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Agriculture Department
Atomic Energy Commission
Civil Aeronautics Board
Civil Service Commission
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Federal Aviation Administration
Federal Communications Commission
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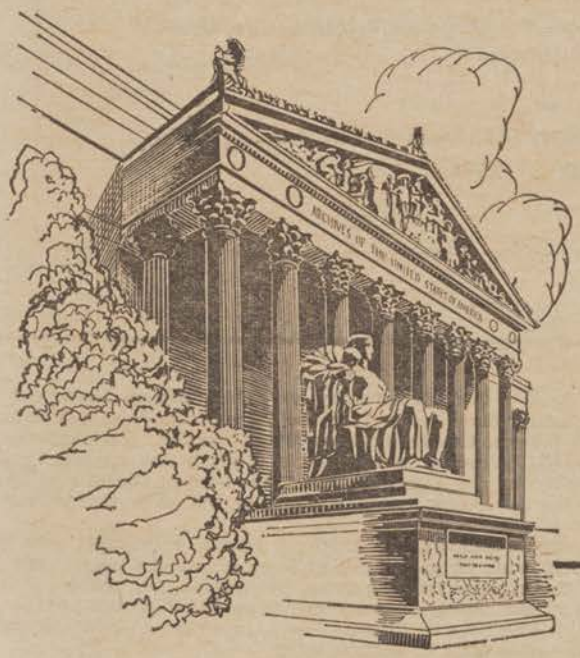

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PART 213—EXCEPTED SERVICE

Department of Housing and Urban Development

Section 213.3384 is amended to show that the position of Deputy Assistant Secretary for Model Cities is excepted under Schedule C in lieu of the position of Director, Model Cities Administration. Effective on publication in the FEDERAL REGISTER, paragraph (e) of § 213.3384 is amended by revoking subparagraph (4) and adding a new subparagraph (5) as set out below.

§ 213.3384 Department of Housing and Urban Development.

* * * * *

(e) *Office of the Assistant Secretary for Model Cities.* * * *

(4) [Revoked]

(5) Deputy Assistant Secretary for Model Cities.

* * * * *

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

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

[F.R. Doc. 70-11063; Filed, Aug. 21, 1970; 8:47 a.m.]

Title 9—ANIMALS AND ANIMAL PRODUCTS

Chapter I—Agricultural Research Service, Department of Agriculture

SUBCHAPTER C—INTERSTATE TRANSPORTATION OF ANIMALS AND POULTRY

[Docket No. 70-244]

PART 76—HOG CHOLERA AND OTHER COMMUNICABLE SWINE DISEASES

Areas Quarantined

Pursuant to provisions of the Act of May 29, 1884, as amended, the Act of February 2, 1903, as amended, the Act of March 3, 1905, as amended, the Act of September 6, 1961, and the Act of July 2, 1962 (21 U.S.C. 111–113, 114g, 115, 117, 120, 121, 123–126, 134b, 134f), Part 76, Title 9, Code of Federal Regulations, restricting the interstate movement of swine and certain products because of hog cholera and other communicable swine diseases, is hereby amended in the following respects:

1. In § 76.2, in paragraph (e)(17) relating to the State of Virginia, subdivision (i) relating to Isle of Wight and Southampton Counties is amended to read:

(17) *Virginia.* (i) The adjacent portions of Isle of Wight and Southampton Counties bounded by a line beginning at the junction of Secondary Highway 626 and the Isle of Wight-Surry County line; thence, following Secondary Highway 626 in a generally southeasterly direction to Secondary Highway 621; thence, following Secondary Highway 621 in a northeasterly direction to State Highway 10; thence, following State Highway 10 in a generally southeasterly direction to U.S. Highway 258; thence, following U.S. Highway 258 in a generally southwesterly direction to Secondary Highway 605; thence, following Secondary Highway 605 in a southeasterly direction to the Isle of Wight-Nansemond County line; thence, following the Isle of Wight-Nansemond County line in a southwesterly direction to U.S. Highway 460; thence, following U.S. Highway 460 in a northwesterly direction to Secondary Highway 610; thence, following Secondary Highway 610 in a generally southerly direction to Secondary Highway 687; thence, following Secondary Highway 687 in a southwesterly direction to Secondary Highway 611; thence, following Secondary Highway 611 in a generally westerly direction to Secondary Highway 641; thence, following Secondary Highway 641 in a generally northeasterly direction to Secondary Highway 603; thence, following Secondary Highway 603 in a generally southwesterly direction to Secondary Highway 635; thence, following Secondary Highway 635 in a generally northeasterly direction to Secondary Highway 600; thence, following Secondary Highway 600 in a northwesterly direction to Secondary Highway 623; thence, following Secondary Highway 623 in a southwesterly direction to Secondary Highway 626; thence, following Secondary Highway 626 in a generally northwesterly direction to Secondary Highway 631; thence, following Secondary Highway 631 in a northerly direction to Secondary Highway 614; thence, following Secondary Highway 614 in a generally northeasterly direction to Secondary Highway 605; thence, following Secondary Highway 605 in a northwesterly direction to Secondary Highway 616; thence, following Secondary Highway 616 in a northeasterly direction to Secondary Highway 600; thence, following Secondary Highway 600 in a northwesterly direction to the Southampton-Sussex County line; thence, following the Southampton-Sussex County line in a northeasterly direction to the Southampton-Surry County line; thence, following the Southampton-Surry County line in a northeasterly direction to the Isle of Wight-Surry County line; thence, following the Isle of Wight-Surry County line in a northeasterly direction to its junction with Secondary Highway 626.

2. In § 76.2 paragraph (e)(3) relating to the State of Louisiana is amended to read:

(3) *Louisiana.* The adjacent portions of West Carroll and Morehouse Parishes bounded by a line beginning at the junction of the Louisiana-Arkansas State line and the west bank of the Bayou Macon; thence, following the west bank of the Bayou Macon in a generally southwesterly direction to State Highway 2; thence, following State Highway 2 in a generally southwesterly direction to U.S. Highway 165; thence, following U.S. Highway 165 in a northeasterly direction to the Louisiana-Arkansas State line; thence, following the Louisiana-Arkansas State line in an easterly direction to its junction with the west bank of the Bayou Macon.

3. In § 76.2, paragraph (e)(20) relating to the State of Nebraska, is amended to read:

(20) *Nebraska.* That portion of Nuckolls County bounded by a line beginning at the junction of the Ideal Cement Co. Railroad and the Nebraska-Kansas State line; thence, following the Ideal Cement Co. Railroad in a northeasterly direction to its junction with the Missouri Pacific Railroad; thence, following the Missouri Pacific Railroad in a northerly direction to the Superior Canal; thence, following the south bank of the Superior Canal in an easterly direction to Crosby Creek; thence, following the west bank of Crosby Creek in a southeasterly direction to the Nebraska-Kansas State line; thence, following the Nebraska-Kansas State line in a westerly direction to its junction with the Ideal Cement Co. Railroad.

(Secs. 4–7, 23 Stat. 32, as amended, secs. 1, 2, 32 Stat. 791–792, as amended, secs. 1–4, 33 Stat. 1264, 1265, as amended, sec. 1, 75 Stat. 481, secs. 3 and 11, 76 Stat. 130, 132; 21 U.S.C. 111, 112, 113, 114g, 115, 117, 120, 121, 123–126, 134b, 134f; 29 F.R. 16210, as amended)

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

The amendments quarantine a portion of Isle of Wight County, Va., and a portion of West Carroll Parish, La., because of the existence of hog cholera. This action is deemed necessary to prevent further spread of the disease. The restrictions pertaining to the interstate movement of swine and swine products from or through quarantined areas as contained in 9 CFR Part 76, as amended, will apply to the specified portions of such county and parish.

The amendments also exclude a portion of Nuckolls County, Nebr. from the

areas quarantined because of hog cholera. Therefore, the restrictions pertaining to the interstate movement of swine and swine products from or through quarantined areas as contained in 9 CFR Part 76, as amended, will not apply to the excluded area, but will continue to apply to the quarantined areas described in § 76.2. Further, the restrictions pertaining to the interstate movement of swine and swine products from nonquarantined areas contained in said Part 76 will apply to the area excluded from quarantine.

Insofar as the amendments impose certain further restrictions necessary to prevent the interstate spread of hog cholera, they must be made effective immediately to accomplish their purpose in the public interest. Insofar as they relieve restrictions, they should be made effective promptly in order to be of maximum benefit to affected persons.

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

Done at Washington, D.C., this 18th day of August 1970.

GEORGE W. IRVING, Jr.,
Administrator,
Agricultural Research Service.

[F.R. Doc. 70-11097; Filed, Aug. 21, 1970; 8:49 a.m.]

[Docket No. 70-245]

PART 76—HOG CHOLERA AND OTHER COMMUNICABLE SWINE DISEASES

Areas Quarantined

Pursuant to provisions of the Act of May 29, 1884, as amended, the Act of February 2, 1903, as amended, the Act of March 3, 1905, as amended, the Act of September 6, 1961, and the Act of July 2, 1962 (21 U.S.C. 111-113, 114g, 115, 117, 120, 121, 123-126, 134b, 134f), Part 76, Title 9, Code of Federal Regulations, restricting the interstate movement of swine and certain products because of hog cholera and other communicable swine diseases, is hereby amended in the following respects:

In § 76.2, the introductory portion of paragraph (e) is amended by adding the names of the States of Alabama and Oklahoma; paragraph (f) is amended by deleting the names of the States of Alabama and Oklahoma; and new paragraph (e)(21) relating to Alabama and (22) relating to Oklahoma are added to read:

(21) *Alabama.* Covington County.

(22) *Oklahoma.* Oklahoma County.

(Secs. 4-7, 23 Stat. 32, as amended, secs. 1, 2, 32 Stat. 791-792, as amended, secs. 1-4, 33 Stat. 1264, 1265, as amended, sec. 1, 75 Stat. 481, secs. 3 and 11, 76 Stat. 130, 132; 21 U.S.C. 111, 112, 113, 114g, 115, 117, 120, 121, 123-126, 134b, 134f; 29 F.R. 16210, as amended)

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

The amendments quarantine Covington County, Ala. and Oklahoma County, Okla., because of the existence of hog cholera. This action is deemed necessary to prevent further spread of the disease. The restrictions pertaining to the interstate movement of swine and swine products from or through quarantined areas as contained in 9 CFR Part 76, as amended, will apply to the quarantined areas designated herein. Further, the amendments delete the States of Alabama and Oklahoma from the list of hog cholera eradication States in § 76.2(f), and the special provisions pertaining to the interstate movement of swine from and to such eradication States under Part 76 are no longer applicable to Alabama and Oklahoma.

The amendments impose cetrain further restrictions necessary to prevent the interstate spread of hog cholera and must be made effective immediately to accomplish their purpose in the public interest. Accordingly, under the administrative procedure provisions in 5 U.S.C. 553, it is found upon good cause that notice and other public procedure with respect to the amendments are impracticable and contrary to the public interest, and good cause is found for making them effective less than 30 days after publication in the FEDERAL REGISTER.

Done at Washington, D.C., this 18th day of August 1970.

GEORGE W. IRVING, Jr.,
Administrator,
Agricultural Research Service.

[F.R. Doc. 70-11098; Filed, Aug. 21, 1970; 8:49 a.m.]

Title 14—AERONAUTICS AND SPACE

Chapter I—Federal Aviation Administration, Department of Transportation

[Airspace Docket No. 70-CE-14]

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

Alteration of Control Zone and Transition Area

On pages 8369 and 8370 of the FEDERAL REGISTER dated May 28, 1970, the Federal Aviation Administration published a supplemental notice of proposed rule making which would amend §§ 71.171 and 71.181 of Part 71 of the Federal Aviation Regulations so as to alter the control zone and transition area at Salina, Kans.

Interested persons were given 45 days to submit written comments, suggestions or objections regarding the proposed amendments.

No objections have been received and the amendments as so proposed are hereby adopted, subject to the following changes:

(1) The Salina Municipal Airport coordinates recited in the Salina, Kans., control zone and transition area alteration as "latitude 38°48'40" N., longitude 97°39'30" W." are changed to read "latitude 38°47'40" N., longitude 97° 39'30" W.".

(2) In line 26 of the transition area redesignation place a period after the word "beginning" and delete all that follows thereafter, to wit "excluding the portion which overlies the Hutchinson, Kansas, transition area.".

These amendments shall be effective 0901 G.m.t., November 12, 1970.

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

Issued in Kansas City, Mo., on August 5, 1970.

DANIEL E. BARROW,
Acting Director, Central Region.

(1) In § 71.171 (35 F.R. 2054), the following control zone is amended to read:

SALINA, KANSAS

Within a 5-mile radius at Salina Municipal Airport (latitude 38°47'40" N., longitude 98°39'30" W.); within 1½ miles each side of the Salina VORTAC 192° radial, extending from the 5-mile radius zone to the VORTAC and within 2 miles each side of the Salina ILS localizer S course, extending from the 5-mile radius zone to 2½ miles N of the OM.

(2) In § 71.181 (35 F.R. 2134), the following transition area is amended to read:

SALINA, KANSAS

That airspace extending upward from 700 feet above the surface within a 9-mile radius of Salina Municipal Airport (latitude 38°47' 40" N., longitude 97°39'30" W.); within 4½ miles W and 9½ miles E of the Salina ILS localizer course, extending from 3 miles N to 18½ miles S of the ILS OM; and within 3 miles each side of the Salina VORTAC 012° radial extending from the 9-mile radius area to 8 miles N of the VORTAC, excluding the portion which overlies restricted area R-3601 and the McPherson, Kansas 700 foot floor transition area; and that airspace extending upward from 1200 feet above the surface within a 27-mile radius of the Salina, Kansas VORTAC; and that airspace SE of Salina bounded by a line starting at the intersection of the 27-mile radius and the S edge of V-4S; then east along the south edge of V-4S; to and SE along the W edge of V-307; to and W along the N edge of V-10; to and NE along the W edge of V-77; to and SW along the S edge of V-280; to and N along the E edge of V-73E; to the 27-mile radius; then counterclockwise along the 27-mile radius to the point of beginning.

[F.R. Doc. 70-11081; Filed, Aug. 21, 1970; 8:48 a.m.]

[Airspace Docket No. 70-SW-41]

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

Redesignation of Control Zone and Designation and Redesignation of Transition Areas

The purpose of this amendment to Part 71 of the Federal Aviation Regulations is to redesignate a control zone, designate a transition area and redesignate a transition area in the Clinton, Okla., terminal area.

On July 2, 1970, a notice of proposed rule making was published in the FEDERAL REGISTER (35 F.R. 10776) stating the Federal Aviation Administration proposed to designate a new transition area and redesignate the existing transition area in the Clinton, Okla., terminal area.

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

The Clinton, Okla., control zone was designated effective July 1, 1970, to serve the Clinton-Sherman Airport. At that time, no terminal controlled airspace was associated with the Clinton Municipal Airport. This amendment designates a transition area to serve the Clinton Municipal Airport and redesignates the existing transition area, which serves the Clinton-Sherman Airport, to differentiate between these two separate transition areas. In view of this, it is appropriate to redesignate the existing control zone to clearly identify it with the airport it serves. Action is taken herein to redesignate the control zone, accordingly.

Since the amendment redesignating the control zone is editorial in nature and imposes no additional burden on the public, notice and public procedures hereon are unnecessary and the amendment may be made effective on the next charting date.

In consideration of the foregoing, Part 71 of the Federal Aviation Regulations is amended, effective 0901 G.m.t., October 15, 1970, as hereinafter set forth.

(1) In § 71.171 (35 F.R. 2054, 8475), the Clinton, Okla., control zone is redesignated the Clinton, Okla. (Clinton-Sherman Airport), control zone.

(2) In § 71.181 (35 F.R. 2134), the following transition area is added:

CLINTON, OKLA. (CLINTON MUNICIPAL AIRPORT)

That airspace extending upward from 700 feet above the surface within a 5-mile radius of Clinton Municipal Airport (lat. 35°32'15'' N., long. 98°56'00'' W.), and within 3.5 miles each side of the 171° bearing from the Clinton RBN (lat. 35°32'00'' N., long. 98°56'02'' W.) extending from the 5-mile radius area to 11.5 miles south of the RBN.

(3) In § 71.181 (35 F.R. 2134, 8475), the Clinton, Okla., transition area is redesignated the Clinton, Okla. (Clinton-Sherman Airport), transition area.

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

Issued in Fort Worth, Tex., on August 14, 1970.

KIRBY L. BRANNON,
Acting Director, Southwest Region.

[F.R. Doc. 70-11082; Filed, Aug. 21, 1970; 8:48 a.m.]

[Airspace Docket No. 70-SO-52]

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

Alteration of Control Zone and Transition Areas

On July 9, 1970, a notice of proposed rule making was published in the FEDERAL REGISTER (35 F.R. 11034), stating that the Federal Aviation Administration was considering an amendment to Part 71 of the Federal Aviation Regulations that would alter the Columbia, S.C., control zone and transition area and the North, S.C., transition area.

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

Subsequent to publication of the notice, the geographic coordinate (lat. 33°56' 25.9'' N., long. 81°07'11.2'' W.) for Columbia Metropolitan Airport was refined by Coast and Geodetic Survey. Additionally, informal coordination with the Department of the Air Force disclosed that a potential hazard would exist between IFR aircraft executing the LOC (BC) RWY 29 instrument approach procedure to Columbia Metropolitan Airport and Air Force operations at McIntyre ANGB. To eliminate this potential, it was necessary to alter the instrument approach procedure to require the procedure turn to be executed south of the localizer course and increase the procedure turn altitude to 3,000 feet. This alteration resulted in eliminating the requirement for the transition area extension predicated on the Columbia ILS localizer east course. It is necessary to alter the Columbia control zone and transition area descriptions to reflect the refined geographic coordinate and alter the Columbia transition area to delete the extension predicated on the ILS localizer east course. Since these amendments are editorial and less restrictive in nature, notice and public procedure hereon are unnecessary and action is taken herein to alter the descriptions accordingly.

In consideration of the foregoing, Part 71 of the Federal Aviation Regulations is amended, effective 0901 G.m.t., October 15, 1970, as hereinafter set forth.

In § 71.171 (35 F.R. 2054), the Columbia, S.C., control zone is amended to read:

COLUMBIA, S.C.

Within a 5-mile radius of Columbia Metropolitan Airport (lat. 33°56'25.9'' N., long. 81°07'11.2'' W.); within 2 miles each side of Columbia ILS localizer west course, extending from the 5-mile radius zone to 1.5 miles east of the LOM.

In § 71.181 (35 F.R. 2134), the Columbia, S.C., transition area is amended to read:

COLUMBIA, S.C.

