, reproduction, and duplicating ordinarily would appear to have as their principal purpose the furnishing in quantity of printed, reproduced, or duplicated written materials rather than the furnishing of the reproduction services through the use of service employees. However, in a particular case, the terms, conditions, and circumstances of the procurement would be

such that the facts would show its purpose to be chiefly the obtaining of services (e.g. repair services, typesetting, photostating, editing, etc.), and where such services would require the use of service employees the contract would be subject to the Act unless excluded therefrom for some other reason.

(d) A further category of contracts outside the coverage of the Act includes those service contracts which would otherwise be covered but to which the Act does not apply because they were entered into pursuant to negotiations concluded or invitations for bids issued before January 20, 1966 (see § 4.102) and have remained in effect without change since that date.

DETERMINING AMOUNT OF CONTRACT

§ 4.140 Significance of contract amount.

As set forth in § 4.103 and in the requirements of §§ 4.6–4.7, the obligations of a contractor with respect to labor standards differ in the case of a covered and nonexempt contract, depending on whether the contract is or is not in excess of $2,500. Rules for resolving questions that may arise as to whether a contract is or is not in excess of this figure are set forth in the following sections.

§ 4.141 General criteria for measuring amount.

(a) In general, the contract amount is measured by the consideration agreed to be paid, whether in money or other valuable consideration, in return for the obligations assumed under the contract. Thus, even though a contractor, such as a wrecker entering into a contract with the Government to raze a building on a site which will remain vacant, may not be entitled to receive any money from the Government for such work under his contract or may even agree to pay the Government in return for the right to dispose of the salvaged materials, the contract will be deemed one in excess of $2,500 if the value of the property obtained by the contractor, less anything he might pay the Government, is in excess of such amount.

(b) All bids from the same person on the same invitation for bids will constitute a single offer, and the total award to such person will determine the amount involved for purposes of the Act. Where the procurement is made without formal advertising, in arriving at the aggregate amount involved, there must be included all property and services which would properly be grouped together in a single transaction and which would be included in a single advertisement for bids if the procurement were being effected by formal advertising. However, where an invitation is for services in an amount in excess of $2,500 and bidders are permitted to bid on a portion of the services not amounting to more than $2,500, the amounts of the contracts awarded separately to individual and unrelated bidders will be measured by the portions of the services covered by their respective contracts.

(c) Where a contract is issued in an amount in excess of $2,500 this amount will govern for purposes of application of the Act even though penalty deductions, deductions for prompt payment, and similar deductions may reduce the amount actually expended by the Government to $2,500 or less.

§ 4.142 Contracts in an indefinite amount.

(a) Every contract subject to this Act (and any bid specification therefor) which is indefinite in amount and is not otherwise exempt from the requirements of section 2(a) of the Act and § 4.6 is required to contain the clauses prescribed in § 4.6 for contracts in excess of $2,500, unless the contracting officer has definite knowledge in advance that the contract will not exceed $2,500 in any event.

(b) Where contracts or agreements between a Government agency and prospective purveyors of services are negotiated, which provide terms and conditions under which services will be furnished through the use of service employees in response to individual purchase orders or calls, if any, which may be issued by the agency during the life of the agreement, these agreements would ordinarily constitute contracts within the intendment of the Act under principles judicially established in United Biscuit Co. v. Wirtz, 17 WH Cases 146 (C.A.D.C.), a case arising under the Walsh-Healey Public Contracts Act. Such a contract, which may be in the nature of a bilateral option contract and not obligate the Government to order any services or the contractor to furnish any, nevertheless governs any procurement of services that may be made through purchase orders or calls issued under its terms. Since the amount of the contract is indefinite, it is subject to the rule stated in paragraph (a) of this section. The amount of the contract is not determined by the amount of any individual call or purchase order.

CHANGES IN CONTRACT COVERAGE

§ 4.143 Effects of changes or extensions of contracts, generally.

Sometimes an existing service contract is modified, amended, or extended in such a manner or at such a time that, if originally entered into in its changed form at such time, the application of provisions of the Act to it would be different at such time from the application of the Act's provisions to the original contract at the time it was entered into. One example is a contract to which the Act did not originally apply because invitations for bids thereon were issued prior to January 20, 1966, which is subsequently extended. Another example is a contract which, when originally executed, was exempted from the provisions of section 2(a) of the Act and § 4.6 requiring specification in the contract of predetermined monetary wage rates and fringe benefits, because no wage determination had been made prior to the invitation for bids; and then, at a later time, contract amendments relative to the scope of the work are incorporated after prevailing wage and fringe benefit determinations have been made for classes of service employees in the locality which will be engaged in the contract work. The general rule with respect to such contracts is, that whenever changes are made in the terms of the contract, the provisions of the Act and the regulations thereunder will apply to the changed contract in the same manner and to the same extent as they would to a wholly new contract in the same terms if such a contract were entered into at the time of the change. Under this rule, the contract in the first example would become subject to the Act and regulations when the changes were effected in it, although it was not originally covered. Similarly, the specified monetary wages and fringe benefits would have to be incorporated in the amended contract in the second example, although not required in the contract originally entered into. However, contract modifications or amendments (other than contract extensions) that are unrelated to the labor requirements of a contract will not be deemed to create a new contract for purposes of the Act. In addition, only significant changes related to labor requirements will be considered as creating new contracts. This limitation on the application of the Act has been found to be a reasonable one, and necessary and proper in the public interest and to avoid serious impairment of the conduct of Government business in accordance with the provisions of section 4(b) of the Act. Also, a contract will be deemed entered into when the term of an existing contract is extended, pursuant to an option clause or otherwise, so that the contractor furnishes services over an extended period of time, rather than being granted extra time to fulfill his original commitment.

§ 4.144 Contract modifications affecting amount.

Pursuant to the rule set forth in § 4.143, where a contract which was originally issued in an amount not in excess of $2,500 is later modified so that its amount may exceed that figure, all the provisions of section 2(a) of the Act, and the regulations thereunder are applicable from the date of modification to the date of contract completion. In the event of such modification the contracting officer will immediately insert the required contract clauses into the contract and notify the Department of Labor of such action. In the event that a contract for services subject to the Act in excess of $2,500 is modified so that it cannot exceed $2,500, compliance with the provisions of section 2(a) of the Act and the contract clauses required thereunder ceases to be an obligation of the contractor when such modification becomes effective.

§ 4.145 Extended term contracts.

Sometimes service contracts are entered into for a term of years; however, their continuation in effect is subject to the appropriation by Congress of funds for each new fiscal year. In such event, for purposes of this Act, a contract shall be deemed entered into at the beginning of each new fiscal year during which the terms of the original contract are

made effective by an appropriation for the purpose. In other cases a service contract, entered into for a specified term by a Government agency, may contain a provision such as an option clause under which the agency may unilaterally extend the contract for a period of the same length or other stipulated period. If a new appropriation is required to finance such extension, the rule just stated will apply. In any event, however, since the exercise of the option results in the rendition of services for a new or different period not included in the term for which the contractor is obligated to furnish services or for which the Government is obligated to pay under the original contract in the absence of such action to extend it, the contract for the additional period is within the intendment of the Act in the same position as a wholly new contract with respect to application of the Act's provisions and the regulations thereunder.

PERIOD OF COVERAGE

§ 4.146 Contract obligations after award, generally.

A contractor's obligation to observe the provisions of the Act arises on the date he is informed that he has received the award of the contract, not necessarily the date of formal execution. However, he is required to comply with the provisions of the Act and regulations thereunder only while his employees are performing on the contract, provided his records make clear the period of such performance.

EMPLOYEES COVERED BY THE ACT

§ 4.150 Employee coverage generally.

The Act, in section 2(b), makes it clear that its provisions apply generally to all employees engaged in performing work on a covered contract entered into by the contractor with the Federal Government, regardless of whether they are his employees or those of any subcontractor under such contract. All employees who, on or after the date of award, are engaged in working on or in connection with the contract, either in performing the specific services called for by its terms or in performing other duties necessary to the performance of the contract, are thus subject to the Act unless a specific exemption (see §§ 4.115 et seq.) is applicable. All such employees must be paid wages at a rate not less than the minimum wage specified under section 6(a)(1) of the Fair Labor Standards Act (29 U.S.C. 206(a)(1)), as amended, unless the special exception provided in section 6(e)(2) of such Act for certain linen supply contract services is applicable (see § 4.160). Payment of a higher minimum monetary wage and the furnishing of fringe benefits may be required under the contract, pursuant to the provisions of section 2(a)(1), (2), of the Act.

§ 4.151 Employees covered by provisions of section 2(a).

The provisions of section 2(a) of the Act prescribe labor standards requirements applicable, except as otherwise specifically provided, to every contract in excess of $2,500 which is entered into by the United States or the District of Columbia for the principal purpose of furnishing services in the United States through the use of service employees. These provisions apply to all service employees engaged in the performance of such a contract or any subcontract thereunder. The Act, in section 8(b) defines the term "service employee". The general scope of the definition is considered in § 4.113(b) of this subpart.

§ 4.152 Employees subject to prevailing compensation provisions of section 2(a)(1) and (2).

Under section 2(a)(1) and (2) of the Act minimum monetary wages and fringe benefits to be paid or furnished the various classes of service employees performing such contract work are determined by the Secretary of Labor or his authorized representative in accordance with prevailing rates and fringe benefits for such employees in the locality and are required to be specified in such contracts and subcontracts thereunder. All service employees of the classes who actually perform the specific services called for by the contract (e.g. janitors performing on a contract for office cleaning; stenographers performing on a contract for stenographic reporting) are covered by the provisions specifying such minimum monetary wages and fringe benefits for such classes of service employees.

§ 4.153 Inapplicability of prevailing compensation provisions to some employees.

There may be employees, used by a contractor or subcontractor in performing a service contract in excess of $2,500 which is subject to the Act, whose services, although necessary to the performance of the contract, are not subject to minimum monetary wage or fringe benefit provisions contained in the contract pursuant to section 2(a). This may occur either because such employees do not come within the classes of service employees, directly engaged in performing the specified contract services, which are included in the Secretary's determinations of monetary wages and fringe benefits and for which such compensation is specified in the contract (an example might be a laundry contractor's billing clerk performing billing work with respect to the items laundered); or because the contract itself is exempted from the predetermined wage and fringe benefit requirements of section 2(a) (under the provisions of § 4.5) as a contract calling for services of classes of service employees with respect to whom there is no currently applicable wage or fringe benefit determination for the locality. In all such situations the employees, who are engaged in performing work on the contract but for whom no monetary minimum wage or fringe benefits are specified by its provisions, are nevertheless subject to the minimum wage provision of section 2(b) (see § 4.150) requiring payment of not less than the minimum wage specified under section 6(a)(1) of the Fair Labor Standards Act to all employees working on a covered contract, unless specifically exempt. The same is true in situations where minimum monetary wages and fringe benefits have not been specified in the contract for a particular class or classes of service employees because the wage and fringe benefit determinations applicable to the locality have been made only for other classes of service employees who will perform the contract work, and not for these. However, although wages lower than the specified Fair Labor Standards Act minimum may not be paid to such employees in classes omitted from those for which monetary wages or fringe benefits were predetermined and specified in the contract, the employer will be required to pay any higher monetary wages together with fringe benefits which may be specified for them pursuant to agreement of the interested parties as provided in § 4.6(b).

§ 4.154 Employees covered by sections 2(a)(3) and (4).

The safety and health standards of section 2(a)(3) (see § 4.186) and the notice requirements of section 2(a)(4) of the Act (see § 4.183) are applicable, in the absence of a specific exemption, to every service employee engaged by a contractor or subcontractor to furnish services under a contract subject to section 2(a) of the Act.

§ 4.155 Employee coverage does not depend on form of employment contract.

The Act, in section 8(b), makes it plain that the coverage of service employees depends on whether their work for the contractor or subcontractor on a covered contract is that of a service employee as defined in section 8(b) and not on any contractual relationship that may be alleged to exist between the contractor or subcontractor and such persons.

§ 4.156 Employees in bona fide executive, administrative, or professional capacity.

As stated in § 4.113(b), the service employees covered by the Act are not deemed to include employees employed in a bona fide executive, administrative, or professional capacity as defined in 29 CFR Part 541. This has been found to be a reasonable limitation on coverage which is necessary and proper in the public interest (Act, sec. 4(b)). Employees within the definition of service employee who are employed in a professional, administrative, or supervisory capacity are not excluded from coverage, however, even though they are highly paid, if they fail to meet the tests set forth in 29 CFR Part 541. Thus, such employees as laboratory technicians, draftsmen, and air ambulance pilots, though they require a high level of skill to perform their duties and may meet the salary requirements of the regulations in Part 541 of this title, are ordinarily covered by the Act's provisions because they do not typically meet the other requirements of those regulations.

COMPENSATION STANDARDS

§ 4.159 General minimum wage.

The Act, in section 2(b)(1), provides generally that no contractor or subcontractor under any Federal contract subject to the Act shall pay any of his employees engaged in performing work on such a contract less than the minimum wage specified under section 6(a)(1) of the Fair Labor Standards Act. Section 2(a)(1) provides that the minimum monetary wage specified in any such contract exceeding $2,500 shall in no case be lower than this Fair Labor Standards Act minimum wage. Section 2(b)(1) is a statutory provision which applies to the contractor or subcontractor without regard to whether it is incorporated in the contract; however, §§ 4.6–4.7 provide for inclusion of its requirements in covered contracts and subcontracts. Because the statutory requirement specifies no fixed monetary wage rate and refers only to the minimum wage specified under section 6(a)(1) of the Fair Labor Standards Act, and because its application does not depend on provisions of the contract, any increase in such Fair Labor Standards Act minimum wage during the life of the contract is, on its effective date, also effective to increase the minimum wage payable under section 2(b)(1) to employees engaged in performing work on the contract. The minimum wage under section 6(a)(1) of the Fair Labor Standards Act was increased from $1.25 to $1.40 an hour effective February 1, 1967; such minimum wage effective February 1, 1968, is $1.60 an hour. As explained in § 4.160(c), in certain establishments providing linen supply services under Government contracts entered into on or after February 1, 1967, section 6(e)(2) of the Fair Labor Standards Act has the effect of modifying the requirement of section 2(b) of the Service Contract Act, as discussed above.

§ 4.160 Effect of section 6(e) of the Fair Labor Standards Act.

(a) *General.* Contractors and subcontractors performing work on contracts subject to the Service Contract Act are, in general, required not only to comply, in paying wages for such work, with the general minimum wage standard provided in section 6(a)(1) of the Fair Labor Standards Act as explained in § 4.159, above, but also to pay those of their employees who are not performing work on or in connection with such contracts in accordance with the compensation requirements of section 6(e) of the Fair Labor Standards Act. In the case of employers providing linen supply services to the United States under such contracts, section 6(e) of such Act also has the effect of modifying the general minimum wage requirement discussed in § 4.159 for their employees engaged in work on such contracts in certain establishments providing such linen supply services. (See par. (c) of this section.)

(b) *Section 6(e)(1) of the Fair Labor Standards Act.* Section 6(e)(1) of the Fair Labor Standards Act applies to "every employer providing any contract services (other than linen supply services) under a contract with the United States or any subcontract thereunder." It provides that every such employer "shall pay to each of his employees whose rate of pay is not governed by the Service Contract Act of 1965", or to whom section 6(a)(1) of the Fair Labor Standards Act is not otherwise applicable, wages at rates not less than the rates provided for in section 6(b) of such Act. The only exemptions permitted from this requirement are those provided in section 13(a)(1) of such Act for employees employed in a bona fide executive, administrative, professional, or outside sales capacity as defined and delimited in 29 CFR Part 541, and in section 13(f) of such Act for employees employed in workplaces in territory not described in that subsection. The minimum wage rates under section 6(b) of such Act, to which section 6(e) refers, are: $1 an hour, beginning February 1, 1967; $1.15 an hour, beginning February 1, 1968; $1.30 an hour, beginning February 1, 1969; $1.45 an hour, beginning February 1, 1970; and $1.60 an hour on and after February 1, 1971.

(c) *Section 6(e)(2) of the Fair Labor Standards Act.* (1) Section 6(e)(2) of the Fair Labor Standards Act which is effective as to contracts entered into on or after February 1, 1967, is limited in its application to "every employer in an establishment providing linen supply services to the United States under a contract with the United States or any subcontract thereunder." It provides that every such employer "shall pay to each of his employees in such establishment wages at rates not less than those prescribed in" section 6(b) of such Act, "except that if more than 50 per centum of the gross annual dollar volume of sales made or business done by such establishment is derived from providing such linen supply services under any such contracts or subcontracts, such employer shall pay to each of his employees in such establishment wages at rates not less than those prescribed in" section 6(a)(1) of the Fair Labor Standards Act.

(2) Where this latter exception is applicable, the effect of section 6(e)(2) is to require all employees in an establishment providing linen supply services under Government contract and not just those performing work on such contracts, to be paid not less than the Fair Labor Standards Act section 6(a)(1) rate of wages which, as explained in § 4.159, is the general minimum wage floor for contract work under section 2(b) of the Service Contract Act.

(3) However, where 50 percent or less of an establishment's gross annual dollar volume of sales made or business done is derived from linen supply services under Government contract, the effect of section 6(e)(2) is to modify the general minimum wage requirement of section 2(b)(1) of the Service Contract Act so as to permit the payment to employees engaged in performing such contracts of wages at a rate not less than the rate applicable under section 6(b) of the Fair Labor Standards Act, in lieu of the rate applicable under section 6(a)(1) of such Act. (For the minimum rates provided under section 6(b), see par. (b) of this section.) If higher minimum wage rates or fringe benefits are determined and specified in the contract under the provisions of section 2(a) of the Service Contract Act for such contract workers, the contractor or subcontractor must provide such compensation to the employees to whom such wage rates or fringe benefits apply, notwithstanding the provisions of section 6(e)(2) of the Fair Labor Standards Act. Section 6(e)(2) of such Act provides an alternative rate only in lieu of the minimum wage floor prescribed in section 2(b)(1) of the Service Contract Act, and does not supersede the provisions of section 2(a). With respect to employees in any establishment providing linen supply services under Government contract and not deriving more than 50 percent of its gross annual dollar volume from such contract services, section 6(e)(2) does, however, require that a minimum wage not less than that prescribed in section 6(b) of the Fair Labor Standards Act be paid to each employee, whether or not subject to the provisions of the Service Contract Act, who is employed in such establishment and for whom no higher monetary wage rate is prescribed under the provisions of section 2(a)(1) of the Service Contract Act.

(4) Like section 6(e)(1), section 6(e)(2) of the Fair Labor Standards Act limits the exemptions from its provisions under such Act to the executive, administrative, professional, outside sales, and geographic exemptions mentioned in paragraph (b) of this section.

(d) *"Linen supply services" under section 6(e).* (1) As noted in paragraphs (b) and (c) of this section, the provisions of section 6(e)(1) of the Fair Labor Standards Act apply to Government contractors and subcontractors providing contract services "other than linen supply services", whereas the provisions of section 6(e)(2) are applicable only to employers in establishments "providing linen supply services to the United States under a contract with the United States or any subcontract thereunder." Section 6(e)(2) thus does not apply in establishments providing only laundry or cleaning, and not linen supply, services under Government contracts or subcontracts, as in the case of contracts for family laundering, or commercial laundering and dry cleaning. Also the legislative history makes it clear that the exception for linen supply services is to be "construed narrowly so as not to place other laundering and cleaning establishments at a competitive disadvantage in bidding for U.S. contracts." (Daily Congressional Record, Sept. 7, 1966, p. 21032.) The stated intent is to include "standard linen supply services, such as for sheets, pillowcases, tablecloths, and so on." Other items recognized as standard linen supply items are dresses, uniforms, bibs, aprons, and other wearing apparel of the type used by barbers, doctors, waitresses, waiters, nurses, food workers, beauticians, retail sales personnel, etc. It is made plain by the legislative history of the provision, however, that it is not intended to include, in the

"linen supply services" to which section 6(e)(2) refers, any contract services which involve supplying the Government with cleaned and laundered items of types not normally provided by linen supply services, such as work uniforms worn by mechanics and production workers in heavy industry, machine shops, garages, service stations, and the like, where the garments are likely to be heavily soiled or greasy by the nature of their use. Other examples of contracts which are not for linen supply services within the meaning of the provision are those for diaper service and those providing services for industrial wiping towels, safety equipment salvage, dust control—including treated dust tool covers and cloths, treated dust mops and treated mats or rugs—and other industrial laundering services.

(2) In order for a contract to qualify as a linen supply contract, the linen supply items furnished to the Government must be furnished on a rental basis by the contractor. If the contractor is not furnishing the linen supply items to the Government on a rental basis, he would not be considered as furnishing linen supply services but merely to be furnishing a laundering service to the Government. As such, he would be subject to the provisions of section 6(e)(1) of the Fair Labor Standards Act rather than section 6(e)(2).

§ 4.161 Minimum monetary wages under contracts exceeding $2,500.

The standards established pursuant to the Act for minimum monetary wages to be paid by contractors and subcontractors under service contracts in excess of $2,500 to service employees engaged in performance of the contract or subcontracts are required to be specified in the contract and in all subcontracts (see § 4.6). Section 2(a)(1) requires that every such contract (and any bid specification therefor) which is subject to the Act shall contain a "provision specifying the minimum monetary wages to be paid the various classes of service employees in the performance of the contract or any subcontract thereunder, as determined by the Secretary or his authorized representative, in accordance with prevailing rates for such employees in the locality, which in no case shall be lower than" the minimum wage specified under section 6(a)(1) of the Fair Labor Standards Act of 1938, as amended. If some or all of the determined wages in a contract fall below the level of the Fair Labor Standards Act minimum by reason of a change in that rate by amendment of the law, these rates become obsolete and the employer is obligated under section 2(b)(1) of the Service Contract Act, to pay the new minimum wage rate established by the amendment as of the date it becomes effective. A change in the Fair Labor Standards Act minimum by operation of law would also have the same effect on advertised specifications or negotiations for covered service contracts, i.e., it would make ineffective and would supplant any lower rate or rates included in such specifications or negotiations whether or not determined. However, unless affected by such a change in the Fair Labor Standards Act minimum wage or by contract changes necessitating the insertion of new wage provisions (see §§ 4.143–4.145), the minimum monetary wage rate specified in the contract for each of the classes of service employees for which wage determinations have been made under section 2(a)(1) will continue to apply throughout the period of contract performance. No change in the obligation of the contractor or subcontractor with respect to minimum monetary wages will result from the mere fact that higher or lower wage rates may be determined to be prevailing for such employees in the locality after the award and before completion of the contract. Such wage determinations are effective for contracts not yet awarded, as provided in § 4.5(b).

§ 4.162 Fringe benefits under contracts exceeding $2,500.

(a) Section 2(a)(2) of the Act requires that every covered contract in excess of $2,500 shall contain "a provision specifying the fringe benefits to be furnished the various classes of service employees, engaged in the performance of the contract or any subcontract thereunder, as determined by the Secretary or his authorized representative to be prevailing for such employees in the locality. Such fringe benefits shall include medical or hospital care, pensions on retirement or death, compensation for injuries or illness resulting from occupational activity, or insurance to provide any of the foregoing, unemployment benefits, life insurance, disability and sickness insurance, accident insurance, vacation and holiday pay, costs of apprenticeship or other similar programs and other bona fide fringe benefits not otherwise required by Federal, State, or local law to be provided by the contractor or subcontractor."

(b) Under this provision, the fringe benefits, if any, which the contractor or subcontractor is required to furnish his service employees engaged in the performance of the contract are specified in the contract documents (see § 4.6). How he may satisfy this obligation is dealt with in §§ 4.170–4.171 and in Subpart B of this part. A change in the fringe benefits required by the contract provision will not result from the mere fact that other or additional fringe benefits are determined to be prevailing for such employees in the locality at a time subsequent to the award but before completion of the contract. Such fringe benefit determinations are effective for contracts not yet awarded (see § 4.5(b)), or in the event that changes in an existing contract requiring their insertion for prospective application have occurred (see §§ 4.143–4.145).

§ 4.163 Locality basis of wage and fringe benefit determinations.

Under section 2(a) of the Act, the Secretary or his authorized representative is given the authority to determine what minimum monetary wages and fringe benefits are prevailing for various classes of service employees "in the locality." The term "locality" has reference to geographic space. However, it has an elastic and variable meaning and, if the statutory purposes are to be achieved, must be viewed in the light of the existing wage structures which are pertinent to the employment by potential contractors of particular classes of service employees on the kinds of service contracts which must be considered, which are extremely varied. It is, accordingly, not possible to devise any precise single formula which would define the exact geographic limits of a "locality" that would be relevant or appropriate for the determination of prevailing wage rates and prevailing fringe benefits in all situations under the Act. The locality within which a wage or fringe benefit determination is applicable is, therefore, defined in each such determination upon the basis of all the facts and circumstances pertaining to that determination. Each such determination applies only to contracts for the locality which it includes.

§ 4.164 Making the determinations and informing contractors.

(a) *Information considered.* The minimum monetary wages and the fringe benefits set forth in determinations of the Secretary are based on information as to wage rates and fringe benefits in effect at the time the determination was made. The Department considers all pertinent information regarding prevailing wage rates and fringe benefits in the locality for the classes of service employees for which determinations are made.

Such information may be derived from area surveys made by the Bureau of Labor Statistics or other Department personnel, from Government contracting officers, and from other available sources including employees and their representatives and employers and their associations. The determinations may be based on the wage rates and fringe benefits contained in union agreements where such have been determined to prevail in a locality for a specified occupational group.

(b) *Provision for consideration of currently prevailing wage rates and fringe benefits.* (1) Determinations will be reviewed periodically and where prevailing wage rates or fringe benefits have changed, such changes will be reflected in new determinations. In a locality where it is determined that the wage rate which prevails for a particular class of service employees is the rate specified in a collective bargaining agreement or agreements applicable in that locality, and such agreement or agreements specify increases in such rates to be effective on specific dates, the prior determinations would be modified to reflect such changes when they become effective, and the revised determinations would apply to contracts entered into after the modification.

(2) The regulations, in § 4.4, provide for the filing with the Administrator by the awarding agency, prior to any invitation for bids or the commencement of negotiations for contracts exceeding $2,500, of a notice of intention to make a service contract which is subject to the

Act. Upon receipt of the notice the Administrator may make a determination of minimum monetary wages and fringe benefits for the classes of service employees who will perform on the contract or may revise a determination which is currently in effect.

(c) *Informing contractors of applicable determinations.* Contractors and subcontractors on contracts subject to the Act are apprised of the Secretary's determinations applicable at the time of the award by specification in the contract of the determined wage rates and fringe benefits. (See § 4.6(b)). A determination of prevailing wages or fringe benefits made after the date of the contract award for classes of employees that will be used in performing the contract does not apply to the performance of the previously awarded contract. Prospective contractors are advised, in the invitations for bids or negotiation papers issued by the contracting agency, of the minimum monetary wages and fringe benefits required under the most recent applicable determinations of the Secretary for service employees who will perform the contract work. These requirements are, of course, the same for all bidders and none will be placed at a competitive disadvantage.

Compliance With Compensation Standards

§ 4.165 Wage payments and fringe benefits—in general.

(a) (1) Monetary wages specified under the Act shall be paid to the employees to whom they are due, promptly following the end of the pay period in which they are earned. No deduction, rebate, or refund is permitted, except as hereinafter stated. The same rules apply to cash payments authorized to be paid with the statutory monetary wages as equivalents of determined fringe benefits (see Subpart B of this part).

(2) The Act makes no distinction, with respect to its compensation provisions, between temporary, part-time, and full-time employees, and the wage and fringe benefit determinations apply, in the absence of an express limitation, equally to all such service employees engaged in work subject to the Act's provisions.

(b) The Act does not prescribe the length of the pay period. However, for purposes of administration of the Act, and to conform with practices required under other statutes that may be applicable to the employment, wages and hours worked must be calculated on the basis of a fixed and regularly recurring workweek of seven consecutive 24-hour workday periods, and the records must be kept on this basis. It is appropriate to use this workweek for the pay period. A biweekly, semimonthly, or monthly pay period may, however, be used if agreed upon by the employer and his employees. A pay period longer than 1 month is not recognized as appropriate for service employees and wage payments at greater intervals will not be considered as constituting proper payments in compliance with the Act.

(c) The prevailing rate established by a wage determination under the Act is a minimum rate. A contractor is not precluded from paying wage rates in excess of those determined to be prevailing in the particular locality. Nor does the Act affect or require the changing of any provisions of union contracts specifying higher monetary wages or fringe benefits than those contained in an applicable determination. However, if a determination for a class of service employees contains a wage or fringe benefit provision which is higher than that specified in an existing union agreement, the determination's provision will prevail for any work performed on a contract subject to the determination.

§ 4.166 Wage payments—unit of payment.

The standard by which monetary wage payments are measured under the Act is the wage rate per hour. An hourly wage rate is not, however, the only unit for payment of wages that may be used for employees subject to the Act. Employees may be paid on a daily, weekly, or other time basis, or by piece or task rates, so long as the measure of work and compensation used, when translated or reduced by computation to an hourly basis, will provide a rate per hour that will fulfill the statutory requirement. Whatever system of payment is used, however, must ensure that each hour of work in performance of the contract is compensated at not less than the required minimum rate. Failure to pay for certain hours at the required rate cannot be transformed into compliance with the Act by reallocating portions of payments made for other hours which are in excess of the specified minimum.

§ 4.167 Wage payments—medium of payment.

The wage payment requirements under the Act for monetary wages specified under its provisions will be satisfied by the timely payment, finally and unconditionally or "free and clear", of such wages to the employee either in cash or negotiable instrument payable at par. Scrip, tokens, credit cards, "dope checks", coupons, and similar devices which permit the employer to retain and prevent the employee from acquiring control of money due for the work until some time after the pay day for the period in which it was earned, are not proper mediums of payment under the Act. If, as is permissible, they are used as a convenient device for measuring earnings or allowable deductions during a single pay period, the employee cannot be charged with the loss or destruction of any of them and the employer may not, because the employee has not actually redeemed them, credit himself with any which remain outstanding on the pay day, in determining whether he has met the requirements of the Act. The employer may not include the cost of fringe benefits or equivalents furnished as required under section 2(a)(2) of the Act, as a credit toward the monetary wages he is required to pay under section 2(a)(1) or 2(b) of the Act (see § 4.51). However, the employer may include, as a part of the applicable minimum wage which he is required to pay under the Act, the reasonable cost or fair value, as determined by the Administrator, of furnishing an employee with "board, lodging, or other facilities" as defined in Part 531 of this title, in situations where such facilities are customarily furnished to employees and the employees' acceptance of them is voluntary and uncoerced. The determination of reasonable cost or fair value will be in accordance with the Administrator's regulations under the Fair Labor Standards Act, contained in such Part 531 of this title. While employment on contracts subject to the Act would not ordinarily involve situations in which service employees would receive tips from third persons, the treatment of tips for wage purposes in the situations where this may occur should be understood. For purposes of this Act, tips may be included in wages in accordance with the regulations under the Fair Labor Standards Act, contained in Part 531. The general rule under that Act is that the amount paid a tipped employee by his employer is deemed to be increased on account of tips by an amount determined by the employer, not in excess of 50 percent of the minimum wage applicable under section 6 of that Act. Thus, the tip credit taken by an employer subject to the Service Contract Act may not exceed 80 cents per hour.

§ 4.168 Wage payments—deductions from wages paid.

The wage requirements of the Act will not be met where unauthorized deductions, rebates, or refunds reduce the wage payment made to the employee below the minimum amounts required under the provisions of the Act and the regulations thereunder, or where the employee fails to receive such amounts free and clear because he "kicks back" directly or indirectly to the employer or to another person for the employer's benefit the whole or part of the wage delivered to him. Authorized deductions are limited to those required by law, such as taxes payable by employees required to be withheld by the employer and amounts due employees which the employer is required by court order to pay to another; deductions allowable for the reasonable cost or fair value of board, lodging, and facilities furnished as set forth in § 4.167; and deductions of amounts which are authorized to be paid to third persons for the employee's account and benefit pursuant to his voluntary assignment or order or a collective bargaining agreement with bona fide representatives of employees which is applicable to the employer. Deductions for amounts paid to third persons on the employee's account which are not so authorized or are contrary to law or from which the employer or any affiliate derives any profit or benefit directly or indirectly, may not be made if they cut into the wage required to be paid under the Act. The principles applied in determining the permissibility of deductions

for payments made to third persons are explained in more detail in §§ 531.38–531.40 of this title.

§ 4.169 Wage payments—work subject to different rates.

If an employee during a workweek works in different capacities in the performance of the contract and two or more rates of compensation under section 2 of the Act are applicable to the classes of work which he performs, he must be paid the highest of such rates for all hours worked in the workweek unless it appears from the employer's records or other affirmative proof which of such hours were included in the periods spent in each class of work. The rule is the same where such an employee is employed for a portion of the workweek in work not subject to the Act, for which compensation at a lower rate would be proper if the employer by his records or other affirmative proof, segregated the worktime thus spent.

§ 4.170 Furnishing fringe benefits or equivalents.

(a) *General.* Fringe benefits specified under the Act shall be furnished, in addition to the specified monetary wages, by the contractor or subcontractor to employees engaged in performance of the contract, as provided in the determination of the Secretary or his authorized representative and prescribed in the contract documents, or, in the event that this is not possible or practicable, the obligation to furnish such benefits "may be discharged by furnishing any equivalent combinations of fringe benefits or by making equivalent or differential payments in cash under rules and regulations established by the Secretary." (Act, section 2(a)(2).) The governing rules and regulations for furnishing such equivalents are set forth in Subpart B of this part. The various fringe benefits listed in the Act are illustrative of those which may be found to be prevailing for service employees in a particular locality. The benefits which an employer will actually be required to furnish employees performing on a specific contract will be specified in the contract documents. When an employer has not made any provisions for fringe benefits, he cannot offset an amount of monetary wages paid in excess of the wages required under the determination, in order to satisfy his fringe benefit obligations under the Act. Also, the furnishing to the employee of items the cost or value of which is creditable toward the monetary wages specified under the Act, such as board, lodging, and other facilities in the situations described in § 4.167, may not be used to offset any fringe benefits specified in the contract.

(b) *Meeting the requirements, in general.* A contractor may dispose of certain of his fringe benefit obligations, such as pension, retirement, or health insurance benefits, which may be required by an applicable determination, by irrevocably paying the required contributions for fringe benefits to a trustee or third person pursuant to an existing bona fide fund, plan, or program. Where such a plan or fund does not exist, a contractor must discharge his obligation relating to fringe benefits by furnishing either an equivalent combination of bona fide fringe benefits or by making equivalent payments in cash to the employee, as authorized by the regulations in Subpart B of this part. When a contractor or subcontractor substitutes fringe benefits not specified in the contract for fringe benefits which are so specified, the substituted fringe benefits, like those for which the contract provisions are prescribed, must be "bona fide fringe benefits." No benefit required by Federal, State, or local law is a "bona fide" fringe benefit for purposes of the Act. No contribution toward fringe benefits made by the employees themselves, or fringe benefits provided from monies withheld from the employees' wages, or benefits statutorily required of the contractor or subcontractor (such as unemployment compensation, workmen's compensation, or social security) may be included in satisfying any fringe benefit requirement under the Act. Also, the furnishing of facilities which are primarily for the benefit or convenience of the employer or the cost of which is properly a business expense of the employer is not the furnishing of a "bona fide fringe benefit." This would be true of such items, for example, as tools and other materials and services incidental to the employer's performance of the contract and the carrying on of his business, and the cost of uniforms and of their laundering where the nature of the work he has contracted to perform requires the employee to wear a uniform.

§ 4.171 Meeting requirements for particular fringe benefits.

(a) *Determinations specifying amount of fringe benefit.* Where a fringe benefit determination specifies the amount of the employer's contribution to provide the benefit, the amount specified is the actual amount that must be provided by the employer for the employee. Thus, if prevailing fringe benefits for insurance or retirement are determined in a stated amount, and the employer provides such benefits through contributions in a lesser amount, he will be required to furnish the employee with the difference between the amount stated in the determination and the actual cost of the benefits which he provides. Unless otherwise specified in the particular wage determination, every employee performing on a covered contract must be furnished the fringe benefits required by that determination for all hours spent working on that contract. Where a fringe benefit determination has been made requiring employer contributions for a specified fringe benefit in a stated amount per hour, a contractor employing his regular employees part of the time on contract work and part of the time on other work may credit against the hourly amount required for the hours spent on the contract work the proportionate part of a weekly, monthly, or other amount contributed by him for such fringe benefits or equivalent benefits for such employees. If, for example, the determination requires health and welfare benefits in the amount of 10 cents an hour and the employer provides hospitalization insurance for such employees at a cost of $3.50 a week, the employer may credit 8.75 cents an hour toward his fringe benefit obligation to an employee who, in a particular workweek, works 35 hours on the contract work and 5 hours on other work. He cannot, however, allocate the entire $3.50 to the 35 hours spent on contract work and take credit for 10 cents per hour in that manner.

(b) *Determinations not specifying monetary amount of fringe benefit.* (1) Where a fringe benefit determination provides for a stated number of paid holidays per year, and the contractor does not give the applicable time off for holidays occurring during the period of contract performance to temporary or casual employees, he would be required to pay such employees an equivalent amount in cash or in the form of other fringe benefits proportionate to their period of employment. The amount of such additional payment could be reduced to an hourly basis through the application of an equitable formula, as provided in § 4.53(e).

(2) Some questions have been raised about the application of provisions appearing in some fringe benefit determinations which call for "1 week paid vacation after 1 year of service with a contractor or successor." To determine when an employee meets the "after 1 year of service" test, an employer must take two factors into consideration: (i) the total length of time an employee has been in the employer's service, including both the time he has been performing on regular commercial work and the time he has been performing on the Government contract itself, and (ii) the total length of time an employee has been employed either by the present contractor or predecessor contractors in the performance of similar work on the same base. If an employee has a year of service under either the first or second consideration, he is eligible for 1 week's vacation with pay. For example, if a contractor has an employee who has worked for him for 2 years on regular commercial work and only for 6 months on a Government service contract, that employee would be eligible for the vacation since his total service with the employer adds up to more than 1 year. Similarly, if a contractor has an employee who worked for 2 years under a janitorial service contract on a particular base for two different predecessor contractors, and only 8 months with the present employer, that employee would also be considered as meeting the "after 1 year of service" test and would thus be eligible for the specified vacation. Work performed before, as well as after, a pertinent wage determination is issued must be counted in determining an employee's length of service.

(3) Where, however, a fringe benefit determination requires 1 week's paid vacation per year after 1 year's service with an employer, no employee, temporary or permanent, with less than 1 year's service with the contractor,

whether or not he was working on the contract, would qualify for this benefit.

§ 4.172 Computation of hours worked.

Since employees subject to the Act are entitled to the minimum compensation specified under its provisions for each hour worked in performance of a covered contract, a computation of their hours worked in each workweek when such work under the contract is performed is essential. Determinations of hours worked will be made in accordance with the principles applied under the Fair Labor Standards Act as set forth in Part 785 of this title. In general, the hours worked by an employee include all periods in which he is suffered or permitted to work whether or not he is required to do so, and all time during which he is required to be on duty or to be on the employer's premises or to be at a prescribed workplace. The hours worked which are subject to the compensation provisions of the Act are those in which the employee is engaged in performing work on contracts subject to the Act; however, unless such hours are adequately segregated, as indicated in § 4.173, compensation in accordance with the Act will be required for all his hours of work in any workweek in which he performs any work in connection with the contract, because it will be presumed in the absence of affirmative proof to the contrary that such work continued throughout the workweek.

§ 4.173 Identification of contract work.

Contractors and subcontractors under contracts subject to the Act are required to comply with its compensation requirements throughout the period of performance on the contract and to do so with respect to all employees who in any workweek are engaged in performing work on such contracts. If such a contractor during any workweek is not exclusively engaged in performing such contracts, or if while so engaged he has employees who spend a portion but not all of their worktime in the workweek in performing work on such contracts, it is necessary for him to identify accurately in his records, or by other means, those periods in each such workweek when he and each such employee performed work on such contracts. In cases where contractors are not exclusively engaged in Government contract work, and there are adequate records segregating the periods in which work was performed on contracts subject to the Act from periods in which other work was performed, the compensation specified under the Act need not be paid for hours spent on noncontract work. However, in the absence of records adequately segregating noncovered work from the work performed on or in connection with the contract, all employees working in the establishment or department where such covered work is performed shall be presumed to have worked on or in connection with the contract during the period of its performance, unless affirmative proof establishing the contrary is presented. Similarly, in the absence of such records, an employee performing any work on or in connection with the contract in a workweek shall be presumed to have continued to perform such work throughout the workweek, unless affirmative proof establishing the contrary is presented. Even where a contractor can segregate Government from non-Government work, it is necessary that he comply with the requirements of section 6(e) of the FLSA discussed in § 4.160.

OVERTIME PAY OF COVERED EMPLOYEES

§ 4.180 Overtime pay—in general.

The Act does not provide for compensation of covered employees at premium rates for overtime hours of work. Section 6 recognizes however, that other Federal laws may require such compensation to be paid to employees working on or in connection with contracts subject to the Act (see § 4.181) and prescribes, for purposes of such laws, the manner in which fringe benefits furnished pursuant to the Act shall be treated in computing such overtime compensation, as follows: "In determining any overtime pay to which such service employees are entitled under any Federal law, the regular or basic hourly rate of such an employee shall not include any fringe benefit payments computed hereunder which are excluded from the regular rate under the Fair Labor Standards Act by provisions of section 7(e) thereof." Fringe benefit payments which qualify for such exclusion are described in Part 778, Subpart C of this title. The interpretations there set forth will be applied in determining the overtime pay to which covered service employees are entitled under other Federal statutes. The effect of section 6 of the Act in situations where equivalent fringe benefits or cash payments are provided in lieu of the specified fringe benefits (see § 4.170) is stated in § 4.55 of Subpart B of this part, and illustrated in § 4.182.

§ 4.181 Overtime pay provisions of other Acts.

(a) *Fair Labor Standards Act.* Although provision has not been made for insertion in Government contracts of stipulations requiring compliance with the Fair Labor Standards Act, contractors and subcontractors performing contracts subject to the McNamara-O'Hara Service Contract Act may be required to compensate their employees working on or in connection with such contracts for overtime work pursuant to the overtime pay standards of the Fair Labor Standards Act. This is true with respect to employees engaged in interstate or foreign commerce or in the production of goods for such commerce (including occupations and processes closely related and directly essential to such production) and employees employed in enterprises which are so engaged, subject to the definitions and exceptions provided in such Act. Such employees, except as otherwise specifically provided in such Act, must receive overtime compensation at a rate of not less than 1½ times their regular rate of pay for all hours worked in excess of the applicable standard in a workweek. See Part 778 of this title. However, the Fair Labor Standards Act provides no overtime pay requirements for employees, not within such interstate commerce coverage of the Act, who are subject to its minimum wage provisions only by virtue of the provisions of section 6(e), as explained in § 4.160.

(b) *Contract Work Hours Standards Act.* (1) The Contract Work Hours Standards Act (40 U.S.C. 327–332) applies generally to Government contracts, including service contracts in excess of $2,500, which may require or involve the employment of laborers and mechanics. Guards, watchmen, and many other classes of service employees are laborers or mechanics within the meaning of such Act. However, employees rendering only professional services, seamen, and as a general rule those whose work is only clerical or supervisory or nonmanual in nature, are not deemed laborers or mechanics for purposes of the Act. The wages of every laborer or mechanic for his performance of work on such contracts must include compensation at a rate not less than 1½ times his basic rate of pay for all hours worked in any workweek in excess of 40 or in excess of eight on any calendar days therein, whichever is the greater number of overtime hours. Exemptions are provided for transportation and communications contracts, contracts for the purchase of supplies ordinarily available in the open market, and work required to be done in accordance with the provisions of the Walsh-Healey Act.

(2) Regulations concerning this Act are contained in Part 5, and § 5.14(c) of this subtitle permits overtime pay to be computed in the same manner as under the Fair Labor Standards Act, subject of course to the differences in computations required by reason of the daily overtime provision of the Contract Work Hours Standards Act, which has no counterpart in the Fair Labor Standards Act.