That airspace extending upward from 700 feet above the surface within an 11-mile radius of Columbia Metropolitan Airport (lat. 33°56'25.9'' N., long. 81°07'11.2'' W.); within 9.5 miles southwest and 4.5 miles northeast of Columbia VORTAC 147° radial, extending from the 11-mile radius area to 18.5 miles southeast of the VORTAC; within 9.5 miles south and 4.5 miles north of Columbia ILS localizer west course, extending from the 11-mile radius area to 18.5 miles west of the LOM.

In § 71.181 (35 F.R. 2134), the North, S.C., transition area is amended as follows: "* * * longitude 81°05'00'' W.) * * *." is deleted and "* * * longitude 81°05'00'' W.); excluding the portion within Columbia transition area * * *." is substituted therefor.

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

Issued in East Point, Ga., on August 12, 1970.

CHESTER W. WELLS,
Acting Director, Southern Region.

[F.R. Doc. 70-11083; Filed, Aug. 21, 1970; 8:48 a.m.]

[Airspace Docket No. 70-EA-53]

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

Alteration of Control Zone and Transition Area

The Federal Aviation Administration is amending §§ 71.171 and 71.181 of Part 71 of the Federal Aviation Regulations so as to alter the Montpelier, Vt., control zone (35 F.R. 2103), and transition area (35 F.R. 2227). A change in the name of the Barre-Montpelier State Airport in Montpelier, Vt., to Edward F. Knapp (Barre-Montpelier), State Airport requires an editorial change in the descriptions of the control zone and transition area.

Since this amendment is editorial in nature and thus imposes no additional burden on any person, notice and public procedure hereon are unnecessary and the amendment may be made effective in less than 30 days.

In view of the foregoing, Federal Aviation Administration having reviewed the airspace requirements in the terminal airspace of Montpelier, Vt., the amendment is herewith made effective upon publication in the FEDERAL REGISTER as follows:

1. Amend § 71.171 of Part 71 of the Federal Aviation Regulations so as to delete in the description of the Montpelier, Vt., control zone the words "Barre-Montpelier State Airport" and insert the following in lieu thereof,

"Edward F. Knapp (Barre-Montpelier) State Airport".

2. Amend § 71.181 of Part 71 of the Federal Aviation Regulations so as to delete in the description of the Montpelier, Vt., transition area the words "Barre-Montpelier State Airport" and insert the following in lieu thereof, "Edward F. Knapp (Barre-Montpelier) State Airport".

(Sec. 307(a), Federal Aviation Act of 1958, 72 Stat. 749; 49 U.S.C. 1348; sec. 6(c), Department of Transportation Act, 49 U.S.C. 1655(c))

Issued in Jamaica, N.Y. on August 4, 1970.

IRVING MARK,
Acting Director, Eastern Region.

[F.R. Doc. 70-11084; Filed, Aug. 21, 1970; 8:48 a.m.]

[Airspace Docket No. 70-EA-62]

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

Alteration of Control Zone

The Federal Aviation Administration is amending § 71.171 of Part 71 of the Federal Aviation Regulations so as to alter the Chincoteague, Va., control zone (35 F.R. 2066). The hours of operation of the NASA Wallops Station Airport control tower have been changed so as to require a change in the period of time during which the control zone will be effective.

Since the change in the period of effectivity is minor in nature, notice and public procedure hereon are unnecessary and the amendment may be made effective in less than 30 days.

In view of the foregoing, Federal Aviation Administration having reviewed the airspace requirements in the terminal airspace of Chincoteague, Va., the amendment is herewith made effective upon publication in the FEDERAL REGISTER as follows:

Amend § 71.171 of Part 71 of the Federal Aviation Regulations so as to delete in the description of the Chincoteague, Va., control zone, "0800 to 1700", and insert in lieu thereof, "0730 to 1730".

(Sec. 307(a), Federal Aviation Act of 1958, 72 Stat. 749, 49 U.S.C. 1348; sec. 6(c), Department of Transportation Act, 49 U.S.C. 1655 (c))

Issued in Jamaica, N.Y. on August 4, 1970.

IRVING MARK,
Acting Director, Eastern Region.

[F.R. Doc. 70-11085; Filed, Aug. 21, 1970; 8:48 a.m.]

[Docket No. 10508; Amdt. 123-3]

PART 123—CERTIFICATION AND OPERATIONS: AIR TRAVEL CLUBS USING LARGE AIRPLANES

Miscellaneous Amendments

The purpose of these amendments is to update references to certain sections in Part 121 that are incorporated by reference in Part 123.

Amendment 121-55, which became effective February 2, 1970 (35 F.R. 84), made major revisions in Subparts N and O and Appendix E of Part 121 and many of the affected sections are incorporated by reference in Part 123. Therefore, in order to make proper reference to those sections in Part 121 to which Part 123 certificate holders are subject, this amendment is necessary.

Since these amendments which update the references to Part 121 are editorial in nature, I find that notice and public procedure are unnecessary and that good cause exists for making them effective in less than 30 days.

In consideration of the foregoing, Part 123 of the Federal Aviation Regulations is amended, effective August 22, 1970, as follows:

1. By amending paragraphs (i) and (j) of § 123.27 to read as follows:

§ 123.27 Applicable regulations of Part 121.

* * * * *

(i) Sections 121.400 and 121.415 through 121.427 of Subpart N of Part 121 of this chapter except § 121.422.

(j) Sections 121.432 through 121.453 of Subpart O of Part 121 of this chapter except §§ 121.434, 121.435, and 121.440.
121.440.

* * * * *

2. By amending paragraph (a)(1) of § 123.41 to read as follows:

§ 123.41 Training program.

(a) * * *

(1) Provides the training required by §§ 121.415 through 121.427 (except § 121.422) of this chapter as applicable to commercial operators except that the training program need not meet the requirements for approved programed hours of training; and

* * * * *

3. By amending § 123.43 to read as follows:

§ 123.43 Flight crewmember qualifications.

No certificate holder may use a flight crewmember and no flight crewmember may perform duties under his airman certificate, unless the flight crewmember has completed the appropriate training in accordance with the requirements of § 123.41 and §§ 121.415 through 121.427 (except § 121.422) of this chapter as applicable to commercial operators and has met the appropriate requirements of §§ 121.432 through 121.453 (except §§ 121. 434, 121.435, and 121.440) of this chapter as applicable to commercial operators.

(Secs. 313(a), 601(a), and 607, Federal Aviation Act of 1958, 49 U.S.C. 1354(a), 1421(a), and 1427; sec. 6(c), Department of Transportation Act, 49 U.S.C. 1655(c))

Issued in Washington, D.C., on August 14, 1970.

J. H. SHAFFER,
Administrator.

[F.R. Doc. 70-11080; Filed, Aug. 21, 1970; 8:48 a.m.]

Chapter II—Civil Aeronautics Board

SUBCHAPTER A—ECONOMIC REGULATIONS

[Reg. ER-637; Amdt. 10]

PART 298—CLASSIFICATION AND EXEMPTION OF AIR TAXI OPERATORS

General and Special Limitations on Exemption

Adopted by the Civil Aeronautics Board at its office in Washington, D.C., on the 19th day of August 1970.

In ER-627, adopted June 18, 1970,[1] the Board amended Part 298 to permit an air taxi operator to regularly serve markets in which certificate holders provide scheduled passenger or community and interairport service where the air taxi operator has provided service between points "continuously on a regularly scheduled basis with a minimum of five round trips per week since at least 30 days immediately prior to the inauguration or resumption of service between points by the holder of a certificate of public convenience and necessity" (§ 298.21(b)). In addition, except where such service was provided by the air taxi operator, no service by helicopter, STOL or VTOL aircraft shall be offered or performed by an air taxi operator between any two points between which scheduled helicopter, STOL or VTOL service is provided by a certificate holder (§ 298.21(d)).

The rule permitted petitions for reconsideration to be filed, and such petitions have been filed by Golden West Airlines and Los Angeles Airways (LAA).[2] Upon consideration the Board has determined to modify the rule to the extent indicated below and otherwise the petitions are denied.

Golden West suggests that the Board should broaden the rule so as to deny helicopter carriers competitive protection in any market they plan to enter (or reenter) where an air taxi operator has applied for state operating authority in the market and then receives and implements such authority with a pattern of at least five round trips per week. In support, Golden West states that under the Board's rule an air taxi operator could make an investment of resources and effort to provide service and generate traffic, institute a substantial pattern of service, and then be forced to terminate its services, if a certificated helicopter institutes service prior to expiration of the 30-day period. It alleges that the situation is even more difficult and inequitable where the air taxi operator is subject to state regulation and must apply to a state commission for authority to enter a new market. Golden West refers to the fact that in its case it must seek and obtain authority from the California Public Utilities Commission prior to instituting service in any new intrastate market and, as a result, the air taxi must give notice of its intention to serve a new market so long in advance that a

[1] Docket 20662 (35 F.R. 10202).

[2] To permit the Board sufficient time to consider the matters raised in the petitions, the effective date of ER-627 was postponed by ER-633, August 3, 1970.

helicopter carrier would have little difficulty in preparing for and actually instituting a pre-emptive service in the market.

We shall deny the requested modification, since the situation Golden West depicts is atypical. Ordinarily, an air taxi operator need not obtain a certificate from state authorities or otherwise go through protracted proceedings before entering a new market In the usual situation, where a market is not served by a helicopter carrier, the air taxi operator may inaugurate service expeditiously, leaving little time under the present rule for a helicopter carrier to react. Since Golden West refers to a special problem, the appropriate relief is not by regulation but through request for ad hoc exemption.

Golden West also contends that "helicopter carriers" should not retain competitive protection after they have terminated all rotary-wing operations. The term "helicopter carriers" is, of course, a misnomer. These carriers are certificated for helicopter, STOL, VTOL and even conventional fixed-wing aircraft.[3] Golden West disagrees with the Board's statement in ER-627 that "since the financial viability of their helicopter operations may be vitally affected by their STOL and VTOL operations" the competitive protection accorded the certificated carriers should cover their operations with STOL and VTOL aircraft. However, Golden West cites nothing to refute the statement, but indeed refers to "the fact that an economically viable passenger helicopter has yet to be developed." Accordingly, there is nothing in Golden West's petition which persuades us to reconsider and revise the rule in the manner suggested.

In its petition LAA requests a number of revisions in the rule. First, it asserts that the 30 days of prior service which brings an air taxi within the proviso, allowing it to compete on a permanent basis, does not provide adequate time for the certificated carrier to effect inauguration of service. LAA claims that a period of 90 days is necessary to afford the certificated carrier adequate opportunity. Alternatively, it suggests that the air taxi operator give the certificated carrier 60 days' notice before the 30-day minimum service begins to run.

We shall not adopt either proposal. It may be true, in some cases, as asserted by LAA, that "the certificated carrier upon learning of inauguration of service by an air taxi operator (or operators) cannot possibly react by inaugurating service within 30 days." However, it is not the Board's purpose to facilitate such reaction. The markets in question are markets which the certificated carrier is authorized to serve but has chosen not to serve. And if the certificated carrier is motivated to serve such markets solely because an air taxi operator has entered them, it would likewise be motivated to abandon the market once it ousts the air taxi operator. While LAA's proposal would certainly benefit the certificated carriers, it would, in our judgment, be manifestly unfair to the air taxi operator who has invested resources to operate in an unserved market and would not be in the public interest.

LAA also claims that the 30-day provision would be harmful to a certificated carrier which has taken the initiative, even before any air taxi operator, to effect inauguration of service. Thus, it states that while the certificated carrier attempts to prepare for inauguration in a planned, step-by-step manner the air taxi operator can inaugurate service, at whatever cost, in order to secure operating rights for the indefinite future.

The situation envisioned by LAA is conceivable, but not likely. In the first place, as previously noted, an air taxi operator seeking to enter an LAA market would first have to receive state authority. The possibility that such an air taxi operator could react quickly enough and provide 30-days' service before LAA inaugurates service would appear remote. In the usual case where state authority is not required, this impediment would not exist. However, it would appear unlikely in most instances that an air taxi operator would suddenly decide to enter a market upon receiving news that a certificated carrier was planning to inaugurate service and be able to react quickly enough to provide 30 days' service prior to the time service is inaugurated. Furthermore the markets involved are typically marginal, and the fact that a certificated carrier was intending to inaugurate service would tend to discourage entry by an air taxi operator.

LAA also contends that five round trips per week is insufficient service to justify acquisition of permanent operating rights and that the Board should require minimum service of at least 10 round trips per week. We shall not adopt this suggestion. The fact that a market has not been served by a certificated carrier indicates that it is marginal and may only support marginal service. A 10 round trip per week requirement may foreclose any service, to the detriment of the public. We shall, however, revise the rule to require that the air taxi operator conform to the definition of "commuter air carrier," i.e., perform at least five round trips per week between two or more points and publish flight schedules which specify the times, days of the week and service, provide nonscheduled service, or reduce frequencies without endangering in any way its permanent operating rights in the market.

We do not believe that the rule can be read in the manner suggested by LAA, since it requires that the points be served "continuously on a regularly scheduled basis" etc. However, to remove ambiguity on the subject, the rule will be revised to read "continuously and without interruption (except for involuntary interruption of service for reasons such as those specified in § 205.8 of this chapter)."

In addition to the foregoing revisions, the second proviso to § 298.21(b) and (d) will be clarified in two respects. First, it will be amended to make clear that the 30-day period does not run during a time when the certificated carrier has been suspended for involuntary postponement of inauguration of service under § 205.8. Second, the provision respecting suspension of service pursuant to Board order has been expanded to include that the 30-day period does not run where the Board authorizes a certificated carrier to postpone inauguration of service.

Accordingly, the Civil Aeronautics Board hereby amends § 298.21 of Part 298 of the Economic Regulations (14 CFR Part 298), effective September 24, 1970, as follows:

§ 298.21 Scope of service authorized; geographical, equipment and mail service limitations, insurance and reporting requirements.

* * * * *

(b) *Prohibition of regular service in markets served by certificated helicopter carriers.* An air taxi operator is prohibited from providing air transportation, or holding out to the public expressly or by course of conduct, that it provides such transportation regularly or with a reasonable degree of regularity between any points where scheduled helicopter passenger service, or community center and interairport service, is provided by the holder of a certificate of public convenience and necessity either in accordance with such certificate or pursuant to exemption order of the Board: *Provided, however,* That, subject to the provisions of paragraph (e) of this section, the foregoing limitation shall not apply to an air taxi operator with respect to pairs of points it has served continuously and without interruption (except for involuntary interruption of service for reasons such as those specified in § 205.8 of this chapter) on a regularly scheduled basis with a minimum of five round trips per week since at least 30 days immediately prior to the inauguration or resumption of service between points by the holder of a certificate of public convenience and necessity (See also paragraph (d) of this section): *And provided, further,* That the foregoing proviso shall not apply where service by the holder of a certificate of public convenience and necessity has been suspended during such 30-day period for involuntary postponement of inauguration or involuntary interruption of service under the provisions of § 205.8 of this chapter or where the Board authorizes a certificated carrier to suspend or postpone inauguration of service in an order providing that the suspension or postponement shall not operate to authorize air taxi operators inaugurating service during such suspension or postponement to continue service after the certificated carrier resumes or inaugurates service.

* * * * *

(d) *Limitation on use of helicopter, STOL or VTOL aircraft.* No service by helicopter, STOL, or VTOL aircraft shall be offered or performed by an air taxi operator between any two points between which scheduled helicopter, STOL, or VTOL aircraft service is provided by the holder of a certificate of public convenience and necessity authorizing scheduled helicopter service or community center and interairport service: *Provided, however,* That the foregoing limitation shall not apply to an air taxi

[3] See Order 69-2-37.

operator with respect to pairs of points it has served continuously and without interruption (except for involuntary interruption of service for reasons such as those specified in § 205.8 of this chapter) on a regularly scheduled basis with a minimum of five round trips per week since at least 30 days immediately prior to the inauguration or resumption of service between the points by the holder of a certificate of public convenience and necessity (See also paragraph (b) of this section): *And provided, further,* That the foregoing proviso shall not apply where service by the holder of a certificate of public convenience and necessity has been suspended during such 30-day period for involuntary postponement of inauguration or involuntary interruption of service under the provisions of § 205.8 of this chapter or where the Board authorizes a certificated carrier to suspend or postpone inauguration of service in an order providing that the suspension or postponement shall not operate to authorize air taxi operators inaugurating service during such suspension or postponement to continue service after the certificated carrier resumes or inaugurates service.

(e) *Filing of notice of inauguration of service; publication and filing of flight schedules.* An air taxi operator which intends to inaugurate service on a regularly scheduled basis with a minimum of five round trips per week between points where it is not prohibited from providing such transportation by paragraph (b) of this section shall file a notice with the Director, Bureau of Operating Rights, as to the time such service is to be inaugurated not later than 1 day prior to inauguration. The notice shall contain a certification that it has been served on the certificated carrier authorized to provide service between the points. The air taxi operator shall publish flight schedules for the service specifying the times, days of the week and places between which such flights are performed and within 30 days after commencing operations shall file such schedules pursuant to § 298.61.

* * * * *

(Secs. 204, 416, Federal Aviation Act of 1958, as amended, 72 Stat. 743, 771; 49 U.S.C. 1324, 1386)

By the Civil Aeronautics Board.

[SEAL] HARRY J. ZINK, *Secretary.*

[F.R. Doc. 70-11105; Filed, Aug. 21, 1970; 8:50 a.m.]

Title 19—CUSTOMS DUTIES

Chapter I—Bureau of Customs, Department of the Treasury

[T.D. 70-181]

ADMINISTRATIVE REVIEW

On June 5, 1970, notice of proposed rule making regarding regulations to implement the Customs Administrative Act of 1970, and necessary miscellaneous amendments to Chapter I of Title 19 of the Code of Federal Regulations was published in the FEDERAL REGISTER (35 F.R. 8741). Interested persons were given until July 15, 1970, to submit written comments, suggestions, or objections regarding the proposed regulations.

The proposed new Parts 173 through 176 and the miscellaneous amendments to Chapter I of Title 19 of the Code of Federal Regulations are hereby adopted, subject to the following changes:

In § 174.1(b), language is added to clarify the definition of "further review."

In § 174.2(a) (4) and (5), language is added to make clear that both subparagraphs refer to two distinct factual situations.

In § 174.3, paragraph (b) setting forth a procedure when no power of attorney is filed is deleted and paragraphs (c), (d), and (e) are redesignated accordingly.