(3) Although the application of the Contract Work Hours Standards Act does not depend on inclusion of its requirements in provisions physically made part of the contract, the regulations of the Secretary require such provisions to be set forth in contract clauses. (See § 5.5(c) of this subtitle.)

(c) *Walsh-Healey Public Contracts Act.* As pointed out in § 4.122, while some Government contracts may be subject both to the McNamara-O'Hara Service Contract Act and to the Walsh-Healey Public Contracts Act, the employees performing work on the contract which is subject to the latter Act are, when so engaged, exempt from the provisions of the former. They are, however, subject to the overtime provisions of the Walsh-Healey Act if, in any workweek, any of the work performed for the employer is subject to such Act and if, in such workweek, the total hours worked by the employee for the employer (whether wholly or only partly on such work) exceed 40 hours in the workweek or 8 hours in any day therein. In any such

workweek the Walsh-Healey Act requires payment of overtime compensation at a rate not less than 1½ times the employee's basic rate for such weekly or daily overtime hours, whichever are greater in number. The overtime pay provisions of the Walsh-Healey Act are discussed in greater detail in the Rulings and Interpretations issued under such Act, copies of which are available from any office of the Wage and Hour and Public Contracts Divisions, U.S. Department of Labor.

§ 4.182 Overtime pay of service employees entitled to fringe benefits.

Reference is made in § 4.180 to the rules prescribed by section 6 of the Act and Subpart B of this part which permit exclusion of certain fringe benefits and equivalents provided pursuant to section 2(a)(2) of the Act from the regular or basic rate of pay when computing overtime compensation of a service employee under the provisions of any other Federal law. As provided in § 4.55 of Subpart B, not only those fringe benefits excludable under section 6 as benefits determined and specified under section 2(a)(2), but also equivalent fringe benefits and cash payments authorized under Subpart B to be furnished in lieu of the specified benefits may be excluded from the regular or basic rate of such an employee. The application of this rule may be illustrated by the following examples:

(a) The A company pays a service employee $3.50 an hour in cash under a wage determination which requires a monetary rate of not less than $3 and a fringe benefit contribution of 50 cents which would qualify for exclusion from the regular rate under section 7(e) of the Fair Labor Standards Act. The contractor pays the 50 cents in cash because he made no contributions for fringe benefits specified in the determination and the contract. Overtime compensation in this case would be computed on a regular or basic rate of $3 an hour.

(b) The B Company has for some time been paying $3.25 an hour to a service employee as his basic cash wage plus 25 cents an hour as a contribution to a welfare and pension plan, which contribution qualifies for exclusion from the regular rate under the Fair Labor Standards Act. For performance of work under a contract subject to the Act a monetary rate of $3 and a fringe benefit contribution of 50 cents (also qualifying for such exclusion) are specified because found to be prevailing for such employees in the locality. The contractor may credit his 25-cent welfare and pension contribution toward the discharge of his fringe benefit obligation under the contract and make an additional contribution of 25 cents for the specified or equivalent fringe benefits or pay the employee an additional 25 cents in cash, as authorized in Subpart B of this part. These contributions or equivalent payments may be excluded from the employee's regular rate, which remains $3.25, the rate agreed upon as the basic cash wage.

(c) The C company has been paying $3 an hour as its basic cash wage on which the firm has been computing overtime compensation. For performance of work on a contract subject to the Act the same rate of monetary wages and a fringe benefit contribution of 50 cents an hour (qualifying for exclusion from the regular rate under the Fair Labor Standards Act) are specified in accordance with a determination that these are the monetary wages and fringe benefits prevailing for such employees in the locality. The contractor is required to continue to pay at least $3 an hour in monetary wages and at least this amount must be included in the employee's regular or basic rate for overtime purposes under applicable Federal law. His fringe benefit obligation under the contract would be discharged if 50 cents of the contributions for fringe benefits were for the fringe benefits specified in the contract or equivalent benefits as defined in Subpart B of this part. He may exclude such fringe benefit contributions from the regular or basic rate of pay of the service employee in computing overtime pay due. Exclusion of the remainder of the fringe benefit contributions from the regular rate under the Fair Labor Standards Act would depend on whether they are contributions excludable under section 7(e) of that Act.

NOTICE TO EMPLOYEES

§ 4.183 Employees must be notified of compensation required.

The Act, in section 2(a)(4), and the regulations thereunder in § 4.6(e), require all contracts subject to the Act which are in excess of $2,500 to contain a clause requiring the contractor or subcontractor to notify each employee commencing work on a contract to which the Act applies of the compensation required to be paid such employee under section 2(a)(1) and the fringe benefits required to be furnished under section 2(a)(2). A notice form provided by the Wage and Hour and Public Contracts Divisions is to be used for this purpose. It may be delivered to the employee or posted as stated in § 4.184.

§ 4.184 Posting of notice.

Posting of the notice provided by the Wage and Hour and Public Contracts Divisions shall be in a prominent and accessible place at the worksite, as required by § 4.6(e). The display of the notice in a place where it may be seen by employees performing on the contract will satisfy the requirement that it be in a "prominent and accessible place". Should display be necessary at more than one site, in order to assure that it is seen by such employees, additional copies of the poster may be obtained without cost from the Divisions. The contractor or subcontractor is required to attach to the poster a listing of all minimum monetary wages and fringe benefits, as specified in the contract, to be paid or furnished to the classes of service employees performing on the contract.

RECORDS

§ 4.185 Recordkeeping requirements.

The records which a contractor or subcontractor is required to keep concerning employment of employees subject to the Act are specified in § 4.6(g) of Subpart A of this part. They are required to be maintained for 3 years from the completion of the work, and must be made available for inspection and transcription by authorized representatives of the Administrator. Such records must be kept for each service employee performing work under the contract, for each workweek during the performance of the contract. If the required records are not separately kept for the service employees performing on the contract, it will be presumed, in the absence of affirmative proof to the contrary, that all service employees in the department or establishment where the contract was performed were engaged in covered work during the period of performance. (See § 4.173.)

SAFETY AND HEALTH PROVISIONS

§ 4.186 Contract requirements for safety and health of workers.

The Act, in section 2(a)(3), requires every service contract in excess of $2,500 subject to its provisions to contain a stipulation that "no part of the services covered by this Act will be performed in buildings or surroundings or under working conditions provided by or under the control or supervision of the contractor or any subcontractor which are unsanitary or hazardous or dangerous to the health or safety of a service employee engaged to furnish the services". Regulations under this provision are set forth in Part 1516 of this title.

ENFORCEMENT

§ 4.187 Recovery of underpayments.

(a) The Act, in section 3(a) provides that any violation of any of the contract stipulations required by section 2(a)(1) or (2) or of section 2(b) of this Act shall render the party responsible therefor liable for a sum equal to the amount of any deductions, rebates, refunds, or underpayments of compensation due to any employee engaged in the performance of such contract. So much of the accrued payment due on the contract or any other contract between the same contractor and the Federal Government may be withheld as is necessary to pay such employees. Such withheld sums shall be held in a deposit fund. On order of the Secretary, any compensation which the head of the Federal agency or the Secretary has found to be due pursuant to this Act shall be paid directly to the underpaid employees from any accrued payments withheld under this Act.

(b) The Act, in section 5(b), provides that, if the accrued payments withheld under the terms of the contract are insufficient to reimburse all service employees with respect to whom there has been a failure to pay the compensation required pursuant to this Act, the United States may bring action against the contractor, subcontractor, or any sureties in any court of competent jurisdiction to recover the remaining amount of underpayments. Any sums thus recovered by the United States shall be held in the deposit fund and shall be paid, on the order of the Secretary, directly to the underpaid employee or employees. Any sum not paid to an employee because of inability to do so within 3 years shall be covered into the Treasury of the United States as miscellaneous receipts.

§ 4.188 Ineligibility for further contracts when violations occur.

Section 5 of the Act directs the Comptroller General to distribute a list to all agencies of the Government giving the names of persons or firms that the Federal agencies or the Secretary have found

violated this Act. Unless the Secretary otherwise recommends, no contract of the United States shall be awarded to the persons or firms appearing on this list or to any firm, corporation, partnership, or association in which such persons or firms have a substantial interest until 3 years have elapsed from the date of publication of the list containing the name of such persons or firms. This prohibition against the award of a contract to an ineligible contractor applies to him in the capacity of either a prime contractor or a subcontractor.

§ 4.189 Administrative proceedings relating to enforcement of labor standards.

The Secretary is authorized, pursuant to the provisions of section 4(a) of the Act, to hold hearings and make such decisions based upon findings of fact as are deemed to be necessary to enforce the provisions of the Act. The Secretary's findings of fact after notice and hearing are declared to be conclusive upon all agencies of the United States and, if supported by a preponderance of the evidence, conclusive in any court of the United States. Rules of practice for administrative proceedings under this authority are set forth in Part 6 of this subtitle.

§ 4.190 Contract cancellation.

As provided in section 3 of the Act, when a violation is found of any contract stipulation, the contract is subject upon written notice to cancellation by the contracting agency. Whereupon, the United States may enter into other contracts or arrangements for the completion of the original contract, charging any additional cost to the original contractor.

§ 4.191 Complaints and compliance assistance.

(a) Any employer, employee, labor or trade organization, or other interested person or organization may report to any office of the Wage and Hour and Public Contracts Divisions (or to any office of the Bureau of Labor Standards, in instances involving the safety and health provisions), a violation, or apparent violation of the act, or of any of the rules or regulations prescribed thereunder. Such offices are also available to assist or provide information to contractors or subcontractors desiring to ensure that their practices are in compliance with the Act. Information furnished is treated confidentially.

(b) A report of breach or violation relating solely to safety and health requirements may be in writing and addressed to the Regional Director of a Bureau of Labor Standards' Regional Office, U.S. Department of Labor or to the Director of the Bureau of Labor Standards, U.S. Department of Labor, Washington, D.C. 20210.

(c) Any other report of breach or violation may be in writing and addressed to the Regional Director of a Wage and Hour and Public Contracts Divisions' Regional Office, U.S. Department of Labor, or to the Administrator of the Wage and Hour and Public Contracts Divisions, U.S. Department of Labor, 14th Street and Constitution Avenue NW., Washington, D.C. 20210.

(d) In the event that a Regional Director of the Wage and Hour and Public Contracts Divisions is notified of a breach or violation which also involves safety and health standards, such Director shall notify the appropriate Regional Director of the Bureau of Labor Standards who shall with respect to the safety and health violation take action commensurate with his responsibilities pertaining to safety and health standards.

(e) The report should contain the following:

(1) The full name and address of the person or organization reporting the breach or violations.

(2) The full name and address of the person against whom the report is made.

(3) A clear and concise statement of the facts constituting the alleged breach or violation of any of the provisions of the McNamara-O'Hara Service Contract Act, or of any of the rules or regulations prescribed thereunder.

[F.R. Doc. 68-8178; Filed, July 9, 1968; 8:51 a.m.]

Title 32A—NATIONAL DEFENSE, APPENDIX

Chapter X—Oil Import Administration, Department of the Interior

[Oil Import Reg. 1 (Rev. 5), Amdt. 9]

OI REG. 1—OIL IMPORT REGULATION

Allocation of Imports; Crude Oil and Unfinished Oils

This amendment adds to Oil Import Regulation 1 a new section 25, the purpose of which is, in furtherance of the national security and the fiscal policies of the Government, to encourage the construction of new refineries and new petrochemical plants in the United States and the reactivation of such facilities. The new section 25 will provide for the making of allocations of imports with respect to the projected inputs of a new or reactivated facility in order that an operator of the facility may at the outset of its operations be in a more equitable position with respect to other operators holding allocations. Because the benefits of the new section should be available to new or reactivated facilities that recently have come on stream, the section is applicable to facilities that may have come on stream since January 1, 1967, the beginning of the last allocation period. The new section 25 is issued after careful consideration of comments received following the notice of proposed rulemaking published by the Administrator, Oil Import Administration, in the FEDERAL REGISTER for April 10, 1968 (33 F.R. 5585). Some 51 comments on the proposal were received and, while there were some objections to the proposal in its entirety, most of the comments were favorable. The proposal has been revised after further study in the light of the comments received.

Sections 10 and 11 are amended to provide allocations to refiners in Districts I–IV and District V for the last 184 days of the allocation period January 1 through December 31, 1968.

Because allocations of imports should be made immediately, it is impracticable either to give notice of proposed rulemaking with respect to the amendments made to sections 10 and 11 or to delay the effective date of this Amendment. Accordingly, this Amendment 9 shall become effective immediately.

Allocations under sections 10 and 11—allocations crude oil and unfinished oils—refiners—Districts I–IV and V, respectively, will be made immediately with respect to applications which are on file with the Administrator for allocations under these sections.

Allocations under section 9—allocations crude oil and unfinished oils—petrochemical plants—Districts I–IV, District V, will be made within a period of 2 to 3 weeks from the date of this amendment, such period being required to verify all new applications received for allocations under section 9.

Allocations under new section 25 will be made following July 12, 1968, the date by which applications must be received. Allocations to refiners will be made subject to the amount of oil available for such allocations following the making of allocations under sections 10 and 11. In the event that insufficient oil is available to make full allocations to any person under section 25, the balance will be made up in the next succeeding allocation period. Allocations to new petrochemical plants made under section 25 will be made at the same time that allocations are made under section 9.

Sections 10 and 11 of Oil Import Regulation 1 (Revision 5) are amended to read as set forth below, and a new section 25, reading as follows, is added to the regulation:

Sec. 10 Allocations—crude and unfinished oils—refiners—Districts I–IV.

(a) For the allocation period January 1, 1968, through December 31, 1968, approximately 2,000 b/d of imports of crude oil and unfinished oils into Districts I–IV are made available to the Oil Import Appeals Board. The Administrator shall make, to eligible persons having refinery capacity in these districts, allocations of such imports for the last 184 days of the allocation period as provided in paragraphs (b) and (c) of this section.

(b) Except as provided in paragraph (c) of this section, each eligible applicant shall receive an allocation based on refinery inputs for the year ending September 30, 1967, and computed according to the following schedule:

Average b/d input		Percent of input		Number of days
0–10,000 10–30,000 30–100,000 100,000 plus	(X)	18.8 10.1 6.6 2.7	(X)	184

(c) (1) Except as provided in subparagraph (2) of this paragraph, if an eligible applicant imported crude oil pursuant to an allocation under the Voluntary Oil Import Program and if an allocation computed under paragraph (b) of this section would be less than 45 percent of the applicant's last allocation of imports of crude oil under that program expressed in average barrels daily and multiplied by 184, the applicant shall receive an allocation under this section equal to 45 percent of his last allocation of imports of crude oil under that program expressed in average barrels daily and multiplied by 184.

(2) If an applicant imported crude oil pursuant to an allocation under the Voluntary Oil Import Program which reflected imports of crude oil that would now be exempt from restrictions pursuant to clause (4) of paragraph (a) of section 1 of Proclamation 3279, as amended, and if an allocation computed under paragraph (b) of this section would be less than 33.25 percent of the applicant's last allocation of imports of crude oil under that program expressed in average barrels daily and multiplied by 184, the applicant shall receive an allocation under this section equal to 33.25 percent of his last allocation of imports of crude oil under that program expressed in average barrels daily and multiplied by 184. *Provided, however,* That if the allocation computed on this basis will result in a reduced historical allocation which is smaller than an allocation for this period would be if computed (for the purposes of comparison only) on the basis of a total of inputs to the applicant's refinery which includes inputs of crude oil and unfinished oils imported pursuant to clause (4) of paragraph (a) of section 1 of Proclamation 3279, as amended, the applicant shall nevertheless receive an allocation under this section equal to 37.75 percent of his last allocation of imports of crude oil under the Voluntary Oil Import Program expressed in average barrels daily and multiplied by 184.

(d) No allocation made pursuant to this section shall entitle a person to a license which will allow the importation of unfinished oils in excess of 15 percent of the allocation.

(e) No allocation made pursuant to this section may be sold, assigned, or otherwise transferred.

Sec. 11 Allocations—crude and unfinished oils—refiners—District V.

(a) For the allocation period January 1, 1968, through December 31, 1968, approximately 500 b/d of imports of crude oil and unfinished oils into District V are made available to the Oil Import Appeals Board. The Administrator shall make to eligible persons having refinery capacity in this district allocations of such imports for the last 184 days of the allocation period as provided in paragraphs (b) and (c) of this section.

(b) Except as provided in paragraph (c) of this section, each eligible applicant shall receive an allocation based on refinery inputs for the year ending September 30, 1967, and computed according to the following schedule:

Average b/d input		Percent of input		Number of days
0–10,000 10–30,000 30–100,000 100,000 plus	(×)	44.3 10.7 5.0 2.2	(×)	184

(c) (1) Except as provided in subparagraph (2) of this paragraph, if an eligible applicant imported crude oil pursuant to an allocation under the Voluntary Oil Import Program and if an allocation computed under paragraph (b) of this section would be less than 28.5 percent of the applicant's last allocation of imports of crude oil under that program expressed in average barrels daily and multiplied by 184, the applicant shall receive an allocation under this section equal to 28.5 percent of his last allocation of imports of crude oil under that program expressed in average barrels daily and multiplied by 184.

(2) If an applicant imported crude oil pursuant to an allocation under the Voluntary Oil Import Program which reflected imports of crude oil that would now be exempt from restrictions pursuant to clause (4) of paragraph (a) of section 1 of Proclamation 3279, as amended, and if an allocation computed under paragraph (b) of this section would be less than 22 percent of the applicant's last allocation of imports of crude oil under that program expressed in average barrels daily and multiplied by 184, the applicant shall, nevertheless, receive an allocation under this section equal to 22 percent of his allocation of imports of crude oil under that program expressed in average barrels daily and multiplied by 184. *Provided, however,* That if the allocation computed on this basis will result in a reduced historical allocation which is smaller than an allocation for this period would be if computed (for the purposes of comparison only) on the basis of a total of inputs to the applicant's refinery which includes inputs of crude oil and unfinished oils imported pursuant to clause (4) of paragraph (a) of section 1 of Proclamation 3279, as amended, the applicant shall nevertheless receive an allocation under this section equal to 34 percent of his last allocation of imports of crude oil under the Voluntary Oil Import Program expressed in average barrels daily and multiplied by 184.

(d) No allocation made pursuant to this section shall entitle a person to a license which will allow the importation of unfinished oils in excess of 25 percent of the allocation.

(e) No allocation made pursuant to this section may be sold, assigned, or otherwise transferred.

Sec. 25 Allocations of crude and unfinished oils—Districts I–IV, District V—new or reactivated refinery capacity and petrochemical plants—based upon estimated inputs.

(a) (1) The Administrator may make allocations of imports of crude oil and unfinished oils with respect to new or reactivated refinery capacity and petrochemical plants as provided in this section.

(2) Except as provided in paragraph (j) a person seeking such an allocation must file an application with the Administrator no later than 60 days prior to the beginning of an allocation period. The application shall disclose in detail such information as the Administrator may require, including:

(i) The nature of the facility,

(ii) The location of the facility,

(iii) The products and the quantity of each product to be produced,

(iv) The capital outlay involved,

(v) The expected average barrels per day of qualified feedstocks inputs to such facility,

(vi) The identification of the feedstocks, and the source thereof,

(vii) The date that the facility went on stream or is scheduled to go on stream, and

(viii) Whether this facility will replace an existing facility which is to be or has been shut down.

(b) (1) Subject to the limitations set forth in subparagraph (3) of this paragraph, if the new or reactivated refinery capacity is scheduled to come on stream during the allocation period for which the allocation is requested and if the applicant has no other refinery capacity, the allocation shall be computed according to the schedule in paragraph (b) of section 10 or 11 (as the case may be) on the basis of the quantity of inputs (divided by 365) which it is estimated will be made to such capacity during that allocation period. An applicant who receives an allocation for a particular allocation period pursuant to this subparagraph (1) may be eligible for an allocation pursuant to subparagraph (2) of this paragraph for the next succeeding allocation period.

(2) (i) Subject to the limitations set forth in subparagraph (3) of this paragraph, if the new or reactivated refinery capacity has come on stream during the allocation period immediately preceding the allocation period for which the allocation is requested and if the applicant has no other refinery capacity, the allocation shall be computed according to the schedule in paragraph (b) of section 10 or 11 (as the case may be) on the basis of the sum (divided by 365) of (i) the refinery inputs actually made to the new or reactivated refinery capacity during months of the allocation period immediately preceding the allocation period for which the allocation is requested and (ii) the inputs which it is estimated will be made to such capacity during the number of months which, when combined with the months in clause (i), will constitute a period of 12 months.

(ii) An applicant to whom an allocation is made under this subparagraph (2) shall not receive an allocation under section 9, or paragraph (b) of section 10 or 11.

(3) The maximum quantity of estimated inputs which an applicant may claim for the purposes of an allocation

based entirely on estimated inputs pursuant to subparagraph (1) of this section shall be (i) 11 million barrels with respect to all new or reactivated refinery capacity in Districts I–IV, (ii) 11 million barrels with respect to such capacity in District V, (iii) 4 million barrels with respect to all new or reactivated petrochemical plants in Districts I–IV, and (iv) 4 million barrels with respect to such plants in District V. The maximum quantity of estimated inputs which an applicant may claim for the purposes of an allocation based on a combination of actual and estimated inputs pursuant to subparagraph (2) of this paragraph shall be the particular maximum quantity specified in the first sentence of this subparagraph (3) multiplied by the number of months of estimated inputs divided by 12.

(4) If the applicant has other refinery capacity, inputs estimated as provided in subparagraph (1) or (2) of this paragraph shall be added to the inputs of the applicant's other capacity for the purpose of computing an allocation under section 10 or 11.

(c) Allocations with respect to new or reactivated petrochemical plants shall be computed under section 9 of the regulations on the basis of estimated petrochemical plant inputs or a combination of actual and estimated inputs as provided for with respect to refinery capacity in paragraph (b) of this section 25.

(d) (1) If an allocation based in whole or in part on estimated inputs is made to an applicant pursuant to this section, the actual inputs submitted by the applicant as a basis for allocations in succeeding allocation periods will be adjusted upward or downward to compensate for the difference between the estimated inputs and the actual inputs made during the period for which inputs were estimated.

(2) If the estimated inputs upon which an allocation is based exceed the actual inputs made by more than 5 percent of the estimated inputs, in addition to the adjustment downward provided by subparagraph (1) of this paragraph the applicant shall be penalized for the overestimate as provided in this subparagraph (2). As a penalty, the actual inputs submitted by the applicant as a basis for allocations for succeeding allocation periods shall be further reduced by the number of barrels by which the estimated inputs exceeded the actual inputs by more than 5 percent of the estimated inputs. However, to the extent that an applicant demonstrates to the satisfaction of the Administrator that all or a part of the excess of estimated inputs over actual inputs was attributable to acts of God, fires or explosions, the Administrator may reduce the number of barrels of excess for which the penalty will be imposed. This subparagraph (2) shall not apply if an applicant made no use of the allocation based on estimated inputs.

(e) The Administrator shall make an allocation pursuant to this section only if he is satisfied that the applicant's new or reactivated refinery capacity or petrochemical plant constitutes a bona fide business venture. The Administrator shall not issue a license under an allocation made pursuant to this section until the new or reactivated refinery capacity or petrochemical plant has been on stream for not less than 60 days and until an on-the-spot evaluation of the new or reactivated refinery capacity or petrochemical plant has been conducted by authorized representatives of the Oil Import Administration and a determination has been made that the facility has the actual operational capacity which the applicant has certified in his application. Licenses issued under allocations made pursuant to this section shall expire on the last day of the allocation period.

(f) If an allocation made under this section 25 has been made on the basis of the reactivation of particular refinery capacity or of a particular petrochemical plant, no further allocations shall be made under this section on the basis of a change in the status—that is, closure and reactivation—of the particular refinery capacity or petrochemical plant.

(g) New facilities which are constructed in Districts I–IV or District V for the purpose of replacing existing operating facilities in the respective districts which have been shut down or which are scheduled to be shut down will be evaluated on an individual basis, but in no event will the combined actual inputs to the facility which is to be replaced and estimated inputs to the new facility form the basis for computing an allocation under this section or section 9, 10, or 11.

(h) No allocations made under this section may be sold, assigned, or otherwise transferred.

(i) (1) As used in this section 25, "new refinery capacity" or "new petrochemical plants" includes expansion of existing facilities by the addition of equipment, such as stills, towers, pumps, tanks, pipelines, and chemical conversion units if and only if the addition when installed independently of existing equipment would constitute refinery capacity or a petrochemical plant as defined in section 22. Additions which merely increase the throughput of existing equipment do not constitute new refinery capacity or petrochemical plants for the purpose of obtaining an allocation under this section. Transfers of equipment by an applicant from one of its plants or refineries to another of its plants or refineries do not constitute new refinery capacity or petrochemical plants for the purpose of obtaining an allocation under this section.

(2) As used in this section 25, "reactivated refinery capacity" and "reactivated petrochemical plants" means the restoration to operation of refinery capacity or a petrochemical plant which had been shut down for a period of not less than 12 months.

(j) (1) Subject to the limitations set forth in subparagraph (3) of paragraph (b), the Administrator may make allocations of imports of crude oil and unfinished oils with respect to new or reactivated refinery capacity and petrochemical plants for the last 184 days of this allocation period, as provided in this paragraph (j). Applications for allocations of imports of crude oil and unfinished oil under this paragraph (j) must be filed not later than July 12, 1968.

(2) (i) If new or reactivated refinery capacity has come on stream since January 1, 1967, or is scheduled to come on stream at any time during the current allocation period and if the applicant has no other refinery capacity, the allocation shall be computed according to the schedule in paragraph (b) of section 10 or of section 11 as amended by this Amendment 9 on the basis of the quantity of inputs (divided by 184) which it is estimated will be made to such capacity during the last 184 days of the allocation period.

(ii) An applicant eligible for an allocation under this subparagraph (2) may be eligible for an allocation under section 9, 10, or 11; in such instance, the Administrator shall compute allocations under section 25 and under section 9, 10, or 11 and make available to the applicant the larger of the two allocations.

(3) If the applicant has other refinery capacity, the allocation shall be computed under section 10 or 11 (as the case may be) on the basis of inputs to the other capacity plus actual inputs made to the new or reactivated refinery capacity during the period specified in those sections and an allocation shall be computed on the basis of inputs to the other capacity during the period specified in those sections plus estimated inputs to the new or reactivated refinery capacity for the last 184 days, as provided in subparagraph (2) of this paragraph, and the larger allocation shall be made to the applicant.

(4) Allocations with respect to a petrochemical plant shall be computed under section 9 of the regulations in the same manner as provided with respect to refinery capacity under this paragraph (j).

STEWART L. UDALL,
Secretary of the Interior.

JULY 2, 1968.

[F.R. Doc. 68-8186; Filed, July 9, 1968; 8:51 a.m.]

Title 43—PUBLIC LANDS: INTERIOR

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

APPENDIX—PUBLIC LAND ORDERS

[Public Land Order 4472]

[Fairbanks 035290]

ALASKA

Revocation of Air Navigation Site Withdrawal No. 129

By virtue of the authority contained in section 4 of the act of May 24, 1928 (45 Stat. 729; 49 U.S.C. 214), it is ordered as follows:

1. The departmental order of September 22, 1939, so far as it withdrew approximately 19.1 acres at Ruby, Alaska, described by metes and bounds as "Tract 1," as a portion of Air Navigation Site Withdrawal No. 129, is hereby revoked.

The land is an isolated area at Ruby, in close proximity to the Yukon River.

2. Until 10 a.m. on October 2, 1968, the State of Alaska shall have a preferred right of application to select the land as provided by section 6(g) of the Alaska Statehood Act of July 7, 1958 (72 Stat. 339), and the regulations in 43 CFR 2222.9. After that time the land shall be open to the operation of the public land laws generally, subject to valid existing rights, the provisions of existing withdrawals and the requirements of applicable laws. All valid applications received at or prior to 10 a.m. on October 2, 1968, shall be considered as simultaneously filed at that time. Those received thereafter shall be considered in the order of filing.

3. The land will be open to location under the U.S. mining laws at 10 a.m. on October 2, 1968. It has been open to applications and offers under the mineral leasing laws.

Inquiries concerning the land should be addressed to the Manager, Land Office, Bureau of Land Management, Fairbanks, Alaska.

HARRY R. ANDERSON,
Assistant Secretary of the Interior.

JULY 2, 1968.

[F.R. Doc. 68-8124; Filed, July 9, 1968; 8:46 a.m.]

Proposed Rule Making

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Food and Drug Administration

[21 CFR Part 45]

MARGARINE

Identity Standards; Liquid, Dried, and Condensed Forms of Sweet Cream Buttermilk as Optional Ingredients

Notice is given that a petition has been filed by the National Association of Margarine Manufacturers, 545 Munsey Building, Washington, D.C. 20004, proposing that the standard of identity for margarine (21 CFR 45.1) be amended to list sweet cream buttermilk and its dried and condensed forms as optional ingredients for margarine. Grounds set forth in support of the proposal are that the use of sweet cream buttermilk and its dried and condensed forms would enhance the flavor of margarine and could be substituted for higher priced dairy products in margarine.

Accordingly, it is proposed that § 45.1 (a) (2) and (b) (2) (i) be revised to read as follows:

§ 45.1 **Oleomargarine, margarine; identity; label statement of optional ingredients.**

(a) * * *

(2) One of the articles designated in subdivisions (i), (ii), (iii), (iv), (v), (vi), (vii), (viii), or (ix) of this subparagraph is intimately mixed with the fat ingredient or ingredients. The ingredients named in subdivisions (i), (ii), (iii), (iv), (v), (vi), and (vii) of this subparagraph are pasteurized and then may be subjected to the action of harmless bacterial starters. The term "milk" as used in this subparagraph means cow's milk.

(i) Cream.

(ii) Milk.

(iii) Skim milk.

(iv) Liquid sweet cream buttermilk.

(v) Any combination of dry or condensed sweet cream buttermilk and water with a total solids content of not less than 8.5 percent.

(vi) Any combination of nonfat dry milk and water, in which the weight of the nonfat dry milk is not less than 10 percent of the weight of the water.

(vii) Any mixture of two or more of the articles named in subdivisions (i), (ii), (iii), (iv), (v), and (vi) of this subparagraph.

(viii) In case only of the fat ingredient designated in subparagraph (1) (ii) of this paragraph, any combination of finely ground soybeans and water, in which the weight of the finely ground soybeans is not less than 10 percent of the weight of the water. The finely ground soybeans are subjected to a heat treatment before or after mixing with the water. The soybeans may or may not be dehulled.

(ix) Water in lieu of any of the foregoing articles of this subparagraph.

Congealing is effected, either with or without contact with water, and the congealed mixture may be worked.

* * * * *

(b) * * *

(2) * * *

(i) The optional ingredients butter, salt, water, cream, milk, skim milk, sweet cream buttermilk, dried sweet cream buttermilk and water, condensed sweet cream buttermilk and water, nonfat dry milk and water, ground soybeans and water, lecithin, mono- or diglycerides, sodium sulfo-acetate derivatives of mono- or diglycerides shall each be declared by those terms.

* * * * *

Due to a cross-reference, adoption of the proposed amendment to the standard for margarine (§ 45.1) would have the effect of providing for optional use sweet cream buttermilk and its dried and condensed forms in liquid margarine (§ 45.2).

Pursuant to the provisions of the Federal Food, Drug, and Cosmetic Act (secs. 401, 701, 52 Stat. 1046, 1055, as amended 70 Stat. 919, 72 Stat. 948; 21 U.S.C. 341, 371) and in accordance with the authority delegated to the Commissioner of Food and Drugs (21 CFR 2.120) interested persons are invited to submit their views in writing (preferably in quintuplicate) regarding this proposal within 60 days following the date of publication of this notice in the FEDERAL REGISTER. Such views and comments should be addressed to the Hearing Clerk, Department of Health, Education, and Welfare, Room 5440, 330 Independence Avenue SW., Washington, D.C. 20201, and may be accompanied by a memorandum or brief in support thereof.

Dated: June 28, 1968.

J. K. KIRK,
Associate Commissioner for Compliance.

[F.R. Doc. 68-8157; Filed, July 9, 1968; 8:49 a.m.]

[21 CFR Part 121]

FOOD ADDITIVES

Proposed Revocations Regarding Amprolium, Oxytetracycline, Zoalene

Based upon petitions filed by Chas. Pfizer & Co., Inc., 235 East 42d Street, New York, N.Y. 10017, and an evaluation of the information available at the time, the food additive regulations (21 CFR Part 121, Subpart C) were amended by an order published in the FEDERAL REGISTER of August 14, 1963 (28 F.R. 8310), to provide for the safe use of oxytetracycline alone and in specified combinations with amprolium and zoalene. Upon reconsideration, the Commissioner of Food and Drugs concludes that the data fail to provide adequate information to show that the combination drugs of oxytetracycline and amprolium and oxytetracycline and zoalene are efficacious under the conditions specified in the published amendments. Accordingly, the corresponding new-drug applications cannot be approved and the food additive regulations should be amended as proposed below to revoke those portions providing for use of such combinations.

Therefore, pursuant to the provisions of the Federal Food, Drug, and Cosmetic Act (sec. 409(d), 72 Stat. 1787; 21 U.S.C. 348(d)) and under authority delegated to him (21 CFR 2.120), the Commissioner proposes that Subpart C of Part 121 be amended:

1. In § 121.207 *Zoalene*, paragraph (c), by deleting from the table items 1c, 2.7g, and 3.4g.

2. In § 121.210 *Amprolium*, paragraph (c), by deleting from table 1 items 1.1h, 2.9l, 3.3l, and 4.3l.

3. In § 121.251 *Oxytetracycline*, paragraph (d), by deleting from table 1 all subitems a and b under items 1 through 12.

All interested persons are invited to submit their views in writing, preferably in quintuplicate, regarding this proposal within 30 days following the date of publication of this notice in the FEDERAL REGISTER. Such views and comments should be addressed to the Hearing Clerk, Department of Health, Education, and Welfare, Room 5440, 330 Independence Avenue SW., Washington, D.C. 20201, and may be accompanied by a memorandum or brief in support thereof.

Dated: June 28, 1968.

J. K. KIRK,
Associate Commissioner for Compliance.

[F.R. Doc. 68-8158; Filed, July 9, 1968; 8:49 a.m.]

DEPARTMENT OF LABOR

Office of the Secretary

[29 CFR Part 4]

FEDERAL SERVICE CONTRACTS

Inclusion of Minimum Wage and Fringe Benefit Determinations in Cases Where Notices of Intention To Make Such Contracts Are Not Filed Timely

Pursuant to sections 2 and 4 of the McNamara-O'Hara Service Contract

Act of 1965 (41 U.S.C. 351, 353), it is proposed to amend 29 CFR 4.5 by adding thereto a new paragraph (c), to read as follows:

§ 4.5 **Contract minimum wage determinations and fringe benefit specifications.**

* * * * *

(c) If the notice of intention required by § 4.4(a) is not filed within the time provided in § 4.4(a), the contracting agency shall exercise any and all of its power that may be needed (including where necessary, its power to negotiate, its power to pay any necessary additional costs, and its power under any provision of the contract authorizing changes) to include in the contract any determinations communicated to it within 30 days of the filing of such notice or of the discovery by the Wage and Hour and Public Contracts Divisions, U.S. Department of Labor, of such omission.

Interested persons may submit written data, views, and argument regarding the proposed amendment to the Administrator, Wage and Hour and Public Contracts Divisions, U.S. Department of Labor, Fourteenth Street and Constitution Avenue NW., Washington, D.C. 20210 within 30 days after date of publication of this notice in the FEDERAL REGISTER.

(Secs. 2, 4, 79 Stat. 1034, 1035, as amended; 41 U.S.C. 351, 353)

Signed at Washington, D.C., this fifth day of July 1968.

WILLARD WIRTZ,
Secretary of Labor.

[F.R. Doc. 68-8179; Filed, July 9, 1968; 8:50 a.m.]

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

[14 CFR Part 39]

[Docket No. 68-EA-70]

AIRWORTHINESS DIRECTIVES

Hartzell Propellers

The Federal Aviation Administration is considering amending § 39.13 of Part 39 of the Federal Aviation Regulations so as to require inspection and maintenance of certain Hartzell Propellers.

There have been reports of cracks in the shank of the Hartzell 8433 blades. The blade is retained in the propeller hub by a circumferential groove at the base of the blade and a retention shoulder about three-fourths inch above the groove. No cracks have been found in the upper retention shoulder which could lead to loss of a complete blade. However, if these cracks in the lower groove progress to the point where the retention shoulder loads become excessive, then cracking in the shoulder area could occur. The propellers which have cracked in the lower blade groove are over 5 years old with total time estimated in excess of 2,500 hours. The cracks have been discovered by normal inspection procedures while the propeller has been undergoing overhaul.

Interested persons are invited to participate in the making of the proposed rule by submitting written data and views. Communications should identify the docket number and be submitted in duplicate to the Office of Regional Counsel, FAA, Federal Building, John F. Kennedy International Airport, Jamaica, N.Y. 11430.

All communications received within 30 days after publication in the FEDERAL REGISTER will be considered before taking action upon the proposed rule. The proposals contained in this Notice may be changed in light of comments received. All comments will be available in the Office of Regional Counsel for examination by interested parties.

In consideration of the foregoing, it is proposed to add a new airworthiness directive as follows:

Amend § 39.13 of Part 39 of the Federal Aviation Regulations by adding a new airworthiness directive for Hartzell Propellers described as follows:

HARTZELL: Applies to Models HC-A2XF, BHC-A2XF, HC-A2XK, HC-A2XL, HC-A3XK and HC-A3VK with 8433 or V8433 blades installed on but not limited to Aero Commander 500 series, Cessna 180 series, Cessna 210 series, Cessna 310 series, and Piper PA-23-250 airplanes.

To detect blade shank cracks and prevent possible blade failure, accomplish the following:

(a) Propellers with 2,000 hours or more time in service inspect in accordance with paragraph (c) within the next 100 hours time in service after the effective date of this AD. If no cracks are found, shot peen propeller blade shank area in accordance with Hartzell Bulletin No. 93. Shot peened blades are to be reinspected in accordance with paragraph (c) every 1,000 hours time in service from the last inspection. For propellers which have been inspected within the last 1,000 hours time in service compliance with this paragraph is not necessary until 1,000 hours time in service from the last inspection.

(b) Propellers with less than 2,000 hours time in service, inspect in accordance with paragraph (c) within 2,100 hours total time in service. If no cracks are found, shot peen blade shank area in accordance with Hartzell Bulletin No. 93. Shot peened blades are to be reinspected in accordance with paragraph (c) every 1,000 hours time in service from the last inspection.

(c) Remove propeller from aircraft and remove blades from hub. Inspect blade shank area for cracks by the penetrant method. Replace before further flight any cracked blade with a new blade or blade which has been inspected in accordance with this AD and found satisfactory, and shot peened in accordance with Hartzell Bulletin No. 93.

(Secs. 313(a), 601, 603, Federal Aviation Act of 1958; 49 U.S.C. 1354(a), 1421, 1423)

Issued in Jamaica, N.Y., on June 28, 1968.

WAYNE HENDERSHOT,
Acting Director, Eastern Region.

[F.R. Doc. 68-8136; Filed, July 9, 1968; 8:47 a.m.]

[14 CFR Part 67]

[Docket No. 8992; Notice 68-14]

CERTIFICATION ACTIONS

Reconsideration

The Federal Aviation Administration is considering amending Part 67 of the Federal Aviation Regulations to provide for an extension of the period during which an FAA official may, on his own initiative, reverse a medical certificate issued by an aviation medical examiner, to 60 days after the FAA receives additional information or the results of medical testing that the FAA requests within 60 days after the original date of issue.

Interested persons are invited to participate in the making of the proposed rule by submitting such written data, views, or arguments as they may desire. Communications should identify the regulatory docket or notice number and be submitted in duplicate to: Federal Aviation Administration, Office of the General Counsel, Attention: Rules Docket GC-24, 800 Independence Avenue SW., Washington, D.C. 20590. All communications received on or before August 9, 1968, will be considered by the Administrator before taking action on the proposed rule. The proposal contained in this notice may be changed in the light of comments received. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons.

Section 67.25(b), as amended by Amendment 67-5, effective July 16, 1966, contains a self-imposed 60-day time limitation upon exercise by FAA officials of reconsideration authority under section 314(b) of the Federal Aviation Act of 1958 to reverse the issue of a medical certificate by an aviation medical examiner. However, although reconsideration may indicate that the correction of an error made by an aviation medical examiner appears essential, the full exercise of the reconsideration authority within the prescribed time may be effectively defeated by the failure (or delay) of the airman in responding to requests for needed additional testing or medical information. This allows the operation of aircraft by airmen whose physical qualifications have not been fully determined and it becomes necessary to invoke section 609 of the Federal Aviation Act to effectively reverse the aviation medical examiner and prevent the airman from further exercising the privileges of his airman certificate. It is considered necessary to correct this situation by providing, in substance, that the time during which additional medical information or the results of additional medical testing is awaited, is not figured as part of the 60-day time limit, if the request therefore was made within 60 days after the certificate was issued.

In consideration of the foregoing, it is proposed to amend the third sentence of § 67.25(b) of the Federal Aviation Regulations to read as follows:

§ 67.25 Delegation of authority.

* * * * *

(b) * * * Unless an FAA official named in this paragraph wholly or partly, and on his own initiative, reverses a certificate issued by an aviation medical examiner within 60 days after the date of issue (or, if within that period the FAA requests additional medical information or medical testing from the certificate holder, within 60 days after the FAA receives that information or the results of that testing), the certificate is considered to be affirmed as issued.

* * * * *

This amendment is proposed under the authority of sections 303(d), 313(a), 601, and 602 of the Federal Aviation Act of 1958 (49 U.S.C. 1344, 1354, 1421, 1422).

Issued in Washington, D.C., on July 2, 1968.

P. V. SIEGEL,
Federal Air Surgeon.

[F.R. Doc. 68-8137; Filed, July 9, 1968; 8:47 a.m.]

[14 CFR Part 71]

[Airspace Docket 68-EA-60]

CONTROL ZONE

Proposed Alteration

The Federal Aviation Administration is considering amending § 71.171 of Part 71 of the Federal Aviation Regulations so as to alter the Hagerstown, Md., control zone.

With the availability of additional daily communications and weather reporting services, the hours of control can be extended from 1000–1800 to 0600–2100.

Interested persons may submit such written data or views as they may desire. Communications should be submitted in triplicate to the Director, Eastern Region, Attention: Chief, Air Traffic Division, Department of Transportation, Federal Aviation Administration, Federal Building, John F. Kennedy International Airport, Jamaica, N.Y. 11430. All communications received within 30 days after publication in the FEDERAL REGISTER 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, Airspace and Standards Branch, Eastern 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, Federal Building, John F. Kennedy International Airport, Jamaica, N.Y.

The Federal Aviation Administration, having completed a review of the airspace requirements for the terminal area of Hagerstown, Md., proposes the airspace action hereinafter set forth:

Amend § 71.171 of Part 71 of the Federal Aviation Regulations so as to delete in the Hagerstown, Md., control zone the time 1000 to 1800 and insert in lieu thereof 0600 to 2100.

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

Issued in Jamaica, N.Y., on June 24, 1968.

WAYNE HENDERSHOT,
Acting Director, Eastern Region.

[F.R. Doc. 68-8138; Filed, July 9, 1968; 8:47 a.m.]

[14 CFR Part 71]

[Airspace Docket 68-EA-66]

TRANSITION AREA

Proposed Alteration

The Federal Aviation Administration is considering amending § 71.181 of Part 71 so as to alter the North Conway, N.H., 1,200-foot floor transition area.

Alteration of the North Conway, N.H., 1,200-foot floor transition area is required in order to provide controlled airspace protection for the transition routes authorized for the NDB (ADF) Runway 33 instrument approach procedure for White Mountain Airport, North Conway, N.H.

Interested persons may submit such written data or views as they may desire. Communications should be submitted in triplicate to the Director, Eastern Region, Attention: Chief, Air Traffic Division, Department of Transportation, Federal Aviation Administration, Federal Building, John F. Kennedy International Airport, Jamaica, N.Y. 11430. All communications received within 30 days after publication in the FEDERAL REGISTER 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, Airspace and Standards Branch, Eastern 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, Federal Building, John F. Kennedy International Airport, Jamaica, N.Y.