Section 174.12 as proposed appears as § 174.15, and a new § 174.12 sets forth the provisions of proposed § 174.14 relating to the filing of protest with the following changes in the text:

1. A new paragraph (b) rephrases the provisions of the first two sentences of proposed § 174.13(a) but permits a protest to be filed on a form other than Customs Form 19 in certain circumstances. Language is added to exempt samples or similar exhibits from the requirement of filing attachments to a protest in quadruplicate.

2. A new paragraph (c) sets forth separately the signature requirements for a protest which were contained in § 174.13(a).

3. Paragraph (d) contains those provisions of proposed § 174.14(b) relating to the place of filing a protest.

4. Paragraph (e) contains the provisions of proposed § 174.14(c), with the example of a refusal to reliquidate for clerical error added to subparagraph (2).

5. Paragraph (f) sets forth the text of proposed § 174.14(d).

6. Paragraph (g) is added to provide for the submission of a fifth copy of the protest and its return as a record copy.

In § 174.13, paragraph (a) retains the general listing of the contents of a protest without reference to its return if all information is not supplied. In the listing of contents there is an editorial change in (1), a more concise statement of (6) to require justification for an objection, and an added (7) to supply information to support a request for suspension of action on a protest while a prior protested decision is undergoing further review.

Also in § 174.13, paragraph (b) is redesignated (c), and is rephrased to permit designation only for refunds by the importer, consignee, or protesting party. A new paragraph (b) is added to § 174.13 to provide for protests with respect to multiple entries.

Section 174.14 sets forth the provisions of proposed § 174.15 relating to amendments to protests, with the following changes:

1. The heading of paragraph (a) is changed.

2. A new paragraph (b) provides for the filing of an amendment on Customs Form 19 or a facsimile, the number of copies which must be presented, and for schedules or other attachments to amendments.

3. That portion of paragraph (b) dealing with the contents of an amendment becomes paragraph (c), and is revised to omit reference to its return if all information is not supplied. In the listing of contents, the entry number and date of entry is no longer required; the date of filing of the original protest is added to the requirement of the protest number; justification for the objection raised is substituted in (5) now redesignated as (4); and a new (5) is added to supply information to support a request for suspension of action on the amendment and protest in the same circumstances as for protests.

4. Paragraph (c) becomes paragraph (d) and includes a provision for the signing of an amendment.

5. Paragraph (d) becomes paragraph (e) and includes a provision for the date of filing an amendment.

6. A new paragraph (f) is added to provide for presentation and return of a record copy of an amendment.

In § 174.21, paragraph (a) remains as § 174.21, and paragraph (b) is redesignated as § 174.22, with changes to delete the requirement that the request state the number and date of the entry involved and to clarify the phraseology relating to multiple protests.

Section 174.22 is renumbered as § 174.23, and is rephrased to clarify the further review concept.

Section 174.23 is renumbered as § 174.24, and paragraphs (b) and (c) are expanded to include rulings by the Customs Courts.

Section 174.24 is renumbered as § 174.25, and is revised so that provision is made for a record copy of the application for further review and language is added to clarify the relationship of the allegations required to the criteria in the prior section.

Section 174.25 is renumbered as § 174.26 and is rephrased to clarify the concept of further review.

Sections 174.26, 174.27, and 174.28 are renumbered as §§ 174.27, 174.28, and 174.29 respectively.

Section 174.29 appears as paragraph (a) of new § 174.30, and is rephrased to indicate notice of denial will be sent to each person filing a protest. Paragraph (b) is added to allow substitution of persons to receive notice, and paragraph (c) is added to provide for notification of payment of increased duties in certain circumstances.

In § 175.12, paragraph (c) is deleted and (d) is redesignated (c).

In § 175.21, the cross reference is changed to § 103.7.

In § 175.23, a sentence is added to provide for designation of ports of entry at which the petitioner desires to protest.

In paragraph (a) of § 175.25, a conforming change is made to refer to ports designated in the notice of desire to contest.

Section 176.2 is rephrased to provide clearly for service of the notice of appeal

upon the Assistant Chief Counsel for Customs Court Litigation.

Sections 176.22 and 176.23 are deleted, and § 176.24 is renumbered as § 176.22.

In § 176.31, a cross reference to paragraph (c) is added in paragraphs (a) and (b), and a new paragraph (c) is added to provide for liquidation after notification of waiver of the right of appeal.

In the amendment to § 8.29, language is added to clarify the proposed amendment of paragraph (c), and the time allowed for withholding liquidation is changed to 20 days.

An amendment to paragraph (b) of § 9.10 is added to the miscellaneous amendments, together with an amendment to footnote 8 appended thereto.

Minor editorial changes, and conforming changes to reflect changes in cross references and the redesignation of certain parts of the Customs Regulations, are also made.

The text of Parts 173 through 176 and the miscellaneous amendments to Chapter I, Title 19 of the Code of Federal Regulations as adopted is set forth below.

Effective date. These amendments shall become effective on October 1, 1970.

[SEAL] ROBERT V. MCINTYRE,
Acting Commissioner of Customs.

Approved: August 13, 1970.

WILLIAM L. DICKEY,
Acting Assistant Secretary of the Treasury.

PART 173—ADMINISTRATIVE REVIEW IN GENERAL

Sec.
173.0 Scope.
173.1 Authority to review for error.
173.2 Transactions which may be reviewed and corrected.
173.3 Voluntary reliquidation.
173.4 Correction of clerical error, mistake of fact, or inadvertence.
173.5 Review of entry covering household or personal effects.
173.6 Review of entry for fraud.

AUTHORITY: The provisions of this Part 173 issued under R.S. 251, secs. 501, 624, 46 Stat. 730, as amended, 759; 19 U.S.C. 66, 1501, 1624.

§ 173.0 Scope.

This part deals with the general authority of review, the authority to reliquidate voluntarily, the authority to correct for clerical error, mistake of fact, or other inadvertence under section 520 (c)(1), Tariff Act of 1930, as amended, the authority to review an entry of household or personal effects, and the power to reliquidate an entry on account of fraud.

§ 173.1 Authority to review for error.

District directors have broad responsibility and authority to review transactions to insure that the rate and amount of duty assessed on imported merchandise is correct and that the transaction is otherwise in accordance with the law. This authority extends to errors in the construction of a law and to errors adverse to the Government as well as the importer.

§ 173.2 Transactions which may be reviewed and corrected.

The district director may review transactions for correctness, and take appropriate action under his general authority to correct errors, including those in appraisement where appropriate, at the time of:

(a) Liquidation of an entry;

(b) Voluntary reliquidation completed within 90 days after liquidation;

(c) Voluntary correction of an exaction within 90 days after the exaction was made;

(d) Reliquidation made pursuant to a valid protest covering the particular merchandise as to which a change is in order; or

(e) Modification, pursuant to a valid protest, of a transaction or decision which is neither a liquidation or reliquidation.

§ 173.3 Voluntary reliquidation.

(a) *Authority to reliquidate.* The district director within 90 days from the date notice of the original liquidation is given to the importer, consignee, or agent, may reliquidate on his own initiative a liquidation or a reliquidation to correct errors in appraisement, classification, or any other element entering into the liquidation or reliquidation, including errors based on misconstruction of applicable law. A voluntary reliquidation may be made even though a protest has been filed, and whether the error is discovered by the district director or is brought to his attention by an interested party.

(b) *Notice of reliquidation.* Notice of a voluntary reliquidation shall be given in accordance with the requirements for giving notice of the original liquidation.

(Sec. 501, 46 Stat. 730, as amended; 19 U.S.C. 1501)

§ 173.4 Correction of clerical error, mistake of fact, or inadvertence.

(a) *Authority to review and correct.* Even though a valid protest was not filed, the district director, upon timely application, may correct pursuant to section 520(c)(1), Tariff Act of 1930, as amended (19 U.S.C. 1520(c)(1)), a clerical error, mistake of fact, or other inadvertence meeting the requirements of paragraph (b) of this section, by reliquidation or other appropriate action.

(b) *Transactions which may be corrected.* Correction pursuant to section 520(c)(1), Tariff Act of 1930, as amended, may be made in any entry, liquidation, appraisement, or other Customs transaction if the clerical error, mistake of fact, or other inadvertence:

(1) Does not amount to an error in the construction of a law;

(2) Is adverse to the importer; and

(3) Is manifest from the record or established by documentary evidence.

(c) *Limitation on time for application.* A clerical error, mistake of fact, or other inadvertence meeting the requirements of paragraph (b) of this section must be brought to the attention of the district director:

(1) Within 1 year after the date of entry, or other transaction (including liquidation, reliquidation, or exaction) if the error, mistake of fact, or other inadvertence is in the entry, or other transaction (including a liquidation, reliquidation, or exaction), or

(2) Within 90 days after liquidation or exaction when the liquidation or exaction is made more than 9 months after the date of entry, or other transaction, except that in cases where the error is in liquidation, reliquidation, or exaction, the 1-year limitation shall apply.

(Sec. 520, 46 Stat. 739, as amended; 19 U.S.C. 1520)

§ 173.5 Review of entry covering household or personal effects.

An error in the liquidation of an entry covering household or personal effects may be corrected by the district director even though a timely protest was not filed if an application for refund is filed with the district director within 1 year after the date of the entry and no waiver of compliance with applicable regulations is involved other than a waiver which the district director has authority to grant. Where the district director has no authority to grant the waiver, the application shall be referred to the Commissioner of Customs.

(Sec. 520, 46 Stat. 739, as amended; 19 U.S.C. 1520)

§ 173.6 Review of entry for fraud.

The district director may review any entry in which fraud is suspected. Where probable cause to believe there is fraud in the case is found by the district director, he may reliquidate an entry within 2 years (exclusive of the time during which a protest is pending) after the date of liquidation or last reliquidation.

(Sec. 521, 46 Stat. 739; 19 U.S.C. 1521)

PART 174—PROTESTS

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Sec.
174.29 Allowance or denial of protests.
174.30 Notice protest denied.

AUTHORITY: The provisions of this Part 174 issued under R.S. 251, as amended, sec. 624, 46 Stat. 759; 19 U.S.C. 66, 1624. Subpart B also issued under sec. 514, 46 Stat. 736, as amended; 19 U.S.C. 1514. Subpart C also issued under sec. 515, 46 Stat. 736, as amended; 19 U.S.C. 1515.

§ 174.0 Scope.

This part deals with the administrative review of decisions of the district director, including the requirements for the filing of protests against such decisions, amendment of protests, review and accelerated disposition, and provisions dealing with further administrative review.

Subpart A—General Provisions

§ 174.1 Definitions.

When used in this part, the following terms shall have the meaning indicated:

(a) *District director.* "District director" means the district director of Customs at a headquarters port other than the port of New York, N.Y., and the regional commissioner of Customs for Customs Region II at the port of New York, N.Y.

(b) *Further review.* "Further review" means review of the decision which is the subject of the protest by Customs officers on a level higher than the district, and in Region II by Customs officers who did not participate directly in the decision which is the subject of the protest.

§ 174.2 Applicability of provisions.

(a) *In general.* The provisions of this part shall be applicable to protests against decisions involving:

(1) Articles excluded from entry or entered or withdrawn from warehouse for consumption on or after October 1, 1970;

(2) Articles entered or withdrawn from warehouse for consumption prior to October 1, 1970, for which appraisement has not become final by October 1, 1970;

(3) Articles entered or withdrawn from warehouse for consumption prior to October 1, 1970, for which the appraisement has become final but with respect to which the entry has not been liquidated prior to October 1, 1970;

(4) Articles entered or withdrawn from warehouse for consumption with respect to which the entry has been liquidated prior to October 1, 1970, if

(i) The time for filing a protest has not expired and a protest has not been filed prior to October 1, 1970; or

(ii) A protest has been filed and has not been disallowed in whole or in part before October 1, 1970; or

(5) Articles excluded from entry before October 1, 1970, with respect to which

(i) The time for filing a protest has not expired and a protest has not been filed prior to October 1, 1970; or

(ii) A protest has been filed and has not been disallowed in whole or in part before October 1, 1970.

(b) *Limitations*—(1) *Appraisement not final.* When the appraisement of articles entered or withdrawn from warehouse for consumption prior to October 1, 1970, is not final by October 1, 1970, because an appeal for reappraisement was timely filed prior to such date, the provisions of this part relating to protests shall be applicable to a protest filed after the court's decision on the appeal to reappraisement has become final. Such protest shall not include issues which were raised or could have been raised on the appeal for reappraisement.

(2) *Protest not disallowed.* When a protest filed prior to October 1, 1970, has not been disallowed in whole or in part before such date, the provisions of this part shall be applicable to such protests. The time within which any action must be taken under the provisions of this part with respect to such a protest shall commence on the date the protest was in fact filed.

§ 174.3 Power of attorney to file protest.

(a) *When required.* When a protest is filed by a person acting as agent or attorney in fact for the principal, other than an attorney at law or a customhouse broker or his authorized employee acting in his behalf, there shall have been filed or shall be filed with the protest a power of attorney which either specifically authorizes such agent to make, sign, and file the protest or grants unlimited authority to such agent. No power of attorney to file a protest shall be required in the following cases:

(1) *Attorney at law.* When the protest is filed by an attorney at law as agent or attorney for the principal, the signing of the protest as agent or attorney for the principal by the attorney at law shall be considered a declaration by him that he is currently a member in good standing of the highest court of a State, possession, territory, commonwealth, or the District of Columbia, and has been authorized to sign and file the protest for the principal.

(2) *Customhouse broker or his employee.* When the protest is filed by a customhouse broker, or an authorized employee acting in his behalf, as agent or attorney in fact for the principal, the signing of the protest by the customhouse broker or an authorized employee in his behalf shall be considered a declaration by the broker that he or the employee signing in his behalf, is authorized to sign and file the protest for the principal. The customhouse broker shall have on file, however, a general power of attorney to transact Customs business for the principal on Customs Form 5291.

(b) *Execution of power of attorney*—(1) *Corporation.* A corporate power of attorney to file protests shall be signed by a duly authorized officer or employee of the corporation. If the district director is otherwise satisfied as to the authority of such corporate officer or employee to grant such power of attorney, compliance with the requirements of § 8.19(e) of this chapter may be waived with respect to such power.

(2) *Partnership.* A partnership power of attorney to file protests may be signed by one member in the name of the partnership, provided the power recites the name of all the members.

(c) *Duration.* Powers of attorney issued by a partnership shall be limited to a period not to exceed 2 years from the date of receipt thereof by the district director. All other powers of attorney may be granted for an unlimited period.

(d) *Revocation.* Any power of attorney shall be subject to revocation at any time by written notice given to and received by the district director.

(Secs. 514, 515, 46 Stat. 734, as amended; 19 U.S.C. 1514, 1515)

Subpart B—Protests

§ 174.11 Matters subject to protest.

The following decisions of the district director, including the legality of all orders and findings entering into the same, may be protested under the provisions of section 514, Tariff Act of 1930, as amended (19 U.S.C. 1514):

(a) The appraised value of merchandise;

(b) The classification and rate and amount of duties chargeable;

(c) All charges or exactions of whatever character within the jurisdiction of the Secretary of the Treasury;

(d) The exclusion of merchandise from entry or delivery under any provision of the Customs laws;

(e) The liquidation or reliquidation of an entry, or any modification thereof;

(f) The refusal to pay a claim for drawback; and

(g) The refusal to reliquidate an entry under section 520(c), Tariff Act of 1930, as amended (19 U.S.C. 1520(c)).

§ 174.12 Filing of protests.

(a) *By whom filed.* Protests may be filed by the importer, consignee, or the person paying any charge or exaction, filing any claim for drawback, or seeking entry or delivery with respect to merchandise which is the subject of the decision protested, or his agent or attorney subject to the provisions of § 174.3.

(b) *Form and number of copies.* Protests against decisions of a district director shall be filed in quadruplicate on Customs Form 19 or a form of the same size clearly labeled "Protest" and setting forth the same content in its entirety, in the same order, addressed to the district director. All schedules or other attachments to a protest (other than samples or similar exhibits) shall also be filed in quadruplicate.

(c) *Signature.* The protest shall be signed by the person filing the protest, or his agent, or attorney. If the person filing is not the importer of record or consignee, he shall include his address and importer number, if any.

(d) *Place of filing.* Protests shall be filed with the district director to whom addressed, except that when the entry which is the subject of protest is made at a port other than the district headquarters, the protest may be filed with the port director at that port.

(e) *Time of filing.* Protests shall be filed, in accordance with section 514, Tariff Act of 1930, as amended (19 U.S.C. 1514), within 90 days after either:

(1) The date of notice of liquidation or reliquidation in accordance with § 16.2(d), § 16.12(a), or § 16.12(c) of this chapter; or

(2) The date of the decision, involving neither a liquidation nor reliquidation, as to which the protest is made (e.g., the date of an exaction, the date of written notice excluding merchandise from entry or delivery under any provision of the Customs laws or the date of a refusal to reliquidate under section 520(c)(1) of the Tariff Act of 1930, as amended).

(f) *Date of filing.* The date on which a protest is received by the Customs officer with whom it is required to be filed shall be deemed the date on which it is filed.

(g) *Return of fifth copy.* If a fifth copy of the protest is presented for the purpose of having recorded thereon the date of its receipt and the protest number assigned thereto, such information shall be recorded thereon and the fifth copy shall be returned to the person filing the protest.

§ 174.13 Contents of protest.

(a) *Contents, in general.* A protest shall contain the following information:

(1) The name and address of the protestant, i.e., the importer of record or consignee, and the name and address of his agent or attorney if signed by one of these;

(2) The importer number of the protestant. If the protestant is represented by an agent having power of attorney, the importer number of the agent shall also be shown;

(3) The number and date of the entry;

(4) The date of liquidation of the entry, or the date of a decision not involving a liquidation or reliquidation;

(5) A specific description of the merchandise affected by the decision as to which protest is made;

(6) The nature of, and justification for the objection set forth distinctly and specifically with respect to each category, payment, claim, decision, or refusal; and

(7) The date of receipt and protest number of any protest previously filed that is the subject of a pending application for further review pursuant to Subpart C of this part and that is alleged to involve the same merchandise and the same issues, if the protesting party requests disposition in accordance with the action taken on such previously filed protest.

(b) *Multiple entries.* A single protest may be filed with respect to more than one entry in any district if all such entries involve the same protesting party, and if the same category of merchandise and a decision or decisions common to all entries are the subject of the protest. In such circumstances, the entry numbers, dates of entry, and dates of liquidation of all such entries, as well as the ports of entry where they may not coincide, should be set forth as an attachment to the protest.

(c) *Optional designation for refunds.* If desired by the importer/consignee the statement "any refunds with respect to the entry under protest shall be mailed to the importer/consignee in care of

_____"
(Name and Address of Agent)

may be appended to the protest. This designation supersedes any existing designation previously authorized on Customs Form 4811.

§ 174.14 Amendment of protests.

(a) *Time for filing.* A protest may be amended at any time prior to the expiration of the 90-day period within which such protest may be filed determined in accordance with § 174.12(e). The amendment may assert additional claims pertaining to the administrative decision which is the subject of the protest, or may challenge an additional administrative decision relating to the same category of merchandise which is the subject of the protest. For the presentation of additional grounds or arguments in support of a valid protest after the 90-day period has expired see § 174.28.

(b) *Form and number of copies of amendment.* An amendment to a protest shall be filed in quadruplicate on Customs Form 19 or on a form of the same size, clearly labeled "Amendment to Protest" at the top of the form. Schedules or other attachments (other than samples or similar exhibits) shall also be filed in quadruplicate.

(c) *Contents.* An amendment to a protest shall contain the following information:

(1) The name, address, and importer number of the protesting party, i.e., the importer of record or consignee, and the name and address of his agent or attorney if filed by one of these;

(2) The number and date of filing of the original protest;

(3) A specific description of the merchandise affected by the decision as to which the amendment to the protest is filed;

(4) The nature of and justification for the objection raised by the amendment set forth distinctly and specifically with respect to each category, payment, claim, decision, or refusal; and

(5) The date of receipt and protest number of any protest previously filed that is the subject of a pending application for further review and that is alleged to involve the same merchandise and the same issues involved in the amendment.

(d) *By whom filed and signed.* An amendment to a protest may be filed and signed only by the person filing such protest or his agent or attorney subject to the provisions of § 174.3.

(e) *Place and date of filing.* An amendment to a protest shall be filed with the district director or port director with whom the protest was filed. The amendment shall be deemed filed on the date it is received by the Customs officer with whom it is required to be filed.

(f) *Return of fifth copy.* If a fifth copy of the amendment is presented for the purpose of having recorded thereon the date of its receipt, such information shall be recorded thereon and the fifth copy shall be returned to the person filing the amendment.

§ 174.15 Consolidation of protests filed by different parties.

Separate protests relating to one category of merchandise covered by an entry shall be considered as a single protest whether filed as a single protest or filed as separate protests relating to the same category by one or more parties in interest or an authorized agent.

§ 174.16 Limitation on protests after reliquidation.

A protest shall not be filed against the decision of the district director on reliquidation upon any question not involved in the reliquidation.

Subpart C—Review and Disposition of Protests

§ 174.21 Time for review of protests.

The district director shall review and act on a protest filed in accordance with section 514, Tariff Act of 1930, as amended (19 U.S.C. 1514) within 2 years from the date the protest was filed. If several timely filed protests are treated as part of a single protest pursuant to §174.15, the 2-year period shall be deemed to run from the date the last such protest was filed in accordance with section 514, Tariff Act of 1930, as amended (19 U.S.C. 1514).

§ 174.22 Accelerated disposition of protest.

(a) *Request for accelerated disposition.* Accelerated disposition of a protest filed in accordance with section 514, Tariff Act of 1930, as amended (19 U.S.C. 1514) may be obtained at any time after 90 days from the filing of such protest, by filing by registered or certified mail a written request for accelerated disposition with the district director to whom the protest was addressed.

(b) *Contents of request.* A request for accelerated disposition of protest shall contain the following information:

(1) The name, address, and importer number of the protestant, i.e., the importer of record or consignee, and the name and address of his agent or attorney if filed by one of these; and

(2) The date of filing and number of the protest for which accelerated disposition is requested.

(c) *Review following request.* The district director shall review the protest which is the subject of the request within 30 days from the date of mailing of a request for accelerated disposition filed in accordance with the provisions of this section, and may allow or deny the protest in whole or in part.

(d) *Failure to allow or deny protest within 30-day period.* If the district director fails to allow or deny a protest which is the subject of a request for accelerated disposition within 30 days from the date of mailing of such request, the protest shall be deemed to have been denied at the close of the 30th day following such date of mailing.

(e) *Multiple protests.* If several protests by different persons are timely filed and treated as part of a single protest pursuant to § 174.15, a request for accelerated disposition filed by any one of the protesting parties shall be treated as a request for accelerated disposition by all the parties.

§ 174.23 Further review of protests.

A protesting party may seek further review of a protest in lieu of review by the district director by filing, on the form prescribed in § 174.25, an application for such review within the time allowed and in the manner prescribed by § 174.12 for the filing of a protest. The filing of an application for further review shall not preclude a preliminary examination by the district director whose decision is the subject of the protest for the purpose of determining whether the protest may be allowed in full. If such preliminary examination indicates that the protest would be denied in whole or in part by the district director in the absence of an application for further review, however, he shall forward the protest and application for consideration in accordance with § 174.26.

§ 174.24 Criteria for further review.

Further review of a protest which would otherwise be denied by the district director shall be accorded a party filing an application for further review which meets the requirements of § 174.25 when the decision against which the protest was filed:

(a) Is alleged to be inconsistent with a published ruling of the Commissioner of Customs or his designee, or a published abstract thereof, or with a decision made in any district with respect to the same or substantially similar merchandise;

(b) Is alleged to involve questions of law or fact which have not been ruled upon by the Commissioner of Customs or his designee or by the Customs courts; or

(c) Involves matters previously ruled upon by the Commissioner of Customs or his designee or by the Customs courts but facts are alleged or legal arguments presented which were not considered at the time of the original ruling.

§ 174.25 Application for further review.

(a) *Form and number of copies.* An application for further review shall be filed in quadruplicate on Customs Form 20. If a fifth copy of the application is presented for the purpose of having recorded thereon the date of its receipt, such information shall be recorded thereon and the fifth copy shall be returned to the person filing the application.

(b) *Contents.* An application for further review shall contain the following information:

(1) Information identifying the protest to which it applies and the protesting party and his importer number;

(2) Allegations that the protesting party:

(i) Has not previously received an adverse administrative decision from the Commissioner of Customs or his designee nor has presently pending an application for an administrative decision on the same claim with respect to the same category of merchandise; and

(ii) Has not received a final adverse decision from the Customs courts on the same claim with respect to the same category of merchandise and does not have an action involving such a claim pending before the Customs courts.

(3) A statement of any facts or additional legal arguments, not part of the record, upon which the protesting party relies, including the criterion set forth in § 174.24 which justifies further review. A showing of facts that support the allegation of a criterion set forth in § 174.24 (c) will constitute a ground for the granting of further review in circumstances where the applicant's inability to affirmatively make the allegations described in subparagraph (2) of this paragraph would otherwise result in its denial.

§ 174.26 Review of protest after application for further review.

(a) *Protest allowed.* If upon examination of a protest for which an application for further review was filed the district director is satisfied that the claim is valid, he shall allow the protest.

(b) *Other protests.* If upon examination of a protest for which an application for further review was filed the district director decides that the protest in his judgment should be denied in whole or in part, he shall forward the application together with the protest and appropriate documents to be reviewed as follows:

(1) A protest shall be reviewed by the Commissioner of Customs or his designee under Customs Delegation Order No. 1 (Revision 1), T.D. 69-126 (34 F.R. 8208), as amended from time to time, if the protest and application for review raise an issue involving either:

(i) Lack of uniformity of treatment;

(ii) The existence of an established and uniform practice;

(iii) The interpretation of a court decision or ruling of the Commissioner of Customs or his designee; or

(iv) Questions which have not been the subject of a Bureau ruling or court decision.

(2) All other protests shall be reviewed by the regional commissioner of Customs or his designee for the region in which the district lies. Such designee shall be a Customs officer who did not participate directly in the decision which is the subject of the protest.

§ 174.27 Disposition after further review.

Upon completion of further review, the protest and appropriate documents forwarded for review shall be returned to the district director together with directions for the disposition of the protest.

§ 174.28 Consideration of additional arguments.

In determining whether to allow or deny a protest filed within the time allowed, a reviewing officer may consider alternative claims and additional grounds or arguments submitted in writing by the protesting party with respect to any decision which is the subject of a valid protest at any time prior to disposition of the protest.

§ 174.29 Allowance or denial of protests.

The district director shall allow or deny in whole or in part a protest filed in accordance with section 514, Tariff Act of 1930, as amended (19 U.S.C. 1514) within 2 years from the date the protest was filed. If the protest is allowed in whole or in part the district director shall remit or refund any duties, charge, or exaction found to have been collected in excess, or pay any drawback found due. If the protest is denied in whole or in part the district director shall give notice of the denial in the form and manner prescribed in § 174.30.

§ 174.30 Notice of denial of protest.

(a) *Issuance of notice.* Notice of denial of a protest shall be mailed to any person filing a protest or his agent in all cases other than those in which accelerated disposition was requested and in which no action has been taken within 30 days after the date of mailing of the request. For purposes of section 515(a), Tariff Act of 1930, as amended (19 U.S.C. 1515(a)), the date appearing on such notice shall be deemed the date on which such notice was mailed.

(b) *Substitution of persons designated to receive notice.* The importer of record or consignee may give notice to the district director instructing that notice of denial of any protest involving merchandise imported in his name or on his behalf shall be mailed to a person other than the person filing such protest or the designee of such person. Such notice of substitution shall be filed in quadruplicate and shall identify the protest by number and date of receipt. Notice of denial of a protest shall be mailed to the substituted person so designated only if the notice of substitution is received by the district director prior to a denial by him of such protest.

(c) *Notification of payment of increased duties.* The district director shall note on the notice of denial of a protest the payment of all liquidated duties, charges, or exactions, if he has actual knowledge of such payment at the time that the protest is denied.

PART 175—PETITIONS BY AMERICAN MANUFACTURERS, PRODUCERS, AND WHOLESALERS

Sec.
175.0 Scope.

Subpart A—Request for Classification and Rate of Duty

175.1 Submission of request.
175.2 Contents of request.

Subpart B—Petitions

175.11 Filing of petitions.
175.12 Contents of petitions.

Subpart C—Procedure Following Petition

175.21 Inspection of documents and papers.
175.22 Publication of decisions following petition.
175.23 Notice of desire to contest decision.
175.24 Publication following notice of desire to contest.

175.25 Procedure at port of entry designated by petitions.

AUTHORITY: The provisions of this Part 175 issued under R.S. 251, as amended, secs. 516, 624, 46 Stat. 735, as amended, 759; 19 U.S.C. 66, 1516, 1624.

§ 175.0 Scope.

This part sets forth the procedures applicable to requests by American manufacturers, producers, and wholesalers for the classification and rate of duty applicable to designated imported merchandise, and to petitions alleging that the appraised value is too low, that the classification is not correct, or that the proper rate of duty is not being assessed upon designated imported merchandise which is claimed to be similar to the class or kind of merchandise manufactured, produced, or wholesaled by the petitioner.

Subpart A—Request for Classification and Rate of Duty

§ 175.1 Submission of request.

Written requests pursuant to section 516, Tariff Act of 1930, as amended (19 U.S.C. 1516), for information as to the classification and rate of duty imposed upon designated imported merchandise shall be submitted in triplicate to the Commissioner of Customs.

§ 175.2 Contents of request.

The request for information shall contain the following information:

(a) The name of the person making the request, his principal place of business, and the fact that he is an American manufacturer, producer, or wholesaler;

(b) A designation of the imported merchandise for which the classification and rate is requested; and

(c) A showing of the class or kind of merchandise manufactured, produced, or sold by him which is claimed to be similar to the imported merchandise in such detail as will permit the Commissioner to establish the similarity between the domestic and foreign merchandise.

Subpart B—Petitions

§ 175.11 Filing of petitions.

(a) *Number of copies and where filed.* All petitions pursuant to section 516, Tariff Act of 1930, as amended (19 U.S.C. 1516), shall be submitted to the Commissioner of Customs in triplicate.

(b) *By whom filed.* Petitions may be filed by the American manufacturers, producers, or wholesalers themsleves, or by duly authorized attorneys or agents on their behalf. A petition filed by a corporation shall be signed by an officer thereof, and a petition filed by a partnership shall be signed by a member thereof.

§ 175.12 Contents of petition.

The petition shall be itemized as to each class or kind of merchandise involved, and shall contain the following:

(a) The name of the petitioner, his principal place of business, and the fact that he is an American manufacturer, producer, or wholesaler;

(b) A statement showing the class or kind of merchandise manufactured, produced, or sold by him which is claimed to be similar to the imported merchandise in such detail as will permit the Commissioner of Customs to establish the similarity between the domestic and foreign merchandise; and

(c) A presentation, in detail, of the information required by section 516, Tariff Act of 1930, as amended (19 U.S.C. 1516).

Subpart C—Procedure Following Petition

§ 175.21 Inspection of documents and papers.

A petitioner shall not be permitted in any case to inspect documents or papers of the consignee or importer which are exempted from disclosure under § 103.7 of this chapter.

§ 175.22 Publication of decisions following petition.

(a) *Incorrect appraised value, classification, or rate of duty.* If the appraised value of, classification of, or rate of duty upon imported merchandise of the character which is the subject of a petition is found to be incorrect, the Commissioner of Customs shall so inform the petitioner, and shall cause the proper value, classification, or rate of duty to be published in the FEDERAL REGISTER and the weekly Customs Bulletin. Such merchandise entered for consumption or withdrawn from warehouse for consumption after 30 days after the date of publication of such notice to the petitioner in the Customs Bulletin shall be appraised, classified, or assessed as to rate of duty in accordance with the published decision.

(b) *Correct appraised value, classification, or rate of duty.* If the appraised value of, classification of, or rate of duty upon the imported merchandise which is the subject of the petition is found to be correct, the Commissioner of Customs shall so notify the petitioner, but the decision shall not be published.

§ 175.23 Notice of desire to contest decision.

If the petitioner is dissatisfied with the decision of the Commissioner that the appraised value, classification, or rate of duty is correct for the merchandise which was the subject of the petition, in accordance with section 516, Tariff Act of 1930, as amended (19 U.S.C. 1516) he may file with the Commissioner of Customs not later than 30 days after the date of the decision a notice that he desires to contest the appraised value of, classification of, or rate of duty assessed upon the imported merchandise. Such notice shall designate the port or ports at which such merchandise is being imported into the United States, and at which the petitioner desires to protest.

§ 175.24 Publication following notice of desire to contest.

Upon receipt of a properly filed petitioner's notice that he desires to contest the decision as to the appraised value of, classification of, or rate of duty assessed upon the imported merchandise, the Commissioner of Customs shall cause to be published in the FEDERAL REGISTER and the weekly Customs Bulletin a notice of his decision as to the proper appraised value of, classification of, or rate of duty assessed upon the imported merchandise, and of petitioner's desire to contest the decision.

§ 175.25 Procedure at port of entry designated by petitioner.

(a) *Information as to character and description of merchandise.* All information secured by the district director for the port designated by the petitioner in his notice of desire to contest as to the character and description of merchandise of the kind covered by the petition and entered after publication by the Commissioner of Customs of his decision as to the proper appraised value, classification and rate of duty, and samples of such merchandise, shall be made available to the petitioner upon application by him to the district director.

(b) *Notice of liquidation.* Notice of liquidation of the first of the entries to be liquidated which would enable the petitioner to present the issue desired shall be given to the petitioner by the district director or the designated port as required by section 516, Tariff Act of 1930, as amended (19 U.S.C. 1516).

(c) *Further notice when issue not presented.* If, upon examination of the information and inspection of any sample supplied by the district director, the petitioner believes and the district director agrees that the merchandise or the facts surrounding this importation are not sufficient to raise the issue involved in the petition, the district director shall then give the petitioner notice of the first liquidation thereafter which will permit the framing of the issue covered by the petition. The district director shall, under the same conditions, continue to give notice for so long as he is of the opinion that the petitioner affirmatively intends to contest. When the district director concludes that the petitioner does not intend to contest the decision of the Commissioner of Customs, he shall refer the matter to the Commissioner of Customs for his decision before issuing any further notice of liquidation.

PART 176—PROCEEDINGS IN THE CUSTOMS COURT

Sec.
176.0 Scope.

Subpart A—Service

176.1 Service of summons.
176.2 Service of notice of appeal.

Subpart B—Transmission of Records

176.11 Transmission of records to Customs Court.

Subpart C—Statement of Agreed Facts

176.21 Referral of statements of agreed facts for certification.
176.22 Deletion of protest or entry number.

Subpart D—Procedure Following Court Decision

176.31 Reliquidation following decision of court.

AUTHORITY: The provisions of this Part 176 issued under R.S. 251, as amended, sec. 624, 46 Stat. 759; 19 U.S.S. 66, 1624.

§ 176.0 Scope.

This part deals with service of summons and notice of appeal in actions before the Customs Court, the transmission of records to the court, statements of agreed facts, and Customs procedures following a decision by the court.

Subpart A—Service

§ 176.1 Service of summons.

When an action is initiated in the Customs Court a copy of the summons shall be served in the manner prescribed by the Customs Court upon the district director for each Customs district in which a protest cited in the summons was denied, and an additional copy shall be served upon the Assistant Chief Counsel for Customs Court Litigation, Bureau of Customs, 26 Federal Plaza, New York, N.Y. 10007.

(28 U.S.C. 2632, as amended)

§ 176.2 Service of notice of appeal.

When the United States is an appellee in an appeal taken to the Court of Customs and Patent Appeals, a copy of the notice of appeal shall be served upon the Assistant Chief Counsel for Customs Court Litigation.

(28 U.S.C. 2601, as amended)

Subpart B—Transmission of Records

§ 176.11 Transmission of records to Customs Court.

Upon receipt of service of a summons in an action initiated in the Customs Court the following items shall be immediately transmitted to the Customs Court as part of the official record by the Customs officer concerned:

(a) Consumption or other entry;
(b) Commercial invoice;
(c) Special Customs invoice;
(d) Copy of protest and any amendments thereto;
(e) Copy of denial of protest in whole or in part;
(f) Importer's exhibits;
(g) Official samples;
(h) Any official laboratory reports;
(i) The summary sheet;
(j) In any case in which one or more of the items listed in paragraphs (a) through (i) of this section do not exist, the Customs officer shall include a statement to that effect, identifying the items which do not exist.

(28 U.S.C. 2632, as amended)

Subpart C—Statement of Agreed Facts

§ 176.21 Referral of statement of agreed facts for certification.

Statements of agreed facts (also referred to as stipulations) to be used by the Department of Justice in submitting cases to the Customs Court may be referred for certification to Customs officials by the office of the Assistant Attorney General, Customs Section, Civil Division, Department of Justice, 26 Federal Plaza, New York, N.Y. 10007.

§ 176.22 Deletion of protest or entry number.

If any protest number or entry number is to be deleted from a schedule of protest numbers or entry numbers attached to or embodied in a statement of agreed facts, a line shall be drawn through the number and the change shall be initialed by the authorized official making and approving the deletion.