The Federal Aviation Administration, having completed a review of the airspace requirements for the terminal area of North Conway, N.H., proposes the airspace action hereinafter set forth:

Amend § 71.181 of Part 71 of the Federal Aviation Regulations so as to delete in the description of the North Conway, N.H., transition area the words "east edge of B–63" and all thereafter and insert in lieu thereof:

RBN to 12 miles southeast of the RBN; within 5 miles each side of a direct line extending from the Whitefield, N.H., RBN (44°21'58" N., 71°33'00" W.) to the North Conway, N.H., RBN; within 5 miles each side of a direct line extending from the Montpelier, Vt., VOR to the North Conway, N.H., RBN; within 5 miles each side of a direct line extending from the Lebanon, N.H., VOR to the North Conway, N.H., RBN and within 5 miles each side of a line bearing 116° from the North Conway, N.H., RBN extending from the RBN to the northwest boundary of the Portland, Maine, 1,200-foot transition area, excluding those portions that coincide with the Berlin, N.H., Lebanon, N.H., and Burlington, Vt., 1,200-foot transition areas. This transition area is effective from sunrise to sunset, daily.

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

Issued in Jamaica, N.Y., on June 24, 1968.

WAYNE HENDERSHOT,
Acting Director, Eastern Region.

[F.R. Doc. 68-8139; Filed, July 9, 1968; 8:47 a.m.]

[14 CFR Part 71]

[Airspace Docket 68-EA-57]

CONTROL ZONE AND TRANSITION AREA

Proposed Alteration

The Federal Aviation Administration is considering amending §§ 71.171 and 71.181 of Part 71 of the Federal Aviation Regulations so as to alter the Hopkinsville, Ky., control zone and Hopkinsville, Ky. (Campbell AAF), transition area.

Cancellation of the VOR instrument approach procedure, revisions to the NDB (ADF) and TACAN instrument approach procedures for Campbell Army Airfield, Fort Campbell, Ky., and a revision to the VOR instrument approach procedure for Outlaw Field, Clarksville, Tenn., requires alteration of the Hopkinsville, Ky., control zone and Hopkinsville, Ky. (Campbell AAF), 700-foot floor transition area.

Interested persons may submit such written data or views as they may desire. Communications should be submitted in triplicate to the Director, Eastern Region, Attention: Chief, Air Traffic Division, Department of Transportation, Federal Aviation Administration, Federal Building, John F. Kennedy International Airport, Jamaica, N.Y. 11430. All communications received within 30 days after publication in the FEDERAL REGISTER 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, Airspace and Standards Branch, Eastern 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, Federal Building, John F. Kennedy International Airport, Jamaica, N.Y.

The Federal Aviation Administration, having completed a review of the airspace requirements for the terminal area of Hopkinsville, Ky. (Campbell AAF), proposes the airspace action hereinafter set forth:

1. Amend § 71.171 of Part 71 of the Federal Aviation Regulations so as to delete the description of the Hopkinsville, Ky., control zone and insert in lieu thereof:

Within a 5-mile radius of the center, 36°-40'25" N., 87°29'30" W. of Campbell Army Airfield, excluding the area within a 1.5-mile radius of the center, 36°37'15" N., 87°24'55" W. of Outlaw Field, Clarksville, Tenn.; within 2 miles each side of the 224° bearing from the Campbell RBN extending from the 5-mile radius zone to the RBN and within 2 miles each side of the Campbell TACAN 053° radial extending from the 5-mile radius zone to 6 miles northeast of the TACAN.

2. Amend § 71.181 of Part 71 of the Federal Aviation Regulations in the Hopkinsville, Ky. (Campbell AAF), transition area, by deleting the parenthetical part of the caption; delete in the description of the 700-foot floor transition area, the coordinates "36°40'11" N., 87°29'13" W." and insert in lieu thereof "36°40'25" N., 87°29'30" W."; delete the figures "045°" and insert in lieu thereof "044°"; delete the phrase "within 5 miles northwest and 8 miles southeast of the Clarksville, Tenn., VOR 064° radial extending from the 14-mile radius area to 12 miles northeast of the VOR".

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

Issued in Jamaica, N.Y. on June 24, 1968.

WAYNE HENDERSHOT,
Acting Director, Eastern Region.

[F.R. Doc. 68-8140; Filed, July 9, 1968; 8:47 a.m.]

[14 CFR Part 71]

[Airspace Docket No. 68-EA-69]

CONTROL ZONE AND TRANSITION AREA

Proposed Alteration

The Federal Aviation Administration is considering amending §§ 71.171 and 71.181 of Part 71 so as to alter the Houlton, Maine, control zone and 700-foot floor transition area.

A revision to the VOR instrument approach procedure for Houlton International Airport, Houlton, Maine, will require alteration of the control zone and transition area.

Interested persons may submit such written data or views as they may desire. Communications should be submitted in triplicate to the Director, Eastern Region, attention: Chief, Air Traffic Division, Department of Transportation, Federal Aviation Administration, Federal Building, John F. Kennedy International Airport, Jamaica, N.Y. 11430. All communications received within 30 days after publication in the FEDERAL REGISTER 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, Airspace and Standards Branch, Eastern 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, Federal Building, John F. Kennedy International Airport, Jamaica, N.Y.

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

1. Amend § 71.171 of Part 71 of the Federal Aviation Regulations so as to delete in the description of the Houlton, Maine, control zone the figures 018° and insert in lieu thereof 016°; delete "to the VOR" and insert in lieu thereof "to 2 miles north of the VOR."

2. Amend § 71.181 of Part 71 of the Federal Aviation Regulations so as to delete in the description of the Houlton, Maine, 700-foot floor transition area the words "within 2 miles" to and including "south of the VOR."

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

Issued in Jamaica, N.Y., on June 24, 1968.

WAYNE HENDERSHOT,
Acting Director, Eastern Region.

[F.R. Doc. 68-8141; Filed, July 9, 1968; 8:47 a.m.]

Notices

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Food and Drug Administration

[Docket No. FDC–D–112; NDA No. 5960 etc.]

DRUGS FOR HUMAN USE CONTAINING RUTIN, QUERCETIN, HESPERIDIN, OR ANY BIOFLAVONOIDS

Notice of Opportunity for Hearing on Proposal To Withdraw Approval of New-Drug Applications

In an announcement published in the FEDERAL REGISTER of January 23, 1968 (33 F.R. 818), holders of new-drug applications for drugs containing rutin, quercetin, hesperidin, or bioflavonoids, and other interested persons, were invited to attend a meeting to discuss a proposal to initiate proceedings to withdraw approval of such applications. The meeting was held on January 31, 1968, at which time the Food and Drug Administration invited the submission of additional scientific, medical information that might be pertinent to the question of the effectiveness of these drugs. The additional information received, considered together with other information available, did not provide substantial evidence of effectiveness of such drugs for use in man for any condition.

Therefore, notice is hereby given to:

Abbott Laboratories.
Arlington-Funk Labs. (Div. of U.S. Vitamin Corp.).
Best Pharmaceuticals.
The Blue Line Chemical Co.
Brayten Pharmaceutical Co.
The Central Pharmacal Co.
Direct Labs., Inc.
Grove Labs. (Subsidiary of Bristol-Myers).
K–V Pharmacal Co.
Lakeside Laboratories (Div. of Colgate-Palmolive Co.).
Lemmon Pharmacal.
Lloyd, Dabney & Westerfield, Inc.
The Maltine Co.
The S. E. Massengill Co.
Merck Sharp & Dohme (Div. of Merck & Co., Inc.).
Metro Med. Inc.
Nadin Co.
Nysco Labs., Inc.
Organon, Inc.
The E. L. Patch Co. (now Smith, Miller & Patch, Inc.).
The Paul Plessner Co.
Physicians Drug & Supply Co.
Rexall Drug & Chemical Co.
Rhodes Pharmacal Co., Inc.
Richlyn Laboratories.
Robin Pharmacal Co.
E. R. Squibb & Sons (Div. Olin Mathieson Chemical Corp.).
R.J. Strasenburgh Co. (Div. of Wallace & Tiernan, Inc.).
Table Rock Labs., Inc.
U.S. Vitamin Corp.
Walker Labs., Inc. (Div. of Richardson-Merrell).
Henry K. Wampole & Co.

and to any interested person who may be adversely affected, that the Commissioner of Food and Drugs proposes to issue an order under the provisions of section 505(e) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 355(e)) withdrawing approval of the following new-drug applications and all amendments and supplements thereto with respect to any drugs included in such applications which contain rutin, quercetin, hesperidin, or any bioflavonoid:

NEW-DRUG APPLICATIONS DEEMED APPROVED FOR DRUGS CONTAINING RUTIN, QUERCETIN, HESPERIDIN, OR BIOFLAVONOIDS

NDA No.	Drug name	Applicant's name and address
5960	Rutin Tablets	Abbott Laboratories, 14th and Sheridan Rd., North Chicago, Ill. 60064.
6020	Rutin Tablets; Rutorbin Tablets	E. R. Squibb & Sons, Division Olin Mathieson Chemical Corp., 745 Fifth Ave., New York, N.Y. 10022.
6070	Rutin Tablets	The Maltine Co., 745 Fifth Ave., New York, N.Y. 10022.
6158	Theoglycinate with Rutin and Phenobarbital	Brayten Pharmaceutical Co., 1715 West 38th Street, Chattanooga, Tenn. 37409.
6291	Glytheonate with Rutin and Phenobarbital	The E. L. Patch Co., now Smith, Miller & Patch, Inc., 902 Broadway, New York, N.Y. 10010.
6333	Synophylate Tablets	The Central Pharmacal Co., 116–128 East Third St., Seymour, Ind. 47274.
8369	Vir-I-Phyl	Lemmon Pharmacal, Temple Ave., Sellersville, Pa. 18960.
8936	Quertine (Quercetin, Abbott)	Abbott Laboratories, 14th Street and Sheridan Rd., North Chicago, Ill. 60600.
9074	Maxitate with Rauwolfia Compound Tablets	R. J. Strasenburgh Co., Division of Wallace & Tiernan, Inc., 755 Jefferson Rd., Rochester, N.Y. 14603.
9118	Raufia Encote Tablets; Neo-Vir-I-Tin Encote Tablets.	Lemmon Pharmacal, Temple Ave., Sellersville, Pa. 18960.
9123	Loten Tablets	Lemmon Pharmacal, Temple Ave., Sellersville, Pa. 18960.
9255	Wolfinex	Lloyd, Dabney & Westerfield, Inc., 3041 Brotherton Rd., Cincinnati, Ohio 45209.
9455	Ruserp-C	Lemmon Pharmacal, Temple Ave., Sellersville, Pa. 18960.
9555	Ruhexide Tablets	K–V Parmacal Co., 2503 South Hanley Rd., St. Louis, Mo. 63144.
9557	Ruhexatal with Reserpine	Lemmon Pharmacal, Temple Ave., Sellersville, Pa. 18960.
9605	Neo-Semhyten Capsules	The S. E. Massengill Co., 513–529 Fifth St., Bristol, Tenn. 37620.
9640	Rauwolfia Serpentina-Mannitol Hexanitrate-Rutin Tablets.	Best Pharmaceuticals, 3725 Castor Ave., Philadelphia, Pa. 19124.
9684	Neo-Rauja Tablets	Table Rock Labs., Inc., 812 Hampton Ave., Greenville, S.C. 29601.
9685	Rauwolfia Serpentina-Mannitol Hexanitrate-Rutin-Veratrum Viride Tablets.	Robin Pharmacal Co., 57 Hope St., Brooklyn, N.Y. 11211.
9901	Restolic Tablets; Restolic Forte Tablets	Merck Sharp & Dohme, Division Merck & Co., Inc., West Point, Pa. 19486.
9914	Raumannite-50 Tablets	Nysco Labs., Inc., 34–24 Vernon Blvd., Long Island City, N.Y. 11101.
9965	C.V.P.; C.V.P. w/Vitamin K; Bivan Tablets; Duo-C.V.P. w/Vitamin K Capsules.	U.S. Vitamin Corp., 26 Vark St., Yonkers, N.Y. 10701.
10000	Tenserina Tablets (Spanish name); Tenserine Tablets (English name).	Abbott Laboratories, 14th and Sheridan Rd., North Chicago, Ill. 60064.
10013	"Bio-Flav" Citrus Bioflavonoid Complex and Vitamin C Tablets.	Nadin Co., 1815 Flower St., Glendale, Calif. 91201.
10046	Capilon Tablets	The Paul Plessner Co., 635 30th Ave. North, Post Office Box 7087, St. Petersburg, Fla. 33734.
10063	Citroid Capsules	Grove Labs., Subsidiary of Bristol-Myers, 8420 Delmar Blvd., Post Office Box 7300, St. Louis, Mo. 63177.
10114	Mannitrau Tablets	Richlyn Laboratories, 3725 Castor Ave., Philadelphia, Pa. 19124.
10130	Rauman Tablets	Direct Labs., Inc., 377 Genesee St., Post Office Box 708, Buffalo, N.Y. 14240.
10136	Rautenal Tablets	Physicians Drug & Supply Co., 1458 Chestnut Ave., Hillside, N.J. 07205.
10232	Flavoserp	The Blue Line Chemical Co., 302 South Broadway, St. Louis, Mo. 63102.
10310	Prevoids	Rhodes Pharmacal Co., Inc., 41 East Oak St., Chicago, Ill. 60611.
10572	Bioresp-C	Henry K. Wampole & Co., 35 Commerce Rd., Stamford, Conn. 06902.
10816	Adrestat	Organon, Inc., 375 Mount Pleasant Ave., West Orange, N.J. 07052.
11050	Biosercen	The Central Pharmacal Co., 116–128 East Third St., Seymour, Ind. 47274.
11051	Citroid Compound	Grove Labs., Subsidiary of Bristol-Myers, 8420 Delmar Blvd., Post Office Box 7300, St. Louis, Mo. 63177.
11052	Citroid Compound	Do.
11186	Citroid Jr.	Do.
11214	Super Anapac Cough Syrup	Rexall Drug & Chemical Co., 8480 Beverly Blvd., Los Angeles, Calif. 90054.
11249	Serbio Capsules	Metro Med. Inc., 2510 South Blvd., Houston, Tex. 77006.
11474	Prednyl Tablets	Arlington-Funk Labs., Division of U.S. Vitamin Corp., 26 Vark St., Yonkers, N.Y. 10701.
11475	Prednis-C.V.P. Capsules	Do.
11957	Dactil-OB	Lakeside Laboratories, Division of Colgate-Palmolive Co., 1707 East North Ave., Milwaukee, Wis. 53201.
12261	Natorexic Tablets	Walker Labs., Inc., Division of Richardson-Merrell, 1 Bradford Rd., Mount Vernon, N.Y. 10551.

It is proposed to withdraw approval on the grounds that there is a lack of substantial evidence that rutin, quercetin, hesperidin, or any bioflavonoid has the effect which the drugs purport or are represented to have under the conditions of use prescribed, recommended, or suggested in the labeling thereof, or that

such articles alone, or as added components with other drugs, are effective for use in man for any condition.

In accordance with the provisions of section 505 of the act (21 U.S.C. 355) and the regulations promulgated thereunder (21 CFR Part 130), the Commissioner will give each applicant and any interested person who would be adversely affected by an order withdrawing such approval an opportunity for a hearing at which time such persons may produce evidence and arguments to show why approval of any new-drug application listed herein should not be withdrawn. Promulgation of the proposed order will cause any drug for human use containing any rutin, quercetin, hesperidin, or bioflavonoid to be a new drug for which an approved new-drug application is not in effect. Any such drug then on the market would be subject to regulatory proceedings.

Within 30 days from the date of publication of this notice in the FEDERAL REGISTER, such persons are required to file with the Hearing Clerk, Department of Health, Education, and Welfare, Office of the General Counsel, Food and Drug Division, Room 5440, 330 Independence Avenue SW., Washington, D.C. 20201, a written appearance electing whether:

1. To avail themselves of the opportunity for a hearing; or

2. Not to avail themselves of the opportunity for a hearing.

If such persons elect not to avail themselves of the opportunity for a hearing, the Commissioner without further notice will enter a final order withdrawing the approval of the new-drug application. Failure of such persons to file such a written appearance of election within 30 days following the date of publication of this notice in the FEDERAL REGISTER will be construed as an election by such persons not to avail themselves of the opportunity for a hearing.

The hearing contemplated by this notice will be open to the public except that any portion of the hearing that concerns a method or process that the Commissioner finds is entitled to protection as a trade secret will not be open to the public, unless the respondent specifies otherwise in his appearance.

If such persons elect to avail themselves of the opportunity for a hearing by filing a timely written appearance of election, a hearing examiner will be named by the Commissioner and he shall issue a written notice of the time and place for the hearing.

This notice is issued under the authority contained in the Federal Food, Drug, and Cosmetic Act. (sec. 505, 52 Stat. 1052, as amended; 21 U.S.C. 355) and delegated to the Commissioner (21 CFR 2.120).

Dated: June 28, 1968.

JAMES L. GODDARD,
Commissioner of Food and Drugs.

[F.R. Doc. 68-8159; Filed, July 9, 1968; 8:49 a.m.]

AMERICAN CYANAMID CO.

Notice of Filing of Petition for Food Additives

Pursuant to the provisions of the Federal Food, Drug, and Cosmetic Act (sec. 409(b)(5), 72 Stat. 1786; 21 U.S.C. 348(b)(5)), notice is given that a petition (FAP 8B2303) has been filed by American Cyanamid Co., Wayne, N.J. 07470, proposing an amendment to § 121.2566 *Antioidants and/or stabilizers for polymers* to provide for the safe use of 2,2'-methylenebis(4-ethyl-6-*tert*-butylphenol) as an antioxidant in polymers intended for food-contact use.

Dated: June 28, 1968.

J. K. KIRK,
Associate Commissioner for Compliance.

[F.R. Doc. 68-8160; Filed, July 9, 1968; 8:49 a.m.]

COUNTY LINE CHEESE CO. AND DEVELOPMENT CONSULTANTS, INC.

Colby Cheese Deviating From Identity Standard; Temporary Permit for Market Testing

Pursuant to § 10.5 (21 CFR 10.5) concerning temporary permits for interstate shipments of experimental packs of food varying from the standards of identity promulgated pursuant to section 401 (21 U.S.C. 341) of the Federal Food, Drug, and Cosmetic Act, notice is given that a temporary permit has been issued jointly to The County Line Cheese Co., Auburn, Ind. 40706, and Development Consultants, Inc., 5657 Vine Street, Cincinnati, Ohio 45216.

The permit covers interstate marketing tests of colby cheese that deviates from the standard of identity (21 CFR 19.510) in that an aqueous solution prepared by condensing or precipitating wood smoke in water has been added to it. The principal display panel of the label of each container shall prominently bear the statement "With added smoke flavoring."

This permit expires December 31, 1968.

Dated: June 28, 1968.

J. K. KIRK,
Associate Commissioner for Compliance.

[F.R. Doc. 68-8161; Filed, July 9, 1968; 8:49 a.m.]

MONSANTO CO.

Notice of Filing of Petition for Food Additives

Pursuant to the provisions of the Federal Food, Drug, and Cosmetic Act (sec. 409(b)(5), 72 Stat. 1786; 21 U.S.C. 348(b)(5)), notice is given that a petition (FAP 8B2306) has been filed by Monsanto Co., 800 North Lindbergh Boulevard, St. Louis, Mo. 63166, proposing an amendment to § 121.2520 *Adhesives* of the food additive regulations to provide for the safe use of terphenyl, chlorinated to 60 weight percent, as an optional component of food packaging adhesives.

Dated: June 27, 1968.

J. K. KIRK,
Associate Commissioner for Compliance.

[F.R. Doc. 68-8162; Filed, July 9, 1968; 8:49 a.m.]

Office of the Secretary

REORGANIZATION ORDER

Under the authority of section 6 of Reorganization Plan No. 1 of 1953 and section 2 of Reorganization Plan No. 3 of 1966, and in furtherance of the Reorganization Orders dated March 13, 1968, and April 1, 1968, I hereby order the further reorganization of certain health functions of the Department as follows:

ORGANIZATION

CONSUMER PROTECTION AND ENVIRONMENTAL HEALTH SERVICE

There is hereby established the Consumer Protection and Environmental Health Service within the Public Health Service which shall consist of the following Administrations:

(1) The Food and Drug Administration.

(2) The Environmental Control Administration.

(3) The National Air Pollution Control Administration.

The Consumer Protection and Environmental Health Service shall be headed by an Administrator who shall report to the Assistant Secretary for Health and Scientific Affairs.

HEALTH SERVICES AND MENTAL HEALTH ADMINISTRATION

The organization of the Health Services and Mental Health Administration is hereby modified to reflect the transfers indicated below:

The Division of Regional Medical Programs is hereby transferred from the National Institutes of Health to the Health Services and Mental Health Administration with the Division Director reporting directly to the Administrator, Health Services and Mental Health Administration.

The National Communicable Disease Center (except for its pesticides, Aedes aegypti, rodent control, and environmental sanitation training functions) is hereby transferred from the Bureau of Disease Prevention and Environmental Control to the Health Services and Mental Health Administration with its Director reporting directly to the Administrator, Health Services and Mental Health Administration.

The National Center for Chronic Disease Control is transferred from the Bureau of Disease Prevention and Environmental Control to the National Center for Health Services Research and Development in the Health Services and Mental Health Administration with the

Director of the Chronic Disease Control Programs reporting directly to the Director of the National Center for Health Services Research and Development.

BUREAU OF DISEASE PREVENTION AND ENVIRONMENTAL CONTROL

The office of the Bureau Director is hereby transferred to the office of the Administrator of the Consumer Protection and Environmental Health Service.

The Bureau of Disease Prevention and Environmental Control is hereby abolished.

FUNCTIONS AND RESPONSIBILITIES

OFFICE OF THE ADMINISTRATOR, CONSUMER PROTECTION AND ENVIRONMENTAL HEALTH SERVICE

The Office of the Administrator shall be responsible for the direction of the functions assigned to the Consumer Protection and Environmental Health Service and its Administrations.

FOOD AND DRUG ADMINISTRATION

The Food and Drug Administration shall be responsible for all of the functions presently assigned to the Food and Drug Administration; the responsibilities pertaining to the pesticides functions and certain training functions of the National Communicable Disease Center; the functions pertaining to product safety, milk and food protection, shellfish certification, and interstate carrier certification in the National Center for Urban and Industrial Health; and the functions pertaining to poison control of the Division of Direct Health Services, Bureau of Health Services, Health Services and Mental Health Administration.

The Food and Drug Administration shall be headed by a Commissioner who shall report directly to the Administrator, Consumer Protection and Environmental Health Service.

NATIONAL AIR POLLUTION CONTROL ADMINISTRATION

The National Air Pollution Control Administration shall be responsible for all the functions presently assigned to the National Center for Air Pollution Control, and the functions pertaining to the national air monitoring surveillance network presently assigned to the National Center for Radiological Health.

The National Air Pollution Control Administration shall be headed by a Commissioner who shall report directly to the Administrator, Consumer Protection and Environmental Health Service.

ENVIRONMENTAL CONTROL ADMINISTRATION

The Environmental Control Administration shall be responsible for all the functions presently assigned to the National Center for Urban and Industrial Health except those functions assigned by this order to the Food and Drug Administration; the functions assigned to the National Center for Radiological Health except those functions assigned by this order to the National Air Pollution Control Administration; and the functions pertaining to Aedes aegypti, rodent control, and the basic sanitation training activities of the National Communicable Disease Center.

The Environmental Control Administration shall be headed by a Commissioner who shall report directly to the Administrator, Consumer Protection and Environmental Health Service.

CONTINUATION OF REGULATIONS

Except as inconsistent with this order and the Reorganization Orders of March 13 and April 1, 1968, all regulations, rules, orders, statements of policy, or interpretations with respect to the Public Health Service and to the Food and Drug Adminisration heretofore issued, and either in effect immediately prior to the date of this Reorganization Order or to become effective subsequent to said dates are continued in full force and effect.

PRIOR STATEMENTS OF ORGANIZATION, FUNCTIONS, AND DELEGATIONS OF AUTHORITY

To the extent inconsistent with this Reorganization Order and the orders of March 13, 1968, and April 1, 1968, all previous statements of organization, functions, and delegations of authority, and chapters of the Department's Organization Manual are superseded by this Reorganization Order, except that, pending further delegations, directives, or orders by the Assistant Secretary for Health and Scientific Affairs, the Administrator, Health Services and Mental Health Administration, and the Administrator, Consumer Protection and Environmental Health Service, all delegations to the Surgeon General of the Public Health Service, the Administrator, Health Services and Mental Health Administration, the Director, National Institutes of Health, or the Commissioner of Food and Drugs and all redelegations by these officials to any other officer or employee of any office, institute, bureau, division, center or other organizational unit in effect immediately prior to the effective date of this Reorganization Order shall continue in effect in them or their successors.

Redelegations of appropriate administrative and financial management authorities shall be made by the Assistant Secretary for Administration and the Assistant Secretary, Comptroller, respectively, to the Administrator, Consumer Protection and Environmental Health Service.

This order does not revoke, rescind, or modify any delegations or redelegations to the Surgeon General in relation to administration of the Commissioned Corps, Public Health Service, in effect immediately prior to the effective date of this order.

FUNDS, PERSONNEL, AND EQUIPMENT

Transfers of organizations and functions effected by this order shall be accompanied in each instance by direct and supporting funds, positions, personnel, records, equipment, supplies, and other resources.

Effective date. This reorganization order shall be effective July 1, 1968.

Dated: July 1, 1968.

[SEAL] WILBUR J. COHEN,
Secretary.

[F.R. Doc. 68-8164; Filed, July 9, 1968; 8:49 a.m.]

ADMINISTRATOR, CONSUMER PROTECTION AND ENVIRONMENTAL HEALTH SERVICE

Redelegation of Authority

I hereby revoke the delegation made by me on March 13, 1968, to the Commissioner of Food and Drugs, and the delegation made by me on April 1, 1968, to the Administrator, Health Service and Mental Health Administration, in so far as such delegations pertain to the functions assigned to the Consumer Protection and Environmental Health Service in the Reorganization Order effective July 1, 1968.

I hereby delegate to the Administrator, Consumer Protection and Environmental Health Service, all authority delegated by the Secretary of Health, Education, and Welfare to me by the Reorganization Order of March 13, 1968, which pertains to the functions assigned to the Consumer Protection and Environmental Health Service by the Reorganization Order effective July 1, 1968.

These authorities may be redelegated.

Pending issuance of redelegation, all delegations or redelegations to any other officer or employee of any office, bureau, division, center or other organizational unit which were in effect immediately prior to July 1, 1968, shall continue in effect in them or their successors.

This delegation becomes effective July 1, 1968.

Dated: June 26, 1968.

PHILIP R. LEE,
Assistant Secretary for Health and Scientific Affairs.

[F.R. Doc. 68-8165; Filed, July 9, 1968; 8:49 a.m.]

ADMINISTRATOR, CONSUMER PROTECTION AND ENVIRONMENTAL HEALTH SERVICE

Redelegation of Authority

I hereby delegate to the Administrator, Consumer Protection and Environmental Health Service, all the financial management authorities currently delegated on a common basis to heads of operating agencies within the Department of Health, Education, and Welfare.

These authorities may be redelegated within the restrictions specified within pertinent DHEW manual instructions or other issuances.

Pending issuance of redelegations, all delegations or redelegations to any other officer or employee of any office, bureau, division, center or other organizational unit which were in effect immediately prior to July 1, 1968, shall continue in effect in them or their successors.

This delegation becomes effective July 1, 1968.

Dated: July 1, 1968.

JAMES F. KELLY,
Assistant Secretary, Comptroller.

[F.R. Doc. 68-8166; Filed, July 9, 1968; 8:50 a.m.]

ADMINISTRATOR, CONSUMER PROTECTION AND ENVIRONMENTAL HEALTH SERVICE

Redelegation of Authority

I hereby delegate to the Administrator, Consumer Protection and Environmental Health Services, all the administrative management authorities currently delegated on a common basis to heads of operating agencies within the Department of Health, Education, and Welfare.

These authorities may be redelegated within the restrictions specified within pertinent DHEW manual instructions or other issuances.

Pending issuance of redelegations, all delegations or redelegations to any other officer or employee of any office, bureau, division, center or other organizational unit which were in effect immediately prior to July 1, 1968, shall continue in effect in them or their successors.

This delegation becomes effective July 1, 1968.

Dated: July 1, 1968.

DONALD F. SIMPSON,
Assistant Secretary for Administration.

[F.R. Doc. 68-8167; Filed, July 9, 1968; 8:50 a.m.]

Public Health Service

COMMISSIONER OF FOOD AND DRUG ADMINISTRATION ET AL.

Redelegations of Authority

I hereby delegate to the Commissioners of the Food and Drug Administration, the Environmental Control Administration, and the National Air Pollution Control Administration, respectively, all authorities delegated to me by the Assistant Secretary for Health and Scientific Affairs which pertain to the functions assigned to their respective Administrations by the Reorganization Order effective July 1, 1968.

This authority may be redelegated.

Pending issuance of redelegations, all delegations or redelegations to any other officer or employee of any office, bureau, division, center or other organizational unit which were in effect immediately prior to July 1, 1968, shall continue in effect in them or their successors.

This delegation becomes effective July 1, 1968.

Dated: July 1, 1968.

CHARLES C. JOHNSON, Jr.,
Administrator, Consumer Protection and Environmental Health Service.

[F.R. Doc. 68-8163; Filed, July 9, 1968; 8:49 a.m.]

ATOMIC ENERGY COMMISSION

[Docket No. PRM-30-42]

AMERICAN ATOMICS CORP.

Notice of Filing of Petition

Notice is hereby given that American Atomics Corp., 425 South Plumer Avenue, Tucson, Ariz. 85719, by letter dated June 24, 1968, has filed with the Commission a petition for rule making to amend the Commission's regulations pertaining to the licensing of byproduct material.

The petitioner requests that the Commission amend its regulations to provide a general license for 1 millicurie of krypton-85 in an ice detection device or, in the alternative, to provide an exemption from licensing requirements for 1 millicurie of krypton-85 in an ice detection device.

A copy of the petition for rule making is available for public inspection in the Commission's Public Document Room at 1717 H Street NW., Washington, D.C.

Dated at Washington, D.C., this second day of July 1968.

For the Atomic Energy Commission.

W. B. MCCOOL,
Secretary.

[F.R. Doc. 68-8106; Filed, July 9, 1968; 8:45 a.m.]

[Docket No. 50-193]

RHODE ISLAND AND PROVIDENCE PLANTATIONS ATOMIC ENERGY COMMISSION

Notice of Proposed Issuance of Facility License Amendment

The Atomic Energy Commission ("the Commission") is considering the issuance of Amendment No. 1, in the form set forth below, of Facility License No. R-95. The license authorizes the State of Rhode Island and Providence Plantations Atomic Energy Commission (hereinafter "RIPPAEC") to possess and operate its pool-type nuclear reactor, known as the Rhode Island Nuclear Science Center Reactor, located at Fort Kearney in Narragansett, R.I., at power levels up to 1 megawatt (thermal). The proposed amendment would authorize RIPPAEC to operate the reactor at increased power levels up to 2 megawatts (thermal) and would also republish the license in its entirety mainly for the purpose of incorporating required changes in the record keeping and reporting requirements sections of the license.

Prior to the issuance of the amendment, the facility will be inspected by representatives of the Commission to determine that the modifications described in the application and authorized pursuant to § 50.59 of the Commission's regulations, 10 CFR Part 50, have been completed.

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

For further details with respect to this license amendment, see (1) the licensee's application for license amendment dated July 21, 1967, and supplements thereto, (2) a related Safety Evaluation prepared by the Division of Reactor Licensing, and (3) related changes to the Technical Specifications, all of which are available for public inspection at the Commission's Public Document Room at 1717 H Street NW., Washington, D.C. Copies of item (2) may be obtained at the Commission's Public Document Room, or upon request addressed to the Atomic Energy Commission, Washington, D.C. 20545, Attention: Director, Division of Reactor Licensing.

Dated at Bethesda, Md., this 28th day of June 1968.

For the Atomic Energy Commission.

DONALD J. SKOVHOLT,
Assistant Director for Reactor Operations, Division of Reactor Licensing.

PROPOSED AMENDED FACILITY LICENSE

[License No. R-95, Amdt. 1]

The Atomic Energy Commission ("the Commission") has found that:

A. The application for license, as amended, complies with the requirements of the Atomic Energy Act of 1954, as amended (hereinafter "the Act"), and the Commission's regulations set forth in Title 10, Chapter I, CFR;

B. The reactor has been constructed in conformity with Construction Permit No. CPRR-73 and will operate in conformity with the application, as amended, and in conformity with the Act and the rules and regulations of the Commission;

C. There is reasonable assurance that the activities authorized by the license, as amended, can be conducted at the designated location without endangering the health and safety of the public;

D. The Rhode Island and Providence Plantations Atomic Energy Commission is technically and financially qualified to engage in the proposed activities in accordance with the Commission's regulations;

E. The Rhode Island and Providence Plantations Atomic Energy Commission is a nonprofit educational institution and will use the reactor for the conduct of educational activities and is therefore exempt from the financial protection requirement of subsection 170a of the Act. The Rhode Island and Providence Plantations Atomic Energy Commission has executed an indemnity agreement pursuant to 10 CFR Part 140; and

F. The issuance of this license, as amended, for the possession and operation of the reactor and the receipt, possession and use of special nuclear and byproduct materials in the manner proposed in the application, as amended, will not be inimical to the common defense and security or to the health and safety of the public.

Facility License No. R-95 is hereby amended in its entirety to read as follows:

1. This license applies to the pool-type nuclear reactor, known as the Rhode Island Nuclear Science Center Reactor (herein referred to as "the reactor"), which is owned by

Rhode Island and Providence Plantations Atomic Energy Commission and located at Fort Kearney in Narragansett, R.I., and described in the application dated December 21, 1961, and amendments thereto, including the application for license amendment dated July 21, 1967, and supplements thereto dated September 22, 1967, October 9, 1967, December 14, 1967, February 7, 1968, and June 21, 1968 (herein referred to as "the application") and authorized for construction by Construction Permit No. CPRR-73.

2. Subject to the conditions and requirements incorporated herein, the Commission hereby licenses the Rhode Island and Providence Plantations Atomic Energy Commission (hereinafter "the license"):

A. Pursuant to Section 104c of the Act and Title 10, CFR, Chapter I, Part 50, "Licensing of Production and Utilization Facilities", to possess, use and operate the reactor as a utilization facility at the designated location at Fort Kearney in Narragansett, R.I., in accordance with the procedures and limitations described in the application and this license;

B. Pursuant to the Act and Title 10, CFR, Chapter I, Part 70, "Special Nuclear Material", to receive, possess and use at any one time up to 4 kilograms of uranium-235 in connection with operation of the reactor, and up to 32 grams of plutonium encapsulated in two plutonium-beryllium neutron sources for reactor startup; and

C. Pursuant to the Act and Title 10, CFR, Chapter I, Part 30, "Rules of General Applicability to Licensing of Byproduct Material", to receive, possess and use an antimony-beryllium neutron source, which will be activated to a minimum neutron source strength of 10 curies in connection with operation of the reactor; and to possess, but not to separate, such byproduct material as has been or may be produced by operation of the reactor.

3. This license shall be deemed to contain and is subject to the conditions specified in Part 20, § 30.34 of Part 30, §§ 50.54 and 50.59 of Part 50, and § 70.32 of Part 70, and is subject to all applicable provisions of the Act and rules, regulations, and orders of the Commission now or hereafter in effect; and is subject to the additional conditions specified or incorporated below:

A. *Maximum power level.* The licensee may operate the reactor at steady state power levels up to a maximum of 2 megawatts (thermal).

B. *Technical specifications.* The Technical Specifications contained in Appendix A to this license as issued July 21, 1964, and Change Nos. 1, 2, and 3 thereto and Change No. 4, which is appended hereto, are hereby incorporated in this license. The licensee shall operate the reactor in accordance with these Technical Specifications. No changes shall be made in the Technical Specifications unless authorized by the Commission as provided by § 50.59 of 10 CFR Part 50.

C. *Records.* In addition to those otherwise required under this license and applicable regulations, the licensee shall keep the following records:

(1) Reactor operating records, including power levels and periods of operation at each power level.

(2) Records showing radioactivity released or discharged into the air or water beyond the effective control of the licensee as measured at or prior to the point of such release or discharge.

(3) Records of emergency shutdowns and inadvertent scrams, including reasons therefor.

(4) Records of maintenance operations involving substitution or replacement of reactor equipment or components.

(5) Records of experiments installed including description, reactivity worths, locations, exposure time, total irradiation, and any unusual events involved in their handling.

(6) Records of tests and measurements performed pursuant to the Technical Specifications.

D. *Reports.* In addition to reports otherwise required by applicable regulations:

(1) The licensee shall inform the Commission of any incident or condition relating to the operation of the reactor which prevented or could have prevented a nuclear system from performing its safety function as described in the Technical Specifications. For each such occurrence, the licensee shall promptly notify, by telephone or telegraph, the Director of the appropriate Atomic Energy Commission Regional Compliance Office listed in Appendix D of 10 CFR Part 20 and shall submit within ten (10) days a report in writing to the Director, Division of Reactor Licensing (hereinafter, "Director, DRL") with a copy to the Regional Compliance Office.

(2) The licensee shall report to the Director, DRL, in writing within thirty (30) days of its occurrence, any substantial variance disclosed by operation of the reactor from performance specifications contained in the Safety Analysis Report or the Technical Specifications.

(3) The licensee shall report to the Director, DRL, in writing within thirty (30) days of its occurrence, any significant change in the transient or accident analysis, as described in the Safety Analysis Report.

4. This license is effective as of the date of issuance and shall expire at midnight, August 27, 2002.

Attachment A: Change No. 4 to Technical Specifications.[1]

Date of issuance:

For the Atomic Energy Commission.

DONALD J. SKOVHOLT,
Assistant Director for Reactor Operations, Division of Reactor Licensing.

[F.R. Doc. 68-8107; Filed, July 9, 1968; 8:45 a.m.]

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[Serial No. I-2348]

IDAHO

Notice of Proposed Withdrawal and Reservation of Lands

JULY 2, 1968.

The Department of Agriculture has filed an application, Serial No. I-2348 for the withdrawal of the lands described below, from all forms of appropriation under the public land laws, including the mining laws but not the mineral leasing laws, subject to valid existing rights.

The applicant desires the land for public purposes as a recreation area on the Boise National Forest.

For a period of 30 days from the date of publication of this notice, all persons who wish to submit comments, suggestions, or objections in connection with the proposed withdrawal may present their views in writing to the undersigned officer of the Bureau of Land Management, Department of the Interior, Room 334, Federal Building, 550 West Fort Street, Boise, Idaho 83702.

The authorized officer of the Bureau of Land Management will undertake such investigations as are necessary to determine the existing and potential demand for the lands and their resources. He will also undertake negotiations with the applicant agency with the view of adjusting the application to reduce the area to the minimum essential to meet the applicant's needs, to provide for the maximum concurrent utilization of the lands for purposes other than the applicant's, to eliminate lands needed for purposes more essential than the applicant's, and to reach agreement on the concurrent management of the lands and their resources.

He will also prepare a report for consideration by the Secretary of the Interior who will determine whether or not the lands will be withdrawn as requested by the Department of Agriculture.

The determination of the Secretary on the application will be published in the FEDERAL REGISTER. A separate notice will be sent to each interested party of record.

If circumstances warrant it, a public hearing will be held at a convenient time and place which will be announced.

The lands involved in the application are:

BOISE MERIDIAN, IDAHO

BOISE NATIONAL FOREST

Dog Creek Campground

T. 2 N., R. 10 E.,
Sec. 7, N½ of lot 1, SW¼ of lot 1, N½ NW¼NE¼, SE¼NW¼NE¼.

The area described aggregates 60 acres in Elmore County, Idaho.

ORVAL G. HADLEY,
Manager, Land Office.

[F.R. Doc. 68-8117; Filed, July 9, 1968; 8:45 a.m.]

[Serial No. Idaho 04561]

IDAHO

Notice of Termination of Proposed Withdrawal and Reservation of Lands

JULY 2, 1968.

Notice of an application Serial No. Idaho 04561, for withdrawal and reservation of lands was published in Vol. 22 No. 53 on page 1786 of the FEDERAL REGISTER issue of March 19, 1957; as corrected by the notice published in Vol. 22 No. 70 on page 2436. The applicant agency has canceled its applicaion insofar as it involved the lands described below. Therefore, pursuant to the regulations contained in 43 CFR, Subpart 2311, such lands will be at 10 a.m. on July 15, 1968, relieved of the segregative effect of the above-mentioned application.

The lands involved in this notice of termination are:

[1] This item was not filed with the Office of the Federal Register but is available for inspection in the Public Document Room of the Atomic Energy Commission.

BOISE MERIDIAN, IDAHO

T. 15 S., R. 44 E.,
Sec. 1, NE¼SW¼;
Sec. 14, unsurveyed lands lying south of lots 1 to 4, inclusive;
Sec. 15, unsurveyed lands lying south of lots 1 to 4, inclusive;
Sec. 16, unsurveyed lands lying south of lots 1 to 4, inclusive;
Sec. 17, unsurveyed lands lying south of lots 1 to 4, inclusive;
Sec. 18, unsurveyed lands lying south of lots 2 to 5, inclusive.

ORVAL G. HADLEY,
Manager, Land Office.

[F.R. Doc. 68-8125; Filed, July 9, 1968; 8:46 a.m.]

CHIEF, DIVISION OF ADMINISTRATION, AND ADMINISTRATIVE ASSISTANT IN FAIRBANKS DISTRICT AND LAND OFFICE

Delegation of Authority Regarding Contracts and Leases

District Manager, Fairbanks supplement to Bureau of Land Management Manual 1510.

Pursuant to delegation of authority contained in Bureau Manual 1510-03B2 and Alaska Supplement thereto, the Chief, Division of Administration, Fairbanks District and Land Office, and Administrative Assistant, Fairbanks District and Land Office are authorized:

1. To enter into contracts with established sources for supplies and services, excluding capitalized equipment, regardless of amount, and

2. To enter into contracts on the open market for supplies and materials, excluding capitalized equipment, not to exceed $2,500 per transaction ($2,000 for construction), provided that the requirement is not available from established sources.

DONALD E. HARDING,
Acting District Manager.

[F.R. Doc. 68-8151; Filed, July 9, 1968; 8:48 a.m.]

CHIEF, DIVISION OF ADMINISTRATION, ANCHORAGE DISTRICT OFFICE

Redelegation of Authority Regarding Contracts and Leases

District Manager, Anchorage District Office supplement to Bureau of Land Management Manual 1510.

A. Pursuant to delegation of authority contained in Bureau Manual 1510-03B2c and in accordance with the authority delegated to me by State Director, Alaska, the Chief, Division of Administration, Anchorage District Office is authorized:

1. To enter into contracts with established sources for supplies and services, excluding capitalized equipment, regardless of amount, and

2. To enter into contracts on the open market for supplies and materials, excluding capitalized equipment, not to exceed $2,500 per transaction ($2,000 for construction), provided that the requirement is not available from established sources.

JAMES W. SCOTT,
District Manager.

[F.R. Doc. 68-8152; Filed, July 9, 1968; 8:48 a.m.]

Office of the Secretary

ADMINISTRATOR, SOUTHWESTERN POWER ADMINISTRATION ET AL.

Adjustment of Salaries

JULY 3, 1968.

Pursuant to the provisions of sections 1 and 4 of Executive Order 11413, the salaries of the Administrator, Southwestern Power Administration, the Governor of Guam and the Governor of the Virgin Islands were adjusted to $28,000 per annum.

STEWART L. UDALL,
Secretary of the Interior.

[F.R. Doc. 68-8126; Filed, July 9, 1968; 8:46 a.m.]

DEPARTMENT OF AGRICULTURE

Office of the Secretary

CALIFORNIA

Extension of Designation of Area for Emergency Loans

For the purpose of making emergency loans pursuant to section 321 of the Consolidated Farmers Home Administration Act of 1961 (7 U.S.C. 1961), it has been determined that in the hereinafter-named counties in the State of California, natural disasters have caused a continuing need for agricultural credit nor readily available from commercial banks, cooperative lending agencies, or other responsible sources.

California	*Original designation*
Fresno	33 F.R. 422.
Madera	33 F.R. 422.
Merced	33 F.R. 422.
San Joaquin	33 F.R. 922.
Stanislaus	33 F.R. 422.
Tulare	33 F.R. 422.

Pursuant to the authority set forth above, emergency loans will not be made in the above-named counties after June 30, 1969, except to applicants who previously received emergency or special livestock loan assistance and who can qualify under established policies and procedures.

Done at Washington, D.C., this third day of July 1968.

ORVILLE L. FREEMAN,
Secretary.

[F.R. Doc. 68-8147; Filed, July 9, 1968; 8:48 a.m.]

COLORADO

Extension of Designation of Area for Emergency Loans

For the purpose of making emergency loans pursuant to section 321 of the Consolidated Farmers Home Administration Act of 1961 (7 U.S.C. 1961), it has been determined that in the hereinafter-named counties in the State of Colorado, natural disasters have caused a continuing need for agricultural credit not readily available from commercial banks, cooperative lending agencies, or other responsible sources.

Colorado	Original designation	First extension	Present extension
Baca	29 F.R. 7784	31 F.R. 14958	32 F.R. 8821.
Cheyenne	32 F.R. 7717		
Kiowa	32 F.R. 7717		
Kit Carson	32 F.R. 10756		
Prowers	32 F.R. 8047		

Pursuant to the authority set forth above, emergency loans will not be made in the above-named counties after June 30, 1969, except to applicants who previously received emergency or special livestock loan assistance and who can qualify under established policies and procedures.

Done at Washington, D.C., this third day of July 1968.

ORVILLE L. FREEMAN,
Secretary.

[F.R. Doc. 68-8148; Filed, July 9, 1968; 8:48 a.m.]

INDIANA

Extension of Designation of Area for Emergency Loans

For the purpose of making emergency loans pursuant to section 321 of the Consolidated Farmers Home Administration Act of 1961 (7 U.S.C. 1961), it has been determined that in the hereinafter-named counties in the State of Indiana, natural disasters have caused a continuing need for agricultural credit not readily available from commercial banks, cooperative lending agencies, or other responsible sources.

Indiana	*Original designation*
Adams	32 F.R. 20742.
Allen	32 F.R. 20742.
Bartholomew	33 F.R. 2572.
Benton	32 F.R. 20742.
Blackford	32 F.R. 20742.
Boone	32 F.R. 20742.
Brown	33 F.R. 2572.
Carroll	32 F.R. 15840.
Cass	32 F.R. 20742.
Clay	32 F.R. 20742.
Clinton	32 F.R. 15840.
Daviess	33 F.R. 2572.
Decatur	32 F.R. 20742.
De Kalb	32 F.R. 20742.
Delaware	32 F.R. 15840.
Dubois	33 F.R. 2572.
Elkhart	32 F.R. 20742.
Fayette	32 F.R. 20742.
Fountain	32 F.R. 20742.
Fulton	32 F.R. 20742.
Gibson	33 F.R. 2572.
Grant	32 F.R. 20742.
Greene	33 F.R. 2572.
Hamilton	32 F.R. 20742.
Hancock	32 F.R. 15840.
Hendricks	32 F.R. 20742.
Henry	32 F.R. 20742.
Howard	32 F.R. 20742.
Huntington	32 F.R. 20742.
Jasper	32 F.R. 20742.

Indiana	Original destination
Jay	32 F.R. 20742.
Jennings	33 F.R. 2572.
Johnson	32 F.R. 15840.
Knox	33 F.R. 2572.
Kosciusko	32 F.R. 20742.
Lagrange	32 F.R. 20742.
Lake	32 F.R. 20742.
La Porte	32 F.R. 20742.
Madison	32 F.R. 15840.
Marion	32 F.R. 20742.
Marshall	32 F.R. 20742.
Miami	32 F.R. 20742.
Monroe	33 F.R. 2572.
Montgomery	32 F.R. 20742.
Morgan	32 F.R. 20742.
Newton	32 F.R. 20742.
Noble	32 F.R. 20742.
Owen	33 F.R. 2572.
Parke	32 F.R. 20742.
Perry	33 F.R. 2572.
Pike	33 F.R. 2572.
Porter	32 F.R. 20742.
Posey	33 F.R. 2572.
Pulaski	32 F.R. 20742.
Putnam	32 F.R. 20742.
Randolph	32 F.R. 15840.
Rush	32 F.R. 20742.
St. Joseph	32 F.R. 20742.
Shelby	32 F.R. 15840.
Spencer	33 F.R. 2572.
Starke	32 F.R. 20742.
Steuben	32 F.R. 20742.
Sullivan	32 F.R. 20742.
Tippecanoe	32 F.R. 20742.
Tipton	32 F.R. 20742.
Union	32 F.R. 20742.
Vanderburgh	33 F.R. 2572.
Vermillion	32 F.R. 20742.
Vigo	32 F.R. 20742.
Wabash	32 F.R. 20742.
Warren	32 F.R. 20742.
Warrick	33 F.R. 2572.
Wayne	32 F.R. 20742.
Wells	32 F.R. 20742.
White	32 F.R. 15840.
Whitley	32 F.R. 20742.

Pursuant to the authority set forth above, emergency loans will not be made in the above-named counties after June 30, 1969, except to applicants who previously received emergency or special livestock loan assistance and who can qualify under established policies and procedures.

Done at Washington, D.C., this third day of July 1968.

ORVILLE L. FREEMAN,
Secretary.

[F.R. Doc. 68-8149; Filed, July 9, 1968; 8:48 a.m.]

DEPARTMENT OF COMMERCE

Business and Defense Services Administration

COLORADO STATE UNIVERSITY

Notice of Decision on Application for Duty-Free Entry of Scientific Article

The following is a decision on an application for duty-free entry of a scientific article pursuant to section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Public Law 89-651; 89 Stat. 897) and the regulations issued thereunder (32 F.R. 2433 et seq.).

A copy of the record pertaining to this decision is available for public review during ordinary business hours of the Department of Commerce, at the Office of Scientific and Technical Equipment, Department of Commerce, Room 5123, Washington, D.C. 20230.

Docket No. 68-00502-33-46040. Applicant: Colorado State University, Fort Collins, Colo. 80521. Article: Electron microscope, Model HS-8. Manufacturer: Hitachi, Ltd., Japan. Intended use of article: The article will be used for a morphological and histo-cyto-chemical study of the mammalian lens. Comments: No comments have been received with respect to this application. Decision. Application approved. No instrument or apparatus of equivalent scientific value to the foreign article, for the purposes for which such article is intended to be used, is being manufactured in the United States. Reasons: The foreign article provides accelerating voltages of 25 and 50 kilovolts. The 25-kilovolt accelerating voltage affords optimum contrast for unstained ultrathin specimens. For the purposes for which the foreign article is intended to be used, the high contrast available with the lower accelerating voltage is pertinent. The only known comparable domestic instrument is the Model EMU-4 electron microscope manufactured by the Radio Corporation of America (RCA). The RCA Model EMU-4 provides accelerating voltages of 50 and 100 kilovolts. Consequently, the domestic instrument cannot furnish the necessary contrast to accomplish the purposes for which the foreign article is intended to be used. We therefore find that the RCA Model EMU-4 is not of equivalent scientific value to the foreign article for the purposes for which such article is intended to be used.

The Department of Commerce knows of no other instrument or apparatus of equivalent scientific value to the foreign article, for the purposes for which such article is intended to be used, which is being manufactured in the United States.

EDWARD G. SMITH,
Acting Director, Office of Scientific and Technical Equipment, Business and Defense Services Administration.

[F.R. Doc. 68-8120; Filed, July 9, 1968; 8:46 a.m.]

NEW YORK STATE DEPARTMENT OF HEALTH

Notice of Decision on Application for Duty-Free Entry of Scientific Article

The following is a decision on an application for duty-free entry of a scientific article pursuant to section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Public Law 89-651; 80 Stat. 897) and the regulations issued thereunder (32 F.R. 2433 et seq.).

A copy of the record pertaining to this decision is available for public review during ordinary business hours of the Department of Commerce, at the Office of Scientific and Technical Equipment, Department of Commerce, Room 5123, Washington, D.C. 20230.

Docket No. 68-00508-33-46040. Applicant: New York State Department of Health, Division of Laboratories and Research, New Scotland Avenue, Albany, N.Y. 12201. Article: Electron microscope, Model Elmiskop IA. Manufacturer: Siemens A.G., West Germany. Intended use of article: The article will be used for research in the following areas: (a) Rubella virus group; (b) California eucephalitis virus group; (c) Kidney infections by some pathogenic fungi such as Candida Albicans. Comments: No comments have been received with respect to this application. Decision: Application approved. No instrument or apparatus of equivalent scientific value to the foreign article, for the purposes for which such article is intended to be used, is being manufactured in the United States. Reasons: (1) The foreign article provides a resolution of 5 Angstroms. The only known domestic electron microscope is the Model EMU-4 manufactured by the Radio Corporation of America (RCA), which provides a resolution of 8 Angstroms. (The lower the numerical rating in terms of Angstrom units, the better the resolving capabilities.) For the purposes for which the foreign article is intended to be used, the additional resolving capabilities of the foreign article are pertinent. (2) The foreign article provides accelerating voltages of 40, 60, 80, and 100 kilovolts, whereas the RCA Model EMU-4 provides only 50 and 100 kilovolt accelerating voltages. It has been experimentally demonstrated that the lower accelerating voltage of the foreign article furnishes better contrast for unstained specimens and that the voltages intermediate between 50 and 100 kilovolts afford optimum contrast for negatively stained specimens. For the purposes for which the foreign article is intended to be used, the lower and intermediate accelerating voltages of the foreign article are pertinent.

For the foregoing reasons, we find that the RCA Model EMU-4 is not of equivalent scientific value to the foreign article, for the purposes for which such article is intended to be used.

The Department of Commerce knows of no other instrument or apparatus of equivalent scientific value to the foreign article, for the purposes for which such article is intended to be used, which is being manufactured in the United States.

EDWARD G. SMITH,
Acting Director, Office of Scientific and Technical Equipment, Business and Defense Services Administration.

[F.R. Doc. 68-8121; Filed, July 9, 1968; 8:46 a.m.]

SACRAMENTO STATE COLLEGE

Notice of Decision on Application for Duty-Free Entry of Scientific Article

The following is a decision on an application for duty-free entry of a scientific article pursuant to section 6(c) of

the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Public Law 89–651; 80 Stat. 897) and the regulations issued thereunder (32 F.R. 2433 et seq.).

A copy of the record pertaining to this decision is available for public review during ordinary business hours of the Department of Commerce, at the Office of Scientific and Technical Equipment, Department of Commerce, Room 5123, Washington, D.C. 20230.

Docket No. 68–00514–33–46040. Applicant: Sacramento State College, 6000 J Street, Sacramento, Calif. 95819. Article: Electron microscope, Model EM 9A. Manufacturer: Carl Zeiss, West Germany. Intended use of article: The article will be used by students in various upper division and graduate courses and in master's degree research problems. Comments: No comments have been received with respect to this application. Decision: Application approved. No instrument or apparatus of equivalent scientific value to the foreign article, for the purposes for which such article is intended to be used, is being manufactured in the United States. Reasons: The applicant requires a small, compact and relatively simple electron microscope, for teaching students in an introductory course in the use of electron microscopes. The only known domestic electron microscope, the Model EMU–4 manufactured by the Radio Corporation of America (RCA), is a relatively complex instrument which is designed for research. The foreign article provides a magnification range which is low enough to overlap considerably with the magnification range of optical microscopes. In addition, the foreign article provides three viewing windows, whereas the RCA Model EMU–4 provides only one. The additional viewing windows permit the instructor and students to simultaneously view and discuss the image of the specimen under the microscope. The characteristics of the foreign article, which are not possessed by the RCA Model EMU–4, are pertinent to the purposes for which such article is intended to be used.

The Department of Commerce knows of no other instrument or apparatus of equivalent scientific value to the foreign article, for the purposes for which such article is intended to be used, which is being manufactured in the United States.

EDWARD G. SMITH,
Acting Director, Office of Scientific and Technical Equipment, Business and Defense Services Administration.

[F.R. Doc. 68–8122; Filed, July 9, 1968; 8:46 a.m.]

Office of the Secretary

INTERAGENCY COMMITTEES

Committees Chaired by Department of Commerce

The following information on interagency committees chaired by the Department of Commerce is published pursuant to the provisions of Bureau of the Budget Circular No. A–63.

Committees in existence for 2 years on June 30, 1968, which have been continued:

Federal Committee for Meteorological Services and Supporting Research.
Interdepartmental Committee for Atmospheric Sciences (ICAS).
Interdepartmental Committee for Hemis-Fair.
Interdepartmental Committee for Interama.
Interagency Shoe Committee.
Interdepartmental Committee on Radiation Preservation of Food.
Pilot Plant Meat Irradiator Task Force.
Subcommittee on Import and Export Commodity Classification.
Committee on Balance of Payments Information.
Executive Committee of U.S. Board on Geographic Names.
Interdepartmental Committee for Applied Meteorological Research (ICAMR).
Interdepartmental Committee for Meteorological Services (ICMS)
Subcommittee on Basic Meteorological Services/ICMS.
Subcommittee on Climatological Services/ICMS.
Subcommittee on Marine Meteorological Services/ICMS.
Subcommittee on Operational Meteorological Satellites/ICMS.
The Joint Committee of Marine Research Education and Facilities/ICAS.
Air/Sea Interaction Panel.
Executive Committee on Port Utilization and Control.
Committee on Government Patent Policy.
Committee on Systems and Equipment.
Interdepartmental Screw Thread Committee.
NBS-Air Force Working Group on Standards.
NBS-DoD Consultative Committee on Measurement Standards.

Committees established since July 1, 1967:

Committee on Ocean Exploration and Environmental Services.
Federal Advisory Council on Regional Economic Development.
Interagency Committee on Standards Policy.
Interagency Committee for the World Weather Program (ICWWP).

Dated: July 2, 1968.

DAVID R. BALDWIN,
Assistant Secretary for Administration.

[F.R. Doc. 68–8123; Filed, July 9, 1968; 8:46 a.m.]

Maritime Administration

[Docket No. S–214]

LYKES BROS. STEAMSHIP CO., INC.

Notice of Application

Notice is hereby given that a letter dated May 27, 1968, from Lykes Bros. Steamship Co., Inc., is being treated as an application by that company for written permission under section 805(a) of the Merchant Marine Act, 1936, as amended, (Act) to utilize subsidized vessels in domestic service between Hawaiian ports and U.S. Gulf ports.

Interested parties may inspect this application in the Office of Government Aid, Maritime Administration, Room 4077, GAO Building, 441 G Street NW., Washington, D.C.

Any person, firm, or corporation having any interest (within the meaning of section 805(a)) in such application and desiring to be heard on issues pertinent to section 805(a) or desiring to submit a written statement with reference to the application must, by close of business on July 22, 1968, file same with the Secretary, Maritime Subsidy Board/Maritime Administration in writing, in triplicate, together with petition for leave to intervene which shall state clearly and concisely the grounds of interest, and the alleged facts relied on for relief. Notwithstanding anything in § 201.78 of the rules of practice and procedure (46 CFR Part 201), petitions for leave to intervene received after the close of business on July 22, 1968, will not be considered in this proceeding.

If no petitions for leave to intervene are received within the specified time, or if it is determined that petitions filed do not demonstrate sufficient interest to warrant a hearing, the Maritime Subsidy Board/Maritime Administration will take such action as may be deemed appropriate.

In the event petitions regarding the relevant section 805(a) issues are received from parties with standing to be heard, a hearing has been tentatively scheduled for July 30, at 10 a.m. in Room 4519, General Accounting Office Building, 441 G Street NW., Washington, D.C. The purpose of the hearing will be to receive evidence under section 805(a) relative to whether the proposed operation (a) could result in unfair competition to any person, firm or corporation operating exclusively in the proposed domestic service involved or (b) would be prejudicial to the objects and policy of the Act relative to domestic trade operations.

Dated: July 5, 1968.

By order of the Maritime Subsidy Board/Maritime Administration.

JAMES S. DAWSON, Jr.,
Secretary.

[F.R. Doc. 68–8187; Filed, July 9, 1968; 8:51 a.m.]

[Docket No. S–215]

DELTA STEAMSHIP LINES, INC.

Notice of Application

Notice is hereby given of the application dated June 27, 1968, of Delta Steamship Lines, Inc., for written permission under section 805(a) of the Merchant Marine Act, 1936, as amended, to carry cargo between U.S. Gulf of Mexico ports and San Juan, Ponce, and Mayaguez, P.R., on its freight ships operating on Trade Routes Nos. 14–2 and 20.

Interested parties may inspect this application in the Office of Government Aid, Maritime Administration, Room 4077, GAO Building, 441 G Street NW., Washington, D.C.

Any person, firm, or corporation having any interest (within the meaning

of section 805(a)) in such application and desiring to be heard on issues pertinent to section 805(a) or desiring to submit a written statement with reference to the application must, by close of business on July 22, 1968, file same with the Secretary, Maritime Subsidy Board/Maritime Administration, in writing, in triplicate, together with petition for leave to intervene which shall state clearly and concisely the grounds of interest, and the alleged facts relied on for relief. Notwithstanding anything in § 201.78 of the rules of practice and procedure (46 CFR Part 201), petitions for leave to intervene received after the close of business July 22, 1968, will not be considered in this proceeding.

If no petitions for leave to intervene are received within the specified time, or if it is determined that petitions filed do not demonstrate sufficient interest to warrant a hearing, the Maritime Subsidy Board/Maritime Administration will take such action as may be deemed appropriate.

In the event petitions regarding the relevant section 805(a) issues are received from parties with standing to be heard, a hearing has been tentatively scheduled for July 31, 1968, at 10 a.m., in Room 4519 GAO Building, 441 G Street NW., Washington, D.C. The purpose of the hearing will be to receive evidence under section 805(a) relative to whether the proposed operation (a) could result in unfair competition to any person, firm, or corporation operating exclusively in the proposed domestic service involved, or (b) would be prejudicial to the objects and policy of the Act relative to domestic trade operations.

Dated: July 5, 1968.

By order of the Maritime Subsidy Board/Maritime Administration.

JAMES S. DAWSON, Jr.,
Secretary.

[F.R. Doc. 68-8188; Filed, July 9, 1968; 8:51 a.m.]

CIVIL AERONAUTICS BOARD

[Docket No. 19955; Order 68-7-19]

ROSS AVIATION, INC.

Order To Show Cause Regarding Establishment of Service Mail Rate

JULY 2, 1968.

Issued under delegated authority.

The Postmaster General filed a notice of intent June 13, 1968, pursuant to 14 CFR Part 298, petitioning the Board to establish for the above-captioned air taxi operator, a final service mail rate of 34.9 cents per great circle aircraft mile for the transportation of mail by aircraft between Cheyenne, Wheatland, and Newcastle, Wyo.

No protest or objection has been filed against the services proposed in the notice of intent, and the time for filing such objections has now expired. The Postmaster General states that the proposed rate is acceptable to the Department and the carrier, and represents a fair and reasonable rate of compensation for the services which the carrier will perform. In addition, the Postmaster General believes these services will meet postal needs in the market. He states the air taxi plans to initiate mail service with Piper Aztec Model P.A. 23 aircraft equipped for all-weather operation.

Since no mail rate is presently in effect for this carrier in this market, it is in the public interest to fix and determine the fair and reasonable rate of compensation to be paid to it by the Postmaster General for the transportation of mail by aircraft, the facilities used and useful therefor, and the services connected therewith, between the aforesaid points. Upon consideration of the notice of intent and other matters officially noticed, it is proposed to issue an order[1] to include the following findings and conclusions:

1. The fair and reasonable final service mail rate to be paid to Ross Aviation, Inc., pursuant to section 406 of the Act for the transportation of mail by aircraft, the facilities used and useful therefor, and the services connected therewith, between Cheyenne, Wheatland, and Newcastle, Wyo., shall be 34.9 cents per great circle aircraft mile; and

2. The final service mail rate here fixed and determined is to be paid in its entirety by the Postmaster General.

Accordingly, pursuant to the Federal Aviation Act of 1958, and particularly sections 204(a) and 406 thereof, and regulations promulgated in 14 CFR Part 302, 14 CFR Part 298, and 14 CFR 385.14(f);

It is ordered, That:

1. Ross Aviation, Inc., the Postmaster General, and all other interested persons are directed to show cause why the Board should not adopt the foregoing proposed findings and conclusions and fix, determine, and publish, for the transportation of mail by aircraft, the facilities used and useful therefor, and the services connected therewith as specified above, the final rate specified above, as the fair and reasonable rate of compensation to be paid to Ross Aviation, Inc.;

2. Further procedures herein shall be in accordance with 14 CFR Part 302, and if there is any objection to the rate or to the other findings and conclusions proposed herein, notice thereof shall be filed within 10 days, and if notice is filed, written answer and supporting documents shall be filed within 30 days after service of this order;

3. If notice of objection is not filed within 10 days after service of this order, or if notice is filed and if answer is not filed within 30 days after service of this order, all persons shall be deemed to have waived the right to a hearing and all other procedural steps short of a final decision by the Board, and the Board may enter an order incorporating the findings and conclusions proposed herein and fix and determine the final rate specified herein;

4. If answer is filed presenting issues for hearing, the issues involved in determining the fair and reasonable final rate shall be limited to those specifically raised by the answer, except insofar as other issues are raised in accordance with Rule 307 of the rules of practice (14 CFR 302.307); and

5. This order shall be served upon Ross Aviation, Inc., and the Postmaster General.

This order will be published in the FEDERAL REGISTER.

[SEAL] MABEL MCCART,
Acting Secretary.

[F.R. Doc. 68-8153; Filed, July 9, 1968; 8:48 a.m.]

[1] As this order to show cause does not constitute a final action and merely affords interested persons an opportunity to be heard on the matters herein proposed, it is not regarded as subject to the review provisions of Part 385 (14 CFR Part 385). The provisions of that part dealing with petitions for Board review will be applicable to any final action which may be taken by the staff in this matter under authority delegated in § 385.14(g).

[Docket No. 19949; Order 68-7-20]

SUN AIRLINE CORP.

Order To Show Cause Regarding Establishment of Service Mail Rate

JULY 2, 1968.

Issued under delegated authority.

The Postmaster General filed a notice of intent June 7, 1968, pursuant to 14 CFR Part 298, petitioning the Board to establish for the above-captioned air taxi operator, a final service mail rate of 29 cents per great circle aircraft mile for the transportation of mail by aircraft between Nashville, Tenn., Birmingham, Ala., Montgomery, Ala., and Mobile, Ala.

No protest or objection has been filed against the services proposed in the notice of intent, and the time for filing such objections has now expired. The Postmaster General states that the proposed rate is acceptable to the Department and the carrier, and represents a fair and reasonable rate of compensation for the services which the carrier will perform. In addition, the Postmaster General believes these services will meet postal needs in the market. He states the air taxi plans to initiate mail service with twin-engine Beech, Model Super E aircraft equipped for all-weather operation.

Since no mail rate is presently in effect for this carrier in this market, it is in the public interest to fix and determine the fair and reasonable rate of compensation to be paid to it by the Postmaster General for the transportation of mail by aircraft, the facilities used and useful therefor, and the services connected therewith, between the aforesaid points. Upon consideration of the notice of intent and other matters officially noticed,

it is proposed to issue an order[1] to include the following findings and conclusions:

1. The fair and reasonable final service mail rate to be paid to Sun Airline Corp. pursuant to section 406 of the Act for the transportation of mail by aircraft, the facilities used and useful therefor, and the services connected therewith, between Nashville, Tenn., Birmingham, Ala., Montgomery, Ala., and Mobile, Ala., shall be 29 cents per great circle aircraft mile; and

2. The final service mail rate here fixed and determined is to be paid in its entirety by the Postmaster General.

Accordingly, pursuant to the Federal Aviation Act of 1958, and particularly sections 204(a) and 406 thereof, and regulations promulgated in 14 CFR Part 302, 14 CFR Part 298, and 14 CFR 385.14 (f);

It is ordered, That:

1. Sun Airline Corp., the Postmaster General, Delta Air Lines, Inc., Eastern Air Lines, Inc., Southern Airways, Inc., United Air Lines, Inc., and all other interested persons are directed to show cause why the Board should not adopt the foregoing proposed findings and conclusions and fix, determine, and publish, for the transportation of mail by aircraft, the facilities used and useful therefor, and the services connected therewith as specified above, the final rate specified above, as the fair and reasonable rate of compensation to be paid to Sun Airline Corp.;

2. Further procedures herein shall be in accordance with 14 CFR Part 302, and if there is any objection to the rate or to the other findings and conclusions proposed herein, notice thereof shall be filed within 10 days, and if notice is filed, written answer and supporting documents shall be filed within 30 days after service of this order;

3. If notice of objection is not filed within 10 days after service of this order, or if notice is filed and if answer is not filed within 30 days after service of this order, all persons shall be deemed to have waived the right to a hearing and all other procedural steps short of a final decision by the Board, and the Board may enter an order incorporating the findings and conclusions proposed herein and fix and determine the final rate specified herein;

4. If answer is filed presenting issues for hearing, the issues involved in determining the fair and reasonable final rate shall be limited to those specifically raised by the answer; except insofar as other issues are raised in accordance with Rule 307 of the rules of practice (14 CFR 302.307); and

5. This order shall be served upon Sun Airline Corp., the Postmaster General; Delta Air Lines, Inc., Eastern Air Lines, Inc., Southern Airways, Inc., and United Air Lines, Inc.

This order will be published in the FEDERAL REGISTER.

[SEAL] MABEL MCCART,
Acting Secretary.

[F.R. Doc. 68-8154; Filed, July 9, 1968; 8:49 a.m.]

[1] As this order to show cause does not constitute a final action and merely affords interested persons an opportunity to be heard on the matters herein proposed, it is not regarded as subject to the review provisions of Part 385 (14 CFR Part 385). The provisions of that part dealing with petitions for Board review will be applicable to any final action which may be taken by the staff in this matter under authority delegated in § 385.14(g).

CIVIL SERVICE COMMISSION

SOCIAL SCIENTISTS, NATIONAL SCIENCE FOUNDATION

Manpower Shortage; Listing

Under the provisions of 5 U.S.C. 5723, the Civil Service Commission found a manpower shortage on May 31, 1968, for positions at GS-12 (or equivalent) and above in the GS-100 group requiring the services of qualified social scientists, National Science Foundation, Washington, D.C.

Assuming other legal requirements are met, appointees to those positions may be paid for the expenses of travel and transportation to first post of duty.

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

[F.R. Doc. 68-8144; Filed, July 9, 1968; 8:48 a.m.]

FEDERAL MARITIME COMMISSION

[Docket No. 68-27]

PORT OF OAKLAND ET AL.

First Supplemental Order, Expansion of Investigation

In the matter of Agreement No. T-2138 and T-2138-1 between the Port of Oakland and Japan Line, Ltd., Kawasaki Kisen Kaisha, Ltd., Mitsui O.S.K. Lines, Ltd., and Yamashita-Shinnihon Steamship Co., Ltd.

Docket No. 68-27 was instituted by the Commission on May 31, 1968 (33 F.R. 8365), to determine whether Agreement No. T-2138 should be approved, modified or disapproved pursuant to section 15, Shipping Act, 1916.

On June 13, 1968, the Port of Oakland filed with the Commission First Supplemental Agreement dated June 10, 1968, which has been designated Federal Maritime Commission Agreement No. T-2138-1. This amendment enlarges the assigned area, reduces the option area, adjusts the compensation therefor and should be included within the scope of the investigation in Docket No. 68-27.

Now therefore, it is ordered, That, pursuant to sections 15 and 22 of the Shipping Act, 1916, the Commission, upon its own motion, expand the investigation in Docket No. 68-27 to determine whether Agreement No. T-2138, as amended by First Supplemental Agreement No. T-2138-1, should be approved, modified, or disapproved pursuant to section 15 of the said Act;

It is further ordered, That notice of this order and notice of hearing be published in the FEDERAL REGISTER and copy of such order and notice of hearing be served upon respondents and petitioners;

It is further ordered, That persons other than respondents, petitioners, and Hearing Counsel who desire to become parties in this proceeding and to participate therein shall file a petition to intervene pursuant to Rule 5(1) of the Commission's rules of practice and procedure (46 CFR 502.72).

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, shall be mailed directly to all parties of record.

By the Commission.

[SEAL] FRANCIS C. HURNEY,
Assistant Secretary.

[F.R. Doc. 68-8177; Filed, July 9, 1968; 8:50 a.m.]

FEDERAL POWER COMMISSION

[Docket No. CP68-349]

HORNER AND SMITH

Notice of Application; Correction

JULY 1, 1968.

In notice of application, issued June 18, 1968, and published in the FEDERAL REGISTER, June 26, 1968 (F.R. Doc. 68-7547), 33 F.R. 9361, Docket No. CP68-349, Lines 17 and 26: Change "American Louisiana Pipe Line Company" to read "Michigan Wisconsin Pipe Line Company," and Line 12: Change "Humble Oil and Refining Company" to read "Humble Gas Transmission Company."

GORDON M. GRANT,
Secretary.

[F.R. Doc. 68-8108; Filed, July 9, 1968; 8:45 a.m.]

[Docket No. RP68-20]

MICHIGAN WISCONSIN PIPE LINE CO.

Order Providing for Hearing, Suspending Proposed Revised Tariff Sheets, and Providing Hearing Procedures

JUNE 28, 1968.

Michigan Wisconsin Pipe Line Co. (Michigan Wisconsin) on May 31, 1968, tendered for filing proposed changes in its presently effective FPC Gas Tariff, Second Revised Volume No. 1.[1] The pro-

[1] Proposed revised tariff sheets: First Revised Sheet Nos. 9E and 9F; Second Revised Sheet Nos. 8, 9B, 9C, 14A, and 14D; Third Revised Sheet No. 12; Fifth Revised Sheet No. 5; Sixth Revised Sheet No. 13; Eighth Revised Sheet Nos. 7, 10, and 11; Tenth Revised Sheet No. 6. Michigan Wisconsin's existing rates became effective as of March 1, 1967, by order of the Commission issued April 13, 1967 in Docket No. RP64-38.

posed changes would increase the company's jurisdictional rates, resulting in an annual revenue increase of approximately $20,517,152 based on the estimated billing demand units and sales volumes for the year commencing September 1, 1968. The increased rates are proposed to become effective on July 1, 1968.

In setting forth its reasons for the filing, Michigan Wisconsin states that the proposed gas sales rates are designed to recover its increased overall cost of service, and cites specifically the increases in (1) the cost of purchased gas, (2) the costs for labor, supplies, and other operating expenses, (3) local, State, and Federal taxes (including a possible 10 percent Federal surtax subject to elimination and refund if such surtax does not materialize), and (4) the costs of capital (requiring a minimum rate of return of 7.5 percent).

A review of the filing indicates that certain issues are raised therein which require development in an evidentiary proceeding. These issues include, but are not necessarily restricted to, the adjustments to purchased gas costs, other operating expenses, sales volumes and revenues, depreciation reserves and rate base; the classification of certain costs; the possible surcharge upon and computation of the Federal Income Tax allowance; rate design; and the need for a 7.5 percent rate of return. The proposed increased rates and charges have not been shown to be justified and may be unjust, unreasonable, unduly discriminatory, or preferential, or otherwise unlawful.

We contemplate that among the issues mentioned above and others, some may be susceptible of hearing and decision within the 5-month suspension period. In order that the collection and refunding of any possible excess charges may be avoided, we will prescribe a procedure under which such issues may be tried in an initial phase of the hearing.

Following publication of the Commission's notice of Michigan Wisconsin's rate increase filing, 26 notices of, and petitions for, intervention were filed. Notices of intervention were filed by the Public Service Commission of Wisconsin, the Michigan Public Service Commission, and the Iowa State Commerce Commission. Petitions for intervention were filed by (1) American Gas Company of Wisconsin, Inc., (2) Wisconsin Natural Gas Co., (3) Wisconsin Michigan Power Co., (4) Wisconsin Fuel and Light Co., (5) Wisconsin Power and Light Co., (6) Paris-Henry County Public Utility District of Henry County, Tenn., (7) Iowa Southern Utilities Co., (8) Wisconsin Gas Co., (9) Michigan Gas and Electric Co., (10) Lincoln Natural Gas Co., Inc., (11) Iowa Electric Light and Power Co., (12) North Central Public Service Co., (13) Wisconsin Public Service Corp., (14) Madison Gas and Electric Co., (15) City Gas Co., Antigo, Wis., (16) Michigan Gas Utilities Co., (17) Illinois Power Co., (18) Chevron Chemical Co., (19) Sinclair Petrochemicals, Inc., (20) Northern Indiana Public Service Co., (21) Michigan Consolidated Gas Co., (22) Keokuk Gas Service Co., and (23) County of Wayne, Mich.

The Commission finds:

(1) It is necessary and proper in the public interest and to aid in the enforcement of the provisions of the Natural Gas Act that the Commission enter upon a hearing concerning the lawfulness of the rates and charges contained in Michigan Wisconsin's FPC Gas Tariff, as proposed to be amended herein, and that the proposed tariff sheets listed above be suspended, and the use thereof be deferred as herein provided.

(2) It is necessary and proper in the public interest and to aid in the enforcement of the provisions of the Natural Gas Act that the disposition of this proceeding be expedited in accordance with the procedures set forth below.

The Commission orders:

(A) Pursuant to the authority of the Natural Gas Act, particularly sections 4 and 15 thereof, the Commission's rules of practice and procedure, and the regulations under the Natural Gas Act (18 CFR Ch. I), a public hearing shall be held commencing July 30, 1968 at 10 a.m., e.d.t., in a hearing room of the Federal Power Commission, 441 G Street NW., Washington, D.C. 20426, concerning the lawfulness of the rates, charges, classifications, and services contained in Michigan Wisconsin's FPC Gas Tariff, as proposed to be amended herein.

(B) Pending such hearing and decision thereon, Michigan Wisconsin's proposed revised tariff sheets listed above are hereby suspended and the use thereof is deferred until December 1, 1968, and until such further time as they are made effective in the manner prescribed by the Natural Gas Act.

(C) At the hearing on July 30, 1968, Michigan Wisconsin's prepared testimony (Statement P) filed and served on June 17, 1968, together with its entire rate filing as submitted and served on May 31, 1968, shall be admitted to the record as Michigan Wisconsin's complete case-in-chief as provided in the Commission's regulations, § 154.63(e)(1), and Order No. 254, 28 FPC 495, 496, subject to appropriate motions, if any, by parties to the proceeding.

(D) Following admission of Michigan Wisconsin's complete case-in-chief, the parties shall present their views and the Presiding Examiner, in the exercise of his discretion, shall determine whether there shall be an initial phase and, if so, which issues shall be heard therein. If he determines that there shall be an initial phase hearing, he shall fix dates for service of Staff's and Interveners' evidence and Michigan Wisconsin's rebuttal evidence on such issues; fix dates for witnesses to appear for adoption of their testimony and to stand cross-examination thereon; and proceed with such hearing as expeditiously as feasible. The Presiding Examiner shall thereafter fix dates for service of testimony and cross-examination on all issues not being heard in the initial phase hearing.

(E) Presiding Examiner Arthur H. Fribourg, or any other designated by the Chief Examiner for that purpose (see Delegation of Authority, 18 CFR 3.5(d)), shall preside at the hearing in this proceeding; shall prescribe relevant procedural matters not herein provided; and shall control this proceeding in accordance with the policies expressed in § 2.59 of the Commission's rules of practice and procedure.

By the Commission.

[SEAL] KENNETH F. PLUMB, *Acting Secretary.*

[F.R. Doc. 68-8109; Filed, July 9, 1968; 8:45 a.m.]

[Docket No. G-17960 etc.; Opinion 499-A]

TURNBULL & ZOCH DRILLING CO. ET AL.

Opinion and Order Confirming Order Requiring Refunds, Denying Motions for Stay, and Severing Docket

JULY 1, 1968.

On July 25, 1966, the Commission issued Opinion No. 499 (36 F.P.C. 164) and its accompanying order in this proceeding, requiring refunds by natural gas producers in 32 dockets of part of the amounts collected by them in excess of the initial rates later determined to be proper.[1] These excess amounts were collected while operating under temporary certificates without express refund conditions. Because a balancing of the equities indicated that refunds in full should not be ordered, no refund was required of certain excess amounts collected but later disbursed in production tax payments which cannot be recouped or in royalty payments. Timely applications for rehearing were filed by Shell Oil Co., George H. Coates, Livingston Oil Co., V. F. Neuhaus, Austral Oil Co., Inc., Jonnell Gas, Inc., American Petrofina Co. of Texas, Appell Petroleum Corp. et al., Bright & Schiff, H. J. Mosser, Blanco Oil Co. (Operator) et al., and Killam & Hurd. The last four named also applied for stay of the ordering paragraphs of Opinion No. 499. Bright & Schiff also moved that the Commission establish a procedure whereby producers who are dissatisfied with Opinion and Order No. 499 and who now desire to abandon their service may do so.

On September 2, 1966, the Commission granted rehearing for the purpose of joint consideration of all applications. Upon this reconsideration we have considered upon the merits the application of Tenneco Oil Co. While this was filed too late to be a timely application for rehearing, we have treated it as a motion for reconsideration.

On June 17, 1968, Turnbull & Zoch Drilling Co. (Operator) et al. (one of the respondents in this proceeding) filed an offer of settlement covering not only Docket No. G-17960 in this proceeding but also Docket No. RI62-543, which is not involved here. In the settlement offer

[1] The initial rates applicable in this proceeding were fixed in Opinion No. 478, 34 FPC 1001, rehearing denied 34 FPC 1367, affirmed 378 F 2d. 510 (CA 5, 1967), cert. den. —— U. S. ——, May 20, 1968.

formal abandonment of service was also sought.

The Supreme Court of the United States has now upheld the Commission's requirement of refunds of amounts in excess of an in-line price collected under a temporary certificate containing no express refund condition. FPC v. Sunray DX Oil Company, —— U.S. ——, May 6, 1968. The general arguments presented by the applications for rehearing or reconsideration to the effect that the Commission may not or should not take such action need no further discussion in view of this decision.

Bright & Schiff. Bright & Schiff contends that it was not given a hearing or fair opportunity to be heard. It states that, while the Commission permitted the filing of briefs and statements of fact, Bright & Schiff was never advised and never understood that the Commission would make a final determination as to refunds on the basis of such briefs and statements.

No other producer has made this complaint. If Bright & Schiff did not understand at the time it presented its brief and statement of facts that the Commission might made a final determination based thereon, it was certainly aware of this at the time of its application for rehearing. It has included no new facts in this application that would alter that determination.

The motion of Bright & Schiff that the Commission establish a procedure whereby producers dissatisfied with Opinion and Order No. 499 may abandon service is denied. Existing procedure may be followed by any producer who wishes to abandon service. Mere dissatisfaction with a Commission decision is not ground for abandonment of service.

Livingston Oil Co. Livingston is a successor of Crescent Oil & Gas Corp., now liquidated and dissolved. Livingston protests that it should not be required to make refunds with respect to amounts collected by Crescent, but only with respect to amounts by Livingston itself after it succeeded to Crescent's interest. Livingston further points out that the Commission sent a letter to Crescent, at the time of the transfer of Crescent's interest to Livingston was approved, stating that Crescent would be responsible for any refunds during the period of its ownership. It also sent a letter to Livingston stating that, while Livingston might be responsible for refunds of amounts collected in excess of the in-line price during the period of deliveries under the temporary certificate without express refund condition, it would be responsible for such refunds only from the date it succeeded to Crescent's interest. We think Livingston should not be required to make refunds for the period prior to taking over from Crescent and this order will so provide.

Jonnell Gas, Inc. (Operator et al.). In Opinion No. 499 we stated that if Jonnell were financially unable to make the required refunds immediately, it should be allowed to make payments over a period of time. We see no benefit to the consumer or to the economy in forcing liquidation or bankruptcy on a small producer. On the other hand, we see no reason to cancel an obligation in order to allow dividends to be paid to stockholders or even to allow them to recover their original investment. One who invests in a small producer operation must accept the risk of loss if that operation is not successful. Accordingly, we adhere to the terms of our original order permitting Jonnell to arrange to make payments over a period of time. The Commission Staff will be available for consultation as to what these payments may be, although the matter will be determined ultimately by the Commission. We expect that a schedule of payments will be worked out that will permit Jonnell to continue in operation while gradually reducing its refund obligation.

Interest on retained refunds. Ordering Paragraph (G) accompanying Opinion No. 499 provided for interest at the rate of 5¾ percent on refunds retained by certificate holders. The Commission has customarily provided that interest on such amounts should be paid at the prime rate. In the nearly two years that has elapsed since Opinion No. 499 was issued on July 25, 1966, the prime rate has risen to 6½ percent. We believe that our prior order should be amended to reflect this change. The rate of interest to be paid should be the prime rate at or near the time the certificate holder makes his decision either to retain or not to retain the funds. Paragraph (G) of the order accompanying Opinion No. 499 will be amended accordingly.

Turnbull & Zoch. The settlement offer made by Turnbull & Zoch Drilling Co. (Operator) et al. is not yet ripe for consideration since the time for others to respond to the offer has not yet run. The offer includes matters not within the scope of this proceeding. It will be necessary to consider the offer as a whole, once there has been sufficient time for responses to it. Under these circumstances, in order not to delay further a decision with respect to the many other dockets in this proceeding, we will sever Docket No. G–17960 for later consideration as part of our consideration of the settlement offer. The other provisions of the accompanying order shall not apply to Docket No. G–17960.

The Commission finds:

The assignments and grounds for rehearing or reconsideration set forth in the applications for rehearing and reconsideration filed in this proceeding present no facts or legal principles which would warrant any change in or modification of Commission Opinion No. 499 except as specified below.

The Commission orders:

(A) Livingston Oil Co. shall not be required to make refunds of amounts received by its predecessor in interest, but only of amounts received by it.

(B) Except as provided in Ordering Paragraphs (A) and (E) hereof the applications for rehearing or reconsideration filed in this proceeding are in all respects denied.

(C) Paragraph (G) of the order accompanying Opinion No. 499 is hereby amended by substituting "6½ percent" for "5¾ percent" in the second sentence of said paragraph.

(D) The motion of Bright & Schiff that the Commission establish additional abandonment procedure is denied.

(E) Docket No. G–17960 is severed from this proceeding and none of the other provisions of this order shall apply to said docket.

By the Commission.

[SEAL] KENNETH F. PLUMB,
Acting Secretary.

[F.R. Doc. 68–8110; Filed, July 9, 1968; 8:45 a.m.]

[Docket No. E–7427]

WISCONSIN ELECTRIC POWER CO.

Notice of Application

JULY 2, 1968.

Take notice that on June 25, 1968, Wisconsin Electric Power Co. (Applicant) filed an application seeking an order pursuant to section 204 of the Federal Power Act authorizing the issuance of up to $40 million in short-term promissory notes.

Applicant is incorporated under the laws of the State of Wisconsin with its principal business office at Milwaukee, Wis., and is engaged in the electric utility business in southeastern Wisconsin.

The Notes are to be issued to both commercial banks and commercial paper dealers. The Notes issued to commercial banks will be issued in varying amounts, as needed, during 1968 and 1969. No note will mature at a date more than 12 months from the date of issue. The Notes issued to commercial paper dealers will be issued in varying amounts, as needed, during 1968 and 1969. No note will mature at a date more than 270 days from date of issue.

The proceeds from the notes will be used to provide current funds to finance in part expenditures to be made in 1968 and 1969 in connection with Applicant's construction program. This program has an estimated cost of $104.7 million in 1968 and $47.3 million in 1969. Principal items in this program include $22.5 million for construction work on the conventional steam Valley Power Plant in Milwaukee consisting of two 140,000 kw. generating units, $42.1 million for construction work on the 908 mw. Point Beach Nuclear Plant, $12 million for transmission line construction and $18.2 million for distribution lines.