Subpart D—Procedure Following Court Decision

§ 176.31 Reliquidation following decision of court.

(a) *Decision of U.S. Customs Court.* Except as provided in paragraph (c) of this section, an entry which is the subject of a decision of the U.S. Customs Court shall be reliquidated in accordance with the judgment order thereon at the expiration of 60 days from the date of the decision, unless an appeal or motion for a rehearing is filed. However, entries which are the subject of decisions of the court following a decision of the Court of Customs and Patent Appeals which involve the same issue, or which are based on submission of an agreed statement of fact, may be reliquidated immediately upon receipt of the judgment orders from the U.S. Customs Court.

(b) *Decision of the Court of Customs and Patent Appeals.* Except as provided in paragraph (c) of this section, an entry covering merchandise which is the subject of a decision of the Court of Customs and Patent Appeals shall be reliquidated at the expiration of 90 days from the date of entry of decision by that court and only upon receipt of the judgment order from the U.S. Customs Court. However, no such entry shall be reliquidated pursuant to such order if a petition for certiorari is taken to the Supreme Court.

(c) *Waiver of right of appeal.* Upon receipt of a letter from the Assistant Attorney General, Civil Division, Department of Justice, signed by the Chief, Customs Section, advising that no appeal will be taken from a decision of the U.S. Customs Court or that it has been determined that no petition for certiorari shall be filed in the Supreme Court to review a decision of the Court of Customs and Patent Appeals, any entry or entries covered by such decision may be reliquidated pursuant to the judgment of the U.S. Customs Court prior to the expiration of the times specified in paragraphs (a) and (b) of this section.

(Sec. 514, 46 Stat. 734, as amended; 19 U.S.C. 1514)

PART 8—LIABILITY FOR DUTIES; ENTRY OF IMPORTED MERCHANDISE

In § 8.29, the last sentence of paragraph (c) is amended to read: "Liquidation shall be made promptly and shall not be withheld for a period of more than 20 days from the date of mailing such notice unless in the judgment of the district director there are compelling reasons that would warrant such action."

The citation of authority for § 8.29 is amended to read:

(Secs. 499, 505, 623, 46 Stat. 728, as amended, 732, as amended, 759, as amended; 19 U.S.C. 1499, 1505, 1623)

(R.S. 251, sec. 624, 46 Stat. 759; 19 U.S.C. 66, 1624)

PART 9—IMPORTATIONS BY MAIL

In § 9.10, the last sentence in paragraph (b) is amended by deleting "60" and substituting "90", and the last sentence of footnote 8 appended thereto is deleted.

(R.S. 251, sec. 624, 46 Stat. 759; 19 U.S.C. 66, 1624)

PART 14—APPRAISEMENT

Section 14.1 is amended as follows:

Paragraph (a) and footnote 1 are deleted.

Paragraph (b) is amended by substituting "district director" for "collector" in the first sentence, and "District directors" for "Collectors of Customs" in the second sentence.

Paragraph (c) is amended by substituting "district director" for "collector or the appraiser".

The citation of authority for § 14.1 is amended to read:

(Sec. 499, 46 Stat. 728, as amended; 19 U.S.C. 1499)

The citation of authority for § 14.2 is amended to read:

(Sec. 499, 46 Stat. 728, as amended; 19 U.S.C. 1499)

Section 14.3 is amended as follows:

In paragraph (c), "district director" is substituted for "appraiser".

Paragraph (e) and footnote 8 are deleted.

The citation of authority for § 14.3 is amended to read:

(Secs. 402, 500, 46 Stat. 708, as amended, 729, as amended; sec. 402, 70 Stat. 943; 19 U.S.C. 1401a, 1402, 1500)

Section 14.4 is amended by substituting "district director" for "appraiser" in the first sentence and in paragraphs (b) and (e) and "district director's" for "appraiser's" in paragraph (d).

In § 14.5, paragraphs (d), (e) and (n) are amended by substituting "Regional Commissioner" for "appraiser" wherever it appears.

(R.S. 251, sec. 624, 46 Stat. 759; 19 U.S.C. 66, 1624)

PART 15—RELIEF FROM DUTIES ON MERCHANDISE LOST, STOLEN, DESTROYED, INJURED, ABANDONED, OR SHORT-SHIPPED

Section 15.7 is amended as follows:

Paragraph (a) is amended by substituting "district director" for "collector" wherever it appears.

Paragraph (b) is amended to read:

(b) If the district director is satisfied after any necessary investigation that

the merchandise contains excessive moisture or other impurities not usually found in or upon such or similar merchandise, he shall make allowance for the amount thereof in the liquidation of the entry.

Paragraph (c) is deleted.

Section 15.8 is amended to read as follows:

§ 15.8 Shortages; lost packages; deficiencies in contents of packages.

(a) Allowance in the assessment of duties shall be made for lost or missing merchandise included in the entry when it is established to the satisfaction of the district director of Customs before the liquidation of the entry becomes final that the merchandise claimed to be lost or missing was not imported. The foregoing shall not apply in the case of merchandise arriving under an immediate transportation entry. (See § 18.6 of this chapter.)

(b) Allowance for deficiency in any package found upon examination in accordance with section 499, Tariff Act of 1930, as amended, shall be made in the liquidation of the entry if it is established to the satisfaction of the district director that the merchandise was not imported.

(Sec. 499, 46 Stat. 728, as amended; 19 U.S.C. 1499)

Section 15.10 is amended as follows:

Paragraph (a) is amended by deleting "and is so reported to the collector by the appraiser".

Subparagraph (1) of paragraph (b) is amended by substituting "district director" for "collector".

Subparagraph (3) of paragraph (b) is amended by deleting "reported by the appraiser" and substituting "determined".

(R.S. 251, sec. 624, 46 Stat. 759; 19 U.S.C. 66, 1624)

PART 16—LIQUIDATION OF DUTIES

Part 16 is amended by deleting footnote 1 and the section heading of § 16.1 is amended by deleting the footnote reference "1".

The citation of authority for § 16.1 is amended to read:

(Sec. 500, 46 Stat. 729, as amended; 19 U.S.C. 1500)

The citation of authority for § 16.2 is amended to read:

(Sec. 500, 46 Stat. 729, as amended, sec. 321, 52 Stat. 1801, as amended; 19 U.S.C. 1321, 1505)

In § 16.3 paragraph (a) is amended to read:

(a) The district director of Customs shall suspend the liquidation of entries on which bonds are open for the production of documents affecting the rate of duty pending the performance or nonperformance under the bond, except as provided in § 8.15(d) of this chapter.

The citation of authority for § 16.3 is amended to read:

(Sec. 500, 46 Stat. 729, as amended; 19 U.S.C. 1500)

In § 16.4, paragraph (e) is amended as follows:

That portion of the second sentence preceding the colon is amended to read: "Thereafter, when the district director is in possession of sufficient information to apply the instructions in this section, he shall proceed with the appraisement and liquidation in the case of any importation of merchandise exported on a date for which the Federal Reserve Bank of New York certifies such multiple rates, according to the following procedure:"

Subparagraph (2) is deleted.

In subparagraphs (3), (4), and (5), "appraiser or collector" is deleted wherever it appears, and "district director" is substituted.

The citation of authority for § 16.4 is amended to read:

(Secs. 500, 522, 46 Stat. 729, as amended, 739, as amended; 19 U.S.C. 1500, 31 U.S.C. 372)

In § 16.5, paragraph (c) is amended by deleting at the end thereof the words "as indicated by the appraiser's report".

The citation of authority for § 16.5 is amended to read:

(Secs. 315, 500, 46 Stat. 695, as amended, 729, as amended; 19 U.S.C. 1315, 1500)

Section 16.7 is amended by deleting from the first sentence the words "by the appraiser and is reported to the collector in accordance with section 499, Tariff Act of 1930, as amended,".

The citation of authority for § 16.7 is amended to read:

(Secs. 499, 505, 555, 46 Stat. 728, as amended, 732, as amended, 743, as amended; 19 U.S.C. 1499, 1505, 1555)

Section 16.10 is amended as follows:

Paragraphs (a), (b), (d), (e), and (f), are amended by deleting "60" and substituting "90".

Paragraph (c) is amended by deleting the last sentence and substituting the following: "A change to a lower rate of duty, when decided upon, shall be applicable to all unliquidated entries and to all protested entries involving the same issue which have not been denied in whole or in part."

Paragraph (g) is amended by deleting "forwarded to the Customs Court" and substituting "denied in whole or in part".

The citation of authority for § 16.10 is amended to read:

(Secs. 315, 500, 501, 46 Stat. 695, as amended, 729, as amended, 730, as amended; 19 U.S.C. 1315, 1500, 1501)

The citation of authority for § 16.11 is amended to read:

(Sec. 500, 46 Stat. 729, as amended; 19 U.S.C. 1500)

The citation of authority for § 16.12 is amended to read:

(Sec. 500, 46 Stat. 729, as amended; 19 U.S.C. 1500)

Part 16 is amended by deleting §§ 16.13 and 16.14, and footnote 12.

Section 16.24 is amended by substituting "district director" for "appraiser" wherever it appears.

(R.S. 251, sec. 624, 46 Stat. 759; 19 U.S.C. 66, 1624)

PART 17—PROTESTS AND REAPPRAISEMENTS

Part 17 is deleted from Chapter I of Title 19 of the Code of Federal Regulations.

(R.S. 251, sec. 624, 46 Stat. 759; 19 U.S.C. 66, 624)

PART 22—DRAWBACK

Section 22.44 is amended by deleting "collector" and substituting "district director" therefore whenever it appears, and by substituting "90 days" for "60 days".

The citation of authority for § 22.44 is amended to read:

(Sec. 514, 46 Stat. 734, as amended; 19 U.S.C. 1514)

(R.S. 251, sec. 624, 46 Stat. 759; 19 U.S.C. 66, 1624)

PART 23—ENFORCEMENT OF CUSTOMS AND NAVIGATION LAWS

In § 23.18 the second sentence is amended to read: Upon determination that the value does not exceed $2,500, the district director shall proceed to give notice by advertisement of the summary sale for such time as he considers reasonable.

Section 23.28 is amended by deleting "appraiser, person acting as appraiser, collector" and substituting "district director".

Part 23 is amended by deleting footnote 44, and § 23.28 is amended to delete the footnote reference "44".

In § 23.29 the first sentence is amended by deleting "proper officer" and substituting "district director".

Part 23 is amended by deleting footnote 45, and § 23.29 is amended to delete the footnote reference "45".

(R.S. 251, sec. 624, 46 Stat. 759; 19 U.S.C. 66, 1624)

PART 54—CERTAIN IMPORTATIONS TEMPORARILY FREE OF DUTY

In § 54.3, subparagraph (3) of paragraph (b) is amended to read:

(3) Such a declaration, adequately describing and identifying the articles, is subsequently filed at the customhouse, and the entry, if liquidated, can be reliquidated in accordance with section 501, Tariff Act of 1930, as amended (19 U.S.C. 1501), or section 520(c), Tariff Act of 1930, as amended (19 U.S.C. 1520(c)).

(R.S. 251, sec. 624, 46 Stat. 759; 19 U.S.C. 66, 1624)

PART 111—CUSTOMHOUSE BROKERS

Section 111.40 is amended to read:

§ 111.40 Protests.

A broker shall not act in behalf of any person, or attempt to represent any person, in respect of any protest, unless he shall previously have been authorized to do so in accordance with § 174.3 of this chapter.

(R.S. 251, sec. 624, 46 Stat. 759; 19 U.S.C. 66, 1624)

PART 146—FOREIGN-TRADE ZONES

In § 146.21, paragraph (e) is amended to read:

(e) *Procedures for protest.* The requirements, privileges , and procedures of notices of appraisement, posting of liquidations, and protests against decisions of the district director relating to privileged foreign merchandise are the same as those prescribed in the case of merchandise covered by an entry for warehouse in Customs territory.

(R.S. 251, sec. 624, 46 Stat. 759; 19 U.S.C. 66, 1624)

PART 147—TRADE FAIRS

In § 147.42, paragraph (b) is amended by deleting the second sentence thereof.

(R.S. 251, sec. 624, 46 Stat. 759; 19 U.S.C. 66, 1624)

PART 153—ANTIDUMPING

Section 153.1 is amended by deleting "appeals for reappraisement, applications for review of reappraisements,".

Section 153.57 is amended by deleting the second sentence thereof.

The title of Subpart E of Part 153 is amended to read "Antidumping Protests".

Section 153.64 is amended to read as follows:

§ 153.64 Antidumping protests procedures.

Protests relating to the Antidumping Act, 1921, shall be made in the same manner as protests relating to ordinary Customs duties.

(R.S. 251, sec. 624, 46 Stat. 759; 19 U.S.C. 66, 1624)

[F.R. Doc. 70-11012; Filed, Aug. 21, 1970; 8:51 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 121—FOOD ADDITIVES

Subpart F—Food Additives Resulting From Contact With Containers or Equipment and Food Additives Otherwise Affecting Food

ETHYLENE-VINYL ACETATE COPOLYMERS

The Commissioner of Food and Drugs, having evaluated the data submitted in a petition (FAP 9M2421) filed by E. I. du Pont de Nemours & Co., Inc., Wilmington, Del. 19898, and other relevant material, concludes that the food additive regulations should be amended to provide for safe food-contact use of irradiated ethylene-vinyl acetate copolymers. Therefore, pursuant to provisions of the Federal Food, Drug, and Cosmetic Act (sec. 409 (c)(1), 72 Stat. 1786; 21 U.S.C. 348(c)(1)) and under authority delegated to the Commissioner (21 CFR 2.120), § 121.2570 is amended by adding a new paragraph, as follows:

§ 121.2570 Ethylene-vinyl acetate copolymers.

* * * * *

(d) Ethylene-vinyl acetate copolymers may be irradiated under the following conditions to produce molecular cross-linking of the polymers to impart desired properties such an increased strength and increased ability to shrink when exposed to heat:

(1) Electron beam source, not to exceed 3 million volts intensity.

(2) The irradiated copolymers shall have a minimum melt index of 0.01 as determined by ASTM Method D 1238-65T modified by 0.1 percent dusting the irradiated copolymers with 2,6-ditertiary-butyl-4-methyl phenol.

Any person who will be adversely affected by the foregoing order may at any time within 30 days after its date of publication in the FEDERAL REGISTER file with the Hearing Clerk, Department of Health, Education, and Welfare, Room 6-62, 5600 Fishers Lane, Rockville, Md. 20852, written objections thereto 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 its date of publication in the FEDERAL REGISTER.

(Sec. 409(c)(1), 72 Stat. 1786; 21 U.S.C. 348 (c)(1))

Dated: August 4, 1970.

R. E. DUGGAN,
Acting Associate Commissioner for Compliance.

[F.R. Doc. 70-11042; Filed, Aug. 21, 1970; 8:46 a.m.]

SUBCHAPTER C—DRUGS

PART 148e—ERYTHROMYCIN

Combination Drug Containing Erythromycin Ethylsuccinate and Sulfanilamide; Confirmation of Effective Date of Order

An order was published in the FEDERAL REGISTER of May 16, 1970 (35 F.R. 7647), amending the antibiotic drug regulations to repeal provision for certification of erythromycin ethylsuccinate-sulfanilamide dental powder. The order repealed § 148e.9 and revoked all antibiotic certificates previously issued thereunder.

Pursuant to provisions of the Federal Food, Drug, and Cosmetic Act (secs. 502, 507, 52 Stat. 1050-51, as amended, 59 Stat. 463, as amended; 21 U.S.C. 352, 357) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 2.120), notice is given that no objections were filed to the above-identified order. Accordingly, the amendment promulgated thereby became effective June 25, 1970.

Dated: July 30, 1970.

SAM D. FINE,
Acting Associate Commissioner for Compliance.

[F.R. Doc. 70-11043; Filed, Aug. 21, 1970; 8:46 a.m.]

Title 26—INTERNAL REVENUE

Chapter I—Internal Revenue Service, Department of the Treasury

SUBCHAPTER C—EMPLOYMENT TAXES

[T.D. 7056]

PART 32—TEMPORARY EMPLOYMENT TAX REGULATIONS UNDER THE TAX REFORM ACT OF 1969

Extension of Income Tax Withholding to Pension and Annuity Payments if Requested by Payee

In order to prescribe temporary regulations, which shall remain in force and effect until superseded by permanent regulations, relating to the withholding of income tax at source upon payments of pensions and annuities under section 3402(o) of the Internal Revenue Code of 1954, as added by section 805(g) of the Tax Reform Act of 1969 (83 Stat. 708), the following regulations are hereby adopted:

§ 32.1 Extension of withholding of income tax at source on wages to annuity payments if requested by payee.

(a) *In general.* Under section 3402(o) of the Internal Revenue Code of 1954 and this section, the payee (as defined in paragraph (g)(2) of this section) of an annuity (as defined in paragraph (g)(1) of this section) may request the payer (as defined in paragraph (g)(3) of this section) of the annuity to withhold income tax with respect to payments of the annuity made after December 31, 1970. If such a request is made, the payer shall deduct and withhold as requested.

(b) *Manner of making request.* A payee who wishes a payer to deduct and withhold income tax from annuity payments shall file a request with the payer to deduct and withhold a specific whole dollar amount from each annuity payment. Such specific dollar amount requested shall be at least $5 per month and shall not reduce the net amount of any annuity payment received by the payee below $10. The request shall be made on Form W-4P (annuitant's withholding exemption certificate and request) in accordance with the instructions applicable thereto, and shall set forth fully and clearly the data therein called for. In lieu of Form W-4P, payers may prepare and use a form the provisions of which are identical with those of Form W-4P.

(c) *When request takes effect.* Upon receipt of a request under this section

the payer of the annuity with respect to which such request was made shall deduct and withhold the amount specified in such request from each annuity payment commencing with the first annuity payment made on or after the date which occurs—

(1) In a case in which no previous request is in effect, 3 calendar months after the date on which such request is furnished to such payer, and

(2) In a case in which a previous request is in effect, the first status determination date (see section 3402(f)(3)(B) and paragraph (d) of § 31.3402(f)(3)-1 of this chapter) which occurs at least 30 days after the date on which such request is so furnished.

However, the payer may, at his election, commence to deduct and withhold such specified amount with respect to an annuity payment which is made prior to the annuity payment described in the preceding sentence with respect to which the payer must commence to deduct and withhold.