Any person desiring to be heard or to make any protest with reference to said application should on or before July 25 1968, file with the Federal Power Commission, Washington, D.C. 20426, petitions or protests in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10). The application is on file and available for public inspection.

GORDON M. GRANT,
Secretary.

[F.R. Doc. 68–8111; Filed, July 9, 1968; 8:45 a.m.]

FEDERAL RESERVE SYSTEM

BANK SECURITIES, INC. (NSL)

Notice of Application for Approval of Acquisition of Shares of Banks

Notice is hereby given that application has been made to the Board of Governors of the Federal Reserve System pursuant to section 3(a)(1) of the Bank Holding Company Act of 1956 (12 U.S.C. 1842(a)(1)), by Bank Securities, Inc. (NSL), Alamogordo, N. Mex., for prior approval of the Board of action whereby Applicant would become a bank holding company through the acquisition of 91.47 percent of the voting shares of Security Bank and Trust, Alamogordo, N. Mex., and 74.59 percent of the voting shares of Citizens State Bank, Vaughn, N. Mex. Applicant presently owns 64.63 percent of the voting shares of The First State Bank, Cuba, N. Mex.

Section 3(c) of the Act, as amended, provides that the Board shall not approve (1) any acquisition or merger or consolidation under this section which would result in a monopoly, or which would be in furtherance of any combination or conspiracy to monopolize or to attempt to monopolize the business of banking in any part of the United States, or (2) any other proposed acquisition or merger or consolidation under this section whose effect in any section of the country may be substantially to lessen competition, or to tend to create a monopoly, or which in any other manner would be in restraint of trade, unless it finds that the anticompetitive effects of the proposed transaction are clearly outweighed in the public interest by the probable effect of the transaction in meeting the convenience and needs of the community to be served.

Section 3(c) further provides that, in every case, the Board shall take into consideration the financial and managerial resources and future prospects of the company or companies and the banks concerned, and the convenience and needs of the community to be served.

Not later than thirty (30) days after the publication of this notice in the FEDERAL REGISTER, comments and views regarding the proposed acquisition may be filed with the Board. Communications should be addressed to the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551. The application may be inspected at the office of the Board of Governors or the Federal Reserve Bank of Dallas.

Dated at Washington, D.C., this third day of July 1968.

By order of the Board of Governors.

[SEAL] ROBERT P. FORRESTAL,
Assistant Secretary.

[F.R. Doc. 68-8114; Filed, July 9, 1968; 8:45 a.m.]

FIRST WISCONSIN BANKSHARES CORP.

Order Approving Application

In the matter of the application of First Wisconsin Bankshares Corp., Milwaukee, Wis., for approval of acquisition of 80 percent or more of the voting shares of First Northwestern National Bank of Milwaukee, Milwaukee, Wis., a proposed new bank.

There has come before the Board of Governors, pursuant to section 3(a)(3) of the Bank Holding Company Act of 1956 (12 U.S.C. 1842(a)(3)) and § 222.3(a) of Federal Reserve Regulation Y (12 CFR 222.3(a)), an application by First Wisconsin Bankshares Corp., Milwaukee, Wis., for the Board's prior approval of the acquisition of 80 percent or more of the voting shares of First Northwestern National Bank of Milwaukee, Milwaukee, Wis., a proposed new bank.

As required by section 3(b) of the Act, the Board notified the Comptroller of the Currency of receipt of the application and requested his views and recommendation. The Comptroller recommended approval of the application.

Notice of receipt of the application was published in the FEDERAL REGISTER on July 29, 1967 (32 F.R. 11098), which provided an opportunity for interested persons to submit comments and views with respect to the proposed acquisition. A copy of the application was forwarded to the U.S. Department of Justice for its consideration.

Opposition to the proposal was filed on behalf of The Brown Deer Bank, Silver Spring Bank, and Hampton State Bank ("Protestants"), all located in Milwaukee, Wis. Acting in its discretion, the Board ordered that an oral presentation of views be conducted before the Board, in order that the Protestants would have an opportunity to fully state and support their opposing views, and that Applicant would have the opportunity to respond. Notice of the oral presentation was published in the FEDERAL REGISTER (32 F.R. 18126), and, in accordance therewith, an oral presentation was held at the Board's offices on January 12, 1968. All participants were afforded full opportunity to support their positions by oral statement and documentary evidence, and were permitted an opportunity, following the oral presentation, for the filing of briefs.

Having considered all matters properly before the Board in this proceeding,

It is hereby ordered, For the reasons set forth in the Board's statement [1] of this date, that said application be and hereby is approved, provided that the action so approved shall not be consummated (a) before the 30th calendar day following the date of this order or (b) later than 3 months after the date of this order unless such period is extended for good cause by the Board or by the Federal Reserve Bank of Chicago pursuant to delegated authority, and that First Northwestern National Bank of Milwaukee shall be open for business not later than 6 months after the date of this order.

Dated at Washington, D.C., this second day of July 1968.

By order of the Board of Governors.[2]

[SEAL] ROBERT P. FORRESTAL,
Assistant Secretary.

[F.R. Doc. 68-8115; Filed, July 9, 1968; 8:45 a.m.]

[1] Filed as part of the original document. Copies available upon request to the Board of Governors of the Federal Reserve System, Washington, D.C. 20551, or to the Federal Reserve Bank of Chicago. Dissenting Statement of Governor Robertson also filed as part of the original document and available upon request.

INTERNATIONAL JOINT COMMISSION—UNITED STATES AND CANADA

ST. CROIX PAPER CO.

Application for Approval To Construct Dam at Forest City, Maine-New Brunswick

Notice is hereby given that there has been transmitted to and filed with the International Joint Commission, an application by the St. Croix Paper Co. (a subsidiary of Georgia-Pacific Corp.) for approval of plans to reconstruct an existing timber dam in the St. Croix River at Forest City, Maine-Forest City, New Brunswick. The applicant states that there will be no change in the maximum or minimum water levels of East Grand Lake of the past, i.e., 434.94 feet and 427.94 feet M.S.L. datum 1929 as referenced to RM 56 prior to December 1966.

Governments and any interested person may present a statement in response to the Commission prior to August 12, 1968; such statement to set forth facts and arguments bearing on the subject matter of the application and tending to oppose or support the application in whole or in part. If it is desired that conditional approval be granted, the statement in response should set forth the particular condition or conditions desired.

Copies of the application and drawings are available on request to the Secretaries of the Commission. The Commission will conduct a public hearing on this matter in St. Stephen, New

[2] Voting for this action: Chairman Martin and Governors Mitchell, Maisel, and Sherrill. Voting against this action: Governor Robertson. Absent and not voting: Governors Daane and Brimmer.

Brunswick, on September 17 for which further notice will be given.

W. A. BULLARD,
Secretary, U.S. Section, International Joint Commission, Washington, D.C.

D. G. CHANCE,
Secretary, Canadian Section, International Joint Commission, Room 850, 151 Slater Street, Ottawa 4, Ontario, Canada.

JULY 5, 1968.

[F.R. Doc. 68-8202; Filed, July 9, 1968; 8:51 a.m.]

SECURITIES AND EXCHANGE COMMISSION

GOLDEN AGE MINES, LTD.

Order Suspending Trading

JULY 3, 1968.

It appearing to the Securities and Exchange Commission that the summary suspension of trading in the common stock of Golden Age Mines, Ltd., 250 University Avenue, Toronto, Canada, being traded otherwise than on a national securities exchange is required in the public interest and for the protection of investors;

It is ordered, Pursuant to section 15(c)(5) of the Securities Exchange Act of 1934, that trading in such securities otherwise than on a national securities exchange be summarily suspended, this order to be effective for the period July 5, 1968, through July 14, 1968, both dates inclusive.

By the Commission.

[SEAL] ORVAL L. DUBOIS,
Secretary.

[F.R. Doc. 68-8127; Filed, July 9, 1968; 8:46 a.m.]

[812-2311]

MASSACHUSETTS INVESTORS TRUST

Notice of Filing an Application

JULY 3, 1968.

Notice is hereby given that Massachusetts Investors Trust ("Applicant"), 200 Berkeley Street, Boston, Massachusetts 02216, a common law trust existing under the laws of Massachusetts and registered under the Investment Company Act of 1940, 15 U.S.C. section 80a-1 et seq. ("Act"), as an open-end diversified management investment company, has filed an application pursuant to section 6(c) of the Act for an order of the Commission exempting from the provisions of section 22(d) of the Act a transaction in which Applicant's redeemable securities will be issued at a price other than the current public offering price in exchange for substantially all the assets of Cobasco Corp. ("Cobasco"). All interested persons are referred to the application on file with the Commission for a statement of Applicant's representations which are summarized below.

Cobasco, an Ohio corporation, is a personal holding company all of whose common stock is owned of record and beneficially by less than 100 persons and is exempt from registration under the Act by reason of the provisions of section 3(c)(1) thereof.

Pursuant to an agreement between Applicant and Cobasco, assets owned by Cobasco with a value of $1,678,243 on June 10, 1968, will be transferred to Applicant in exchange for shares of Applicant's stock. The number of Applicant's shares to be issued to Cobasco is to be determined by dividing the aggregate market value of the assets of Cobasco (subject to certain adjustments set forth in the application) to be transferred to Applicant by Applicant's net asset value per share (as defined in the agreement, similarly adjusted), both to be determined as of the last business day preceding the closing of the transfer of assets, as provided in the agreement. If the sale of assets transaction described in the agreement had taken place on June 10, 1968, when the net asset value per share of Applicant's stock was $17.52, Cobasco would have received 95,790 shares of Applicant's stock. When received by Cobasco, the shares of Applicant are to be distributed to the Cobasco shareholders on the liquidation of Cobasco. Applicant presently intends to sell a portion of the assets received from Cobasco.

Applicant represents that there is no connection between Applicant and Cobasco and that no officer or shareholder of Cobasco is affiliated with Applicant. Applicant represents that its management considers the proposed acquisition of substantially all of the assets of Cobasco in exchange solely for Applicant's shares to be at a fair price, arrived at by arms-length bargaining.

Section 22(d) of the Act provides that registered open-end investment companies may sell their shares only at the current public offering price as described in the prospectus. Section 6(c) permits the Commission, upon application, to exempt a transaction from the provisions of section 22(d) if it finds that such an exemption is necessary or appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act.

Applicant submits that the granting of the application is appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act and that the proposed acquisition will be beneficial to the shareholders of Applicant for the reasons that:

(1) Those expenses of Applicant which do not rise proportionately with an increase in portfolio size will be spread over a larger number of shares and therefore will amount to a smaller amount per share to the benefit of existing shareholders;

(2) The proposed acquisition will enable Applicant to acquire for its own portfolio at one time substantial additions to its existing portfolio securities without affecting the market in said securities; and

(3) The transfer of securities pursuant to the proposed acquisition will cause Applicant less expense than the purchase of such securities in the open market for the reason that said transfer will not be subject to brokers' commissions.

Notice is further given that any interested person may, not later than July 19, 1968, at 5:30 p.m., submit to the Commission in writing a request for a hearing on the matter accompanied by a statement as to the nature of his interest, the reason for such request and the issues, if any, of fact or law proposed to be controverted, or he may request that he be notified if the Commission shall order a hearing thereon. Any such communication should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request shall be served personally or by mail (airmail if the person being served is located more than 500 miles from the point of mailing) upon Applicant at the address stated above. Proof of such service by affidavit (or in case of an attorney at law by certificate) shall be filed contemporaneously with the request. At any time after said date, as provided by Rule 0-5 of the rules and regulations promulgated under the Act, an order disposing of the application herein may be issued by the Commission upon the basis of the information stated in said application, unless an order for hearing upon said application shall be issued upon request or upon the Commission's own motion. Persons who request a hearing, or advice as to whether a hearing is ordered, will receive notice of further developments in the matter including the date of the hearing (if ordered) and any postponements thereof.

For the Commission (pursuant to delegated authority).

[SEAL] ORVAL L. DUBOIS,
Secretary.

[F.R. Doc. 68-8128; Filed, July 9, 1968; 8:46 a.m.]

[54-244]

PEOPLES GAS CO. AND PEOPLES GAS LIGHT AND COKE CO.

Order Directing Elimination of Publicly Held Common Stock Interest and Approving Plan

JUNE 28, 1968.

The Commission having instituted a proceeding under section 11(b)(2) of the Public Utility Holding Company Act of 1935 ("Act") with respect to Peoples Gas Co. ("Peoples Illinois"), Chicago, Ill., a registered holding company, and its subsidiary company, The Peoples Gas Light and Coke Co. ("Peoples Gas"), and Peoples Illinois having filed, pursuant to section 11(e) of the Act, a plan and

amendments thereto ("plan") for the elimination of the publicly held interest in the common stock of Peoples Gas; and the Commission having consolidated the proceeding under section 11(b)(2) with the proceeding under section 11(e);

A public hearing having been held, after appropriate notice, with respect to the consolidated proceeding, at which hearing all interested persons were afforded an apportunity to be heard;

Peoples Illinois having, pursuant to section 11(e) of the Act, requested that the Commission apply to an appropriate U.S. District Court to enforce and carry out the terms and provisions of the plan;

Peoples Illinois having further requested that, if the Commission approves the plan, the Commission's order contain the findings and recitals necessary to meet the requirements of section 1081(f) of the Internal Revenue Code of 1954;

The Commission having considered the record and having this day issued its findings and opinion, on the basis of such findings and opinion:

It is ordered, Pursuant to section 11(b)(2) of the Act, that Peoples Illinois and Peoples Gas be, and each hereby is, directed to take appropriate action to effect the elimination of the publicly held shares of common stock of Peoples Gas.

It is further ordered, Pursuant to section 11(e) of the Act, that the plan filed by Peoples Illinois be, and it hereby is, approved, subject to the following terms and conditions:

(1) This order shall not be operative to authorize any transaction proposed in the plan until an appropriate U.S. District Court shall, upon application thereto enter an order approving and enforcing the plan;

(2) Jurisdiction is specifically reserved to determine the reasonableness of all fees and expenses and all other remuneration incurred or to be incurred by Peoples Illinois in connection with the plan, the transactions incident thereto, and all proceedings on or related thereto; and

(3) Jurisdiction is specifically reserved with respect to the entering of such further orders and the taking of such further action as the Commission may deem necessary or appropriate to effectuate the requirements of section 11(b) of the Act.

It is further ordered and recited, In accordance with section 1081(f) of the Internal Revenue Code of 1954, as amended, that the plan and the transactions set forth therein and all action required for carrying out the plan are necessary or appropriate to effectuate the provisions of section 11(b) of the Public Utility Holding Company Act of 1935.

By the Commission.

[SEAL] ORVAL L. DUBOIS,
Secretary.

[F.R. Doc. 68-8129; Filed, July 9, 1968; 8:46 a.m.]

DEPARTMENT OF LABOR

Wage and Hour Division

CERTIFICATES AUTHORIZING EMPLOYMENT OF FULL-TIME STUDENTS WORKING OUTSIDE OF SCHOOL HOURS AT SPECIAL MINIMUM WAGES IN RETAIL OR SERVICE ESTABLISHMENTS OR IN AGRICULTURE

Notice is hereby given that pursuant to section 14 of the Fair Labor Standards Act of 1938 (52 Stat. 1060, as amended, 20 U.S.C. 201 et seq.), the regulation on employment of full-time students (29 CFR Part 519), and Administrative Order No. 595 (31 F.R. 12981), the establishments listed in this notice have been issued special certificates authorizing the employment of full-time students working outside of school hours at hourly wage rates lower than the minimum wage rates otherwise applicable under section 6 of the act. The effective and expiration dates are as indicated below. The minimum certificate rates are not less than 85 percent of the applicable statutory minimum.

The following certificates provide for an allowance not to exceed the proportion of the total hours worked by full-time students at rates below $1 an hour to the total number of hours worked by all employees in the establishment during the base period in occupations of the same general classes in which the establishment employed full-time students at wages below $1 an hour in the base period.

Anton Alkek Grocery & Market, foodstore; 714 South Bridge Street, Victoria, Tex.; 4-26-68 to 4-25-69.

B & S Grocery, foodstore; 319 West 12th Street, Tifton, Ga.; 3-24-68 to 3-23-69.

Ben Franklin, variety store; No. 7455, Joplin, Mo.; 4-23-68 to 4-22-69.

Big Bear Supermarket, foodstores from 3-18-68 to 3-17-69; No. 9, Asheboro, N.C.; No. 15, Burlington, N.C.; Nos. 12 and 16, Greensboro, N.C.; Nos. 3, 4, 5, and 6, High Point, N.C.; No. 8, Thomasville, N.C.; No. 10, Winston-Salem, N.C.

Bill's Clothes, Inc., apparel store; 15119 St. Clair Avenue, Cleveland, Ohio; 4-25-68 to 4-24-69.

Billups Plantation, Inc., agriculture; Indianola, Miss.; 4-25-68 to 4-24-69.

Bladenboro Cash Store, Inc., foodstore; Main Street, Bladenboro, N.C.; 3-27-68 to 3-26-69.

Brett's Department Store, department store; 325-29 South Front Street, Mankato, Minn.; 2-20-68 to 2-19-69.

Buchanan Nursing Home of Okeene, Inc., nursing home; Okeene, Okla.; 4-22-68 to 4-21-69.

Buckmaster's Market, Inc., foodstore; 343 West Grand Avenue, Decatur, Ill.; 4-1-68 to 3-31-69.

Buehler Market, foodstores from 4-27-68 to 4-26-69: 90 Broad Street SW., Atlanta, Ga.; 104 Georgia Avenue SE., Atlanta, Ga.; 429 Market Street, Chattanooga, Tenn.

Buehler Markets, Inc., foodstore; 408 East Main Street, Streator, Ill.; 3-26-68 to 3-25-69.

Burnette's Self Service, foodstore; Forsyth Street, Barnesville, Ga.; 3-24-68 to 3-23-69.

Byrd's Supermarkets, Inc., foodstore; Mount Olive, Miss.; 4-28-68 to 4-27-69.

Carlisle-Allen Co., department stores from 4-17-68 to 4-16-69: 4509 Main Avenue, Ashtabula, Ohio; 87 West Main Street, Geneva, Ohio; 60 South Park Place, Painesville, Ohio.

Carson Pirie Scott & Co., department store; Kewanee, Ill.; 4-28-68 to 4-27-69.

John Casemier's Food Market, foodstore; 120 West Savidge Street, Spring Lake, Mich.; 4-3-68 to 4-2-69.

Castree Bros. Food Stores, Inc., foodstore; 3402 11th Street, Rockford, Ill.; 4-1-68 to 3-31-69.

Charming Shoppes, Inc., apparel store; 8 East Main Street, Norristown, Pa.; 4-1-68 to 3-31-69.

Chase Gardens, agriculture; Eugene, Oreg.; 3-14-68 to 3-13-69.

H. S. Cohen Co, Inc., apparel store; Shelby, N.C.; 3-23-68 to 3-22-69.

Cold's Super Markets, Inc., foodstore; Traer, Iowa; 3-17-68 to 3-16-69.

Community Hospital, hospital; Newman Grove, Nebr.; 4-24-68 to 4-23-69.

Erdman Supermarkets, Inc., foodstore; Chatfield, Minn.; 2-21-68 to 2-20-69.

F & C Enterprises, Inc., restaurants from 4-1-68 to 3-31-69: 130 North Main Street, Elkhart, Ind.; 2620 Lincolnway West, Mishawaka, Ind.; 402 North Michigan Street, South Bend, Ind.

Fauerbach Fine Foods, Inc., foodstore; 1864 Monroe Street, Madison, Wis.; 4-17-68 to 4-16-69.

Field-Schlick, Inc., department store; 14 West Fifth Street, St. Paul, Minn.; 4-10-68 to 4-9-69.

J. H. Galley Florists, Inc., agriculture; 2244 Union Road, West Seneca, N.Y.; 4-17-68 to 4-16-69.

Georgiatown Farms, agriculture; Alheimer, Ark.; 4-3-68 to 4-2-69.

Gifford Memorial Hospital, Inc., hospital; 44 South Main Street, Randolph, Vt.; 4-22-68 to 4-21-69.

Wm. Y. Gilmore & Sons, Inc., department store; 137 North Oak Park Avenue, Oak Park, Ill.; 2-14-68 to 2-13-69.

Gold Crown Inn, Inc., restaurant; 203 Oak Street, Red Oak, Iowa; 4-1-68 to 3-31-69.

Goldblatt Bros. Inc., department store; 443-57 East 34th Street, Chicago, Ill.; 4-3-68 to 4-2-69.

Gouldchaux's, department store; 1500 Main Street, Baton Rouge, La.; 4-3-68 to 4-2-69.

W. T. Grant Co., variety stores from 4-26-68 to 4-25-69 except as otherwise indicated: No. 769, Augusta, Ga. (4-5-68 to 4-4-69); No. 836, Midland, Mich.; No. 373, Cleveland, Ohio.

H & J Food Basket, foodstores from 3-8-68 to 3-7-69: No. 11, Artesia, N. Mex.; No. 14, Las Cruces, N. Mex.; No. 13, Tularosa, N. Mex.

Hekkema Brothers, agriculture; 1131 Cadillac Drive, North Muskegon, Mich.; 4-17-68 to 4-16-69.

Hellmans Inc., variety store; 2202 Central Avenue, Kearney, Nebr.; 4-1-68 to 3-31-69.

Hillcrest Home, nursing home; 915 West First Street, Summer, Iowa; 2-22-68 to 2-21-69.

Hunt's Markets, Inc., foodstore; Red Oak, Iowa; 4-1-68 to 3-31-69.

Johnson's Super Market, foodstore; East Washington Street, Bedford, Va.; 4-18-68 to 4-17-69.

Kalispell General Hospital, hospital; Kalispell, Mont.; 3-25-68 to 3-24-69.

Kaufman's, apparel store; 1040 Main Street, Wheeling, W. Va.; 4-1-68 to 3-31-69.

Kramer's Department Store, department store; 121 West Main Street, Wallace, N.C.; 3-23-68 to 3-22-69.

Kreher's Poultry Farm, agriculture; 11066 Main Street, Clarence, N.Y.; 4-24-68 to 4-23-69.

Geo. F. Kremer Co., Inc., variety store; 323 First Avenue West, Grand Rapids, Minn.; 4-3-68 to 4-2-69.

S. S. Kresge Co., variety stores; No. 713, Atlanta, Ga. (4-28-68 to 4-27-69); No. 117, Terre Haute, Ind. (2-6-68 to 2-5-69).

S. H. Kress and Co., variety stores from 4-26-68 to 4-25-69 except as otherwise indicated: 1106 Noble Street, Anniston, Ala.) 4-24-68 to 4-23-69); 101 West Main Street, Dothan, Ala. (4-24-68 to 4-23-69); 30 North Wilson Avenue, Prichard, Ala. (4-24-68 to 4-23-69); 121 Broad Street, Selma, Ala. (4-24-68 to 4-23-69); 2223 Broad Street, Tuscaloosa, Ala. (4-24-68 to 4-23-69); 901 G Avenue, Douglas, Ariz. (4-27-68 to 4-26-69); 119 Morley Avenue, Nogales, Ariz. (4-27-68 to 4-26-69); 22 West Washington Street, Phoenix, Ariz. (4-27-68 to 4-26-69); 326 Main Street, Pine Bluff, Ark. (4-24-68 to 4-23-69); 500 Duval Street, Key West, Fla. (4-28-68 to 4-27-69); 475 Central Avenue, St. Petersburg, Fla.; 400 Clematis Street, West Palm Beach, Fla.; 121 Washington Street, Albany, Ga.; 118 Jackson Street, Americus, Ga.; 153 East Clayton Street, Athens, Ga.; 50 Broad Street, SW., Atlanta, Ga.; 1505 Newcastle Street, Brunswick, Ga.; 1117 Broad Street, Columbus, Ga.; 137 Main Street, La Grange, Ga.; 620 Cherry Street, Macon, Ga.; 120 Broughton Street West, Savannah, Ga.; 105 North Patterson Street, Valdosta, Ga.; 308 Mary Street, Waycross, Ga.; 1102 Third Street, Alexandria, La. (4-24-68 to 4-23-69); 439 Third Street, Baton Rouge, La. (4-24-68 to 4-23-69); 316 Texas Street, Shreveport, La. (4-24-68 to 4-23-69); 500 Main Street, Hattiesburg, Miss. (4-24-68 to 4-23-69); 402 Central Avenue, Laurel, Miss. (4-24-68 to 4-23-69); 19 Patton Avenue, Asheville, N.C.; 101 West Main Street, Durham, N.C.; 208 South Elm Street, Greensboro, N.C.; 141 South Main Street, High Point, N.C.; 307 Middle Street, New Bern, N.C.; 162 South Main Street, Rocky Mount, N.C.; 11 North Front Street, Wilmington, N.C.; 3 West Fourth Street, Winston-Salem, N.C.; 300 South Main Street, Anderson, S.C.; 281 King Street, Charleston, S.C.; 1508 Main Street, Columbia, S.C.; 117 West Evans Street, Florence, S.C.; 27 South Main Street, Greenville, S.C.; 311 Main Street, Greenwood, S.C.; 301 Russell Street NE., Orangeburg, S.C.; 115 East Main Street, Spartanburg, S.C.; 49 South Main Street, Sumter, S.C.; 628 State Street, Bristol, Tenn. (4-1-68 to 3-31-69); 822 Market Street, Chattanooga, Tenn. (4-1-68 to 3-31-69).

Kroger Co., foodstores from 4-1-68 to 3-31-69: No. 21, Baytown, Tex.; No. 36, Beaumont, Tex.; Nos. 5, 15, 22, and 27, Houston, Tex.; No. 24, Rosenberg, Tex.

Kuhn's Variety Store, variety stores from 4-19-68 to 4-18-69: 118 Fifth Street, Murray, Ky.; Main and Third Street, Russellville, Ky.; 124 Franklin Street, Clarksville, Tenn.; 129 Main Street, Dickson, Tenn.; 109 South Elk Street, Fayetteville, Tenn.; Natchez Trace Drive, Lexington, Tenn.; 4816 Charlotte Road, Nashville, Tenn.; Public Square, Pulaski, Tenn.; East Linden Street, Tullahoma, Tenn.

L & J Corp., restaurant; 2001 South Michigan Street, South Bend, Ind.; 4-1-68 to 3-31-69.

Inader Store, department store; 41 West Broad Street, Hazleton, Pa.; 4-14-68 to 4-13-69.

Liberty Super Market, foodstore; No. 99, Grenada, Miss.; 4-28-68 to 4-27-69.

Linsenby Hospital, Ltd., hospital; Panama City, Fla.; 3-11-68 to 3-10-69.

Louis Market, foodstore; 5718 Military Avenue, Omaha, Nebr.; 3-25-68 to 3-24-69.

Maison Blanche Co., department stores from 4-17-68 to 4-16-69: 1 Westside Shopping Center, Gretna, La.; 1901 Airline Highway, Metairie, La.; 901 Canal Street, New Orleans, La.; 4125 South Carrollton Avenue, New Orleans, La.; 3071 Gentilly Boulevard, New Orleans, La.; 939 Iberville Street, New Orleans, La.

May Sons, Inc., apparel stores from 4-22-68 to 4-21-69: 871 East 63d Street, Chicago, Ill.; 3160 North Lincoln Avenue, Chicago, Ill.; 4113 West Madison Street, Chicago, Ill.

McMaken's Market, Inc., foodstore; Route 311 and Arlington Road, Brookville, Ohio.; 4-9-68 to 4-8-69.

Clifton L. Meador, agriculture; 400 Court Street, Dumas, Ark.; 4-27-68 to 4-26-69.

G. C. Murphy Co., variety stores from 4-1-68 to 3-31-69 except as otherwise indicated: No. 261, Huntsville, Ala. (4-25-68 to 4-24-69); No. 263, Tuscaloosa, Ala. (4-25-68 to 4-24-69); No. 255, Daytona Beach, Fla. (4-26-68 to 4-25-69); No. 276, Hialeah, Fla. (4-26-68 to 4-25-69); No. 279, Holly Hill, Fla. (4-26-68 to 4-25-69); No. 262, Jacksonville, Fla. (4-26-68 to 4-25-69); No. 264, Miami, Fla. (4-26-68 to 4-25-69); No. 253, Pensacola, Fla. (4-26-68 to 4-25-69); No. 272, St. Petersburg, Fla. (4-26-68 to 4-25-69); No. 274, West Palm Beach, Fla. (4-26-68 to 4-25-69); No. 243, Moultrie, Ga. (4-26-68 to 4-25-69); No. 251, Berwyn, Ill. (4-25-68 to 4-24-69); No. 439, Effingham, Ill. (4-25-68 to 4-24-69); No. 457, Flora, Ill. (4-26-68 to 4-25-69); No. 112, Pontiac, Ill. (4-25-68 to 4-24-69); No. 113, Streator, Ill. (4-27-68 to 4-26-69); No. 449, Vandalia, Ill. (4-25-68 to 4-24-69); No. 461, Aurora, Ind. (4-28-68 to 4-27-69); No. 401, Bluffton, Ind. (4-28-68 to 4-27-69); No. 101, Brazil, Ind. (4-28-68 to 4-27-69); No. 99, Clinton, Ind. (4-28-68 to 4-27-69); No. 81, Columbus, Ind. (4-28-68 to 4-27-69); No. 423, Crawfordsville, Ind. (4-27-68 to 4-26-69); No. 407, Decatur, Ind. (4-28-68 to 4-27-69); No. 404, Elwood, Ind. (4-28-68 to 4-27-69); No. 103, Fort Wayne, Ind. (4-27-68 to 4-26-69); No. 412, Franklin, Ind. (4-27-68 to 4-26-69); No. 223, Greensburg, Ind. (4-26-68 to 4-25-69); No. 408, Hartford City, Ind. (4-28-68 to 4-27-69); No. 425, Huntingburg, Ind. (4-28-68 to 4-27-69); No. 123, Indianapolis, Ind. (4-27-68 to 4-26-69); No. 235, Indianapolis, Ind. (4-28-68 to 4-27-69); No. 244, Indianapolis, Ind. (4-27-68 to 4-26-69); No. 260, Indianapolis, Ind. (4-28-68 to 4-27-69); No. 445, Kendallville, Ind. (4-27-68 to 4-26-69); No. 203, Linton, Ind. (4-28-68 to 4-27-69); No. 405, Portland, Ind. (4-28-68 to 4-27-69); No. 420, Princeton, Ind. (4-28-68 to 4-27-69); No. 100, Rockville, Ind. (4-28-68 to 4-27-69); No. 72, Seymour, Ind. (4-28-68 to 4-27-69); No. 105, Shelbyville, Ind. (4-28-68 to 4-27-69); No. 114, Washington, Ind. (4-28-68 to 4-27-69); No. 204, Paintsville, Ky.; No. 176, Pikeville, Ky.; No. 220, Hancock, Md. (4-17-68 to 4-16-69); No. 270, St. Paul, Minn. (4-25-68 to 4-24-69); No. 249, Hickory, N.C. (4-26-68 to 4-25-69); No. 53, Johnsonburg, Pa. (4-14-68 to 4-13-69); No. 210, Oakmont, Pa. (4-14-68 to 4-13-69); Nos. 198 and 241 Alexandria, Va.; No. 214, Arlington, Va.; No. 24, Newport News, Va.; Nos. 142, 208 and 245, Richmond, Va.; No. 132, Beckley, W. Va.; No. 50, Buckhannon, W. Va.; No. 171, Clarksburg, W. Va.; No. 15, Elkins, W. Va.; No. 22, Keyser, W. Va.; No. 42, Montgomery, W. Va.; No. 197, Morgantown, W. Va.; No. 18, Moundsville, W. Va.; No. 182, Mullens, W. Va.; No. 168, North Fork, W. Va.; No. 213, Oak Hill, W. Va.; No. 212, Parkersburg, W. Va.; No. 49, Piedmont, W. Va.; No. 62, Point Pleasant, W. Va.; No. 154, Princeton, W. Va.; No. 189, Shinnston, W. Va.; No. 207, South Charleston, W. Va.; No. 195, Spencer, W. Va.; Nos. 162 and 254, Weirton, W. Va.; No. 21, Weston, W. Va.; No. 33, Wheeling, W. Va.; No. 131, Williamson, W. Va.; No. 275, Milwaukee, Wis. (4-28-68 to 4-27-69).

Mutzabaugh's Meat Market, foodstore; Main Street and Bloomfield Road, Duncannon, Pa.; 4-26-68 to 4-25-69.

Mrs. Gertrude Nauman, agriculture; 411 Bergner Building, Harrisburg, Pa.; 4-28-68 to 4-27-69.

Neisner Brothers, Inc., variety stores: No. 35, Chicago, Ill. (4-18-68 to 4-17-69); No. 76, Chicago, Ill. (4-25-68 to 4-24-69).

Ocilla Grocery Co., foodstore; East Fourth Street, Ocilla, Ga.; 4-3-68 to 4-2-69.

The Pancake House, Inc., restaurant; 7770 Reading Road, Cincinnati, Ohio; 4-12-68 to 4-11-69.

Park-N-Save, foodstore; Route 725 West, Germantown, Ohio; 4-11-68 to 4-10-69.

B. Peck Co., department store; 184 Main Street, Lewiston, Maine; 4-10-68 to 4-9-69.

John B. Peters, agriculture; Gardners, Pa.; 4-18-68 to 4-17-69.

Piggy Wiggly, Inc., foodstores: Centre, Ala. (4-17-68 to 4-16-69); 501 West Main Street, Hartselle, Ala. (4-3-68 to 4-2-69); 200-204 Southwest Front Street, Walnut Ridge, Ark. (4-1-68 to 3-31-69); Ringgold Avenue, Coushatta, La. (3-27-68 to 3-26-69).

Pittston Hospital, hospital; Pittston, Pa.; 4-4-68 to 4-3-69.

Pleezing Food Store of West Florida, Inc., foodstore; Pensacola, Fla.; 4-27-68 to 4-26-69.

Quality Market, foodstore; Delta, Utah; 3-25-68 to 3-24-69.

Roanoke Memorial Hospital, hospital; Belleview and Lake Avenues, Roanoke, Va.; 4-18-68 to 4-17-69.

The J. C. Robinson Seed Co., agriculture; Waterloo, Nebr.; 4-28-68 to 4-27-69.

Robinsons Co., department store; Osceola, Iowa; 4-3-68 to 4-2-69.

Rockford Dry Goods-Park Store, apparel; 6321 North Second Street, Loves Park, Ill.; 3-15-68 to 3-14-69.

Rockford Standard Furniture Co., furniture store; 1100 11th Street, Rockford, Ill.; 4-1-68 to 3-31-69.

St. Anthony's Hospital, hospital; Eighth and Friedman, Las Vegas, N. Mex.; 4-4-68 to 4-3-69.

St. Joseph Community Hospital, hospital; 308 North Maple Avenue, New Hampton, Iowa; 4-4-68 to 4-3-69.

St. Joseph Hospital, hospital; 312 East Alta Vista, Ottumwa, Iowa; 3-21-68 to 3-20-69.

St. Joseph's Hospital, hospital; 200-210 Michigan Street, Hancock, Mich.; 3-25-68 to 3-24-69.

St. Luke's Home & Center, nursing home; Kearney, Nebr.; 4-24-68 to 4-23-69.

San Rosario Hospital, hospital; 110 Canfield Street, Cambridge Springs, Pa.; 4-1-68 to 3-31-69.

O. P. Skaggs-Skagway, foodstore; 620 West State Street, Grand Island, Nebr.; 4-22-68 to 4-21-69.

Spies Supermarket Inc., foodstores from 4-11-68 to 4-10-69: 521 Sixth Avenue, Brooking, S. Dak.; Watertown, S. Dak.

Stafford's Shopping Center, Inc., foodstore; 1509 Chatsworth Road, Dalton, Ga.; 4-22-68 to 4-21-69.

Star Stores, Inc., apparel; 15th Street and Greenup Avenue, Ashland, Ky.; 4-1-68 to 3-31-69.

Steer House, Inc., restaurant; 1119 Lisbon Street, Lewiston, Maine; 4-1-68 to 3-31-69.

Sudbury's Forest Hills Foodtown, foodstore; 3960 Highland Drive, Salt Lake City, Utah; 3-25-68 to 3-24-69.

Suttons Food Mart, foodstore; 1313 West 21st Street, Topeka, Kans.; 4-2-68 to 4-1-69.

T.G. & Y. Stores Co., variety stores from 3-13-68 to 3-12-69 except as otherwise indicated: No. 183, Phoenix, Ariz. (4-29-68 to 4-28-69); No. 190, Scottsdale, Ariz. (4-17-68 to 4-16-69); No. 2, Norman, Okla. (4-13-68 to 4-12-69); No. 79, Sand Springs, Okla.; No. 1, Tulsa, Okla.; No. 41, Tulsa, Okla. (4-17-68 to 4-16-69); No. 67, Tulsa, Okla. (4-29-68 to 4-28-69); Nos. 68 and 71, Tulsa, Okla.; No. 164, Memphis, Tenn. (3-26-68 to 3-25-69); No. 251, Dallas, Tex. (4-10-68 to 4-9-69); No. 227, Port Arthur, Tex. (4-1-68 to 3-31-69); 107 West Lubbock, Slaton, Tex. (4-10-68 to 4-9-69).

Tradewell Supermarket, foodstore; 1215 16th Street, Huntington, W. Va.; 4–3–68 to 4–2–69.

Valley View Home, nursing home; Third and Sycamore, Valley Falls, Kans.; 4–1–68 to 3–31–69.

Wangsgard's, Inc., foodstore; 120 Washington Boulevard, Ogden, Utah; 3–9–68 to 3–8–69.

J. Watercott & Co., department store; 500 Edward Street, Henry, Ill.; 3–28–68 to 3–27–69.

Webber & Judd Co., drugstore; 123 First Avenue SW., Rochester, Minn.; 4–18–68 to 4–17–69.

White Bros. Enterprise, Inc., foodstore; Middlefield, Ohio; 4–15–68 to 4–14–69.

Wood's 5 & 10 Cent Stores, Inc., variety store; Laurinburg, N.C.; 4–1–68 to 3–31–69.

F. W. Woolworth Co., variety stores from 4–10–68 to 4–9–69 except as otherwise indicated: No. 99, Aurora, Ill.; No. 92, Berwyn, Ill.; No. 802, Blue Island, Ill. (4–3–68 to 4–2–69); No. 2406, Calumet City, Ill.; Nos. 4 and 112, Chicago, Ill. (4–5–68 to 4–4–69); No. 302 and 346, Chicago, Ill.; Nos. 551, 679 and 725, Chicago, Ill. (4–5–68 to 4–4–69); No. 727, Chicago, Ill.; No. 742, Chicago, Ill. (4–6–68 to 4–5–69); Nos. 1104 and 1155, Chicago, Ill. (4–5–68 to 4–4–69); No. 1214, Chicago, Ill. (4–6–68 to 4–5–69); Nos. 1216 and 1259, Chicago, Ill.; No. 1261, Chicago, Ill. (4–6–68 to 4–5–69); No. 1305, Chicago, Ill. (4–5–68 to 4–4–69); Nos. 1404 and 1414, Chicago, Ill. (4–6–68 to 4–5–69); No. 1425, Chicago, Ill.; No. 1431, Chicago, Ill. (4–5–68 to 4–4–69); No. 1447, Chicago, Ill.; No. 1523, Chicago, Ill. (4–5–68 to 4–4–69); No. 1525, Chicago, Ill. (3–12–68 to 3–11–69); Nos. 1630, 1656 and 1748, Chicago, Ill. (4–6–68 to 4–5–69); No. 1847, Chicago, Ill. (4–5–68 to 4–4–69); Nos. 1904 and 1910, Chicago, Ill.; No. 2066, Chicago, Ill. (4–5–68 to 4–4–69); No. 369, Danville, Ill.; No. 93, Decatur, Ill. (4–8–68 to 4–7–69); No. 1638, Des Plaines, Ill. (4–27–68 to 4–26–69); No. 726, Dixon, Ill. (4–14–68 to 4–13–69); No. 1552, Downers Grove, Ill. (4–27–68 to 4–26–69); No. 195, Elgin, Ill. (4–5–68 to 4–4–69); No. 357, Evanston, Ill.; No. 1871, Glen Ellyn, Ill. (4–5–68 to 4–4–69); No. 2343, Glen Ellyn, Ill. (4–8–68 to 4–7–69); No. 1845, Highland Park, Ill. (4–7–68 to 4–6–69); No. 89, Hillside, Ill.; No. 318, Jacksonville, Ill.; No. 82, Joliet, Ill.; No. 2103, Loves Park, Ill. (4–5–68 to 4–4–69); No. 308, Moline, Ill. (4–5–68 to 4–4–69); No. 695, Monmouth, Ill. (4–24–68 to 4–23–69); No. 283, Norridge, Ill. (4–7–68 to 4–6–69); No. 1413, Oak Park, Ill. (4–5–68 to 4–4–69); No. 1823, Park Ridge, Ill. (4–25–68 to 4–24–69); No. 78, Peoria, Ill. (4–7–68 to 4–6–69); No. 116, Quincy, Ill.; No. 163, Rockford, Ill.; No. 63, Springfield, Ill.; No. 333, Waukegan, Ill.; No. 2168, Waukegan, Ill. (4–5–68 to 4–4–69); No. 1373, Wheaton, Ill. (4–27–68 to 4–26–69); No. 2218, Wilmette, Ill. (4–27–68 to 4–26–69); No. 1663, Woodstock, Ill. (4–5–68 to 4–4–69); No. 465, Crawfordsville, Ind. (4–24–68 to 4–23–69); No. 290, Fort Wayne, Ind. (4–3–68 to 4–2–69); No. 549, Frankfort, Ind. (4–3–68 to 4–2–69); No. 676, Hammond, Ind. (4–3–68 to 4–2–69); No. 378, Huntington, Ind. (4–25–68 to 4–24–69); No. 2336, Indianapolis, Ind.; No. 1923, Jeffersonville, Ind. (4–3–68 to 4–2–69); No. 2296, Kokomo, Ind. (4–3–68 to 4–2–69); No. 176, Lafayette, Ind. (4–3–68 to 4–2–69); No. 468, La Porte, Ind. (4–3–68 to 4–2–69); No. 2024, Mishawaka, Ind.; No. 142, Muncie, Ind. (4–3–68 to 4–2–69); No. 2193, Muncie, Ind.; No. 451, New Albany, Ind. (4–3–68 to 4–2–69); Nos. 68, 1023 and 2400, Terre Haute, Ind. (4–3–68 to 4–2–69); No. 447, Wabash, Ind.; No. 87, Topeka, Kans. (3–18–68 to 3–17–69); No. 1240, Baltimore, Md. (4–1–68 to 3–28–69); No. 1047, Salisbury, Md. (3–11–68 to 3–10–69); No. 219, Battle Creek, Mich.; No. 497, Bay City, Mich.; No. 1089, Benton Harbor, Mich. (4–3–68 to 4–2–69); No. 2171, Benton Harbor, Mich. (4–5–68 to 4–4–69); No. 2161, Big Rapids, Mich.; No. 1107, Cheboygan, Mich. (4–3–68 to 4–2–69); No. 190, Flint, Mich. (4–3–68 to 4–2–69); No. 45, Grand Rapids, Mich. (4–3–68 to 4–2–69); No. 167, Kalamazoo, Mich.; No. 2145, Manistee, Mich. (4–25–68 to 4–24–69); No. 1072, Niles, Mich. (4–5–68 to 4–4–69); No. 775, Crookston, Minn. (4–14–68 to 4–13–69); No. 2166, Minneapolis, Minn. (4–14–68 to 4–13–69); No. 2136, N. St. Paul, Minn. (4–14–68 to 4–13–69); No. 226, Winona, Minn. (4–14–68 to 4–13–69); No. 516, Grand Island, Nebr.; No. 1659, Scottsbluff, Nebr. (3–11–68 to 3–10–69); No. 862, McAlester, Okla. (4–28–68 to 4–27–69); No. 2070, Corpus Christi, Tex. (4–28–68 to 4–27–69); Nos. 1007, 1795, 2266 and 2346, El Paso, Tex. (4–22–68 to 4–21–69); No. 2271, Rosenberg, Tex. (4–26–68 to 4–25–69); No. 2195, Victoria, Tex. (4–28–68 to 4–27–69); No. 652, Waco, Tex. (4–28–68 to 4–27–69); No. 400, Ashland, Wis. (4–14–68 to 4–13–69); No. 519, Beloit, Wis. (4–28–68 to 4–27–69); No. 278, Kenosha, Wis. (4–14–68 to 4–13–69); No. 133, La Crosse, Wis.; No. 1744, Madison, Wis. (4–14–68 to 4–13–69).