(d) *Duration and termination of request.* A request under this section shall continue in effect until terminated. The payee may terminate the request by furnishing the payer a signed written notice of termination. Such notice of termination shall, except as hereinafter provided, take effect with respect to the first payment of an amount in respect of which the request is in effect which is made on or after the first status determination date (see section 3402(f)(3)(B) and paragraph (d) of § 31.3402(f)(3)-1 of this chapter) which occurs at least 30 days after the date on which such notice is so furnished. However, at the election of such payer, such notice may be made effective with respect to any payment of an amount in respect of which the request is in effect which is made on or after the date on which such notice is so furnished and before such status determination date.

(e) *Special rules.* For purposes of chapter 24 of subtitle C of the Internal Revenue Code of 1954 (relating to collection of income tax at source on wages) and of subtitle F of such Code (relating to procedure and administration), and the regulations thereunder—

(1) An amount which is requested to be withheld pursuant to this section shall be deemed a tax required to be deducted and withheld under section 3402.

(2) An amount deducted and withheld pursuant to this section shall be deemed an amount deducted and withheld under section 3402.

(3) The term "wages" includes the gross amount of an annuity payment with respect to which there is in effect a request for withholding under this section. However, references to the definition of wages in section 3401(a) which are made in section 6014 (relating to election by the taxpayer not to compute the tax on his annual return) and section 6015(a) (relating to declaration of estimated tax by individuals) shall not be deemed to include any portion of such an annuity payment.

(4) The term "employer" includes a payer with respect to whom a request for withholding is in effect under this section.

(5) The term "employee" includes a payee with respect to whom a request for withholding is in effect under this section.

(6) The term "payroll period" includes the period of accrual with respect to which payments of an annuity which is subject to withholding under this section are ordinarily made.

(f) *Returns of income tax withheld and statements for payees.* (1) Form W-2P is to be used in lieu of Form W-2, which is required to be furnished by an employer to an employee under § 31.6051-1 of this chapter and to the Internal Revenue Service under paragraph (b) of § 31.6011(a)-4 of this chapter, with respect to an annuity subject to withholding under this section. If an amount is required to be deducted and withheld under this section from any or all of the payments made to a payee under an annuity contract during a calendar year, all payments with respect to that annunity contract are required to be reported on Form W-2P, in lieu of Form 1099, as prescribed in §§ 1.6041-1, 1.6041-2, and 1.6047-1 of this chapter; any other annuity payments made by the same payer to the same payee may, at the option of the payer, be reported on Form W-2P.

(2) Each statement on Form W-2P shall show the following:

(i) The gross amount of annuity payments made during the calendar year, whether or not income tax withholding under this section was in effect with respect to all such payments,

(ii) The total amount deducted and withheld as tax under section 3402 of this section, and

(iii) The information required to be shown by Form W-2P and the instructions applicable thereto.

(3) The provisions of § 1.9101-1 of this chapter (relating to permission to submit information required by certain returns and statements on magnetic tape) shall be applicable to the information required to be furnished on Form W-2P.

(4) The provisions of § 31.6109-1 of this chapter (relating to supplying of identifying numbers) shall be applicable to Form W-2P and to any payee of an annuity to whom a statement on Form W-2P is required to be furnished.

(g) *Definitions.* For purposes of this section—

(1) The term "annuity" means periodic payments which are payable over a period greater than 1 year and which are treated under section 72 as amounts received as an annuity, whether or not such periodic payments are variable in amount. Also, periodic payments to an individual who is retired before the normal retirement age for reasons of disability, to which the provisions of section 105(d) apply, shall be deemed to be an annuity for purposes of this section. A lump-sum payment (including a total distribution under section 72(n)) is not an annuity.

(2) The term "payee" means an individual who is a citizen or resident of the United States and who receives an annuity payment.

(3) The term "payer" means a person making an annuity payment except that, if the person making the payment is acting solely as an agent for another person, the term "payer" shall mean such other person and not the person actually making the payment. For example, if a bank makes an annuity payment only as agent for an employees' trust, the trust shall be deemed to be the "payer." Notwithstanding the preceding two sentences, any person who, under section 3401(a) (5) or (8), would not be required to deduct and withhold the tax under section 3402 if the annuity payment were remuneration for services shall not be considered a "payer."

Because the purpose of this Treasury decision is to provide immediate guidance as to the temporary rules applicable under section 3402(o) of the Internal Revenue Code of 1954, it is hereby found impracticable to issue this Treasury decision with notice and public procedure thereon under 5 U.S.C., sec. 553(b), or subject to the effective date limitation of 5 U.S.C., sec. 553(d).

(Sec. 7805, Internal Revenue Code of 1954 (68A Stat. 917; 26 U.S.C. 7805))

[SEAL] RANDOLPH W. THROWER,
Commissioner of Internal Revenue.

Approved: August 20, 1970.

EDWIN S. COHEN,
Assistant Secretary of the Treasury.

[F.R. Doc. 70-11196; Filed, Aug. 21, 1970; 8:51 a.m.]

Title 41—PUBLIC CONTRACTS AND PROPERTY MANAGEMENT

Chapter 5A—Federal Supply Service, General Services Administration

MISCELLANEOUS AMENDMENTS TO CHAPTER

Chapter 5A of Title 41 is amended as follows:

PART 5A-2—PROCUREMENT BY FORMAL ADVERTISING

The table of contents of Part 5A-2 is amended by adding the following new entry:

Sec.
5A-2.407-86 Regional awards requiring Central Office approval.

Subpart 5A-2.4—Opening of Bids and Award of Contract

Section 5A-2.407-86 is added as follows:

§ 5A-2.407-86 Regional awards requiring Central Office approval.

(a) Regional contractual cases requiring Central Office approval shall be submitted by the Regional Director, FSS, to the Director, Procurement Operations Division (POD) or the Director, ADP Procurement Division, as applicable. (For notification of proposed substantial awards see § 5A-2.407-84.) When applicable, the required information pertinent to notification of proposed substantial awards shall be included in the TWX.

(b) Contractual cases requiring Central Office approval are:

(1) Contractual situations set forth under the administrative limitations in the GSA Delegations of Authority Manual, 7-67 (ADM P 5450.39);

(2) Cases subject to Central Office approval under current Federal Procurement Regulations, GSA Procurement Regulations, GSA orders, or special instructions from FSS Central Office officials.

(c) Documentation: Cases submitted in accordance with paragraph (b) of this section shall include:

(1) The offer which is proposed for award;

(2) Copy of abstract or tabulation of offers. (The expiration dates for acceptance of offers, if not shown on the tabulation, shall be listed separately);

(3) Documents, approved by the Regional Director, FSS, as follows and as applicable: (Original documents need not be forwarded unless considered essential for adequate review).

(i) GSA Form 1535, Request for Approval of Awards, prepared in accordance with § 5A-1.375 of this chapter;

(ii) GSA Form 2112, Proposed Award to Other than Low Bidder, prepared in accordance with § 5A-2.404-2;

(4) Offers which are priced lower than those for which awards are recommended;

(5) Other pertinent documents, statements, or correspondence;

(d) Requests for Central Office approval on an emergency basis: Bona fide exigency or emergency cases, including cases where the acceptance time for the offer is about to expire and the offeror has refused to grant an extension, or where a request for an extension is clearly undesirable, shall be submitted for approval by any of the following methods as appropriate.

(1) Transmit case to the Director, POD, or ADP Procurement Division, as applicable, as usual and as provided in this section but specifically request that the notice of approval be furnished by teletype or telephone and by a specific date.

(2) If time does not permit use of the method in subparagraph (1) of this paragraph, request emergency processing, stating briefly the reasons therefor and furnish to the Director, POD or ADP-PD, the essential data extracted from GSA Forms 1535 and 2112, as applicable, by TWX. This data shall include the names of recommending, concurring and approving officials (including the Regional Counsel) which appear on these documents.

(3) If time does not permit use of either method in subparagraph (1) or (2) of this paragraph, request emergency processing and furnish the data listed in subparagraph (2) of this paragraph, by telephone to the chief of the cognizant POD commodity section or the Director, ADP-PD. Copies of the documents listed in subparagraph (2) of this paragraph, shall be forwarded promptly to the cognizant official in FSS for review.

(e) The Director, POD or ADP-PD shall establish appropriate controls to assure the expeditious handling of cases which are submitted in accordance with this section.

(f) Notice of approval: The Director, POD or ADP-PD shall notify the submitting region of the approval or other required action when cases have been submitted to the Central Office in accordance with this section. Such notification shall be by teletype (or telephone, confirmed in writing) whenever expiration dates for acceptance of offers or other circumstances require such action.

PART 5A-73—FEDERAL SUPPLY SCHEDULE PROGRAM

Subpart 5A-73.1—Production and Maintenance

Paragraph (a)(3) of the Scope of Contract clause in § 5A-73.109-1 is deleted; paragraph (a)(4) of the clause is changed to paragraph (a)(3); and both paragraphs (a)(3) and (b) of the clause are revised as follows:

§ 5A-73.109-1 Statement of scope.

* * * * *

SCOPE OF CONTRACT

(a) * * *

(3) Urgent requirements: These are individual bona fide delivery requirements of ordering activities for supplies or services which call for Delivery Times Which are Shorter Than the Delivery Times Specified in the Respective Contracts. When the Contract delivery time is longer than the urgent delivery requirements and the ordering activity determines that time permits, the Contractor shall be requested by letter, telegram, or telephone (confirmed in writing) to state the best delivery time which he can meet. The Contractor shall reply to the inquiry within not more than 3 working days after receipt and by the same or a faster communications media than the one by which he received the inquiry. If the accelerated delivery time is acceptable to the ordering activity, any resultant orders shall be delivered within this shorter delivery time and in accordance with all other terms and conditions of the contract.

(b) Activities Other Than Those Named Above, for which General Services Administration is authorized by law to procure, may place orders under the contracts and Contractors are encouraged to honor such orders within the exceptions (1) through (3) in (a), above. In the event the Contractor is unwilling to accept such an order, the Contractor will return it by mailing or delivering it to the ordering office within 3 working days after receipt. Failure to return an order will constitute acceptance whereupon all provisions of the contract shall apply with respect to such order

PART 5A-75—REVIEW COMMITTEES AND TEAMS

Part 5A-75 is amended to delete Subparts 5A-75.4 and 5A-75.5 and the table of contents of Part 5A-75 is amended to add the following new entry:

Sec.
5A-75.103 Regional review committees and teams.

Section 5A-75.000 is revised to read as follows:

§ 5A-75.000 Scope of part.

This part prescribes policies governing the functions and responsibilities of review committees and review teams.

Subpart 5A-75.1—Review Committees and Teams

Section 5A-75.102 is revised to read as follows:

§ 5A-75.102 Review teams.

The objective of review teams is to standardize solicitations for offers by developing uniform requirements, improving writing style, incorporating the proper clauses, training of contracting officers, and generally providing professional and technical guidance for preparing solicitations for offers.

Section 5A-75.103 is added as follows:

§ 5A-75.103 Regional review committees and teams.

Normally, necessary review shall be accomplished through regular supervisory channels. When the Regional Director, FSS, determines that the volume and complexity of solicitations for offers or awards requiring submission to him warrant, he may designate employees to serve as members of an ad hoc regional review team or committee. Regional review teams or committees or their staffs shall not be established as organizational elements of the regional Federal Supply Service.

Subpart 5A-75.2—Procurement Operations Division Review Committee

1. Section 5A-75.201 is revised to read as follows:

§ 5A-75.201 Review of contractual cases.

The Procurement Operations Division (POD) Review Committee shall review and make recommendations in connection with proposed contract awards and related transactions designated by the Director, POD.

2. Section 5A-75.203 is revised to read as follows:

§ 5A-75.203 Submission of cases.

(a) Cases shall be submitted to the Review Committee as soon as possible and in sufficient time to permit adequate analysis and processing through higher levels for approval. Emergencies requiring accelerated processing must be clearly demonstrated.

(b) Extensions of offer acceptance time shall be requested, when necessary, to preclude processing as an emergency

case. Where a low offeror refuses to extend the offer acceptance time, the Review Committee shall be given timely notice to initiate special handling. In no event shall an award be made prior to release of the case by the Review Committee unless authorized by the Director, POD, or higher authority.

3. Section 5A-75.204 is revised to read as follows:

§ 5A-75.204 Case documentation.

(a) *Request for approval of awards.* Proposed awards shall be submitted to the Review Committee under cover of GSA Form 1535, Request for Approval of Awards, executed in accordance with § 5A-1.375 of this chapter. Proposed awards to other than the low offeror shall be accompanied by GSA Form 2112, Proposed Award to Other than Low Bidder, as provided in § 5A-2.404-2 of this chapter.

(b) *Procurement case summary.* GSA Form 1447, Review Committee Procurement Case Summary, shall be prepared to record formal comments or recommendations by the Review Committee. The original of the form shall be signed by the Committee members and shall be made a part of the purchase case file.

4. Section 5A-75.205 is revised to read as follows:

§ 5A-75.205 Review Committee membership.

The Director, POD, shall appoint the Review Committee members. The committee will normally consist of the (a) Assistant Director, POD, for the functional area involved (Chairman), (b) Chief, Procurement Review Staff, (c) Chief Counsel, Procurement Operations Area, and (d) Executive Secretary, Review Committee (reporting). The Director, POD, may substitute members or appoint additional members.

5. Section 5A-75.206 is revised to read as follows:

§ 5A-75.206 Review Committee procedure.

Appropriate Review Committee procedures shall be prescribed by the Director, Procurement Operations Division.

Subpart 5A-75.3—Procurement Operations Division Review Team

1. Section 5A-75.301 is revised to read as follows:

§ 5A-75.301 Cases required to be submitted to the Review Team.

The Procurement Operations Division (POD) Review Team shall, prior to issuance, review all solicitations for offers in the following categories:

(a) Where protests have been received on prior similar transactions. These cases shall be submitted together with information about such prior protests.

(b) Federal Supply Schedule solicitations.

(c) Solicitations involving term contracts for stores stock replenishment, unless they have been approved previously.

(d) Where changes from previously approved solicitations are proposed with respect to evaluation of offers, methods of awards, submission of samples, and standardized clauses.

(e) Solicitations specifically requested by the Director, POD, to be reviewed.

2. Section 5A-75.302 is revised to read as follows:

§ 5A-75.302 Cases not required to be submitted to the Review Team.

Solicitations for offers not requiring submission to the review team (see § 5A-75.301) will be released when approved by the commodity section chief who shall be responsible for personally reviewing the solicitation in detail for accuracy and completeness. Accomplishment of his review shall be indicated by his initials on the draft of the solicitation.

3. Section 5A-75.303 is revised to read as follows:

§ 5A-75.303 Review Team membership and procedure.

(a) The Procurement Review Staff is responsible for carrying out the functions of the Review Team. Questionable or problem cases shall be presented by the Procurement Review Staff to one or more of the permanent members of the Review Committee for consultation about proposed courses of action before the case is returned to the procurement section involved. The Director, POD, may designate qualified contracting officers to serve on an ad hoc basis with members of the Procurement Review Staff.

(b) Review Team approval or return for further required action shall be recorded on GSA Form 1504 (Form Letter) Review of Invitations and Solicitations.

(c) Appropriate Review Team procedures shall be prescribed by the Director, Procurement Operations Division.

Subpart 5A-75.4 [Deleted]
Subpart 5A-75.5 [Deleted]

(Sec. 205(c), 63 Stat. 390; 40 U.S.C. 486(c); 41 CFR 5-1.101(c))

Effective date. These regulations are effective 30 days from the date shown immediately below.

Dated: August 11, 1970.

H. A. ABERSFELLER,
Commissioner,
Federal Supply Service.

[F.R. Doc. 70-11030; Filed, Aug. 21, 1970; 8:45 a.m.]

Chapter 101—Federal Property Management Regulations

SUBCHAPTER E—SUPPLY AND PROCUREMENT

PROCUREMENT OF AUTOMATED DATA PROCESSING SUPPLIES

This amendment prescribes policies and procedures for the procurement by Federal agencies of supplies for use in connection with automatic data processing equipment.

PART 101-26—PROCUREMENT SOURCES AND PROGRAMS

The table of contents for Part 101-26 is amended by the addition of the following new and revised entries:

Sec.	
101-26.508-1	Requirements available from Federal Supply Schedule contracts.
101-26.508-2	Requirements not available from Federal Supply Schedule contracts.
101-26.508-3	Consolidation of tape requirements.
101-26.509	Tabulating machine cards.
101-26.509-1	Requirements available from Federal Supply Schedule contracts.
101-26.509-2	Requirements not available from Federal Supply Schedule contracts.
101-26.509-3	Consolidation of requirements.
101-26.604	Marginally punched continuous forms.

Subpart 101-26.5—GSA Procurement Programs

1. Sections 101-26.508, 101-26.508-1, and 101-26.508-2 are revised, and § 101-26.508-3 is added, as follows:

§ 101-26.508 Electronic data processing tape.

Procurement by Federal agencies of electronic data processing (EDP) tape shall be accomplished in accordance with the provisions of this § 101-26.508. Government contractors and grantees authorized by appropriate Government agencies to use GSA supply sources may participate in this program.

§ 101-26.508-1 Requirements available from Federal Supply Schedule contracts.

The Federal Supply Schedule identified as FSC Group 58, Part V, section A, includes contracts for Government requirements of those types of EDP tape in Class 7440 which are most widely used. Federal agencies shall procure their requirements for such tape in accordance with the provisions of the current schedule and this § 101-26.508-1. Requirements which do not exceed the maximum order limitations of the Federal Supply Schedule and which are for activities located outside the 48 contiguous States, Washington, D.C., and Hawaii, shall to the extent possible be consolidated and ordered by submission of purchase requests in FEDSTRIP/MIL STRIP format to the appropriate GSA regional office.

§ 101-26.508-2 Requirements not available from Federal Supply Schedule contracts.

(a) Requirements for types of EDP tape covered by Federal Supply Schedule contracts but which exceed the maximum order limitations of the schedule shall be forwarded to General Services Administration, Federal Supply Service, Procurement Operations Division—FPN, Washington, D.C. 20406, for purchase action.

(b) Requirements for all types of EDP tape not covered by Federal Supply Schedule contracts shall be submitted to GSA if the dollar value of the requirement exceeds or is estimated to exceed $2,500. Purchase requests, however, will not be acted upon by GSA until a waiver of the requirement for using items of tape available from Federal Supply Schedule contracts has been obtained in accordance with § 101-26.401-3. Requests for such waivers shall be submitted to the commissioner, Federal Supply Service, General Services Administration, Washington, D.C. 20406. Such requests shall fully describe the type of tape required and state the reasons why Federal Supply Schedule items will not adequately serve the agency's needs. GSA will notify the requesting agency in writing of the action taken on such requests. To reduce leadtime, purchase requests may be submitted with the requests for waiver. Purchase requests for requirements for which a waiver has first been obtained, however, shall be submitted with a copy of the waiver to General Services Administration, Federal Supply Service, Procurement Operations Division—FPN, Washington, D.C. 20406. GSA will either arrange for procurement of such requirements or authorize the requesting agency to procure them.

(c) When establishing required delivery dates in purchase requests submitted in accordance with this § 101-26.508-2, agencies should normally allow 105 days leadtime to permit orderly procurement by GSA. In addition to this 105 days leadtime, inspection and testing of the tape requires approximately 15 days.

(d) Where an agency submitting a purchase request in accordance with this § 101-26.508-2 has a need for scheduled deliveries, minimum or maximum order quantities, or other special arrangements, GSA will develop specific provisions to accommodate the needs. The provisions will be based on information furnished by the agency concerned and will be included in solicitations for offers and resultant contracts.

§ 101-26.508-3 Consolidation of tape requirements.

To the maximum extent feasible, agencies shall develop procedures which will permit planned consolidation of EDP tape requirements on an agencywide basis. If agencywide consolidation is not feasible, consideration shall be given to the consolidation of individual small requirements at any agency level. This will enable the Government to benefit from lower prices generally obtainable through large volume procurements.

2. Sections 101-26.509, 101-26.509-1, 101-26.509-2, and 101-26.509-3 concerning the procurement of tabulating machine cards are added as follows:

§ 101-26.509 Tabulating machine cards.

Procurement by Federal agencies of tabulating machine cards shall be made in accordance with the provisions of this § 101-26.509. Government contractors and grantees authorized by appropriate Government agencies to use GSA supply sources may participate in this program.

§ 101-26.509-1 Requirements available through Federal Supply Schedule contracts.

Federal Supply Schedule, FSC Group 75, Part VIII, includes contracts for Government requirements of tabulating cards applicable to electrical and mechanical contact tabulating machines, including aperture cards and copy cards. Federal agencies shall procure their requirements for such cards in accordance with the provisions of the current schedule. Requirements which do not exceed the maximum order limitation of the Federal Supply Schedule but which are ordered directly by activities located outside the geographical delivery areas specified in the Federal Supply Schedule shall be ordered by submission of purchase requests in FEDSTRIP/MILSTRIP format to the appropriate GSA regional office.

§ 101-26.509-2 Requirements not available through Federal Supply Schedule contracts.

(a) Requirements for tabulating machine cards covered by Federal Supply Schedule contracts but which exceed the maximum order limitations of the schedule shall be forwarded to General Services Administration, Federal Supply Service, Procurement Operations Division—FPN, Washington, D.C. 20406, for purchase action.

(b) Requirements for tabulating machine cards not covered by Federal Supply Schedule contracts shall be submitted to GSA if the dollar value of the requirements exceed or are estimated to exceed $2,500. Such purchase requests, however, will not be acted upon by GSA until it is determined in accordance with § 101-26.401-3 that the use of tabulating machine cards available from Federal Supply Schedule contracts will not serve the needs of the requesting agency and GSA has waived the requirement to use items available from the Federal Supply Schedule. Requests for waivers shall be submitted to the Commissioner, Federal Supply Service, General Services Administration, Washington, D.C. 20406. Such requests shall fully describe the item required and state the reasons why the tabulating machine cards covered by Federal Supply Schedule contracts will not adequately serve the functional end-use purpose. GSA will notify the requesting agency in writing of the action taken on such requests. To reduce leadtime, a purchase request may be submitted together with the request for waiver. Purchase requests for requirements for which a waiver has first been obtained, however, shall be submitted with a copy of the waiver to General Services Administration, Federal Supply Service, Procurement Operations Division—FPN, Washington, D.C. 20406. GSA will either arrange for procurement of such requirements or authorize the requesting agency to procure them.

(c) Purchase requests with established delivery dates should allow sufficient leadtime (see § 101-26.102-3) to permit orderly procurement by GSA, including acceptance testing and delivery to destination.

(d) In those instances where an agency anticipates a need for scheduled deliveries, minimum or maximum order quantities, or other special arrangements, GSA will develop specific provisions to accommodate the needs of the particular agency. These provisions will be based on information furnished by the agency concerned for inclusion in solicitations for offers and resultant contracts.

§ 101-26.509-3 Consolidation of requirements.

To the maximum extent feasible, agencies shall consolidate their requirements of tabulating machine cards on an agencywide basis. If agencywide consolidation is not feasible, consideration shall be given to the consolidation of individual small requirements at any agency level where such method will enable the Government to benefit from lower prices generally obtainable through large-volume procurement.

Subpart 101-26.6—Procurement Sources Other Than GSA

Section 101-26.604 is added as follows:

§ 101-26.604 Marginally punched continuous forms.

The U.S. Government Printing Office (GPO) has been delegated authority by GSA to procure all marginally punched continuous forms for use by Federal agencies, except those procured by GSA for stock. Therefore, all Federal agencies shall submit their requirements for such forms in accordance with the provisions of this § 101-26.604. Government contractors and grantees authorized by appropriate Government agencies to use GSA/GPO supply sources may participate in this program.

(a) Except for those marginally punched continuous forms which GSA procures for stock, all requirements for such forms shall be ordered from GPO contracts or other established GPO sources. Where an item is available from GSA stock, acquisition shall be from this source.

(b) Requirements for marginally punched continuous forms which are not available from GPO or GSA sources or which exceed the maximum monetary limitations of the GPO contract shall be submitted to GPO for appropriate action. Where requirements are less than the minimum orders/shipment limitations of the GPO contract, agencies may procure directly from commercial sources.

PART 101-32—GOVERNMENT-WIDE AUTOMATED DATA MANAGEMENT SERVICES

Subpart 101-32.4—Procurement and Contracting

Section 101-32.406 is revised as follows:

§ 101-32.406 **Procurement of supplies.**

Federal agencies shall submit requirements exceeding $2,500 for automatic data processing supplies to GSA for purchase action unless otherwise indicated in specific purchase programs established by GSA. Specific purchase programs established by GSA include electronic data processing (EDP) tape, tabulating machine cards, and marginally punched continuous forms. Instructions for acquisition of these supplies are set forth in §§ 101-26.508, 101-26.509, and 101-26.604 of this chapter, respectively.

(Sec. 205(c), 63 Stat. 390; 40 U.S.C. 486(c))

Effective date. This regulation is effective upon publication in the FEDERAL REGISTER.

Dated: August 18, 1970.

JOHN W. CHAPMAN, Jr.,
Acting Administrator of General Services.

[F.R. Doc. 70-11011; Filed, Aug. 21, 1970; 8:51 a.m.]

Title 42—PUBLIC HEALTH

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

SUBCHAPTER G—PREVENTION, CONTROL, AND ABATEMENT OF AIR POLLUTION

PART 81—AIR QUALITY CONTROL REGIONS, CRITERIA, AND CONTROL TECHNIQUES

Southern Louisiana-Southeast Texas Interstate Air Quality Control Region

On May 5, 1970, notice of proposed rule making was published in the FEDERAL REGISTER (35 F.R. 7082) to amend Part 81 by designating the Southern Louisiana-Southeast Texas Interstate Air Quality Control Region.

Interested persons were afforded an opportunity to participate in the rule making through the submission of comments, and a consultation with appropriate State and local authorities pursuant to section 107(a) of the Clean Air Act (42 U.S.C. 1857c-2(a)) was held on May 15, 1970. Due consideration has been given to all relevant material presented.

In consideration of the foregoing and in accordance with the statement in the notice of proposed rule making, § 81.53, as set forth below, designating the Southern Louisiana-Southeast Texas Interstate Air Quality Control Region, is adopted effective on publication.

§ 81.53 **Southern Louisiana-Southeast Texas Intertsate Air Quality Control Region.**

The Southern Louisiana-Southeast Texas Interstate Air Quality Control Region (Louisiana-Texas) consists of the territorial area encompassed by the boundaries of the following jurisdictions or described area (including the territorial area of all municipalities (as defined in section 302(f) of the Clean Air Act, 42 U.S.C. 1857h(f)) geographically located within the outermost boundaries of the area so delimited):

In the State of Louisiana:

Acadia Parish	Pointe Coupee Parish
Allen Parish	Rapides Parish
Ascension Parish	St. Bernard Parish
Assumption Parish	St. Charles Parish
Avoyelles Parish	St. Helena Parish
Beauregard Parish	St. James Parish
Calcasieu Parish	St. John the Baptist Parish
Cameron Parish	St. Landry Parish
East Baton Rouge Parish	St. Martin Parish
East Feliciana Parish	St. Mary Parish
Evangeline Parish	St. Tammany Parish.
Grant Parish	Tangipahoa Parish
Iberia Parish	Terrebonne Parish
Iberville Parish	Vermillion Parish
Jefferson Parish	Vernon Parish
Jefferson Davis Parish	Washington Parish
Lafayette Parish	West Baton Rouge Parish
Lafourche Parish	West Feliciana Parish
Livingston Parish	
Orleans Parish	
Plaquemines Parish	

In the State of Texas:

Hardin County	Newton County
Jasper County	Orange County
Jefferson County	

(Secs. 107(a), 301(a), 81 Stat. 490, 504; 42 U.S.C. 1857c-2(a), 1857g(a))

Dated: July 30, 1970.

ELLIOT L. RICHARDSON,
Secretary.

[F.R. Doc. 70-10839; Filed, Aug. 21, 1970; 8:45 a.m.]

Title 43—PUBLIC LANDS: INTERIOR

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

APPENDIX—PUBLIC LAND ORDERS

[Public Land Order 4883]

[Riverside 07692]

CALIFORNIA

Withdrawing Lands for Point Loma Undersea Research and Development Centers; Public Land Order No. 2224 of December 16, 1960, Revoked

By virtue of the authority vested in the President and pursuant to Executive Order No. 10355 of May 26, 1952 (17 F.R. 4831), it is ordered as follows:

1. Subject to valid existing rights, the following described lands are hereby withdrawn from all forms of appropriation under the public land laws, including the mining laws (30 U.S.C., ch. 2), and from leasing under the mineral leasing laws, and disposal of materials under the Act of July 31, 1947, 61 Stat. 681, as amended, 30 U.S.C. secs. 601-604 (1964), for use by the Department of the Navy in connection with the Naval Electronics Laboratory and Undersea Research and Development Centers at Point Loma:

SAN BERNARDINO MERIDIAN

All that portion of "Fort Rosecrans Military Reservation and the Naval Fuel Depot", located within Point Loma in the county of San Diego, State of California, as shown on Miscellaneous Map No. 129, filed in the Office of the County Recorder of said county, April 16, 1934, more particularly described as follows:

Beginning at a point on the southerly boundary line of the Cabrillo National Monument as described in Presidential Proclamation No. 3273 of February 2, 1959, which said point bears south 60°21'52" W., 360.26 feet from old lighthouse as shown on said Miscellaneous Map No. 129, the coordinates of which said old lighthouse are south 28,687.80 and west 16,850.10 (Old Town Coordinate Grid System) said point of beginning being shown on city of San Diego Engineer's drawing 8722-D and identified thereon as "Station 1", having coordinates of south 28,865.94 and west 17,163.23 (Old Town Coordinate Grid System); thence south 0°28'33" E., 410.00 feet; thence south 8°09'35" E., 356.67 feet; thence south 3°20'11" E., 1116.07 feet to a point shown on city of San Diego Engineer's drawing 8722-D and identified thereon as "G" and having coordinates of south 30,743.16 and west 17,044.25 (Old Town Coordinate Grid System); thence north 82°28'52" W., 848.21 feet to a point shown on city of San Diego Engineer's drawing 8722-D and identified thereon as "F" and having coordinates of south 30,632.17 and west 17,885.17 (Old Town Coordinate Grid System); thence north 82°28'52" W., on a prolongation of the aforementioned line to an intersection with the ordinary high watermark of the Pacific Ocean; thence northerly along said ordinary high watermark to an intersection with the southerly boundary line of the Cabrillo National Monument which said boundary line bears south 89°31'35" W., from the point of beginning; thence north 89°31'35" E., along said southerly boundary to a point shown on city of San Diego Engineer's drawing 8722-D and identified thereon as "E" and having coordinates of south 28,873.45 and west 18,071.55 (Old Town Coordinate Grid System); thence north 89°31'35" E., 908.35 feet along said boundary line of the Cabrillo National Monument to the point of beginning.

The above described area aggregates approximately 42.85 acres in San Diego County.

Basis of bearings: Southerly boundary line of Cabrillo National Monument; i.e., north 89°31'35" E. (Old Town Coordinate Grid System).

2. Public Land Order No. 2224 of December 16, 1960, withdrawing the lands described in paragraph 1 of this order for use by the Office of Saline Water, Department of the Interior, for the construction of a sea water distilling plant, and the subsequent departmental order of February 16, 1966, transferring the administrative jurisdiction of the lands to the National Park Service, are hereby revoked.

The withdrawal of lands made by this order is in furtherance of, and subject to the provisions of that certain memorandum of agreement, dated January 12, 1970, entered into between the Commander, Naval Electronics Laboratory Center, the Commander, Naval Undersea

Research and Development Center, Department of the Navy, and the Superintendent, Cabrillo National Monument, National Park Service, Department of the Interior, as may be amended or supplemented.

HARRISON LOESCH,
Assistant Secretary of the Interior.

AUGUST 14, 1970.

[F.R. Doc. 70-11039; Filed, Aug. 21, 1970; 8:45 a.m.]

Title 45—PUBLIC WELFARE

Chapter I—Office of Education, Department of Health, Education, and Welfare

PART 181—EMERGENCY SCHOOL ASSISTANCE PROGRAM

The regulations set forth in this Part are applicable to the Emergency School Assistance Program (hereinafter "the program"), which will be administered by the Commissioner of Education. Authority to carry out the program is based upon the following statutory provisions:

1. The Education Professions Development Act, Part D (20 U.S.C. 1119–1119a).
2. The Cooperative Research Act (20 U.S.C. 331–332b).
3. The Civil Rights Act of 1964, Title IV (42 U.S.C. 2000c–2000c–9).
4. The Elementary and Secondary Education Act of 1965, section 807 (20 U.S.C. 887).
5. The Elementary and Secondary Education Amendments of 1967, section 402 (20 U.S.C. 1222).
6. The Economic Opportunity Act of 1964, Title II (42 U.S.C. 2781–2837) (under authority delegated to the Secretary of Health, Education, and Welfare).

Regulations previously published pursuant to the foregoing statutory authorities will not be applicable to the program.

Federal financial assistance provided pursuant to the Emergency School Assistance Program is subject to the regulation in 45 CFR Part 80, issued by the Secretary of Health, Education, and Welfare and approved by the President, to effectuate the provisions of section 601 (42 U.S.C. 2000d) of the Civil Rights Act of 1964 (Public Law 88–352).

Sec.
181.1 Definitions.
181.2 Purpose.
181.3 Eligibility.
181.4 Authorized activities.
181.5 Allotment.
181.6 Applications.
181.7 Advisory committees.
181.8 Student advisory committees.
181.9 Evaluation.
181.10 Priorities.
181.11 Review by State educational agency.
181.12 Non-Federal contributions.
181.13 Disposition of application.
181.14 General terms and conditions.

AUTHORITY: The provisions of this Part 181 issued under 20 U.S.C. 1119–1119a, 20 U.S.C. 331–332b, 42 U.S.C. 2000c–2000c–9, 20 U.S.C. 887, 20 U.S.C. 1222, and 42 U.S.C. 2781–2837.

§ 181.1 Definitions.

As used in this part:

(a) The term "Commissioner" means the U.S. Commissioner of Education.

(b) The term "desegregation" means the assignment of students to public schools and within such schools without regard to their race, color, religion, or national origin, but "desegregation" does not mean the assignment of students to public schools in order to overcome racial imbalance. (42 U.S.C. 2000c)

(c) The term "local educational agency" means a public board of education or other public authority legally constituted within a State either for administrative control or direction of, or to perform a service function for, public elementary or secondary schools in a city, county, township, school district, or other political subdivision of a State, or such combination of school districts or counties as are recognized in a State as an administrative agency for its public elementary or secondary schools, or a combination of local educational agencies; and includes any other public institution or agency having administrative control and direction of a public elementary or secondary school. (20 U.S.C. 881)

(d) The term "minority group", with reference to any person or persons, means a person or persons of Negro, American Indian, Mexican-American, or Puerto Rican origin or ancestry.

(e) The term "nonprofit" as applied to an agency, organization, or institution means an agency, or organization, or institution owned or operated by one or more nonprofit corporations or associations no part of the net earnings of which inures or may lawfully inure to the benefit of any private shareholder or individual. (20 U.S.C. 881)

(f) The term "secondary school" means a school which provides secondary education, as determined under State law, except that it does not include any education beyond grade 12. (20 U.S.C. 881)

(g) The term "terminal phase", as it relates to a desegregation plan, means that phase of the plan at which the local educational agency begins operating a unitary school system within which no person is effectively excluded from any school because of race or color. (Alexander v. Holmes Co. 396 U.S. 19 (1969))

§ 181.2 Purpose.

The purpose of the emergency assistance to be made available under the program described in this part is to meet special needs incident to the elimination of racial segregation and discrimination among students and faculty in elementary and secondary schools by contributing to the costs of new or expanded activities to be carried out by local educational agencies or other agencies, organizations, or institutions and designed to achieve successful desegregation and the elimination of all forms of discrimination in the schools on the basis of students or faculty being members of a minority group. (20 U.S.C. 1119–1119a, 20 U.S.C. 331–332b, 42 U.S.C. 2000c–2000c–9, 20 U.S.C. 887, 20 U.S.C. 1222, and 42 U.S.C. 2781–2837)

§ 181.3 Eligibility.

(a) Assistance under the program may be made available to a local educational agency

(1) Which has submitted to the Office for Civil Rights of the Department of Health, Education, and Welfare a final order of a State or Federal court or a voluntary plan for the desegregation of the schools operated by such agency, which order or plan (i) is accompanied by the Assurance of Compliance with Title VI of the Civil Rights Act of 1964 described in § 80.4(c) of this title and (ii) has been determined to be acceptable under such provision; and

(2) Which (i) is to commence the terminal phase of such plan or order by the opening of the 1970–71 academic year or (ii) has commenced such terminal phase during the 1968–69 or 1969–70 academic year.

(b) In any case where the Commissioner finds that it would more effectively carry out the purposes of the program, he may make a grant to any public or nonprofit private agency, organization, or institution (other than a local educational agency), and contract with any public or private agency, institution, or organization to assist in the implementation of one or more desegregation plans described in paragraph (a) of this section.