Wright's Food Service, Inc., foodstore; 731 Elm Street, Union City, Ind.; 4–25–68 to 4–24–69.

Youens Memorial Hospital, hospital; 104 North East Street, Weimar, Tex.; 4–4–68 to 4–3–69.

Younker Brothers, Inc., department store; Fourth and Nebraska Street, Sioux City, Iowa; 4–8–68 to 9–2–68.

The following certificates were issued to retail or service establishments relying on the base-year employment experience of other establishments, either because they came into existence after the beginning of the applicable base year or because they did not have available base-year records. The certificates permit the employment of full-time students at rates of not less than 85 percent of the statutory minimum in the classes of occupations listed, and provide for the indicated monthly limitations on the percentage of full-time student hours of employment at rates below the applicable statutory minimum to total hours of employment of all employees.

Arden-Mayfair, Inc., foodstores from 4–1–68 to 3–31–69, box clerk, courtesy clerk, between 21 percent and 25 percent except as otherwise indicated: 1760 East Santa Fe Avenue, Flagstaff, Ariz.; 5121 West Glendale Boulevard, Glendale, Ariz. (between 18 percent and 28 percent); 1422 East Main, Mesa, Ariz. (between 25 percent and 30 percent); 1018 West Main, Mesa, Ariz. (between 25 percent and 30 percent); 3115 North Third Avenue, Phoenix Ariz.; 7830 North 12th Street, Phoenix, Ariz.; 5718 North 15th Avenue, Phoenix, Ariz.; 6025 North 27th Avenue, Phoenix, Ariz.; 1849 East Camelback Road, Phoenix, Ariz.; 3217 East Camelback Road, Phoenix, Ariz.; 5017 North Central Avenue, Phoenix, Ariz.; 6018 South Central Avenue, Phoenix, Ariz.; 3921 East Indian School Road, Phoenix, Ariz.; 5326 West Indian School Road, Phoenix, Ariz.; 2321 East McDowell Road, Phoenix, Ariz.; 4430 East McDowell Road, Phoenix, Ariz.; 3717 East Thomas Road, Phoenix, Ariz.; 3442 West Van Buren, Phoenix, Ariz.; 326 West Indian School Road, Scottsdale, Ariz. (between 31 percent and 41 percent); 929 Mill Avenue, Tempe, Ariz. (between 22 percent and 28 percent); 6321 East 22d Street, Tucson, Ariz. (between 14 percent and 27 percent); 3607 East Broadway, Tucson, Ariz. (between 14 percent and 27 percent); 5560 East Broadway, Tucson, Ariz. (between 14 percent and 27 percent); 1930 East Grant Road, Tucson, Ariz. (between 14 percent and 27 percent); 3360 East Speedway, Tucson, Ariz. (between 14 percent and 27 percent); 367 West 16th Street, Yuma, Ariz. (between 12 percent and 25 percent).

Arnold's Food Market, Inc., foodstore; 14 North Baltimore Avenue, Mount Holly Springs, Pa.; bagger; between 7 percent and 9 percent; 4–13–68 to 4–12–69.

Autry Greer and Sons, Inc., foodstore; 911 South Wilson Avenue, Prichard, Ala.; bagger; 10 percent.

Ben Franklin, variety store; Peachtree Plaza Shopping Center, Greer, S.C.; salesclerk, stock clerk; between 10 percent and 45 percent; 4–1–68 to 3–31–69.

Bergemanns Market, foodstore; 804 Spring Street, Beaver Dam, Wis.; carryout; between 5 percent and 21 percent; 4–16–68 to 4–15–69.

Big Bear Supermarket, foodstores from 4–22–68 to 4–21–69, courtesy clerk, checker, stock clerk, meat clerk, produce clerk, between 13 percent and 18 percent except as otherwise indicated: No. 19, Greensboro, N.C. (between 11 percent and 14 percent); No. 2, High Point, N.C. (between 18 percent and 20 percent); No. 24, Stanleyville, N.C.; Nos. 18, 20, 22, and 23, Winston-Salem, N.C.

Big K Department Store, department stores from 4–19–68 to 4–18–69 except as otherwise indicated, salesclerk, stock clerk, office clerk, between 11 percent and 21 percent except as otherwise indicated: Athens Shopping Center, Athens, Ala. (between 0 percent and 17 percent, 4–15–68 to 4–14–69); Sheffield, Ala. (between 0 percent and 17 percent, 4–13–68 to 4–12–69); Fort Campbell Boulevard, Madisonville, Ky. (between 11 percent and 59 percent); Midtown Shopping Center, Nashville, Tenn.; 1 Big Spring Shopping Center, Shelbyville, Tenn.

Big Star, foodstores from 4–25–68 to 4–24–69, sacker, stock clerk, 8.5 percent: No. 78, Carmi, Ill.; No. 118, Effingham, Ill.

Bill's Clothes, Inc., apparel stores from 4–25–68 to 4–24–69, salesclerk, stock clerk, cashier, 10 percent: 522 Richmond Mall, Richmond Heights, Ohio; 29900 Lakeshore Boulevard, Willowick, Ohio.

Buehler Market, foodstores from 4–27–68 to 4–26–69, checker, carryout, stock clerk, between 8 percent and 11 percent: 1979 Boulevard Drive SE., Atlanta, Ga.; 1553 Gordon Street SW.; Atlanta, Ga.

C & L Markets, Inc., foodstore; 400 East Division, Rockford, Mich., carryout, stock clerk; between 15 percent and 27 percent; 4–8–68 to 4–7–69.

Carlisle-Allen Co., department store; 6000 Youngstown-Warren Road, Niles, Ohio; stock clerk, salesclerk, mail clerk, gift wrap; between 1 percent and 3 percent; 4–17–68 to 4–16–69.

Carson Pirie Scott & Co., department store; 3232 Lake Avenue, Wilmette, Ill.; salesclerk, stock clerk, wrapper; between 1.7 percent and 3.8 percent; 3–1–68 to 2–28–69; Replacement.

John Casemier's Food Market, foodstore; 244 Randall Street, Coopersville, Mich.; stock clerk, carryout, produce clerk, general clerk, cleanup, dusting; between 25 percent and 35 percent; 4–3–68 to 4–2–69.

Carter's IGA Foodliner, foodstore; 138 South Washington, Charlotte, Mich.; carryout, bagger, stock clerk, checker; 10 percent; 4–2–68 to 4–1–69.

Crosby Super Valu, foodstore; Crosby, Minn.; carryout, stock clerk; between 19 percent and 28 percent; 4–22–68 to 4–21–69.

J. S. Dillon & Sons Stores Co., Inc., foodstores for the occupations of cashier, checker, carryout, wrapper, office clerk, maintenance: No. 40, El Dorado, Kans. (between 9 percent and 17 percent, 4–24–68 to 4–23–69); No. 48, Hutchinson, Kans. (between 11 percent and 32 percent, 4–18–68 to 4–17–69).

Dimeco Corporation of Indiana, Inc., variety store; 15 South First Street, Scottsburg, Ind.; salesclerk, stock clerk, office clerk, cashier; between 2 percent and 6 percent; 4–11–68 to 4–10–69.

Dowden Food Stores, Inc., foodstore; 411 Greenville, Mich.; carryout, stock clerk; between 15 percent and 27 percent; 4–8–68 to 4–7–69.

Durand IGA, foodstore; 221 North Saginaw, Durand, Mich.; carryout, bagger, stock clerk, checker; 10 percent; 4–2–68 to 4–1–69.

Easter Super Valu, food store; 209 North E Street, Oskaloosa, Iowa; bagger, carryout, stock clerk, cashier; between 11 percent and 24 percent; 4–1–68 to 3–31–69.

Edge of the Ledge IGA Foodliner, food store; 512 South Clinton, Grand Ledge, Mich.; carryout, bagger, stock clerk, checker; 10 percent; 4–2–68 to 4–1–69.

Erdman Supermarkets, Inc., food stores from 2–21–68 to 2–20–69, checker, carryout, stock clerk, cleanup: 19 Second Avenue NW., Kasson, Minn.; (between 5 percent and 7 percent); 1652 Highway, 52 North, Rochester, Minn. (10 percent).

Erspamer Super Market, food store; 109 Silver Street, Hurley, Wis.; carryout, stock clerk, cleanup; between 7 percent and 18 percent; 4–16–68 to 4–15–69.

Farmers Discount Center, Inc., food store; 615 West Cherry, Chanute, Kans.; carryout, bottle clerk, sacker; between 15 percent and 26 percent; 4–1–68 to 3–31–69.

Fashion Bug of Plymouth Meeting, Inc., apparel store; Plymouth Meeting Mall, Plymouth Meeting, Pa.; salesclerk, cashier, stock clerk; between 2 percent and 13 percent; 4–25–68 to 4–24–69.

Field-Schlick, Inc., department stores from 4–10–68 to 4–9–69, salesclerk, stock clerk, between 1.3 percent and 6.1 percent: 735 Cleveland Avenue South, St. Paul, Minn.; Har-Mar Mall, St. Paul, Minn.

Food Fair Inc., food store; Harrodsburg, Ky.; bagger, cleanup, carryout, pricing clerk, tagging clerk, stock clerk; between 2 percent and 7 percent; 4–22–68 to 4–21–69.

Goldblatt Bros., Inc., department store; McArthur and Outer Park Drive, Springfield, Ill.; salesclerk, stock clerk, office clerk, porter; between 2 percent and 5 percent; 4–3–68 to 4–2–69.

W. T. Grant Co., variety stores from 4–1–68 to 3–31–69 except as otherwise indicated, salesclerk, stock clerk, office clerk, cashier except as otherwise indicated: No. 1156, Downers Grove, Ill. (between 2 percent and 19 percent); No. 1042, Rockford, Ill. (between 6 percent and 18 percent, 4–22–68 to 4–21–69); No. 1132, Huntington, Ind. (between 6 percent and 10 percent); No. 502, Hopkinsville, Ky. (between 4 percent and 24 percent, 4–22–68 to 4–21–69); No. 49, Mayfield, Ky. (between 4 percent and 24 percent, 4–19–68 to 4–18–69); No. 307, Salisbury, Md. (between 10.6 percent and 15.5 percent); No. 1218, Medina, Ohio (between 2 percent and 15 percent); No. 1022, Bloomsburg, Pa. (between 11 percent and 36 percent); No. 3370, Washington, Pa. (between 0.6 percent and 1 percent, 4–15–68 to 4–14–69); No. 622, Sheboygan, Wis. (between 8 percent and 10 percent).

Grebe's Bakeries, Inc., bakery; 601 West Mitchell Street, Milwaukee, Wis.; bakery clerk; 10 percent; 4–13–68 to 4–12–69.

HEB Food Store, food store; 611 South Market, Brenham, Tex.; 10 percent; 4–9–68 to 4–8–69.

H & J Food Basket, foodstores from 4–22–68 to 4–21–69, carryout, 10 percent; Nos. 17 and 18, Roswell, N. Mex.; No. 15, Ruidoso, N. Mex.

Handy-Andy, Inc., foodstore; No. 30, San Antonio, Tex.; package clerk, stock clerk, checker, office cashier, bakery salesclerk, produce clerk, bottle sorter, dairy box stock clerk, porter; between 24 percent and 33 percent; 4–8–68 to 4–7–69.

J & M Food Markets, Inc., foodstore; 122 South Main Street, Louisiana, Mo.; carryout; between 6 percent and 17 percent; 4–1–68 to 3–31–69.

Jerry's IGA, foodstore; 1113 West Beecher Street, Adrian, Mich.; bagger, stock clerk; between 14 percent and 28 percent; 4–16–68 to 4–15–69.

K-G Men's Store, apparel stores from 4–1–68 to 3–31–69, salesclerk, stock clerk, delivery clerk, office clerk, receiving clerk, between 9 percent and 22 percent: 701 West Hampden Avenue, Englewood, Colo.; 10548 Melody Drive, Northglenn, Colo.

Kay Baum Inc., apparel store; 22283–87 Michigan Avenue, Dearborn, Mich.; stock clerk; between 4 percent and 21 percent; 4–1–68 to 3–31–69.

Kenwood Pharmacies, Inc., drugstores from 4–15–68 to 4–14–69, pharmacy clerk, office clerk, stock clerk, between 8 percent and 10 percent: 2715 West Central Avenue, Toledo, Ohio; No. 2, Toledo, Ohio.

S. S. Kresge Co., variety stores for the occupations of salesclerk, stock clerk, office clerk, checker-cashier except as otherwise indicated: No. 4164, Birmingham, Ala. (salesclerk, between 3 percent and 11 percent, 4–4–68 to 4–3–69); No. 710, Denver, Colo. (between 3 percent and 19 percent, 4–9–68 to 4–8–69); No. 4224, Denver, Colo. (between 3 percent and 19 percent, 4–26–68 to 4–25–69); No. 4198, Columbus, Ga. (salesclerk, cashier, between 11 percent and 22 percent, 4–3–68 to 4–2–69); No. 4154, Aurora, Ill. (salesclerk, office clerk, stock clerk, between 5 percent and 10 percent, 3–28–68 to 3–27–69); No. 4226, Evansville, Ind. (salesclerk, between 3 percent and 7 percent, 4–15–68 to 4–14–69); No. 4039, South Bend, Ind. (10 percent, 2–7–68 to 2–6–69); No. 323, Rochester, Minn. (between 14 percent and 27 percent, 9–3–67 to 9–2–68); No. 4126, Omaha, Nebr. (between 3 percent and 10 percent, 4–4–68 to 4–3–69); No. 4229, Austintown, Ohio (salesclerk, 10 percent, 4–1–68 to 3–31–69).

S. H. Kress and Co., variety stores from 4–26–68 to 4–25–69 except as otherwise indicated, salesclerk, stock clerk: 1015 Randolph Road, Thomasville, N.C. (between 9 percent and 46 percent, 4–17–68 to 4–16–69); 3300 Robinhood Road, Winston-Salem, N.C. (between 3 percent and 22 percent); Guignard Drive, Sumter, S.C. (between 2.7 percent and 19.3 percent).

Kroger Co., foodstores from 4–1–68 to 3–31–69 except as otherwise indicated, sacker, carryout, between 3 percent and 7 percent except as otherwise indicated: No. 952, Lake Charles, La. (between 4 percent and 7 percent, 4–3–68 to 4–2–69); No. 966, Alice, Tex. (between 4 percent and 7 percent); No. 72, Alvin, Tex.; No. 37 Beaumont, Tex. (between 4 percent and 7 percent); No. 151 Bryan, Tex.; Nos. 954 and 962, Corpus Christi, Tex. (between 4 percent and 7 percent); No. 63, Houston, Tex.; No. 64, Houston, Tex. (between 4 percent and 7 percent); Nos. 67, 71, 76, 81, 85, 86, and 901, Houston, Tex.; No. 88, La Porte, Tex. (between 4 percent and 7 percent); No. 950, Orange, Tex. (between 4 percent and 7 percent); No. 84, Pearland, Tex.; No. 75, Seabrook, Tex.; No. 28, South Houston, Tex. (between 4 percent and 7 percent); No. 956, Victoria, Tex. (between 4 percent and 7 percent).

Kuhn's Variety Store, variety stores from 4–19–68 to 4–18–69 except as otherwise indicated, salesclerk, stock clerk, office clerk: 522 Main Street, Shelbyville, Ky. (between 11 percent and 59 percent); Waldron Street and Public Square, Corinth, Miss. (between 8 percent and 28 percent, 4–15–68 to 4–14–69); 401 West Main Street, Tupelo, Miss. (between 0.3 percent and 32 percent, 4–15–68 to 4–14–69); Gallatin Plaza Shopping Center, Gallatin, Tenn. (between 11 percent and 21 percent); North Side Public Square, Huntingdon, Tenn. (between 5 percent and 16 percent); 110 West Broadway, Lenoir City, Tenn. (between 4 percent and 20 percent); Harding Road, Nashville, Tenn. (between 11 percent and 21 percent); 210–214 Cedar Avenue, South Pittsburg, Tenn. (between 4 percent and 20 percent).

A. M. Landry, Inc., variety store; Grand Isle, La.; salesclerk, stock clerk, office clerk; between 3 and 24 percent; 4–15–68 to 4–14–69.

Lerner Shops, apparel stores from 4–12–68 to 4–11–69 except as otherwise indicated, salesclerk, cashier, credit clerk except as otherwise indicated: No. 35, Birmingham, Ala. (salesclerk, stock clerk, credit clerk, between 2 percent and 16 percent, 4–19–68 to 4–18–69); No. 189, Huntsville, Ala. (salesclerk, stock clerk, credit clerk, between 2 percent and 21 percent, 4–19–68 to 4–18–69); Nos. 93 and 112 Montgomery, Ala. (salesclerk, stock clerk, credit clerk, between 10 percent and 17 percent, 4–19–68 to 4–18–69); No. 487, Englewood, Colo. (between 0 percent and 35 percent, 4–17–68 to 4–16–69); No. 65, Clearwater, Fla. (between 1.5 percent and 31.6 percent); No. 139, Daytona Beach, Fla. (between 3.6 percent and 17.4 percent); Nos. 143 and 185, Fort Lauderdale, Fla. (between 13 percent and 26.5 percent); No. 184, Hollywood, Fla. (between 8.8 percent and 19.2 percent); No. 90, Jacksonville, Fla. (between 0 percent and 8 percent); No. 97, Jacksonville, Fla. (between 0 percent and 8 percent, 4–19–68 to 4–18–69); No. 144, Jacksonville, Fla. (between 0 percent and 8 percent); No. 194, Jacksonville, Fla. (between 0 percent and 8 percent, 4–19–68 to 4–18–69); No. 142, Lakeland, Fla. (between 7.8 percent and 27.9 percent, 4–19–68 to 4–18–69); Nos. 60, 91, and 102, Miami, Fla. (between 2.1 percent and 13.5 percent, 4–19–68 to 4–18–69); No. 66, Miami Beach, Fla. (between 2.1 percent and 13.5 percent, 4–19–68 to 4–18–69); No. 147, Ocala, Fla. (between 0.8 percent and 25.3 percent, 4–19–68 to 4–18–69); Nos. 122 and 181, Orlando, Fla. (between 4 percent and 15 percent, 4–19–68 to 4–18–69); No. 71, Panama City, Fla. (between 2 percent and 10 percent); No. 136, Pensacola, Fla. (between 2 percent and 19.1 percent); Nos. 45 and 108, St. Petersburg, Fla. (between 4 percent and 17.9 percent); No. 198, St. Petersburg, Fla. (between 4 percent and 18 percent, 4–24–68 to 4–23–69); No. 44, Tallahassee, Fla. (between 6.7 percent and 28.8 percent); Nos. 95 and 141, West Palm Beach, Fla. (between 8.8 percent and 19.2 percent); No. 88, Augusta, Ga. (between 8 percent and 20 percent, 4–19–68 to 4–18–69); No. 135, Columbus, Ga. (between 7 percent and 19 percent, 3–28–68 to 3–27–69); No. 128, Macon, Ga. (between 8 percent and 19 percent, 4–19–68 to 4–18–69); No. 114, Savannah, Ga. (between 0.9 percent and 22.9 percent, 4–19–68 to 4–18–69); No. 247, Chicago, Ill. (salesclerk, credit clerk, between 14.5 percent and 31.6 percent, 4–25–68 to 4–24–69); Nos. 218, 271 and 273, Indianapolis, Ind. (salesclerk, 8.8 percent); No. 236, Topeka, Kans. (salesclerk, stock clerk, credit clerk, between 10 percent and 17 percent); No. 242, Lexington, Ky. (salesclerk, stock clerk, credit clerk, between 2 percent and 12 percent, 4–19–68 to 4–18–69); No. 149, Alexandria, La. (between 2 percent and 19 percent, 4–25–68 to 4–24–69); Nos. 38 and 133, Baton Rouge, La. (salesclerk, between 0 percent and 20 percent, 4–19–68 to 4–18–69); No. 49, Gretna, La. (salesclerk, stock clerk, credit clerk, between 2 percent and 19 percent, 4–19–68 to 4–18–69); No. 126, Lake Charles, La. (salesclerk, stock clerk, credit clerk, between 2 percent and 19 percent, 4–19–68 to 4–18–69); No. 119, Metairie, La. (salesclerk, stock clerk, credit clerk, between 2 percent and 19 percent, 4–19–68 to 4–18–69); No. 109, New Orleans, La. (salesclerk, stock clerk, credit clerk, between 2 percent and 19 percent, 4–19–68 to 4–18–69); Nos. 41, 55, and 57, Baltimore, Md. (salesclerk, stock clerk, credit clerk, between 27 percent and 38 percent, 4–19–68 to 4–18–69); No. 313, Bethesda, Md. (14 percent, 4–24–68 to 4–23–69); No. 73, Cumberland, Md. (salesclerk, stock clerk, credit clerk, between 13 percent and 52 percent, 4–19–68 to 4–18–69); No. 43, Glen Burnie, Md. (salesclerk, stock clerk, credit clerk, between 27 percent and 38

percent, 4–19–68 to 4–18–69); No. 232, St. Paul, Minn. (salesclerk, 27.5 percent); No. 67, Gulfport, Miss. (salesclerk, stock clerk, credit clerk, between 5 percent and 21 percent, 4–19–68 to 4–18–69); No. 145, Jackson, Miss. (salesclerk, between 1 percent and 12 percent, 4–19–68 to 4–18–69); No. 494, Las Vegas, Nev. (between 9 percent and 10 percent, 4–24–68 to 4–23–69); No. 420, 451, and 468, Albuquerque, N. Mex. (between 4 percent and 27 percent, 4–19–68 to 4–18–69); No. 110, Durham, N.C. (between 4 percent and 19 percent); No. 92, Raleigh, N.C. (between 5 percent and 17 percent, 4–19–68 to 4–18–69); No. 207, Maple Heights, Ohio (between 7 percent and 12 percent); No. 214, Willowick, Ohio (between 7 percent and 12 percent); No. 250, Youngstown, Ohio (salesclerk, credit clerk, stock clerk, between 2 percent and 11 percent). No. 64, Enid, Okla. (between 2 percent and 12 percent, 4–25–68 to 4–24–69); No. 36, Oklahoma City, Okla. (between 2 percent and 12 percent); No. 127, Oklahoma City, Okla. (between 1 percent and 12 percent); No. 301, Tulsa, Okla. (between 1 percent and 12 percent, 4–25–68 to 4–24–69); No. 216, East Liberty, Pa. (salesclerk, between 0 percent and 20 percent, 4–19–68 to 4–18–69); No. 205, (salesclerk, credit clerk, between 2 percent and 16 percent); No. 251, Levittown, Pa. (salesclerk, stock clerk, credit clerk, between 3 percent and 9 percent, 4–25–68 to 4–24–69); Nos. 222, 274, and 308, Pittsburgh, Pa. (salesclerk, between 0 percent and 20 percent, 4–19–68 to 4–18–69); No. 85, Reading, Pa. (salesclerk, stock clerk, between 4 percent and 24 percent); No. 118, Scranton, Pa. (salesclerk, credit clerk, between 2 percent and 15 percent); No. 79, Wilkes-Barre, Pa. (salesclerk, credit clerk, between 2 percent and 15 percent, 4–25–68 to 4–24–69); No. 116, Charleston, S.C. (between 2 percent and 20 percent); No. 137, Columbia, S.C. (between 14 percent and 38 percent); No. 96, Greenville, S.C. (between 8 percent and 20 percent); No. 78, Spartanburg, S.C. (between 7 and 26 percent); No. 186, Chattanooga, Tenn. (between 1 percent and 16 percent); No. 211, Knoxville, Tenn. (between 1 percent and 16 percent, 4–25–68 to 4–24–69); No. 113, Memphis, Tenn. (between 4 percent and 19 percent, 4–27–68 to 4–26–69); No. 213, Memphis, Tenn. (between 4 percent and 19 percent); No. 34, San Antonio, Tex. (between 3.7 percent and 10.8 percent); No. 123, San Antonio, Tex. (between 4.1 percent and 18.5 percent, 4–3–68 to 4–2–69); No. 187, Pasadena, Tex. (between 0.3 percent and 3.9 percent); No. 68, Alexandria, Va. (between 6 percent and 15 percent); No. 87, Arlington, Va. (between 7 percent and 21 percent); No. 120, Newport News, Va. (between 0 percent and 6 percent); No. 32, Portsmouth, Va. (between 0 percent and 6 percent); No. 105, Roanoke, Va. (between 2 percent and 18 percent); No. 310, Virginia Beach, Va. (between 0 percent and 6 percent); No. 86, Charleston, W. Va. (between 3 percent and 12 percent); No. 94, Huntington, W. Va. (between 0 percent and 26 percent).

Lynn & Al's G. W. Foods, Inc., foodstore; 2602, West Norfolk Avenue, Norfolk, Nebr.; cashier, stock clerk; between 19 percent and 33 percent; 4–1–68 to 3–31–69.

Magic Mart Inc., department store; East Race Street, Searcy, Ark.; salesclerk, stock clerk, janitorial; between 2 percent and 14 percent; 4–16–68 to 4–15–69.

Maison Blanche Co., department store; 4101 Chef Menteur Highway, New Orleans, La.; salesclerk; between 3 percent and 4 percent; 4–17–68 to 4–16–69.

May's Drug Store, drugstore; No. 202, Cedar Rapids, Iowa; salesclerk, stock clerk; between 5 percent and 8 percent; 4–16–68 to 4–15–69.

McCrory-McLellan-Green Store, variety stores for the occupations of salesclerk, stock clerk, office clerk: No. 383, Jacksonville, Ill. (between 10.2 percent and 26.9 percent. 4–24–68 to 4–23–69); No. 269, Munster, Ind. (between 7 percent and 15 percent, 3–1–68 to 2–28–69); No. 242, Springfield, Mass. (between 7 percent and 15 percent, 4–9–68 to 4–8–69); No. 352, Toms River, N.J. (between 14 percent and 29 percent, 4–2–68 to 3–31–69); No. 399, Lima, Ohio (between 6 percent and 20 percent, 4–10–68 to 4–9–69); No. 110, Huntingdon, Pa. (between 3 percent and 16 percent, 4–11–68 to 4–10–69).

Minimax Supermarket, foodstores from 4–9–68 to 4–8–69 except as otherwise indicated, carryout except as otherwise indicated, between 11 percent and 14 percent except as otherwise indicated: Belton, Tex. (between 11 percent and 13 percent); 1238 West 43d Street, Houston, Tex. (bagger, carryout, stock clerk, janitorial, between 8 percent and 10 percent, 4–19–68 to 4–18–69); Hallmark and Gray, Killeen, Tex.; 1308 East Rancier, Killeen, Tex.

Morgan & Lindsey, Inc., variety store; No. 3002, Oakdale, La.; salesclerk, office clerk, stock clerk; between 8 percent and 27 percent; 4–25–68 to 4–24–69.

G. C. Murphy Co., variety stores from 4–1–68 to 3–31–69 except as otherwise indicated, salesclerk, office clerk, stock clerk, janitorial, between 9 percent and 16 percent except as otherwise indicated: No. 96, Jasper, Ala. (between 10 percent and 22 percent, 4–15–68 to 4–14–69); No. 289, Gainesville, Fla. (between 9 percent and 27 percent, 4–26–68 to 4–25–69); No. 284, Orlando, Fla. (between 3 percent and 24 percent, 4–26–68 to 4–25–69); No. 287, Panama City, Fla. (between 12 percent and 25 percent, 4–26–68 to 4–25–69); No. 292, Pensacola, Fla. (between 12 percent and 25 percent, 4–26–68 to 4–25–69); No. 290, West Hollywood, Fla. (between 10 percent and 17 percent, 4–26–68 to 4–25–69); No. 277, Mount Prospect, Ill. (between 14.5 percent and 31.6 percent, 4–25–68 to 4–24–69); No. 300, Kokomo, Ind. (between 10.8 percent and 26.2 percent, 4–28–68 to 4–27–69); No. 161, Minneapolis, Minn. (between 13.3 percent and 21.9 percent, 4–25–68 to 4–24–69); No. 321, Belle Vernon, Pa. (between 3 percent and 23 percent, 4–15–68 to 4–14–69); No. 299, Nashville, Tenn. (between 5 percent and 13 percent); No. 295, Chattanooga, Tenn. (between 5 percent and 13 percent); No. 316, San Antonio, Tex. (between 10 percent and 28 percent, 4–15–68 to 4–14–69); No. 308, Culpeper, Va.; No. 107, Danville, Va.; No. 278, Lynchburg, Va.; No. 63, Manassas, Va.; No. 240, Roanoke, Va.; No. 156, Woodbridge, Va. (between 13 percent and 23 percent).

Neisner Brothers, Inc., variety stores: No. 44, Miramar, Fla. (salesclerk, stock clerk, office clerk, between 24 percent and 48 percent, 4–24–68 to 4–23–69); No. 203, Tampa, Fla. (salesclerk, stock clerk, office clerk, maintenance, 16.5 percent, 4–23–68 to 4–22–69).

Pancake House, Inc., restaurant; 7764 Colerain Avenue, Cincinnati, Ohio; bus boy, bus girl, between 3 percent and 8 percent; 4–12–68 to 4–11–69.

Park-N-Save, foodstore; No. 123, Carlisle, Ohio; carryout, stock clerk, cleanup; 10 percent, 4–11–68 to 4–10–69.

Phil's Shoe Store, Inc., shoe store; 224 Union Square, Hickory, N.C.; salesclerk, stock clerk; 18 percent; 4–9–68 to 4–8–69.

Piggy Wiggly, Inc., foodstores for the occupation of sacker except as otherwise indicated: South Market Street, Moulton, Ala. (between 12 percent and 16 percent, 4–22–68 to 4–21–69); No. 3, Columbus, Ga. (sacker, bottle clerk, janitorial, between 10 percent and 13 percent, 4–1–68 to 3–31–69); Fir Avenue, Collins, Miss. (between 9 percent and 10 percent, 4–20–68 to 3–1–69).

Portland IGA Foodliner, foodstore; 288 Bridge Street, Portland, Mich.; carryout, bagger, stock clerk, checker; 10 percent; 4–2–68 to 4–1–69.

Paul H. Rose Corp., department stores from 4–1–68 to 3–31–69 except as otherwise indicated, salesclerk, stock clerk, office clerk, checker except as otherwise indicated: No. 5003, Gastonia, N.C. (between 11 percent and 27 percent); No. 5005, Greensboro, N.C. (between 11 percent and 28 percent); No. 5001, Winston-Salem, N.C. (between 19 percent and 31 percent); Nos. 6001 and 6002, Norfolk, Va. (salesclerk, between 13 percent and 27 percent, 4–22–68 to 4–21–69).

Sarret's, Inc., apparel store; Woodland Mall, Grand Rapids, Mich.; salesclerk, stock clerk, office clerk; between 3 percent and 22 percent; 4–23–68 to 4–22–69.

Shop Rite, foodstore; 1307 North Center, Beaver Dam, Wis.; carryout; between 5 percent and 21 percent; 4–16–68 to 4–15–69.

Skagway Stores, Inc., foodstore; 4911 South 72d Street, Omaha, Nebr.; carryout, cleanup, stock clerk; 10 percent; 4–22–68 to 4–21–69.

Spies Supermarkets, Inc., foodstores from 4–11–68 to 4–10–69, checker, carryout, cleanup, stock clerk, wrapper, from 18 percent to 26 percent except as otherwise indicated: Sixth Street and Breckenridge, Breckenridge, Minn. (between 17.6 percent and 21.7 percent; Ninth and Dakota Avenue, Wahpeton, N. Dak.; 205–09 North Van Epps, Madison, S. Dak.

State Wide Stores, Inc., variety stores from 4–11–68 to 4–10–69, salesclerk, stock clerk, office clerk, cashier, between 2 percent and 6 percent: No. 5, Louisville, Ky.; No. 3, Paris, Ky.

Steak House, Inc., restaurant; Route 202, Winthrop, Maine; dishwasher, waiter-waitress, prep-work; between 12 percent and 32 percent; 4–1–68 to 3–31–69.

Steinbach Co., Inc., variety store; Brick Plaza, Bricktown, N.J.; salesclerk, stock clerk, office clerk; 10 percent; 4–25–68 to 4–24–69.

Sterling Stores Co., variety store; Magnolia Mall Shopping Center, Natchez, Miss.; salesclerk, stock clerk, cleanup; between 2 percent and 21 percent; 4–11–68 to 4–10–69.

Super Drive Ins, grocery store; No. 4, Clarksville, Tenn.; sacker, bottle clerk; between 8 percent and 20 percent; 4–1–68 to 3–31–69.

T.G. & Y. Stores Co., variety stores from 4–17–68 to 4–16–69 except as otherwise indicated, salesclerk, office clerk, stock clerk, 30 percent except as otherwise indicated: Nos. 193, 194, and 195, Phoenix, Ariz. (between 26 percent and 30 percent); No. 189, Yuma, Ariz. (between 26 percent and 30 percent, 4–29–68 to 4–28–69); No. 712, Texarkana, Ark. (between 11 percent and 34 percent, 4–13–68 to 4–12–69); 450 North Baltimore, Derby, Kans. (between 19 percent and 30 percent, 4–1–68 to 3–31–69); No. 133, Olathe, Kans. (between 22 percent and 34 percent, 4–2–68 to 4–1–69); No. 325, Overland Park, Kans. (between 15 percent and 29 percent, 4–2–68 to 4–1–69); No. 154, Shawnee Mission, Kans. (between 15 percent and 29 percent, 4–10–68 to 4–9–69); No. 97, Wichita, Kans. (between 19 percent and 30 percent, 4–1–68 to 3–31–69); No. 463, Belton, Mo. (between 17 percent and 30 percent); No. 86, Nicoma Park, Okla. (between 22 percent and 30 percent, 4–24–68 to 4–23–69); Nos. 70 and 409, Norman, Okla. (between 8 percent and 22 percent); Nos. 244 and 394, Maytown, Tex. (4–13–68 to 4–12–69); No. 837, Garland, Tex. (4–1–68 to 3–31–69); Nos. 343, 382, and 383, Houston, Tex. (4–13–68 to 4–12–69); No. 232, Orange, Tex. (between 7 percent and 20 percent, 4–29–68 to 4–28–69).

Wink's Super Valu, Inc., foodstore; Ninth and Jefferson Streets, Quincy, Ill.; carryout; between 8 percent and 18 percent; 4–22–68 to 4–21–69.

F. W. Woolworth Co., variety stores for the occupation of salesclerk except as otherwise indicated: No. 2673, Bloomington, Ill. (between 5.6 percent and 20.6 percent, 4–14–68 to 4–13–69); No. 1318, Chicago, Ill. (salesclerk, stock clerk, cleanup, between 6 percent and 19 percent, 4–8–68 to 4–7–69); No. 2476, Chicago, Ill. (16.2 percent, 4–7–68 to 4–6–69); No. 2574, Chicago, Ill. (24.4 percent, 4–6–68

to 4-5-69); No. 2606, Chicago, Ill. (between 7 percent and 22.5 percent, 4-6-68 to 4-5-69); No. 2656, Chicago, Ill. (salesclerk, stock clerk, 23 percent, 4-14-68 to 4-13-69); No. 2669, Chicago, Ill. (between 6.3 percent and 19 percent, 4-14-68 to 4-13-69); No. 2675, Chicago, Ill. (between 19.4 percent and 40.3 percent, 4-14-68 to 4-13-69); No. 2615, Decatur, Ill. (between 3 percent and 11 percent, 4-7-68 to 4-6-69); No. 2450, Downers Grove, Ill. (between 6.6 percent and 10 percent, 4-6-68 to 4-5-69); No. 2617, Fox Lake, Ill. (between 8 percent and 10 percent, 4-6-68 to 4-5-69); No. 2454, Kankakee, Ill. (9-1 percent, 4-6-68 to 4-5-69); No. 2645, Lincoln, Ill. (6.1 percent, 4-7-68 to 4-6-69); No. 2623, Naperville, Ill. (salesclerk, stock clerk, between 6.6 percent and 10 percent, 4-10-68 to 4-9-69); No. 2449, Niles, Ill. (between 15 percent and 26 percent, 4-7-68 to 4-6-69); No. 2474, Pontiac, Ill. (between 2.2 percent and 9.4 percent, 4-7-68 to 4-6-69); No. 2573, Rantoul, Ill. (salesclerk, stock clerk, between 2.5 percent and 13.7 percent, 4-6-68 to 4-5-69); No. 704, Sterling, Ill. (13.6 percent, 4-6-68 to 4-5-69); No. 1301, Taylorville, Ill. (checker, salesclerk, between 0 percent and 7.7 percent, 4-7-68 to 4-6-69); No. 2624, Connersville, Ind. (between 4.5 percent and 25.7 percent, 4-3-68 to 4-2-69); No. 2607, Kokomo, Ind. (between 11 percent and 20 percent, 4-3-68 to 4-2-69); No. 2453, South Bend, Ind. (between 9.5 percent and 23.3 percent, 4-5-68 to 4-4-69); No. 505, Bowling Green, Ky. (between 3 percent and 11 percent, 4-9-68 to 4-8-69); No. 2620, Caro, Mich. (between 11 percent and 29 percent, 4-3-68 to 4-2-69); No. 538, Holland, Mich. (between 9 percent and 18 percent, 4-3-68 to 4-2-69); No. 2621, Midland, Mich. (between 11 percent and 12 percent, 4-3-68 to 4-2-69); No. 399, Traverse City, Mich. (between 10 percent and 31 percent, 4-3-68 to 4-2-69); No. 47, Minneapolis, Minn. (salesclerk, stock clerk, checker, between 6 percent and 13.6 percent, 4-10-68 to 4-9-69); No. 338, Hastings, Nebr. (salesclerk, cleanup, between 2 percent and 8 percent, 4-8-68 to 4-7-69); No. 618, Pasadena, Tex. (between 9.9 percent and 15.3 percent, 4-28-68 to 4-27-69); No. 2464, El Paso, Tex. (between 8 percent and 15 percent, 4-22-68 to 4-21-69); No. 59, Milwaukee, Wis. (salesclerk, stock clerk, cleanup, between 10 percent and 27 percent, 4-14-68 to 4-13-69); No. 72, Milwaukee, Wis. (stock clerk, salesclerk, cleanup, between 10 percent and 26.9 percent, 4-14-68 to 4-13-69); No. 437, Milwaukee, Wis. (salesclerk, stock clerk, checker, between 10 percent and 27 percent, 4-14-68 to 4-13-69); Nos. 842 and 2446, Milwaukee, Wis. (salesclerk, stock clerk, between 10 percent and 27 percent, 4-10-68 to 4-9-69); No. 2455, Milwaukee, Wis. (salesclerk, stock clerk, cleanup, between 10 percent and 26.9, 4-24-68 to 4-23-69).

Younker Brothers, Inc., department store; Fairway Shopping Center, Burlington, Iowa; stock clerk, office clerk, salesclerk, messenger, wrapper, marker, delivery clerk, cleanup, porter; between 9 percent and 16 percent; 4-1-68 to 3-31-69.

Each certificate has been issued upon the representations of the employer which, among other things, were that employment of full-time students at special minimum rates is necessary to prevent curtailment of opportunities for employment, and the hiring of full-time students at special minimum rates will not create a substantial probability of reducing the full-time employment opportunities of persons other than those employed under a certificate. The certificates may be annulled or withdrawn, as indicated therein, in the manner provided in Part 528 of Title 29 of the Code of Federal Regulations. Any person aggrieved by the issuance of any of these certificates may seek a review or reconsideration thereof within 30 days after publication of this notice in the FEDERAL REGISTER pursuant to the provisions of 29 CFR 519.9.

Signed at Washington, D.C., this third day of July 1968.

ROBERT G. GRONEWALD,
Authorized Representative of the Administrator.

[F.R. Doc. 68-8180; Filed, May 9, 1968; 8:51 a.m.]

INTERSTATE COMMERCE COMMISSION

[No. MC-C-3437 (Sub-No. 2)]

WEIR COOK MUNICIPAL AIRPORT-INDIANAPOLIS, IND.

Exempt Zone

JULY 5, 1968.

Petition seeking individual determination of the zone surrounding the Weir Cook Municipal Airport near Indianapolis, Ind., within which motor transportation of property is incidental to transportation by air and is exempt from economic regulation under section 203(b)(7a) of the Interstate Commerce Act.

Petitioners: Air Freight Motor Carriers Conference, Film Carrier Conference of the American Trucking Association, and Indiana Transit Service, Inc.

Petitioner's representatives: David A. Sutherland, 1120 Connecticut Avenue NW., Washington, D.C. 20036, Counsel for Film Carrier Conference. Bryce Rea, Jr., Thomas M. Knebel, 1329 E Street NW., Washington, D.C. 20004, Counsel for Indiana Transit Service, Inc., and Air Freight Motor Carriers Conference.

By petition filed April 18, 1968, petitioners requests that the Commission individually determine (as provided in section (c) *Individual determination of exempt zones*, to its regulations, 49 CFR 1047.40 (formerly § 210.40) *Motor transportation of property incidental to transportation by aircraft*), the zone surrounding Weir Cook Municipal Airport near Indianapolis, Ind., within which motor transportation of property is incidental to transportation by air and exempt from the Commission's economic regulation under section 203(b)(7a) of the Interstate Commerce Act.

Petitioners state that Indiana Transit Service, Inc., holds certificate No. MC-71452 which authorizes it to transport property between Terre Haute and Greencastle, Ind., and Weir Cook Municipal Airport; that by Order No. E-24231, dated September 27, 1966, in Docket No. 15582, the Civil Aeronautics Board granted to Wings and Wheels Express, Inc., an air freight forwarder, authority to file a pickup and delivery tariff for extended terminal area service between Terre Haute and Weir Cook Municipal Airport; that Emery Air Freight Corp. as well as other air freight forwarders filed with the Civil Aeronautics Board, and the Board accepted tariffs providing for pickup and delivery services between Greencastle and Weir Cook Municipal Airport; that Emery Air Freight Corp. is presently operating between Greencastle and the Airport and that approximately half of petitioner's revenue derived from traffic moving between the Airport and Greencastle has been diverted; and that Terre Haute, Ind., a point 70 miles from Indianapolis, and Greencastle, Inc., a point 30 miles from Weir Cook Municipal Airport, should be excluded from the exempt zone.

Petitioners ask that a proceeding be instituted under the regulations set forth above to determine the proper boundary of the exempt zone surrounding Weir Cook Municipal Airport near Indianapolis, Ind.

Any interested person wishing to make representations in favor of or in opposition to the relief sought by the petition may do so by submitting written statements. All such persons, including motor carriers, air carriers, shippers and receivers of freight, and others, whether or not subject to the Commission's jurisdiction, are invited to submit representations setting forth any facts or argument pertinent to the proper determination of the scope of the exempt zone surrounding the Weir Cook Municipal Airport near Indianapolis, Ind.

Representations are now due on or before August 19, 1968, and copies thereof will be available thereafter at the office of the Commission in Washington, D.C. Persons desiring to file replies to representations may do so on or before September 18, 1968.

An original and 15 copies of each representation and reply, the original of which must be verified with respect to matters of fact contained therein, must be filed with:

Secretary, Interstate Commerce Commission, Washington, D.C. 20423.

In addition, one copy of each representation, reply, or any other pleading must be filed with:

Secretary, Civil Aeronautics Board, Washington, D.C. 20428.

A copy must also be served upon petitioners' representatives, whose addresses appear at the head of this notice, and upon:

Wings and Wheels Express, Inc., 142-42 41st Avenue, Flushing, Long Island, N.Y. 11355.
Emery Air Freight Corp., Post Office Box 322, Wilton, Conn. 06897.

copies of all representations, replies, or other pleadings filed with the Commission must show that service has been made upon the persons named above, in conformity with rule 1.22 of the Commission's general rules of practice.

By the Commission.

[SEAL] H. NEIL GARSON,
Secretary.

[F.R. Doc. 68-8168; Filed, July 9, 1968; 8:50 a.m.]

NOTICE OF FILING OF MOTOR CARRIER INTRASTATE APPLICATIONS

JULY 5, 1968.

The following applications for motor common carrier authority to operate in intrastate commerce seek concurrent motor carrier authorization in interstate or foreign commerce within the limits of the intrastate authority sought, pursuant to section 206(a)(6) of the Interstate Commerce Act, as amended October 15, 1962. These applications are governed by Special Rule 1.245 of the Commission's rules of practice, published in the FEDERAL REGISTER, issue of April 11, 1963, page 3533, which provides, among other things, that protests and requests for information concerning the time and place of State Commission hearings or other proceedings, any subsequent changes therein, and 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.

State Docket No. M-8323 Supp. 2, filed June 19, 1968. Applicant: JOHN J. TURNER, doing business as O'NEILL TRANSFER, 123 South Madison Street, O'Neill, Nebr. 68703. Applicant's representative: Richard A. Peterson, 1201 J Street, Post Office Box 806, Lincoln, Nebr. 68501. Certificate of public convenience and necessity sought to operate a freight service as follows: *Commodities generally*, except those requiring special equipment; between Springview and O'Neill, Nebr., via U.S. 183 to the junction with Nebraska Highway 12, thence via Nebraska Highway 12 to the junction with U.S. 281, thence via U.S. 281 to O'Neill and return over the same route, serving all intermediate points. Applicant also seeks authority to tack its presently authorized regular-route authority in M-8323, Supp. 1, with the regular-route authority sought in M-8323, Supp. 2. Applicant is seeking authority to engage in transportation in interstate and foreign commerce coextensive with its proposed, extended regular-route intrastate operation in M-8323, Supp. 2.

HEARING: Not yet assigned. Requests for procedural information, including the time for filing protests, concerning this application should be addressed to the Nebraska State Railway Commission, Motor Transportation Department, 134 South 12th Street, Room 320, Lincoln, Nebr. 68508, and should not be directed to the Interstate Commerce Commission.

By the Commission.

[SEAL] H. NEIL GARSON, *Secretary.*

[F.R. Doc. 68-8169; Filed, July 9, 1968; 8:50 a.m.]

FOURTH SECTION APPLICATION FOR RELIEF

JULY 5, 1968.

Protests to the granting of an application must be prepared in accordance with Rule 1100.40 of the general rules of practice (49 CFR 1100.40) and filed within 15 days from the date of publication of this notice in the FEDERAL REGISTER.

LONG-AND-SHORT HAUL

FSA No. 41378—*Superphosphate from Aurora and Lee Creek, N.C.* Filed by O. W. South, Jr., agent (No. A6030), for interested rail carriers. Rates on superphosphate, not defluorinated superphosphate, nor feed grade superphosphate, in bulk, in carloads, from Aurora and Lee Creek, N.C., to points in western trunkline and northern line territories.

Grounds for relief—Rate relationship.

Tariff—Supplement 39 to Southern Freight Association, agent, tariff ICC S-718.

By the Commission.

[SEAL] H. NEIL GARSON, *Secretary.*

[F.R. Doc. 68-8170; Filed, July 9, 1968; 8:50 a.m.]

[Notice 506]

MOTOR CARRIER ALTERNATE ROUTE DEVIATION NOTICES

JULY 5, 1968.

The following letter-notices of proposals to operate over deviation routes for operating convenience only have been filed with the Interstate Commerce Commission, under the Commission's Deviation Rules Revised, 1957 (49 CFR 211.1(c)(8)) and notice thereof to all interested persons is hereby given as provided in such rules (49 CFR 211.1(d)(4)).

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 211.1(e)) 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 Deviation Rules Revised, 1957, will be numbered consecutively for convenience in identification and protests if any should refer to such letter-notices by number.

MOTOR CARRIERS OF PROPERTY

No. MC 2202 (Deviation No. 104), ROADWAY EXPRESS, INC., 1077 Gorge Boulevard, Post Office Box 471, Akron, Ohio 44309, filed June 24, 1968. Carrier proposes to operate as a *common carrier*, by motor vehicle, of *general commodities*, with certain exceptions, over a deviation route as follows: Between Richmond, Va., and St. Louis, Mo., over Interstate Highway 64, 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 Richmond, Va., over U.S. Highway 1 to Baltimore, Md., thence over U.S. Highway 140 to Gettysburg, Pa., thence over U.S. Highway 30 to Pittsburgh, Pa., thence over U.S. Highway 22 to Cambridge, Ohio, thence over U.S. Highway 40 to St. Louis, Mo., and return over the same route.

No. MC 3560 (Deviation No. 16), GENERAL EXPRESSWAYS, INC., 1205 South Platte River Drive, Denver, Colo. 80223, filed June 10, 1968, amended June 27, 1968. Carrier's representative: William E. Kenworthy, same address as applicant. Carrier proposes to operate as a *common carrier*, by motor vehicle, of *general commodities*, with certain exceptions, over a deviation route as follows: From St. Louis, Mo., over U.S. Highway 40 (also Interstate Highway 70) to junction Interstate Highway 57 at or near Effingham, Ill., thence over Interstate Highway 57 to junction Illinois Highway 16, near Mattoon, Ill., thence over Illinois Highway 16 to junction U.S. Highway 150 at or near Paris, Ill., thence over U.S. Highway 150 to junction U.S. Highway 40 at or near Terre Haute, Ind., thence over U.S. Highway 40 (also Interstate Highway 70) to Columbus, Ohio, thence over Ohio Highway 1 (also Interstate Highway 71) to Cleveland, Ohio, and return over the same route, for operating convenience only, restricted against use of the proposed route for the transportation of shipments moving between St. Louis, Mo., and Cleveland, Ohio. The notice indicates that the carrier is presently authorized to transport the same commodities, over pertinent service routes as follows: (1) From Bloomington, Ill., over U.S. Highway 66 to to junction unnumbered highway near Mount Olive, Ill., thence over unnumbered highway via Mount Olive to junction U.S. Highway 66, thence over U.S. Highway 66 to junction bypass U.S. Highway 66 via Edwardsville, Ill., to junction unnumbered highway (formerly portion U.S. Highway 66), thence over unnumbered highway to Mitchell, Ill., thence over Illinois Highway 203 (formerly portions Illinois Highway 3, Nameoki Avenue, Illinois Highway 162, Alternate U.S. Highway 67 and City U.S. Highway 66) to junction U.S. Highway 460 (formerly portion City U.S. Highway 66), thence over U.S. Highway 460 to St. Louis, Mo.; (2) from Chicago, Ill., over U.S. Highway 66 to junction Illinois Highway 53 (formerly Alternate U.S. Highway 66), thence over Illinois Highway 53 to Gardner, Ill., thence over U.S. Highway 66 to junction unnumbered highway near Dwight, Ill., thence over unnumbered highway via Dwight to junction U.S. Highway 66, thence over U.S. Highway 66 to junction unnumbered highway near Odell, Ill., thence over unnumbered highway via Odell to junction U.S. Highway 66, thence over U.S. Highway 66 to junction unnumbered highway near Pontiac, Ill., thence over unnumbered highway to junction U.S. Highway 66, thence over U.S. Highway 66 to junction unnumbered highway near Chenoa, Ill., thence over unnumbered highway via Chenoa to junction U.S. Highway 66, thence over U.S. Highway 66 to junction unnumbered highway near Lexington, Ill., thence over unnumbered highway to junction U.S.

Highway 66, thence over U.S. Highway 66 to Bloomington, Ill., and (3) from Chicago, Ill., over U.S. Highway 20 to junction Ohio Highway 120, thence over Ohio Highway 120 to Toledo, Ohio, thence over Ohio Highway 2 to Lorraine, Ohio, thence over Ohio Highway 57 to junction Ohio Highway 254 to Cleveland, Ohio, and return over the same routes.

No. MC 59680 (Deviation No. 70), STRICKLAND TRANSPORTATION CO., INC., Post Office Box 5689, Dallas, Tex. 75222, filed June 24, 1968. Carrier proposes to operate as a *common carrier*, by motor vehicle, of *general commodities*, with certain exceptions, over a deviation route as follows: Between New Haven, Conn., and Boston, Mass., over Interstate Highway 95, 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 New Haven, Conn., over U.S. Highway 5 to Springfield, Mass., thence over U.S. Highway 20 to Boston, Mass., and return over the same route.

No. MC 64600 (Deviation No. 3), WILSON TRUCKING CORPORATION, Post Office Box 340, Waynesboro, Va. 22980, filed June 24, 1968. Carrier's representative: Francis W. McInerny, 1000 16th Street NW., Washington, D.C. 20036. Carrier proposes to operate as a *common carrier*, by motor vehicle, of *general commodities*, with certain exceptions, over a deviation route as follows: From Staunton, Va., over Virginia Highway 254 to Buffalo Gap, Va., thence over Virginia Highway 42 via Goshen and Millboro Springs, Va., to junction U.S. Highway 60 east of Clifton Forge, Va., and return over the same route, for operating convenience only. The notice indicates that the carrier is presently authorized to transport the same commodities, over pertinent service route as follows: From Roanoke, Va., over U.S. Highway 11 to junction U.S. Highway 340, thence over U.S. Highway 340 to Waynesboro, Va., thence over U.S. Highway 250 to Staunton, Va.; (2) from Lynchburg, Va., over U.S. Highway 501 to Buena Vista, Va., thence over U.S. Highway 60 to Covington, Va.; and (3) from Fredericksburg, Va., over Virginia Highway 3 to Culpeper, Va., thence over U.S. Highway 522 to Sperryville, Va., thence over U.S. Highway 211 to New Market, Va., thence over U.S. Highway 11 to junction U.S. Highway 340, and return over the same routes, for operating convenience only.

MOTOR CARRIERS OF PASSENGERS

No. MC 1515 (Deviation No. 461), GREYHOUND LINES, INC. (Southern Division), 219 East Short Street, Lexington, Ky. 40507, filed June 28, 1968. Carrier proposes to operate as a common carrier, by motor vehicle, of *passengers and their baggage, and express and newspapers* in the same vehicle with passengers, over a deviation route as follows: From junction Interstate Highway 20 and U.S. Highway 1, approximately 1 mile east of Lexington, S.C., over Interstate Highway 20 to junction U.S. Highway 601, thence over U.S. Highway 601 to junction U.S. Highway 1 at Lugoff, S.C., and return over the same route, for operating convenience only. The notice indicates that the carrier is presently authorized to transport passengers and the same property, over a pertinent service route as follows: From Augusta, Ga., over U.S. Highway 1 to junction South Carolina Highway 421, thence over South Carolina Highway 421 to junction U.S. Highway 1, thence over U.S. Highway 1 via Aiken and Columbia, S.C., to Cheraw, S.C., and return over the same route.

No. MC 2890 (Deviation No. 71), AMERICAN BUSLINES, INC., 1501 South Central Avenue, Los Angeles, Calif. 90021, filed June 27, 1968. Carrier's representative: Bruce E. Mitchell, 1735 K Street NW., Washington, D.C. 20006. Carrier proposes to operate as a *common carrier*, by motor vehicles, of *passengers and their baggage, and express and newspapers* in the same vehicle with passengers, over a deviation route as follows: From junction Interstate Highway 70 and U.S. Highway 40 at or near Pocahontas, Ill., over Interstate Highway 70 to junction U.S. Highway 40 at or near East St. Louis, Ill., and return over the same route, for operating convenience only. The notice indicates that the carrier is presently authorized to transport passengers and the same property, over a pertinent service route as follows: From Pittsburgh, Pa., over U.S. Highway 22 to Zanesville, Ohio, thence over U.S. Highway 40 to Columbus, Ohio, thence over U.S. Highway 40 to St. Louis, Mo., and return over the same route.

No. MC 29957 (Deviation No. 13) (Cancels Deviation Nos. 8, 10, and 12), CONTINENTAL SOUTHERN LINES, INC., Post Office Box 4107, Alexandria, La. 71301, filed June 26, 1968. Carrier proposes to operate as a *common carrier*, by motor vehicle, of *passengers and their baggage, and express and newspapers* in the same vehicle with passengers, and *baggage* of passengers in separate vehicles, over deviation routes as follows: (1) From junction U.S. Highway 190 and Louisiana Highway 415 over Louisiana Highway 415 to junction Louisiana Highway 76, thence over Louisiana Highway 76 to junction Louisiana Highway 1, thence over Louisiana Highway 1 to junction Interstate Highway 10, thence over Interstate Highway 10 to Baton Rouge, La.; (2) from junction Louisiana Highway 1 and U.S. Highway 190 (at west end of Mississippi River Bridge) over Louisiana Highway 1 to junction Interstate Highway 10, thence over Interstate Highway 10 to Baton Rouge, La.; (3) from Baton Rouge, La., over Interstate Highway 10 to junction Interstate Highway 12, thence over Interstate Highway 12 to junction U.S. Highway 61; (4) from junction Louisiana Highway 49 and U.S. Highway 61 over Louisiana Highway 49 to junction Interstate Highway 10, thence over Interstate Highway 10 to New Orleans, La.; and (5) from New Orleans, La., over Interstate Highway 10 to junction Louisiana Highway 433, thence over Louisiana Highway 433 to Slidell, La., and return over the same routes, for operating convenience only. The notice indicates that the carrier is presently authorized to transport passengers and the same property, over pertinent service routes as follows: (1) From Beaumont, Tex., over Texas Highway 12 (formerly Texas Highway 235) via Deweyville, Tex., to the Texas-Louisiana State line, thence over Louisiana Highway 12 (formerly Louisiana Highway 7) via De Quincy, La., to junction U.S. Highway 190, thence over U.S. Highway 190 via Eunice, Opelousas, and Westover, La., and the new bridge to Baton Rouge, La., thence over U.S. Highway 61 via Gonzales, La., to New Orleans, La., and (2) from Mendenhall, Miss., over Mississippi Highway 13 to Columbia, Miss., thence over Mississippi Highway 24 to junction Mississippi Highway 35 (formerly Mississippi Highway 13W), thence over Mississippi Highway 35 via Jamestown and Sandy Hook, Miss., to the Mississippi-Louisiana State line, thence over Louisiana Highway 21 (formerly Louisiana Highway 7) to Bush, La., thence over Louisiana Highway 41 (formerly Louisiana Highway 484) to Talisheek, La., thence over Louisiana Highway 41 (formerly Louisiana Highway 58) to Pearl River, La., thence over U.S. Highway 11 to junction U.S. Highway 90, thence over U.S. Highway 90 to New Orleans, La., and return over the same routes.

No. MC 114271 (Deviation No. 5), CONTINENTAL CRESCENT LINES, INC., Post Office Box 4107, Alexandria, La. 71301, filed June 26, 1968. Carrier proposes to operate as a *common carrier*, by motor vehicle, of *passengers and their baggage*, and express and newspapers in the same vehicle with passengers, over a deviation route as follow: From Austell, Ga., over U.S. Highway 78 to junction Georgia Highway 6, thence over Georgia Highway 6 to junction Interstate Highway 20, thence over Interstate Highway 20 to Atlanta, Ga., and return over the same route, for operating convenience only. The notice indicates that the carrier is presently authorized to transport passengers and the same property, over a pertinent service route as follows: From Gadsden, Ala., over U.S. Highway 278 via Piedmont, Ala., to the Alabama-Georgia State line, thence over U.S. Highway 278 via Cedartown and Austell, Ga., to Atlanta, Ga., and return over the same route.

By the Commission.

[SEAL] H. NEIL GARSON, *Secretary.*

[F.R. Doc. 68-8171; Filed, July 9, 1968; 8:50 a.m.]

[Notice 1196]

MOTOR CARRIER APPLICATIONS AND CERTAIN OTHER PROCEEDINGS

JULY 5, 1968.

The following publications are governed by Special Rule 1.247 of the Commission's rules of practice, published in the FEDERAL REGISTER issue of April 20,

1966, which became effective May 20, 1966.

The publications hereinafter set forth reflect the scope of the applications as filed by applicant, and may include descriptions, restrictions, or limitations which are not in a form acceptable to the Commission. Authority which ultimately may be granted as a result of the applications here noticed will not necessarily reflect the phraseology set forth in the application as filed, but also will eliminate any restrictions which are not acceptable to the Commission.

APPLICATIONS ASSIGNED FOR ORAL HEARING

MOTOR CARRIERS OF PROPERTY

No. MC 52657 (Sub-No. 655) (Republication) filed August 25, 1967, published FEDERAL REGISTER issue of September 14, 1967, and republished this issue. Applicant: ARCO AUTO CARRIERS, INC., 2140 West 79th Street, Chicago, Ill. 60620. Applicant's representative: A. J. Bieberstein, 121 West Doty Street, Madison, Wis. 53703. In the above-entitled proceeding, the examiner recommended the granting to applicant a certificate of public convenience and necessity, authorizing operation in interstate or foreign commerce as a common carrier by motor vehicle, over irregular routes, of (a) bodies, hoists (including power gates and lift gates), and steel containers; (b) trailers, trailer chassis (except those designed to be drawn by passenger automobiles) in initial truckaway service; and (c) materials, supplies, and parts used in the manufacture, assembly, and servicing of the commodities described above, when moving in mixed loads with any of such commodities, from Durant, Okla., to Galion and Lima, Ohio, and Kansas City and St. Louis, Mo. A decision and order of the Commission, Review Board Number 3, dated June 20, 1968, and served July 1, 1968, as modified, 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 (1) *bodies, hoists, and steel containers*, (2) *trailers and trailer chassis* (except those designed to be drawn by passenger automobiles), in initial movements, in truckaway service, and (3) *materials, supplies, and parts* used in the manufacture, assembly, and servicing of the commodities described in (1) and (2) above, when moving in mixed loads with such commodities, from Durant, Okla., to Galion and Lima, Ohio, and Kansas City and St. Louis, Mo.; that applicant is fit, willing, and able properly to perform such service and to conform to the requirements of the Interstate Commerce Act and the Commission's rules and regulations thereunder. Because it is possible that other parties, who have relied upon the notice of the application as published, may have an interest in and would be prejudiced by the lack of proper notice of the authority described in the findings in this order, a notice of the authority actually granted will be published in the FEDERAL REGISTER and issuance of a certificate in this proceeding will be withheld for a period of 30 days from the date of such publication, during which period any proper party in interest may file an appropriate petition to reopen or for other appropriate relief setting forth in detail the precise manner in which it has been so prejudiced.

No. MC-107496 (Sub-No. 587) (Republication) filed September 20, 1967, published in the FEDERAL REGISTER issue of October 5, 1967, and republished this issue. Applicant: RUAN TRANSPORT CORPORATION, Keosauqua Way at Third, Post Office Box 855, Des Moines, Iowa 50304. Applicant's representative: H. L. Fabritz (same address as applicant). By application filed September 20, 1967, applicant seeks a certificate of public convenience and necessity authorizing operation, in interstate or foreign commerce, as a common carrier by motor vehicle, over irregular routes, of petroleum and petroleum products (1) from the Williams Brothers Pipe Line Co. terminal at or near St. Cloud, Minn., and points within 10 miles thereof, to points in Minnesota, North Dakota, South Dakota, Wisconsin, and the Upper Peninsula of Michigan; and (2) from the Williams Brothers Pipe Line Co. terminal at or near Spencer and Spirit Lake, Iowa, and points within 15 miles thereof, to points in Iowa, Illinois, Minnesota, Missouri, Nebraska, North Dakota, South Dakota, and Wisconsin. A report and order of the Commission, Operating Rights Board, served June 25, 1968, 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 petroleum and petroleum products, (1) from the terminal of the Williams Brothers Pipe Line Co. at or near St. Cloud, Minn., to points in Minnesota, North Dakota, South Dakota, Wisconsin, and the Upper Peninsula of Michigan, and (2) from the terminal of the Williams Brothers Pipe Line Co. at or near Spencer and Spirit Lake, Iowa, and from the terminal of Kaneb Pipe Line Co. at or near Milford, Iowa, to points in Iowa, Illinois, Minnesota, Missouri, Nebraska, North Dakota, South Dakota, 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 persons, 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 in the findings in this order, a notice of the authority actually granted will be published in the FEDERAL REGISTER and issuance of a certificate in this proceeding will be withheld for a period of 30 days from the date of such publication, during which period any proper party in interest may file a petition to reopen or for other appropriate relief setting forth in detail the precise manner in which it has been so prejudiced.

No. MC-121629 (Republication), filed May 31, 1968, published in the FEDERAL REGISTER as State Docket No. T66-4 issue of March 9, 1966, and republished this issue. Applicant: R. E. COOPER, doing business as HOMER TRANSFER COMPANY, Box 182, Homer, Alaska 99603. Applicant's representative: A. Robert Hahn, Jr., 606 Fourth Avenue, Anchorage, Alaska. That applicant, in accordance with the requirements of section 206(a)(6) of the Interstate Commerce Act, as amended October 15, 1962, and the Commission's rules and regulations promulgated thereunder, has made timely application for a certificate of registration as evidence of the right to conduct operations, in interstate or foreign commerce, within limits which do not exceed the scope of the intrastate operations for which applicant holds a State certificate as a common carrier by motor vehicle, solely within a single State, as referred to below; that said application was not filed within the 30-day time limit specified in Rule 1.245(d)(1) of the Commission's rules of practice, but that for good cause shown, as provided in Rule 1.245(d)(4) of said rules of practice, said 30-day time limit was waived and the application was accepted for filing. Applicant has been issued a State certificate of public convenience and necessity authorizing the motor carrier operations in intrastate commerce described below, and that no one opposed in the State Commission application proceeding the authority sought for corresponding operations in interstate or foreign commerce, that the certificate issued by the State Commission satisfies the provisions of section 206(a)(6) of the Act, and that applicant has otherwise met the requirements for a Certificate of Registration contained in section 206(a)(6) of the Act.

An order of the Commission, Operating Rights Board, dated June 10, 1968, served June 12, 1968, calls for publication in the FEDERAL REGISTER of the State Authority sought which is somewhat more limited than that authorized by the State Commission, and that because it is possible that interested parties, who have relied upon the notice of the application as published in the FEDERAL REGISTER, may have an interest in and would be prejudiced by the lack of proper notice of the authority described herein, a notice of the authority granted by this order will be published in the FEDERAL REGISTER and issuance of a certificate of registration in this proceeding will be withheld for a period of 30 days from the date of such publication, during which period any proper party in interest may file an appropriate pleading with this Commission. Description of the transportation service authorized to be conducted solely within the State of Alaska, in intrastate commerce, as a common carrier by motor vehicle, pursuant to Permit No. 241, dated January 31, 1968, issued by the Alaska Transportation Commission: General commodities (except classes A and B explosives and commodities in bulk, in tank trucks), water, in bulk, in tank trucks, between all points and places on the Kenai Peninsula: (A) South of the Kasilof River within a 65-mile radius of Homer, Alaska, including Homer. (B) Points and places on the Kenai Peninsula

south of the Kasilof River and within 65 miles of Homer on the one hand, and, on the other hand, points in Zone 8.

NOTICE OF FILING OF PETITIONS

No. MC 112627 (Notice of Filing of Petition for the Removal of a Restriction), filed June 21, 1968. Petitioner: OWENS BROS., INC., Danville, N.Y. Petitioner's representative: Raymond A. Richards, 23 West Main Street, Webster, N.Y. 14580. Petitioner holds certificate in No. MC 112627 (Sub-No. 7), authorizing the transportation by motor carrier, in interstate or foreign commerce, transporting: Wine, containers, from Naples, N.Y., to points in Indiana and Illinois (except Chicago, Ill.), restricted to stop-off-shipments only. By the instant petition, petitioner requests the elimination of the restriction pertaining to stop-off shipments. Any interested person desiring to participate may file an original and six copies of his written representations, views, or argument in support of, or against the petition within 30 days from the date of this publication in the FEDERAL REGISTER.

No. MC 113267 (Sub-No. 47), (Notice of Filing of Petition To Modify Certificate), filed June 19, 1968. Petitioner: CENTRAL & SOUTHERN TRUCK LINES, INC., Caseyville, Ill. Petitioner's representative: R. H. Burroughs, 115 East Main Street, Collinsville, Ill. In No. MC 113267 (Sub-No. 47), petitioner holds authority to operate, over irregular routes, transporting: Fresh poultry, frozen poultry, and poultry products, with or without other ingredients, and frozen meat and meat products, with or without other ingredients, from Athens, Ala., to points in the United States (except points in Maine, Hawaii, and Alaska), with no transportation for compensation on return except as otherwise authorized, *restricted to traffic originating at Athens, Ala., and delivered to the points indicated.* By the instant petition, petitioner prays that the certificate be modified by removing the restriction, restricting the authority to traffic originating at Athens, Ala., and that otherwise said certificate remain as heretofore ordered by the Commission. Any interested person or persons desiring to participate, may file an original and six copies of his written representations, views, or argument in support of, or against the petition within 30 days from the date of this publication in the FEDERAL REGISTER. Also, petitioner shall submit verified statements in support of such request within 30 days from this publication in the FEDERAL REGISTER.

APPLICATIONS UNDER SECTIONS 5 AND 210a(b)

The following applications are governed by the Interstate Commerce Commission's special rules governing notice of filing of applications by motor carriers of property or passengers under sections 5(a) and 210a(b) of the Interstate Commerce Act and certain other proceedings with respect thereto (49 CFR 1.240).

MOTOR CARRIERS OF PROPERTY

No. MC–F–10097. (Correction) (W. J. DIGBY, INC.—Purchase—W. J. DIGBY, INC., OF IOWA), published in the April 24, 1968, issue of the FEDERAL REGISTER, on page 6270. This correction to show W. J. DIGBY, INC. seeks to *control and merge* the operating rights and property of W. J. DIGBY, INC., OF IOWA, in lieu of purchase.

No. MC–F–10172. Authority sought for merger into NAVAJO FREIGHT LINES, INC., 1205 South Platte River Drive, Denver, Colo. 80223, of the operating rights and property of SAN LEANDRO FREIGHT LINES, 1205 South Platte River Drive, Denver, Colo. 80223, and for acquisition by UNITED TRANSPORTATION INVESTMENT COMPANY, and, in turn by DAVID H. RATNER, both of 310 South Michigan Avenue, Chicago, Ill. 60604, of control of such rights and property through the transaction. Applicants' attorneys: Axelrod, Goodman and Steiner, 39 South La Salle Street, Chicago, Ill. 60603. Operating rights sought to be merged: *Compressed or liquefied gas,* other than liquefied petroleum gas, in shipper-owned tank vehicles, and *general commodities,* except classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and commodities requiring special equipment, as a *common carrier,* over regular routes, between Richmond, Calif., and San Jose, Calif., between San Francisco, Calif., and San Jose, Calif., serving all intermediate points, using the San Francisco Bay Bridge, San Mateo Bridge, Dumbarton Bridge, and appropriate access roads for operating convenience only in connection with the above-specified routes. NAVAJO FREIGHT LINES, INC., is authorized to operate as a *common carrier* in New Mexico, California, Arizona, Texas, Colorado, Illinois, Missouri, Iowa, Nebraska, Oklahoma, Nevada, Indiana, Kansas, Utah, Louisiana, Virginia, Maryland, Florida, New York, Tennessee, and Wyoming. Application has not been filed for temporary authority under section 210a(b). NOTE: NAVAJO FREIGHT LINES, INC., controls SAN LEANDRO FREIGHT LINES, through ownership of capital stock pursuant to authority granted in Docket No. MC–F–7519, effective June 27, 1961, and consummated August 15, 1961.

No. MC–F–10173. Authority sought for purchase by W. T. BYRNS MOTOR EXPRESS, INC., 646 Coffeen Street, Watertown, N.Y., of the operating rights and property of SEABURY MOTOR EXPRESS, INC., 1056 Arsenal Street, Watertown, N.Y., and for acquisition by LAWRENCE E. SMITH, and HELEN E. SMITH, both of 646 Coffeen Street, Watertown, N.Y., of control of such rights and property through the purchase. Applicants' attorneys: Norman M. Pinsky and Herbert M. Canter, both of 345 South Warren Street, Syracuse, N.Y. 13202, and Francis E. Barrett, Jr., 536 Granite Street, Braintree, Mass. 02184. Operating rights sought to be transferred: *Meat and packinghouse products,* as a *common carrier,* over regular routes, from Syracuse, N.Y., to Ogdensburg, N.Y., serving the intermediate points of Watertown and Adams, N.Y., and points between Adams and Ogdensburg, restricted to delivery only; and *metal curtain fixtures and novelty brass articles,* from Ogdensburg, N.Y., and Syracuse, N.Y., serving the intermediate points of Watertown and Adams, N.Y., and points between Adams and Ogdensburg, restricted to pickup only; and under a certificate of registration, in No. MC–45576 Sub-4, covering the transportation of general commodities, as a common carrier, in intrastate commerce, within the State of New York. Vendee is authorized to operate as a *common carrier* in New York, New Jersey, Pennsylvania, Massachusetts, Connecticut, Rhode Island, Delaware, Maryland, Illinois, Michigan, Ohio, Maine, New Hampshire, Vermont, and the District of Columbia. Application has not been filed for temporary authority under section 210a(b).

NOTE: No. MC–106275 Sub-39 is a matter directly related.

No. MC–F–10174. Authority sought for purchase by INTERSTATE MOTOR FREIGHT SYSTEM, 134 Grandville Avenue SW., Grand Rapids, Mich. 49502, (1) of the operating rights and property of SOUTHWEST FREIGHT LINES, INC., 1400 Kansas Avenue, Kansas City, Kans. 66105, and (2) of the operating rights and certain property of DIRECT TRANSPORTS, INC., 1400 Kansas Avenue, Kansas City, Kans. 66105. Applicants' attorneys: Lee Reeder and F. W. Taylor, Jr., 1221 Baltimore, Kansas City, Mo. 64105, and Donald Hults, Post Office Box 225, Lawrence, Kans. 66044. Operating rights sought to be transferred: (1) *General commodities,* with certain specified exceptions, and numerous other specified commodities, as a *common carrier,* over regular and irregular routes, from, to, and between specified points in the States of Illinois, Kansas, Missouri, Iowa, Arkansas, Oklahoma, Nebraska, Colorado, Wyoming, Indiana, South Dakota, Texas, Kentucky, Tennessee, Minnesota, Wisconsin, Louisiana, and North Dakota, with certain restrictions, serving various intermediate and off-route points, as more specifically described in Docket No. MC–29566 and subnumbers thereunder. This notice does not purport to be a complete description of all of the operating rights of the carrier involved. The foregoing summary is believed to be sufficient for purposes of public notice regarding the nature and extent of this carrier's operating rights, without stating, in full, the entirety, thereof.

(2) *General commodities,* excepting, among others, household goods and commodities in bulk, as a *common carrier,* over regular routes; between Omaha, Nebr., and junction Missouri County Road M and U.S. Highway 169, serving no intermediate points and serving junction U.S. Highway 71 and U.S. Highway 136 for purposes of joinder only, between Omaha, Nebr., and junction U.S. Highway 71 and U.S. Highway 136, serving no intermediate points, but serving junction U.S. Highway 136 and U.S. Highway 71 for purposes of joinder only, with restrictions; between St. Joseph, Mo., and Albany, Mo., between Albany, Mo.,

and McFall, Mo., serving all intermediate points, between junction U.S. Highways 169 and 136, and Grant City, Mo., serving the intermediate points of Worth and Gentry, Mo., and certain off-route points; *general commodities*, except money and jewelry, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment, between Albany, Mo., and St. Joseph, Mo., serving all intermediate points, restricted to south bound traffic only; *butter*, from Ravenwood, Mo., to Kansas City, Mo., serving no intermediate points; *general commodities*, excepting, among others, household goods and commodities in bulk, over irregular routes, between St. Joseph, Mo., on the one hand, and, on the other, points in Iowa and Nebraska, with restriction, between points in Decatur County, Iowa, on the one hand, and, on the other, points in Mercer and Worth Counties, Mo., between points in Ringgold County, Iowa, on the one hand, and, on the other, Kansas City, Kans., and certain specified points in Missouri, between King City, Mo., and points within 10 miles thereof, on the one hand, and, on the other, Kansas City, Kans., with restriction; *candy*, in truckload lots, from St. Joseph, Mo., to points in Kansas; *flour and seed*, from certain specified points in Nebraska, to Lamoni, Iowa, and certain specified points in Missouri;

Meats, packinghouse products, and commodities used by packinghouses, as described in sections A, C, and D of appendix I to the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209 and 766, from Fort Dodge, Iowa, to Springfield, Mo., and Fort Smith and Little Rock, Ark., from Springfield, Mo., to Fremont, Nebr., Fort Dodge, Iowa, and Austin and Owatonna, Minn.; *meats, meat products, and meat byproducts*, as described in section A of appendix I to the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209 and 766, from Madison and Sioux Falls, S. Dak., to Trenton, Mo., and *frozen foods*, from certain specified points in Missouri, to points in Iowa, Minnesota, Nebraska, North Dakota, and South Dakota. Vendee is authorized to operate as a *common carrier* in Ohio, Illinois, Indiana, New York, Missouri, Pennsylvania, Michigan, Minnesota, Wisconsin, Kentucky, West Virginia, Maryland, Massachusetts, New Jersey, Iowa, Delaware, Colorado, Nebraska, Wyoming, Kansas, Connecticut, Rhode Island, and the District of Columbia. Application has not been filed for temporary authority under section 210a(b).

No. MC–F–10175. Authority sought for control and merger by J. A. GARVEY TRANSPORTATION, INC., 550 Forest Avenue, Portland, Maine 04101, of the operating rights and property of GARVEY TRANSPORTATION CO., INC., 550 Forest Avenue, Portland, Maine 04101, and for acquisition by SANBORN'S MOTOR EXPRESS, INC., and, in turn by HOWARD L. SANBORN, H. BLAINE SANBORN, and DWIGHT L. SANBORN, all also of Portland, Maine, of control of such rights and property through the transaction. Applicants' attorney: Mary E. Kelley, 10 Tremont Street, Boston, Mass. Operating rights sought to be controlled and merged: *General commodities*, excepting, among others, household goods and commodities in bulk, as a *common carrier*, over irregular routes, between Freehold, N.J., and points in New Jersey within 30 miles of Freehold, N.J., on the one hand, and, on the other, Newark and Jersey City, N.J., New York, N.Y., and Philadelphia, Pa., between New York, N.Y., and Philadelphia, Pa. J. A. GARVEY TRANSPORTATION, INC., is authorized to operate as a *common carrier* in Maine, Massachusetts, New Hampshire, New York, Connecticut, Rhode Island, and New Jersey. Application has not been filed for temporary authority under section 210a(b).

No. MC–F–10176. Authority sought for control and merger by CONSOLIDATED FREIGHTWAYS CORPORATION OF DELAWARE, 175 Linfield Drive, Menlo Park, Calif. 94025, of the operating rights and property of SAGINAW TRANSFER COMPANY, INC., 2130 Midland Road, Saginaw, Mich. 48603, and for acquisition by CONSOLIDATED FREIGHTWAYS, INC., International Building, 601 California Street, San Francisco, Calif. 94108, of control of such rights and property through the transaction. Applicants' attorneys: Eugene T. Liipfert, 1035 Universal Building North, Washington, D.C. 20009, Carl H. Smith, 212 Phoenix Building, Bay City, Mich., and Robert C. Stetson, 175 Linfield Drive, Menlo Park, Calif. 94025. Operating rights sought to be controlled and merged: *General commodities*, excepting, among others, household goods and commodities in bulk, as a *common carrier*, over regular routes, from Chicago, Ill., to Bay City, Mich., between Chicago, Ill., and Saginaw, Mich., serving certain intermediate and off-route points, between points in Michigan, between junction U.S. Highway 12 and Indiana Highway 212 and Chicago, Ill., between Saginaw, Mich., and Midland, Mich., serving no intermediate points; between Detroit, Mich., and Chicago, Ill., serving the terminus of Chicago, Ill., and certain intermediate and off-route points, with and without restriction; between Marshall, Mich., and Charlotte, Mich., between Lansing, Mich., and Bay City, Mich., between St. Johns, Mich., and Bay City, Mich., serving all intermediate points, between Detroit, Mich., and Flint, Mich., serving all intermediate points and the off-route points within 8 miles of Detroit, Mich.; over one alternate route for operating convenience;

Flour, from Frankenmuth, Mich., to Chicago, Ill., serving no intermediate points; *sugar and honey*, from Bay City, Mich., to Chicago, Ill., serving no intermediate points, but serving the off-route point of Blue Island, Ill.; *empty containers for sugar and honey*, from Chicago, Ill., to Bay City, Mich., serving no intermediate points, but serving the off-route point of Blue Island, Ill.; *empty petroleum containers*, from Flint, Mich., to Chicago, Ill., serving certain intermediate and off-route points; *honey*, over irregular routes, from certain specified points in Michigan, to Chicago, Ill.; *building and roofing materials*, from Joliet and Chicago Heights, Ill., to certain specified points in Michigan; *iron and steel, iron and steel articles, and chemicals*, between Detroit, Mich., and Chicago, Ill., serving the terminus of Chicago, Ill., and certain intermediate and off-route points, with and without restriction; between Marshall, Mich., and Charlotte, Mich., between Lansing, Mich., and Bay City Mich., between St. Johns, Mich., and Bay City, Mich., serving all intermediate points, between Detroit, Mich., and Flint, Mich., serving all intermediate points and off-route points within 8 miles of Detroit, Mich., with exceptions; points in Cook and Du Page Counties, Ill., and Lake County, Ind., Detroit and Jackson, Mich., and points within 8 miles of Detroit, Mich., to Rockford, Ill.; and

Paper and paper products, chemicals, iron and steel, and iron and steel articles, between certain specified points in Illinois, on the one hand, and, on the other, between Detroit, Mich., and Chicago, Ill., serving the terminus of Chicago, Ill., and certain intermediate and off-route points, with and without restriction; between Marshall, Mich., and Charlotte, Mich., between Lansing, Mich., and Bay City, Mich., between St. Johns, Mich., and Bay City, Mich., serving all intermediate points, between Detroit, Mich., and Flint, Mich., serving all intermediate points and off-route points within 8 miles of Detroit, Mich., with exceptions. CONSOLIDATED FREIGHTWAYS CORPORATION OF DELAWARE is authorized to operate as a *common carrier* in Massachusetts, Rhode Island, Connecticut, Montana, Colorado, Idaho, North Dakota, South Dakota, Delaware, Washington, Wyoming, Wisconsin, Illinois, Nevada, Utah, Louisiana, Nebraska, Arkansas, Florida, New York, Tennessee, Oregon, Oklahoma, California, Maryland, Georgia, Arizona, Minnesota, Iowa, Kansas, Pennsylvania, Kentucky, West Virginia, New Mexico, New Jersey, Indiana, Texas, Ohio, Virginia, and the District of Columbia. Application has not been filed for temporary authority under section 210a(b).

No. MC–F–10177. Authority sought for purchase by C & H TRANSPORTATION CO., INC., 1935 West Commerce, Post Office Box 5976, Dallas, Tex. 75222, of the operating rights of ARTHUR A. GALLAGHER AND LOTTIE GALLAGHER, REMAINING TRUSTEE OF THE ESTATE OF EDWARD A. GALLAGHER, DECEASED, doing business as E. A. GALLAGHER & SONS, 1601 South Delaware, Philadelphia, Pa. 19148, and for acquisition by SATURN INDUSTRIES, INC., 3100 Southland Center, Dallas, Tex. 75202, of control of such rights through the purchase. Applicants' attorney and representative: W. T. Brunson, 419 Northwest Sixth Street, Oklahoma City, Okla. 73102, and Arthur A. Gallagher, 1601 South Delaware, Philadelphia, Pa. 19148. Operating rights sought to be transferred: *Building materials*, as a

common carrier, over irregular routes, from Philadelphia, Pa., to points in New Jersey; *electrical equipment*, from Philadelphia, Pa., to New York, N.Y., and points in New Jersey; *iron and steel articles*, from Philadelphia, Pa., to New York, N.Y., Baltimore, Md., Washington, D.C., and points in Delaware and New Jersey; *trailers*, from Philadelphia, Pa., on the one hand, and, on the other, New York, N.Y., Wilmington, Del., and points in New Jersey; *boats*, between Philadelphia, Pa., and points in Delaware, New Jersey, New York, and Connecticut; *automobiles, automobile parts and accessories, automobile show exhibits, and automobile show displays*, between Philadelphia, Pa., and New York, N.Y., on the one hand, and, on the other, points in Pennsylvania, New York, New Jersey, Massachusetts, Delaware, and Maryland; *theatrical scenery*, between points in Pennsylvania, New York, New Jersey, Connecticut, Rhode Island, Maryland, and the District of Columbia.

Commodities, the transportation of which because of size or weight, require the use of special equipment and *related machinery parts and related contractors' materials and supplies* when their transportation is incidental to the transportation by applicant of commodities which by reason of size or weight require special equipment, between points in Pennsylvania, New York, New Jersey, and Maryland; *prefabricated buildings*, knocked-down and *parts thereof*, and *articles* used or useful in the manufacture and erection of prefabricated buildings, between Wilmington, Del., on the one hand, and, on the other, points in Maine, New Hampshire, Vermont, Massachusetts, Rhode Island, Connecticut, New York, New Jersey, Pennsylvania, Delaware, Maryland, Virginia, North Carolina, South Carolina, Georgia, Florida, Alabama, Mississippi, Louisiana, Tennessee, Kentucky, West Virginia, Ohio, Indiana, Illinois, Michigan, Wisconsin, and the District of Columbia; *furs, fur wearing apparel, and fur-trimmed or fur-lined wearing apparel*, between Newark, N.J., and Philadelphia, Pa., between Newark, N.J., and points in the Philadelphia, Pa., commercial zone, as defined by the Commission, on the one hand, and, on the other, Richmond, Va., Baltimore, Md., Wilmington, Del., and points in the Washington, D.C., commercial zone, as defined by the Commission; and *commodities, which because of their weight or size require special equipment*, between Philadelphia, Pa., on the one hand, and, on the other, points in Connecticut, Rhode Island, Massachusetts, Delaware, Virginia, and the District of Columbia. Vendee is authorized to operate as a *common carrier* in all points in the United States (except Hawaii). Application has been filed for temporary authority under section 210a(b).

No. MC-F-10178. Authority sought for control by ROADWAY EXPRESS, INC., 1077 Gorge Boulevard, Post Office Box 471, Akron, Ohio 44309, of WEST BROTHERS, INC., Post Office Box 1569, Hattiesburg, Miss. 39401, and for acquisition by GALEN J. ROUSH, also of Akron, Ohio, of control of WEST BROTHERS, INC., through the acquisition by ROADWAY EXPRESS, INC. Applicants' attorney: Jack R. Turney, Jr., 2001 Massachusetts Avenue NW., Washington, D.C. 20036. Operating rights sought to be controlled: *General commodities*, excepting, among others, household goods and commodities in bulk, as a *common carrier*, over regular routes, between Meridian, Miss., and New Orleans, La., serving certain intermediate points, between Jackson, Miss., and Hattiesburg, Miss., between Collins, Miss., and Brookhaven, Miss., serving all intermediate points, between Hattiesburg, Miss., and New Orleans, La., serving the intermediate points of Gulfport, Miss., and points on U.S. Highway 11, and the off-route points of Camp Shelby, Miss., located approximately 12 miles south of Hattiesburg, Miss., between Hattiesburg, Miss., and Mobile, Ala., serving all intermediate points, and the off-route point of Richton, Miss., between McComb, Miss., and Hattiesburg, Miss., between Mendenhall, Miss., and Columbia, Miss., between Magee, Miss., and Laurel, Miss., serving all intermediate points, between Gulfport, Miss., and Mobile, Ala., serving certain intermediate points, between Birmingham, Ala., and Mobile, Ala., serving all intermediate points including Chapman, Ala., and the off-route point of Prattville, Ala., between Selma, Ala., and Montgomery, Ala., serving all intermediate points, and the off-route points of Lowndesboro and Hayneville, Ala.

Between Clanton, Ala., and Mobile, Ala., serving the intermediate point of Selma, Ala., between Lucedale, Miss., and Poplarville, Miss., serving all intermediate points, between McLain, Miss., and Fontainebleau, Miss., serving all intermediate points, and serving off-route points within 5 miles of Vancleave, Miss., between Jackson, Miss., and Beaumont, Miss., serving certain intermediate points, between Hattiesburg, Miss., and Waynesboro, Miss., between Enterprise, Miss., and Bay Springs, Miss., between Bay Springs, Miss., and junction Mississippi Highway 528 and U.S. Highway 11, near Heidelberg, Miss., between Georgetown, Miss., and Magee, Miss., between Mount Olive, Miss., and junction Mississippi Highway 532 and U.S. Highway 84 (8 miles east of Collins, Miss.), between Bay Springs, Miss., and junction Mississippi Highway 37 and U.S. Highway 84 (6 miles east of Collins, Miss.), between Taylorsville, Miss., and Raleigh, Miss., between Magee, Miss., and junction Mississippi Highway 541 and Mississippi Highway 18 (3 miles east of Puckett, Miss.), between Columbia, Miss., and junction Mississippi Highway 13 and U.S. Highway 49 (9 miles north of Wiggins, Miss.), between Prentis, Miss., and junction Mississippi Highway 42 and U.S. Highway 49 (approximately 10 miles north of Hattiesburg, Miss.), between Columbia, Miss., and Sumrall, Miss., between Purvis, Miss., and Seminary, Miss., between Lyman, Miss., and Poplarville, Miss., between Biloxi, Miss., and Saucier, Miss., between Lucedale, Miss., and Pascagoula, Miss., between Biloxi, Miss., and Beaumont, Miss., between Wiggins, Miss., and Ellisville, Miss.

Between Lucedale, Miss., and junction Mississippi Highway 57 and U.S. Highway 45 (3 miles north of State Line, Miss.), between Leakesville, Miss., and Richton, Miss., between Waynesboro, Miss., and junction Mississippi Highway 42 and Mississippi Highway 63 (11 miles east of Richton, Miss.), between junction U.S. Highway 98 and Mississippi Highway 57 and the Mississippi-Alabama State line, between Florence, Miss., and junction Mississippi Highway 469 and 28 (6 miles east of Georgetown, Miss.), between junction Mississippi Highways 53 and 603 (19 miles south of Poplarville, Miss.), and junction Mississippi Highway 603 and U.S. Highway 90 (approximately 5 miles west of Bay St. Louis, Miss.), between junction Mississippi Highway 42 and U.S. Highway 45 (1 mile east of State Line, Miss.) and junction Mississippi Highways 42 and 63 (approximately 21 miles north of Leakesville, Miss.), between Seminary, Miss., and junction Mississippi Highway 590 and U.S. Highway 11 (1 mile south of Ellisville, Miss.), between Ellisville, Miss., and Seminary, Miss., between junction Mississippi Highways 588 and 535 (5 miles northeast of Seminary, Miss.), and junction Mississippi Highways 532 and 539 (5 miles east of Mount Olive, Miss.), between Raleigh, Miss., and Mendenhall, Miss., between Mobile, Ala., and Hurley, Miss., between Mobile, Ala., and Harleston, Miss.

Between junction Mississippi Highways 533 and 15 (9 miles south of Bay Springs, Miss.), and junction Mississippi Highways 29 and 588 (1 mile west of Ellisville, Miss.), between Newhebron, Miss., and junction Mississippi Highways 43 and 13 (11 miles south of Prentiss, Miss.), between Pachuta, Miss., and Paulding, Miss., between junction Mississippi Highways 18 and 503 (approximately 17 miles northeast of Bay Springs, Miss.), and junction Mississippi Highways 503 and 528 (approximately 3 miles northwest of Heidelberg, Miss.), serving all intermediate points, between Crystal Springs, Miss., and Tylertown, Miss., serving all intermediate points, and serving Crystal Springs, Miss., as a point of joinder only, between Lucedale, Miss., and Pascagoula, Miss., serving all intermediate points; between Memphis, Tenn. (except that part of the commercial zone of Memphis, Tenn., lying west of the Mississippi River), and Raleigh, Miss., serving no intermediate points, with restriction; over numerous alternate routes for operating convenience only; *general commodities*, excepting, among others, household goods, but not excepting, commodities in bulk, between Laurel, Miss., and Mobile, Ala., serving all intermediate points on U.S. Highway 84 between Laurel and Waynesboro, Miss., including Waynesboro, in transportation 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; and

Building, wall, or insulating fiberboard or pulpboard, including *moldings or fasteners* when shipped therewith, from Meridian, Miss., to Birmingham, Ala., serving no intermediate points. ROADWAY EXPRESS, INC. is authorized to operate as a *common carrier,* in Ohio, Texas, Oklahoma, Missouri, Indiana, Pennsylvania, Kansas, Michigan, Illinois, Tennessee, Kentucky, Alabama, Georgia, North Carolina, South Carolina, New Jersey, New York, Maryland, West Virginia, Virginia, Wisconsin, Mississippi, Louisiana, Massachusetts, Connecticut, Rhode Island, Delaware, and the District of Columbia. Application has not been filed for temporary authority under section 210a(b). NOTE: See also MC–F–10041 (PASCAGOULA DRAYAGE CO., INC.—Purchase (Portion)—WEST BROTHERS, INC.), published in the Febuary 21, 1968, issue of the FEDERAL REGISTER, on page 3252, which was granted April 19, 1968, by Review Board No. 5, effective May 6, 1968, and not yet consummated.

No. MC–F–10179. Authority sought for purchase by HEMPSTEAD DELIVERY CO., INC., 407 West 35th Street, New York, N.Y. 10001, of the operating rights of OAKWOOD TRUCKING CORP., 215 South 11th Avenue, Mount Vernon, N.Y. 10550, and for acquisition by MILTON SEITLES and DOROTHY SEITLES, both also of New York, N.Y., of control of such rights through the purchase. Applicants' attorneys: Arthur J. Piken, 160–16 Jamaica Avenue, Jamaica, N.Y., and Werner & Alfano, 2 West 45th Street, New York, N.Y. 10036. Operating rights sought to be transferred: Under a certificate of registration, in No. MC–98384 Sub 2, covering the transportation of general commodities, as a common carrier in intrastate commerce, within the State of New York. Vendee is authorized to operate as a *common carrier,* in New York. Application has been filed for temporary authority under section 210a(b). NOTE: MC–121393 Sub 4 is a matter directly related.

No. MC–F–10180. Authority sought for purchase by NEW YORK MID-HUDSON TRANS. CORP., 535 West 19th Street, New York, N.Y. 10011, of the operating rights of HARRISON EXPRESS CO., INC. (HAROLD S. OKIN, Receiver), 218 Washington Avenue, Carlstadt, N.J. 08212, and for acquisition by JACK R. STEWART, 197 Furnace Dock Road, Peekskill, N.Y. 10566, and ALAN M. STEWART, 20 Brianbeth Place, Tappan, N.Y. 10983, of control of such rights through the purchase. Applicants' representatives: Robert B. Pepper, 297 Academy Street, Jersey City, N.J. 07306, and Harold S. Okin (Receiver), 595 Broad Avenue, Ridgefield, N.J. 07657. Operating rights sought to be transferred: *General commodities,* except those of unusual value, and except dangerous explosives, commodities in bulk, commodities requiring special equipment, and those injurious or contaminating to other lading, as a *common carrier,* over irregular routes, between points within the territory (inclusive of the points specified) bounded by a line beginning at New York, N.Y., and extending in a westerly direction along New Jersey Highway 4 to Paterson, N.J., thence along U.S. Highway 46 to junction U.S. Highway 202, thence along U.S. Highway 202 to junction U.S. Highway 206, thence along U.S. Highway 206 to Princeton, N.J., thence in a southeasterly direction along an unnumbered highway to Hightstown, N.J., thence along New Jersey Highway 33 to junction U.S. Highway 9, thence along U.S. Highway 9 to Perth Amboy, N.J., and thence in an easterly direction to New York, N.Y. Vendee is authorized to operate as a *common carrier* in New York and New Jersey. Application has been filed for temporary authority under section 210a(b).

By the Commission.

[SEAL] H. NEIL GARSON, *Secretary.*

[F.R. Doc. 68–8172; Filed, July 9, 1968; 8:50 a.m.]

[Notice 642]

MOTOR CARRIER TEMPORARY AUTHORITY APPLICATIONS

JULY 3, 1968.

The following are notices of filing of applications for temporary authority under section 210a(a). of the Interstate Commerce Act provided for under the new rules of Ex Parte No. MC–67 (49 CFR Part 340) 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 protest must be served on the applicant, or its authorized representative, if any, and the protests must certify that such service has been made. The protests must be specific as to the service which such protestant can and will offer, and must consist of a signed original and six copies.

A copy of the application is on file, and can be examined at the Office of the Secretary, Interstate Commerce Commission, Washington, D.C., and also in the field office to which protests are to be transmitted.

MOTOR CARRIERS OF PROPERTY

No. MC 31564 (Sub-No. 4 TA), filed June 28, 1968. Applicant: FRANK CORSO, INC., 270 Wooding Street, Hamden, Conn. 06514. Applicant's representative: William J. Meuser, 101 River Street, Milford, Conn. 06460. Authority sought to operate as a *common carrier,* by motor vehicle, over irregular routes, transporting: *Bananas,* from Fall River, Mass., and Providence, R.I., to Hartford, New Britain, New London, and Torrington, Conn., and to Springfield, Mass., for 180 days. Supporting shippers: United Fruit Sales Corp., Prudential Center, Boston, Mass. 02199; John Martinelli, Inc., 105 Avocado Street, Springfield, Mass. 01104; Mariano Cianciolo, 509 South Main Street, Torrington, Conn. 06790; Beck Bros., Building A19–20–21 Regional Market, 101 Reserve Road, Hartford, Conn. 06114. Send protests to: District Supervisor David J. Kiernan, Bureau of Operations, Interstate Commerce Commission, 324 U.S. Post Office Building, 135 High Street, Hartford, Conn. 06101.

No. MC 66562 (Sub-No. 2316 TA), filed June 26, 1968. Applicant: RAILWAY EXPRESS AGENCY, INCORPORATED, 219 East 42d Street, New York, N.Y. 10017. Applicant's representative: John H. Engel, 2413 Broadway, Kansas City, Mo. Authority sought to operate as a *common carrier,* by motor vehicle, over regular routes, transporting: *General commodities* moving in express service; (1) between Louisville, Miss., and Bay Springs, Miss., serving the intermediate and/or off-route points and Newton, Miss., from Louisville, over Mississippi Highway 15 to Bay Springs, Miss., and return over the same route; (2) between Bay Springs, and Meridian, Miss., serving no intermediate and/or off-route points, from Bay Springs, over Mississippi Highway 18 to the intersection with Mississippi Highway 513, thence over Mississippi Highway 513 to the intersection with U.S. Highway 11 and/or Interstate Highway 59 (where and as when completed), thence over U.S. Highway 11/Interstate Highway 59 to Meridian, and return over the same route; (3) between Meridian and Philadelphia, Miss., serving no intermediate and/or off-route points, from Meridian, over Mississippi Highway 19 to Philadelphia, and return over the same route; (4) between Newton and Meridian, Miss., serving no intermediate and/or off-route points, as an alternate route for operating convenience only, from Newton, over Interstate Highway 20 where and as when completed to Meridian and return over the same route, for 150 days. Restriction: (1) The service to that which is auxiliary to or supplemental of express service of the Railway Express Agency, Inc. (2) Shipments transported shall be limited to those moving on through bills of lading or express receipts. Permission to tack requested: Applicant requests that the authority for the proposed operations, if granted, be construed as an extension, to be joined, tacked, and combined with R E A's existing authority in MC 66562 and subs thereunder, thereby negating the restrictions against tacking or joinder customarily placed upon temporary authority. Supporting shippers: There are approximately 12 statements of support attached to the application, which may be examined here at the Commission's offices in Washington, D.C., or at the field office named below. Send protests to: Anthony Chiusano, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 26 Federal Plaza, New York, N.Y. 10007.

No. MC 106398 (Sub-No. 365 TA), filed June 27, 1968. Applicant: NATIONAL TRAILER CONVOY, INC., 1925 National Plaza, Box 8096, Dawson Station, Tulsa, Okla. 74151. Applicant's representative: O. L. Thee (same address as above). Authority sought to operate as a *common*

carrier, by motor vehicle, over irregular routes, transporting: *Portable buildings*, equipped with a hitchball connector, from the plant of Magnolia Homes Manufacturing Co., Vicksburg, Miss., to University Park, Fla., for 180 days. Supporting shipper: Magnolia Homes Manufacturing Corp., Highway 61 South, Post Office Box 230, Vicksburg, Miss. (Carl W. Cappaert, General Manager). Send protests to: C. L. Phillips, District Supervisor, Interstate Commerce Commission, Bureau of Operations, Room 350, American General Building, 210 Northwest Sixth, Oklahoma City, Okla. 73102.

No. MC 108380 (Sub-No. 73 TA), filed June 27, 1968. Applicant: JOHNSTON'S FUEL LINES, INC., 808 Birch Street, Newcastle, Wyo. 82701. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Petroleum and petroleum products*, from Sumatra Gas Plant, Mont., to points in Campbell and Crook Counties, Wyo., and return of *contaminated products*, for 180 days. NOTE: Applicant intends to tack the authority sought herein with its existing authority under MC 180380. Supporting shipper: N. C. Ginther Gasoline Plants, 202½ Gillette Avenue, Gillette, Wyo. 82716. Send protests to: Paul A. Naughton, District Supervisor, Interstate Commerce Commission, Bureau of Operations, D&S Building, 255 North Center Street, Casper, Wyo. 82601.

No. MC 110525 (Sub-No. 869 TA), filed June 28, 1968. Applicant: CHEMICAL LEAMAN TANK LINES, INC., 520 East Lancaster Avenue, Downingtown, Pa. 19335. Applicant's representative: Edwin H. van Deusen (same address as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Buffing compound*, in bulk, from Reading (Cincinnati), Ohio, to Lawrenceville, Ill., and Hammond, Ind., for 150 days. Supporting shipper: Carlisle Chemical Works, Inc., Reading, Ohio 45215. Send protests to: Peter R. Guman, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 900 U.S. Customhouse, Second and Chestnut Streets, Philadelphia, Pa. 19106.

No. MC 110525 (Sub-No. 870 TA), filed June 28, 1968. Applicant: CHEMICAL LEAMAN TANK LINES, INC., 520 East Lancaster Avenue, Downingtown, Pa. 19335. Applicant's representative: Edwin H. van Deusen (same address as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Petroleum grease*, in bulk, from Marcus Hook, Pa., to Saginaw, Mich., for 150 days. Supporting shipper: Sun Oil Co., 1608 Walnut Street, Philadelphia, Pa. 19103. Send protests to: Peter R. Guman, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 900 U.S. Customhouse, Second and Chestnut Streets, Philadelphia, Pa. 19106.

No. MC 118127 (Sub-No. 9 TA), filed June 28, 1968. Applicant: HALE DISTRIBUTING COMPANY, INC., 1315 East Seventh Street, Los Angeles, Calif. 90021. Applicant's representative: William J. Augello, Jr., Bar Building, 36 West 44th Street, New York, N.Y. 10036. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Frozen poultry and poultry products*, in mixed loads with *exempt commodities*, from Moorefield, W. Va., to points in Oklahoma and Texas, for 180 days. Supporting shipper: Pierce Pre-Cooked Foods, Inc., Moorefield, W. Va. 26836. Send protests to: John E. Nance, District Supervisor, Interstate Commerce Commission, Bureau of Operations, Federal Building, Room 7708, 300 North Los Angeles Street, Los Angeles, Calif. 90012.

No. MC 125136 (Sub-No. 8 TA), filed July 1, 1968. Applicant: W. T. MARSHALL, 1285 Nickey Avenue, Decatur, Ill. 62526. Applicant's representative: Mack Stephenson, 301 North Second Street, Springfield, Ill. 62702. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Malt beverages*, from St. Louis, Mo., to Macomb, Ill., for 180 days. Supporting shipper: Davia Beverage Co., 219 South Johnson Street, Macomb, Ill. 61455. Send protests to: Harold Jolliff, District Supervisor, Interstate Commerce Commission, Bureau of Operations, Room 476, 325 West Adams Street, Springfield, Ill. 62704.

No. MC 129990 TA, filed June 26, 1968. Applicant: AL GAZZOLLE & SONS, INC., Pier 26 North River, New York, N.Y. 10009. Applicant's representative: Charles H. Trayford, 137 East 36 Street, New York, N.Y. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Automotive parts such as electrical, ignition, fuel injection, radios, car, tools, industrial power, test benches and equipment for above products and parts thereof*, packed in overseas containers, *empty overseas containers*, between steamship piers in New York Harbor, N.Y., including but not limited to Port Newark, Jersey City, Weehawken, and Woodbury, N.Y.; *cellulose film*, not nitrated nor printed, in overseas steamship containers, between steamship piers in New York Harbor, N.Y., including but not limited to Port Newark, Jersey City, Weehawken, and Glen Cove, N.Y. Supporting shippers: Robert Bosch Corp., 40–11 24th Street, Long Island City, N.Y. 11101 and Peter H. Berg, Inc., Post Office Box 700, Wantagh, N.Y. 11793. Send protests to: Paul W. Assenza, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 26 Federal Plaza, New York, N.Y. 10007.

No. MC 129992 TA, filed June 26, 1968. Applicant: PIERRE TRANSPORT LTEE, 1595 Champlain Street, Shawinigan, Province of Quebec, Canada. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Vegetable oil, animal oil, and fish oil*, from Pawtucket, R.I., to United States-Canada boundary line at or near Norton, Vt., for 180 days. Supporting shipper: Leo Bernard LTEE, Shawinigan, Province of Quebec, Canada. Send protests to: Martin P. Monaghan, Jr., District Supervisor, Interstate Commerce Commission, Bureau of Operations, 52 State Street, Room 5, Montpelier, Vt. 05602.

No. MC 129996 TA, filed July 1, 1968. Applicant: SPECIALTY TRANSPORT, INC., Spirit Lake, Iowa 51360. Applicant's representative: Val M. Higgins, 1000 First National Bank Building, Minneapolis, Minn. 55420. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Canned, bottled and packaged food products*, from points in New York, New Jersey, Pennsylvania, Massachusetts, and Ohio, to St. Paul, Minn., for 180 days. Supporting shipper: Gourmet Foods, Inc., 1020 Raymond Avenue, St. Paul, Minn. 55114. Send protests to: Carroll Russell, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 304 Post Office Building, Sioux City, Iowa 51101.

By the Commission.

[SEAL] H. NEIL GARSON, *Secretary*.

[F.R. Doc. 68–8173; Filed, July 9, 1968; 8:50 a.m.]

[Notice 643]

MOTOR CARRIER TEMPORARY AUTHORITY APPLICATIONS

JULY 5, 1968.

The following are notices of filing of applications for temporary authority under section 210a(a) of the Interstate Commerce Act provided for under the new rules of Ex Parte No. MC–67 (49 CFR Part 340), 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 protest must be served on the applicant, or its authorized representative, if any, and the protests must certify that such service has been made. The protests must be specific as to the service which such protestant can and will offer, and must consist of a signed original and six copies.

A copy of the application is on file, and can be examined at the Office of the Secretary, Interstate Commerce Commission, Washington, D.C., and also in the field office to which protests are to be transmitted.

MOTOR CARRIERS OF PROPERTY

No. MC 263 (Sub-No. 181 TA), filed June 28, 1968. Applicant: GARRETT FREIGHTLINES, INC., 2055 Garrett Way, Pocatello, Idaho 83201. Applicant's representative: Maurice H. Greene, Post Office Box 1554, Boise, Idaho 83701. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Infusorial or diatomaceous earth, asbestos, chemicals, and cleaning compounds, and sulfite woodpulp*, in bags or containers, from plantsites of Eagle-Picher Industries, Inc., at or near Clark or Colado, Nev.,

to points in California south of the southern boundaries of Monterey, Kings, Tulare, and Inyo Counties, Calif., for 180 days. Supporting shipper: Eagle-Picher Industries, Inc., Fibers and Minerals Division, Post Office Box 1869, Reno, Nev. 89505. Send protests to: C. W. Campbell, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 455 Federal Building and U.S. Courthouse, 550 West Fort Street, Boise, Idaho 83702.

No. MC–2633 (Sub-No. 52 TA), filed July 1, 1968. Applicant: CROSSETT, INC., Post Office Box 946, Warren, Pa. 16365. Applicant's representative: Ronald W. Malin, Bank of Jamestown Building, Jamestown, N.Y. 14701. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Petroleum and petroleum products*, in bulk, from points in Steuben County, N.Y., to points in Butler County, Pa., for 180 days. Supporting shipper: The Mebtex Co., 733 Forest Avenue, Milford, Ohio. Send protests to: Mr. Frank L. Calvary, District Supervisor, Bureau of Operation, Interstate Commerce Commission, 2109 Federal Building, 1000 Liberty Avenue, Pittsburgh, Pa. 15222.

No. MC–30319 (Sub-No. 134 TA), filed June 27, 1968. Applicant: SOUTHERN PACIFIC TRANSPORT COMPANY, 733 South Poydras Street, Post Office Box 6187, Dallas, Tex. 75222. Applicant's representative: R. B. Coghlan (same address as above). Authority sought to operate as a *common carrier*, by motor vehicle, over regular routes, transporting: *General commodities* except those of unusual value, household goods as defined by the Commission, commodities in bulk, commodities requiring special equipment, and those injurious or contaminating to other lading, from Austin, Tex., to Stonewall, Tex., over U.S. Highway 290, serving the intermediate points of Hye and LBJ Ranch, for 150 days. NOTE: Applicant intends to tack this authority to other authority held by it. Supporting shippers: Dale Malechek, Hill Country Fertilizer Co., Stonewall, Tex.; Dale Malechek, Foreman, LBJ Ranch, Stonewall, Tex.; Sweeney Table Co., Stonewall, Tex.; Simon J. Burg Sprayer Co., Stonewall, Tex. Send protests to: E. K. Willis, Jr., District Supervisor, Interstate Commerce Commission, Bureau of Operations, 513 Thomas Building, 1314 Wood Street, Dallas, Tex. 75202.

No. MC 42487 (Sub-No. 693 TA), filed July 1, 1968. Applicant: CONSOLIDATED FREIGHTWAYS, CORPORATION OF DELAWARE, 175 Linfield Drive, Menlo Park, Calif. 94025. Applicant's representative: A. John Warren, Post Office Box 3301, Portland, Oreg. 97208. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Dry chemicals, clay, catalyst, and plastic pellets* (synthetic plastic granules), in bulk, between points in California within a 350-mile radius of San Francisco, Calif., for 180 days. Supporting shippers: The Dow Chemical Co., 350 Sansome Street, San Francisco, Calif. 94106; Union Oil Company of California, Union Oil Center, Los Angeles, Calif. 90017; Phillips Petroleum Co., 4201 Wilshire Boulevard, Los Angeles, Calif. 90005; American Cyanamid Co., 2300 South Eastern Avenue, Los Angeles, Calif. 90022. Send protests to: District Supervisor Claud W. Reeves, Interstate Commerce Commission, Bureau of Operations, 450 Golden Gate Avenue, Box 36004, San Francisco, Calif. 94102.

No. MC 43654 (Sub-No. 73 TA), filed July 1, 1968. Applicant: DIXIE OHIO EXPRESS, INC., 237 Fountain Street, Post Office Box 750–44309, Akron, Ohio 44304. Applicant's representative: Frank B. Broseman (same address as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Conveyor belting*, in packages, from Akron, Ohio, to the Consolidated Coal Co. mine site near Middlesboro, Ky., which mine site is located approximately 11 miles west of Middlesboro, Ky., on Kentucky Highway 186, which becomes Tennessee Highway 132, and deadends at the mine site, for 180 days. NOTE: Applicant intends to tack at Corbin, Ky., and Knoxville, Tenn., limited to traffic originating at Akron, Ohio. Supporting shipper: The Goodyear Tire & Rubber Co., Akron, Ohio 44316. Send protests to: District Supervisor G. J. Baccei, Interstate Commerce Commission, Bureau of Operations, 1240 East Ninth Street, Cleveland, Ohio 44199.

No. MC 47760 (Sub-No. 5 TA), filed July 1, 1968. Applicant: DRENNING DELIVERY SYSTEM, 2300 North Branch Avenue, Altoona, Pa. 16601. Applicant's representative: Paul S. Foreman, 1311 12th Street, Altoona, Pa. 16601. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Meat, meat products, and meat byproducts and articles distributed by meat packinghouses*, as defined in sections A and C of appendix I to the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209, 766 (except such commodities in bulk) in vehicles equipped with mechanical refrigeration, from Monroeville, Pa., to points in Allegany and Garrett Counties, Md., and Mineral and Preston Counties, W. Va., for 180 days. Supporting shipper: Oscar Mayer & Co., Inc., 910 Mayer Avenue, Madison, Wis. Send protests to: Mr. Frank L. Calvary, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 2109 Federal Building, Pittsburgh, Pa. 15222.

No. MC–95490 (Sub-No. 28 TA), filed July 1, 1968. Applicant: UNION CARTAGE COMPANY, a corporation, 9A Southwest Cutoff, Worcester, Mass. 01604. Applicant's representative: Leonard A. Jaskiewicz, 1155 15th Street NW., Washington, D.C. 20005. Authority sought to operate as a *common carrier*, by motor vehicle, over routes, transporting: *Malt beverages*, in containers and *related advertising material*, from Natick, Mass., to Rumford and Augusta, Maine, for 180 days. NOTE: Applicant indicates tacking or interlining possibilities not specified. Supporting shipper: Pine State Beverage Co., 8 Ellis Avenue, Augusta, Maine 04330. Send protests to: District Supervisor Joseph W. Balin, Bureau of Operations, Interstate Commerce Commission, 338 Federal Building, Springfield, Mass. 01103.

No. MC 97009 (Sub-No. 13 TA), filed June 28, 1968. Applicant: VINCENT J. HERZOG, 200 Delaware Street, Honesdale, Pa. Applicant's representative: Kenneth R. Davis, 1106 Dartmouth Street, Scranton, Pa. 18504. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *General commodities* (except household goods, commodities in bulk, commodities requiring special equipment, articles of unusual value, classes A and B explosives), between Kingsley, Pa., and Carbondale, Pa., for joinder only, for 180 days. Supporting shippers: There are approximately 16 statements of support attached to the application, and a letter of support includes 70 additional shippers, which may be examined here at the Interstate Commerce Commission in Washington, D.C., or copies thereof which may be examined at the field office named below. NOTE: Applicant intends to tack with MC–97009 at Kingsley, Pa., and Carbondale, Pa. Send protests to: Paul J. Kenworthy, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 309 U.S. Post Office Building, Scranton, Pa. 18503.

No. MC 114533 (Sub-No. 163 TA), filed June 28, 1968. 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: *Audit media and business records*, between Rolling Meadows, Ill., on the one hand, and, on the other, South Bend and Mishawaka, Ind., points in Indiana in the Chicago commercial zone and Milwaukee, Wis., for 150 days. Supporting shipper: The National Cash Register Co., Rolling Meadows, Ill. Send protests to: Roger L. Buchanan, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 219 South Dearborn Street, Room 1086, Chicago, Ill. 60604.

No. MC 116077 (Sub-No. 238 TA), filed July 1, 1968. Applicant: ROBERTSON TANK LINES, INC., 5700 Polk Avenue, Post Office Box 9527, Houston, Tex. 77023. Applicant's representative: Mr. J. C. Browder (same address as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Fertilizer and fertilizer materials and blends thereof*, from plantsite and storage facilities of Occidental Chemical Co. in Hale County, Tex., to points in Colfax County, N. Mex., for 180 days. Supporting shipper: Occidental Chemical Co., 4671 Southwest Freeway, Post Office Box 1185, Houston, Tex. 77001. Send protests to: District Supervisor, John C. Redus, Bureau of Operations, Interstate Commerce Commission, 8610 Federal Building, 515 Rusk Avenue, Houston, Tex. 77002.

No. MC–116142 (Sub-16 TA), filed July 1, 1968. Applicant: BEVERAGE TRANSPORTATION, INC., 1154 Lafayette Street, Post Office Box 423, York, Pa. 17405. Applicant's representative: S. Harrison Kahn, Suite 733, Investment Building, Washington, D.C. Authority

sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Malt beverages and malt beverage containers*, from Columbus, Ohio, to Harrisburg, York, Pittsburgh, Lancaster, and Lebanon, Pa., and *empty containers*, on return, for 180 days. Supporting shippers: B & B Distributing Co., Lancaster, Pa.; Brewery Products Co., York, Pa.; Pete Maracini, Inc., Pittsburgh, Pa.; A. E. Twigg, Inc., Lebanon, Pa.; Wilsbach Distributors, Inc., Harrisburg, Pa. Send protests to: Robert W. Ritenour, District Supervisor, Bureau of Operation, Interstate Commerce Commission, 218 Central Industrial Building, 100 North Cameron Street, Harrisburg, Pa. 17101.

No. MC 116273 (Sub-No. 109 TA), filed July 1, 1968. Applicant: D & L TRANSPORT, INC., 3800 South Laramie Avenue, Cicero, Ill. 60650. Applicant's representative: William R. Lavery (same address as carrier). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Synthetic liquid resins*, in bulk, in tank vehicles, from Hammond, Ind., to North Chicago, Ill., Milwaukee, Wis., Niles, Mich., Lafayette, Ind., Muskegon, Mich., Cleveland, Ohio, and Detroit, Mich., for 150 days. Supporting shipper: American Cyanamid Co., Wayne, N.J. 07470. Send protests to: Raymond E. Mauk, District Supervisor, Interstate Commerce Commission, Bureau of Operations, U.S. Courthouse, Federal Office Building, Room 1086, 219 South Dearborn Street, Chicago, Ill. 60604.

No. MC 119539 (Sub-No. 7 TA) filed July 1, 1968. Applicant: BEVERAGE TRANSPORT, INC., Post Office Box 88, Routes 5 and 20, East Bloomfield, N.Y. 14443. Applicant's representative: Raymond A. Richards, 23 West Main Street, Webster, N.Y. 14580. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Malt beverages*, in containers, from Columbus, Ohio, to points in that part of New York on and west of a line beginning at the Pennsylvania-New York State line and extending north on Interstate Highway 81 to Binghamton, thence over New York Highway 12, to the St. Lawrence River, for 180 days. Supporting shippers: Lake Beverage Corp., 23 Linden Park, Rochester, N.Y. 14625; Try-It Distributing Co., Inc., 666 Tifft Street, Buffalo, N.Y. 14220; Foels Bros., Inc., 212 Williams Street, Tonawanda, N.Y. 14150; R.R. Gamble, Inc., 84 Harvester Avenue, Batavia, N.Y. 14021; Gorge Distributing Corp., 572 56th Street, Niagara Falls, N.Y. 14304; West Distributing, Sandhill Road, Lakeville, N.Y. 14480. Send protests to: Morris H. Gross, District Supervisor, Interstate Commerce Commission, Bureau of Operations, Room 104, O'Donnell Building, 301 Erie Boulevard West, Syracuse, N.Y. 13202.

No. MC 120442 (Sub-No. 2 TA), filed July 1, 1968. Applicant: NICK TOTONI & SONS, INC., 1373 West Hubbard Street, Chicago, Ill. 60622. Applicant's representative: Benjamin J. Schultz, 1 North La Salle Street, Chicago, Ill. 60602. Authority sought to operate as a *common carrier*, by motor vehicle, over routes, transporting: *General commodities* from points within Illinois on and north of U.S. Highway 24 from the east bank of the Mississippi River to junction with U.S. Highway 136, and thence on the north of U.S. Highway 136 to the Illinois-Indiana State line, for 180 days. NOTE: Applicant intends to tack the authority applied for to other authority held by it in MC-120442 and also to interline with other carriers. Supporting shipper: Dole Valve Co., 6201 Oakton Street, Morton Grove, Ill. Send protests to: Andrew J. Montgomery, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 219 South Dearborn Street, Chicago, Ill. 60604.

No. MC 123327 (Sub-No. 7 TA), filed July 1, 1968. Applicant: RALPH M. BARTHOLOMEW, doing business as IRELAND TRANSFER & STORAGE CO., 102 Front Street, Ketchikan, Alaska 99901. Applicant's representative: Alan F. Wohlstetter, 1 Farragut Square South, Washington, D.C. 20006. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Household goods*, between points in the Seattle, Wash., commercial zone, on the one hand, and, on the other, points in Alaska located east of an imaginary line constituting a southward extension of the international boundary line between the United States and Canada over public highways between Seattle, Wash., commercial zone, and the Puget Sound Terminal of Alaska Marine Highway System, and between said terminal and points in Alaska over said Alaska Marine Highway, for 180 days. NOTE: Applicant proposes to interline traffic with other carriers at Seattle, Wash., and at Haines and Tok Junction, Alaska, and tack the authority here applied for with its Sub-5 authority in order to reach Tok Junction. Supporting shippers: National Bank of Alaska Ketchikan Branch, Box 1538, Ketchikan, Alaska; Von Der Ahe Van Lines, Inc., 600 Rudder Avenue, Fenton, Mo. 63206; Ketchikan Pulp Co., Ketchikan, Alaska 99901. Send protests to: Hugh H. Chaffee, District Supervisor, Interstate Commerce Commission, Bureau of Operations, Federal Building, Post Office Box 1532, Anchorage, Alaska 99501.

No. MC 123341 (Sub-No. 4 TA) filed July 1, 1968. Applicant: I. L. & C. CORP., 9333 Evenhouse Avenue, Post Office Box 506, Rosemont, Ill. 60018. Applicant's representative: Eugene L. Cohn, 1 North La Salle Street, Chicago, Ill. 60602. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Sound recording, sound reproducing, and sound amplifying equipment and parts, accessories, materials, and supplies used in connection therewith:* from plantsite of Bell & Howell Co. at Chicago, Ill., to New York City and Farmingdale, N.Y., with return movement of *same commodities* from New York City and Farmingdale, N.Y., to plantsite of Bell & Howell Co. at Chicago, Ill., for 180 days. Supporting shipper: Bell & Howell Co., 7100 McCormick Road, Chicago, Ill. 60645. Send protests to: Andrew J. Montgomery, District Supervisor, Interstate Commerce Commission, Bureau of Operations, U.S. Courthouse and Federal Office Building, Room 1086, 219 South Dearborn Street, Chicago, Ill. 60604.

No. MC 123681 (Sub-No. 13 TA), filed June 24, 1968. Applicant: WIDING TRANSPORTATION, INC., Post Office Box 03159, Portland, Oreg. 97203. Applicant's representative: Earle V. White, 2400 Southwest Fourth Avenue, Portland, Oreg. 97201. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Wood preservatives and liquid plastics*, in bulk, in tank vehicles, from Tacoma, Wash., to points in California; (2) *formaldehyde and formaldehyde solutions*, in bulk, in tank vehicles, from points in California to points in Oregon; (3) *paint resins*, in bulk, in tank vehicles, from San Francisco, Calif., to points in Oregon and Washington; (4) *propylene glycol and styrene*, in bulk, in tank vehicles, from points in California to Tacoma, Wash., for 180 days. Supporting shipper: Reichhold Chemicals, Inc., RCI Building, White Plains, N.Y. 10602. Send protests to: A. E. Odoms, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 450 Multnomah Building, Portland, Oreg. 97204.

No. MC 124679 (Sub-No. 16 TA), filed June 27, 1968. Applicant: C. R. ENGLAND & SONS, INC., 228 West Fifth South Street, Salt Lake City, Utah 84101. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Frozen foods*, from Philadelphia, Pa., to Highland and Newburg, N.Y.; Pittsburgh and New Castle, Pa.; North Haven, Deep River, Suffield, East Hartford, Torrington, South Hartford, and Derby, Conn.; Everett, Chelsea, Raynham, Charlestown, Bedford, Jamaica Place, Woburn, Dorchester, Stamford, Webster, and Southboro, Mass.; White River Junction, Vt.; and Brunswick, Maine, for 180 days. Supporting shipper: Gagliardi Bros., Inc., 300 North 60th Street, Philadelphia, Pa. 19139. Send protests to: John T. Vaugnan, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 6201 Federal Building, Salt Lake City, Utah 84111.

No. MC 129149 (Sub-No. 5 TA), filed June 28, 1968. Applicant: ELLIS HAINES, doing business as HAINES TRUCK LINES, 995 Washington Street, Bushnell, Ill. 61422. Applicant's representative: Robert T. Lawley, 306-308 Reisch Building, Springfield, Ill. 62701. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Gravity flow wagon boxes and component parts thereof*, from Bushnell, Ill., to points in Alabama, Arkansas, Georgia, Iowa, Indiana, Kansas, Kentucky, Mississippi, Missouri, Minnesota, Michigan, Nebraska, Ohio, Tennessee, and Wisconsin for the account of Bushnell Illinois Tank Co., for 180 days. Supporting shipper: Bushnell Illinois

Tank Co., 110 East Davis Street, Bushnell, Ill. 61422. Send protests to: Raymond E. Mauk, Interstate Commerce Commission, Bureau of Operations, U.S. Courthouse and Federal Office Building, Room 1086, 219 South Dearborn Street, Chicago, Ill. 60604.

No. MC 133000 TA, filed July 1, 1968. Applicant: DIAMOND SAND & STONE CO., 744 Riverside Avenue, Jacksonville, Fla. 32204. Applicant's representative: Richard B. Austin, 1946 Gulf Life Tower, Jacksonville, Fla. 32207. Authority sought to operate as a *common carrier*, by motor vehicle, over routes, transporting: *Road building and construction aggregates*, in bulk, from Arlington, Ga., and points within 5 miles thereof, to points in Houston, Henry, Barbour, Dale, Geneva, Coffee, and Pike Counties, Ala., and to points in that part of Florida which is bounded on west by the eastern boundary of Walton County and on the east by the eastern boundary of Jefferson County, Fla., and on the south by the Gulf of Mexico and on the north by the Georgia State line, for 180 days. Supporting shipper: Shands & Baker, Inc., Post Office Box 4667, Jacksonville, Fla. 32201. Send Protests to: District Supervisor, G. H. Fauss, Jr., Bureau of Operations, Interstate Commerce Commission, Box 35008, 400 West Bay Street, Jacksonville, Fla. 32202.

By the Commission.

[SEAL] H. NEIL GARSON, *Secretary.*

[F.R. Doc. 68-8174; Filed, July 9, 1968; 8:50 a.m.]

[Notice 171]

MOTOR CARRIER TRANSFER PROCEEDINGS

JULY 10, 1968.

Synopses of orders entered pursuant to section 212(b) of the Interstate Commerce Act, and rules and regulations prescribed thereunder (49 CFR Part 1132), appear below:

As provided in the Commission's special rules of practice any interested person may file a petition seeking reconsideration of the following numbered proceedings within 20 days from the date of publication of this notice. Pursuant to section 17(8) of the Interstate Commerce Act, the filing of such a petition will postpone the effective date of the order in that proceeding pending its disposition. The matters relied upon by petitioners must be specified in their petitions with particularity.

No. MC-FC-70549. By order of June 28, 1968, the Transfer Board approved the transfer to Pavlisko Brothers, Inc., East Hanover, N.J., of the operating rights in permit No. MC-103363 (Sub-No. 2) issued September 7, 1966, to Crest Transport, Inc., Livingston, N.J., authorizing the transportation of concrete products and materials, supplies, and equipment used in the manufacture, production, and distribution of concrete products, but not including liquids, in bulk, in tank vehicles, between Kenvil, N.J., on the one hand, and, on the other, points in Connecticut, Delaware, Maine, Maryland, Massachusetts, New Hampshire, New York, Pennsylvania, Rhode Island, and Vermont; concrete pipe, from Kenvil, N.J., to points in New York, Pennsylvania, Maryland, Delaware, and Connecticut within 250 miles of Kenvil, and rejected shipments of concrete pipe from the named destination points in Kenvil, N.J.; and steel forms and reinforcing rods, used in the construction of concrete pipe, between Morristown and Pittsburgh, Pa., Port Washington, Binghamton, and Syracuse, N.Y., and Kenvil, N.J. Bowes and Millner, 744 Broad Street, Newark, N.J. 07102, attorneys for applicants.

No. MC-FC-70598. By order of June 28, 1968, the Transfer Board approved the transfer to Carl J. Eddy, doing business as Carl J. Eddy Trucking, Independence, Iowa, of the operating rights in certificates Nos. MC-45163, MC-45163 (Sub-No. 1), MC-45163 (Sub-No. 4), MC-45163 (Sub-No. 5), and MC-45163 (Sub-No. 6) issued February 24, 1943, September 26, 1945, January 17, 1950, February 1, 1950, and December 7, 1949, respectively, to Verle C. King and Raleigh H. King, a partnership, doing business as King Bros. Truck Line, Rural Route 1, Mason City, Iowa 50401, authorizing the transportation of agricultural implements, brick and tile, feed, fresh meats and packinghouse products, and silo parts and materials, from and to points, varying with the commodity, in Minnesota, Wisconsin, Illinois, and Iowa, and prefabricated steel buildings, from Ecorse, Mich., and Terre Haute, Ind., to Mason City, Iowa. Ervin E. Nordstrom, 328 Davidson Building, Sioux City, Iowa 51101, attorney for transferee.

No. MC-FC-70599. By order of June 28, 1968, the Transfer Board approved the transfer to Canada Transport, Inc., Lexington, Nebr., of the operating rights set forth in certificate No. MC-11610 issued February 1, 1950, to Earl A. Canada, doing business as Canada Transport, Lexington, Nebr., authorizing the transportation of petroleum products, in bulk, from refining and distributing points in Kansas to named points in Nebraska; refined petroleum products, in bulk, from Kansas City, Kans., to Arcadia, Nebr., and from refining and distributing points in Kansas to Benkelman, Curtis, McCook, Orafino, Wallace, and Wauneta, Nebr.; liquid petroleum products, in bulk, in tank vehicles, from refining and distributing points in Kansas to Curtis, Elwood, Eustis, Loomis, Maywood, and Seneca, Nebr., and rejected shipments of these commodities from the specified destination points to the points of origin. Donald E. Leonard, Box 2028, 605 South 14th, Lincoln, Nebr. 68501, attorney for applicants.

No. MC-FC-70605. By order of June 28, 1968, the Transfer Board approved the transfer to R. E. Mowder, Wm. M. Bryan, and Edwin W. Norris, a partnership, doing business as Wheeling-Barnesville-Woodsfield Express, Wheeling, W. Va., of the operating rights in certificates Nos. MC-30288 and MC-30288 (Sub-No. 3) issued March 14, 1955, and August 27, 1958, respectively, to E. H. Mowder, R. E. Mowder, Wm. M. Bryan, and Edwin W. Norris, doing business as Wheeling-Barnesville-Woodsfield Express, Wheeling, W. Va., authorizing the transportation of general commodities, with exceptions, over regular routes and serving all intermediate and certain off-route points between Wheeling, W. Va., and Woodsfield, Ohio; between Wheeling, W. Va., and Freeport, Ohio, between Freeport, Ohio, and Dover, Ohio: Between Bethesda, Ohio, and Wheeling, W. Va., and between New Lafferty, Ohio, and Wheeling, W. Va., household goods, as defined by the Commission, between points in Belmont County, Ohio, on the one hand, and, on the other, points in Illinois, Indiana, Maryland, Michigan, Pennsylvania, and West Virginia, and agricultural commodities, between points in Belmont County, Ohio, on the one hand, and, on the other points in Maryland, Pennsylvania, and West Virginia. D. L. Bennett, Registered Practitioner, 206 First National Bank Building, 2207 National Road, Wheeling, W. Va. 26003, representatives for applicants.

[SEAL] H. NEIL GARSON, *Secretary.*

[F.R. Doc. 68-8175; Filed, July 9, 1968; 8:50 a.m.]

CUMULATIVE LIST OF PARTS AFFECTED—JULY

The following numerical guide is a list of the parts of each title of the Code of Federal Regulations affected by documents published to date during July.

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