(c) The Commissioner initially will reserve for use pursuant to paragraph (b) of this section, 10 percent of the funds made available for the program. Any of such reserved funds not used pursuant to paragraph (b) of this section within such time as the Commissioner may determine will be made available for use by local educational agencies pursuant to paragraph (a) of this section. (20 U.S.C. 1119–1119a, 20 U.S.C. 331–332b, 42 U.S.C. 2000c–2000c–9, 20 U.S.C. 887, 20 U.S.C. 1222, and 42 U.S.C. 2781–2837)

§ 181.4 Authorized activities.

Projects assisted under the program shall be designed to contribute to achieving and maintaining desegregated school systems and should emphasize such activities as the following:

(a) Carrying out special community programs designed to assist school systems to implement desegregation plans such as (1) promoting understanding among students, school staffs, parents and community groups; (2) conducting community information programs to provide information concerning desegregation; (3) establishing and supporting committees consisting of minority and nonminority group members; (4) conducting school-home visitation programs; and (5) conducting special parent programs designed to facilitate the implementation of the desegregation plans;

(b) Carrying out special pupil personnel services designed to assist in maintaining quality education during the desegregation process such as (1) providing special guidance and counseling personnel with expertise in working with a desegregated student body; (2) providing remedial and other services to meet special needs of children affected by desegregation; and (3) employing special consultants;

(c) Carrying out special curriculum revision programs and special teacher preparation programs required to meet the needs of a desegregated student body such as (1) developing new and varied instructional techniques and materials designed to meet the special needs of children affected by desegregation; (2) designing and introducing new curricula that serve children from various ethnic backgrounds; (3) developing new material and techniques for improved evaluation and assessment of student progress; (4) carrying out special demonstration projects for the introduction of innovative instructional methodologies which will improve the quality of education in desegregated schools; (5) providing for individualized instruction, team teaching, nongraded programs, and the employment of master teachers; (6) establishing inservice programs to assist teachers in dealing with children who have inadequate English language skills; (7) promoting greater understanding of the attitudes and interpersonal relationships of students and teachers involved in the desegregation process; (8) upgrading basic skills and instructional methodologies; (9) mobilizing university and consultant expertise in developmental programs and seminars on problems incident to desegregation; (10) providing temporary teachers whose employment will permit permanent teachers to participate in training related to desegregation; and (11) providing teacher aides whose employment will help improve instruction in schools affected by desegregation;

(d) Carrying out special student-to-student programs designed to assist students in opening up channels of communication concerning problems incident to desegregation such as (1) promoting mutual acceptance; (2) promoting greater understanding of racial peer pressures of students; (3) assisting student groups to develop interracial understanding; (4) involving groups consisting of minority and nonminority group students in curriculum revision; and (5) assisting groups consisting of minority and nonminority group students to plan and conduct desegregated extra-curricular activities;

(e) Carrying out special comprehensive planning and logistic support designed to assist in implementing a desegregation plan such as (1) employing additional administrative and clerical personnel necessary for implementation of a plan; (2) assisting in the rescheduling and reassignment of students and teachers and the redrawing of transportation routes; (3) supervising necessary physical changes; and (4) minor repairing and minor remodeling of existing facilities and leasing or purchasing of mobile or demountable classroom units.

Assistance may also be provided for any other specially designed project which the Commissioner determines will meet the purposes of the program. (20 U.S.C. 1119–1119a, 20 U.S.C. 331–332b, 42 U.S.C. 2000c–2000c–9, 20 U.S.C. 887, 20 U.S.C. 1222, and 42 U.S.C. 2781–2837)

§ 181.5 Allotment.

(a) The Commissioner will allot the funds made available under the program among the States by allotting to each State an amount which bears the same ratio to the total amount of funds available as the number of minority group children aged 5 to 17, inclusive (as determined by the Commissioner on the basis of the most recent satisfactory data available to him), in the State who are in local educational agencies eligible for assistance under § 181.3 bears to the number of such minority group children in all of the States.

(b) That part of any State's allotment which the Commissioner determines will not be needed may be reallotted, on such dates as the Commissioner may fix, in proportion to the original allotments, but with appropriate adjustments to assure that any amount so made available to any State in excess of its needs is similarly reallotted among the other States.

(c) In no event will more than 12½ percent of the funds allotted be used in any one State. (42 U.S.C. 2812)

§ 181.6 Application.

(a) An application of a local educational agency for assistance under the program shall—

(1) Set forth a comprehensive statement of the problems faced by that agency in achieving and maintaining a desegregated school system, including a comprehensive assessment of the needs of the children in such agency;

(2) Describe one or more activities that are designed to comprehensively and effectively meet such problems with assistance requested under the program;

(3) Provide for effective procedures for evaluation (as further described in § 181.9);

(4) Contain assurances satisfactory to the Commissioner, accompanied by such supportive information as he may require:

(i) That Federal funds made available under the program for any fiscal year will be so used as to supplement and, to the extent practical, increase the level of funds that would, in the absence of such Federal funds, be available to the applicant from non-Federal sources for purposes which meet the requirements of the program, and in no case to supplant such funds;

(ii) That Federal funds made available under the program will not be used to supplant funds which (*a*) were available to the applicant from non-Federal sources prior to the implementation by the applicant of an order or plan for the desegregation of its schools and (*b*) have been withdrawn or reduced as a result of desegregation. For the purposes of this paragraph, a reduction as a result of desegregation shall not be deemed to have taken place where non-Federal funds available to a local educational agency pursuant to State statute are reduced by operation of such statute, solely on account of a decline in such agency's enrollment or its transportation needs (Office of Education Appropriation Act, 1971);

(iii) That a reasonable effort is being made to utilize other Federal funds available for meeting the needs of children;

(iv) That the applicant (*a*) has not engaged in the gift, lease, or sale of property or services, directly or indirectly, to any nonpublic school or school system which, at the time of such transaction, practiced discrimination on the basis of race, color, or national origin, where such gift, lease, or sale was for the purpose of, or had the effect of, encouraging, facilitating, supporting, or otherwise assisting the operation of such school or school system as an alternative available to nonminority group students seeking to avoid desegregated public schools; and (*b*) will not engage in the gift, lease, or sale of property or services to any such school or school system for any purpose (Office of Education Appropriation Act, 1971);

(v) That staff members of the local educational agency who work directly with children, and professional staff of such agency who are employed on the administrative level, will be hired, assigned, promoted, paid, demoted, dismissed, and otherwise treated without regard to being members of minority groups;

(vi) That the local educational agency will take effective action to ensure the assignment of staff members who work directly with children at a school so that the ratio of minority to nonminority group teachers in each school, and the ratio of other staff in each, are substantially the same as each such ratio is to the teachers and other staff, respectively, in the entire school system;

(vii) That no practices or procedures, including testing, will be employed by the local educational agency in the assignment of children to classes, or otherwise in carrying out curricular or extracurricular activities, within the schools of such agency in such a manner as (*a*) to result in the isolation of minority and nonminority group children in such classes or with respect to such activities; or (*b*) to discriminate against children on the basis of their being members of a minority group;

(viii) That the applicant will have published in the local newspaper of general circulation the terms and provisions of each project approved by the Commissioner within 30 days of such approval, or will have published in a local newspaper of general circulation, within 30 days of such approval, pertinent information as to the manner in which, and the place at which, the terms and provisions of such approved project are made reasonably available to the public;

(ix) That the applicant will complete and submit to the Office for Civil Rights of the Department of Health, Education, and Welfare, by October 15, 1970, or such other time as may be determined by that Office, an evaluation form to be furnished by that Office; and

(x) That the applicant will furnish to the Commissioner such additional information as he may deem necessary for the administration of the program.

(b) An application of a public or nonprofit private agency, organization, or institution (other than a local educational agency) for a grant under the program shall

(1) Set forth a statement of the problems as seen from the point of view of such agency, organization, or institution, of achieving one or more desegregated school systems in the relevant community or communities;

(2) Describe any previous involvement and concern of such agency, organization, or institution with education or school desegregation;

(3) Describe the activities which such agency, organization, or institution proposes to undertake for the purpose of assisting in the implementation of one or more desegregation plans described in § 181.3(a), including a description of the manner in which such activities would contribute to achieving and maintaining one or more desegregated school systems;

(4) Contain an assurance satisfactory to the Commissioner that such agency, organization, or institution will furnish him such additional information as he may deem necessary for the administration of the program. (20 U.S.C. 1119–1119a, 20 U.S.C. 331–332b, 42 U.S.C. 2000c–2000c–9, 20 U.S.C. 887, 20 U.S.C. 1222, and 42 U.S.C. 2781–2837)

§ 181.7 Advisory committees.

(a) In the case of a local educational agency with respect to which a biracial committee has been formed pursuant to an order of a Federal or State court, for the desegregation of the school system of such agency, such committee shall, prior to the submission of any application pursuant to § 181.6(a), be afforded a period of 5 days in which to review and comment to the local educational agency upon such application. Upon submission to the Commissioner, such application shall be accompanied by any comments of such committee.

(b)(1) In the case of any other local educational agency, such agency shall, prior to submission of an application pursuant to § 181.6(a), select at least five but not more than 15 organizations which in the aggregate are broadly representative of the minority and nonminority communities to be served. Those organizations that have been established pursuant to, or with respect to, other Federal programs, such as Community Action Agencies, City Demonstration Agencies, Title I Advisory Committees, Head Start Parents Advisory Committees, and 4–C Committees, should ordinarily be among those selected. Upon submission to the Commissioner, such application shall be accompanied by the names of the organizations so selected. Each such organization selected by the local educational agency may appoint one member to an advisory committee that shall be established by such agency within 30 days of approval by the Commissioner of its application.

(2) In addition to members appointed to the advisory committee by organizations selected by the local educational agency pursuant to subparagraph (1) of this paragraph, the local educational agency shall appoint to the advisory committee such additional persons from the community as may be needed in order to establish an advisory committee composed of equal numbers of minority and nonminority persons, at least 50 percent of whom shall be parents whose children will be directly affected by the project to be carried out under the program.

(c) The local educational agency shall consult with any advisory committee formed pursuant to court order as described in paragraph (a) of this section, or established pursuant to paragraph (b) of this section, with respect to policy matters arising in the administration and operation by such agency of each project assisted under the program. The advisory committee shall be given a reasonable opportunity to observe and comment upon all project-related activities of the local educational agency.

(d) The names of the members of any committee described in this section shall be made public by the local educational agency.

§ 181.8 Student advisory committees.

In addition to other assurances required under this part, the application of a local educational agency shall contain an assurance that, promptly following the opening of the 1970–71 academic year, a student advisory committee will be formed in each secondary school affected by the project which has a student body composed of minority and nonminority group children. The number of minority and nonminority students serving on each such committee shall be equal. The members of each such committee shall be selected by the student body. The local educational agency shall consult with the student advisory committee with respect to the carrying out of the project and the establishment of standards, regulations, and requirements regarding student activities and affairs. (20 U.S.C. 1119–1119a, 20 U.S.C. 331–332b, 42 U.S.C. 2000c–2000c–9, 20 U.S.C. 887, 20 U.S.C. 1222, and 42 U.S.C. 2781–2837.)

§ 181.9 Evaluation.

An applicant receiving assistance under the program shall include in the application a description of the methods, procedures and objective criteria to be used to evaluate the effects of each project to be assisted. Such evaluation shall be carried out by a qualified agency, institution, or organization, as determined by the Commissioner, (*a*) which is independent of the applicant and (*b*) which agrees to follow the employment practices which are required of a Federal contractor under Executive Order 11246 as amended. Such agency, institution, or organization shall conduct a continuing evaluation of such project, including its effectiveness in achieving clearly stated goals. An interim report of such evaluation shall be submitted to the Commissioner not later than May 1, 1971, and the final report of such evaluation shall be submitted to the Commissioner as a part of the final project report. (20 U.S.C. 1119–1119a, 20 U.S.C. 331–332b, 42 U.S.C. 2000c–2000c–9, 20 U.S.C. 887, 20 U.S.C. 1222, and 42 U.S.C. 2781–2837)

§ 181.10 Priorities.

In determining whether to provide assistance under the program, or in fixing the amount thereof, the Commissioner will consider such criteria as he deems pertinent, including—

(a) The applicant's relative need for assistance;

(b) The relative promise of the project or projects to be assisted in carrying out the purpose of the program;

(c) The extent to which the proposed project deals comprehensively and effectively with problems faced by the local educational agency in achieving and maintaining a desegregated school system;

(d) The amount available for assistance under the program in relation to the applications pending before him. (20 U.S.C. 1119–1119a, 20 U.S.C. 331–332b, 42 U.S.C. 2000c–2000c–9, 20 U.S.C. 887, 20 U.S.C. 1222, and 42 U.S.C. 2781–2837)

§ 181.11 Review by State educational agency.

The Commissioner will not approve an application for assistance pursuant to § 181.6 without first affording the appropriate State educational agency a reasonable opportunity to review and make recommendations with respect to such application. (20 U.S.C. 1119–1119a, 20 U.S.C. 331–332b, 42 U.S.C. 2000c–2000c–9, 20 U.S.C. 887, 20 U.S.C. 1222, and 42 U.S.C. 2781–2837)

§ 181.12 Non-Federal contributions.

In view of the emergency nature of the program and the fact that most local educational agencies have already determined their budgets for the 1970–71 academic year, the Commissioner will not require an applicant to contribute to the costs of the project if the application is accompanied by an assurance satisfactory to him that the applicant does not have available adequate resources for that purpose. (42 U.S.C. 2812)

§ 181.13 Disposition of application.

Each application under this part shall be submitted to the Commissioner. The Commissioner will notify each applicant of the approval, disapproval, or other disposition of the application. (20 U.S.C. 1119–1119a, 20 U.S.C. 331–332b, 42 U.S.C. 2000c–2000c–9, 20 U.S.C. 887, 20 U.S.C. 1222, and 42 U.S.C. 2781–2837)

§ 181.14 General terms and conditions.

Grants provided pursuant to this part will be subject to the General Terms and

Conditions for the Emergency School Assistance Program, published as appendix A to this part and incorporated herein by reference. Activities carried out under the authority of Title II of the Economic Opportunity Act of 1964 will be carried out in conformance with the memorandum of understanding between the Office of Economic Opportunity and the Department of Health, Education, and Welfare, published as appendix B to this part and incorporated herein by reference. (20 U.S.C. 1119–1119a, 20 U.S.C. 331–332b, 42 U.S.C. 2000c–2000c–9, 20 U.S.C. 887, 20 U.S.C. 1222, and 42 U.S.C. 2781–2837)

Dated: August 18, 1970.

T. H. BELL,
Acting U.S. Commissioner of Education.

Approved: August 18, 1970.

ELLIOT L. RICHARDSON,
Secretary of Health, Education, and Welfare.

APPENDIX A

GENERAL TERMS AND CONDITIONS—EMERGENCY SCHOOL ASSISTANCE PROGRAM

1. Definitions.
2. Scope of the project.
3. Limitations on costs.
4. Allowable costs.
5. Accounts and records.
6. Fund control.
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10. Printing and duplicating.
11. Termination.
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13. Applicability of State and local laws and institutional procedures.
14. Copyright and publication.
15. Acknowledgment and disclaimer in publication.
16. Patent rights.
17. Travel.
18. Equipment.
19. Service contracts.
20. Health and safety standards.
21. Salary limitations and reporting requirements.
22. Compensation.
23. Prohibition of political activities.
24. Restrictions on certain unlawful activities.
25. Labor standards.
26. Equal Employment Opportunity.

1. *Definitions.* As used in the grant documents relating to this award, the following terms shall have the meaning set forth below:

a. *"Commissioner"* means the U.S. Commissioner of Education.

b. *"Grantee"* means the agency, institution, or organization named in the grant as the recipient of the grant award.

c. *"Grants Officer"* means the employee of the U.S. Office of Education who has been delegated authority to execute or amend the grant document on behalf of the Government.

d. *"Project Officer"* means the employee of the U.S. Office of Education who is responsible for monitoring the project of the Grantee to assure compliance with the terms and conditions of the grant.

e. *"Project Director"* is the person responsible for directing the project of the Grantee.

f. *"Project"* is the identified activity or program approved by the Commissioner for support.

g. *"Project Period"* means the length of time specified in the Notification of Grant Award for which a project is approved.

h. *"Budget Period"* means the period of time (within or coterminous with the project period specified in the Notification of Grant Award), during which project costs may be charged against the grant. The budget period is generally twelve (12) months but may be for a different period of time, if appropriate.

i. *"Budget"* means the amount of funds approved by the Office of Education for designated services, materials, and other items. (20 U.S.C. 1119–1119a, 20 U.S.C. 331–332b, 42 U.S.C. 2000c–2000c–9, 20 U.S.C. 887, 20 U.S.C. 1222, and 42 U.S.C. 2781–2837)

2. *Scope of the project.* The project to be carried out hereunder shall be consistent with the proposal as approved for support by the Commissioner and referred to in the Notification of Grant Award and shall be performed in accordance with this approved project proposal. No substantive changes in the program of a project shall be made unless the Grantee submits (at least 30 days prior to the effective date of the proposed change) an appropriate amendment thereto, along with a justification for the change, and this amendment is approved in writing by the Grants Officer. (20 U.S.C. 1119–1119a, 20 U.S.C. 331–332b, 42 U.S.C. 2000c–2000c–9, 20 U.S.C. 887, 20 U.S.C. 1222, and 42 U.S.C. 2781–2837)

3. *Limitations on costs.* a. The total costs to the Government for the performance of the grant shall not exceed the amount set forth in the Notification of Grant Award or any appropriate modification thereof. The Government shall not be obligated to reimburse the Grantee for costs incurred in excess of such amount unless and until the Grants Officer shall have notified the Grantee in writing that such amount has been increased and shall have specified in a revised Grant Award a revised amount which shall thereupon constitute the revised total cost of performance of the Grant.

b. When and to the extent that the amount set forth in the grant has been increased, costs incurred by the Grantee prior to notification of such increase, in excess of the previous amount, shall be allowable to the same extent as if such costs had been incurred after notification of such increase in the amount.

c. The Grantee may transfer funds among the various cost categories in the negotiated budget to the extent necessary to assure the effectiveness of the project, except that, no transfers may be made which alter the approved project.

d. Funds for the production of motion picture films for viewing by the general public are not authorized until prior written approval is received from the Grants Officer. (20 U.S.C. 1119–1119a, 20 U.S.C. 301–332b, 42 U.S.C. 2000c–2000c–9, 20 U.S.C. 887, 20 U.S.C. 1222, and 42 U.S.C. 2781–2837)

4. *Allowable costs.* a. Expenditures of the Grantee may be charged to this grant only if they: (1) are incurred subsequent to the effective date of the project indicated in the Notification of Grant Award, which shall be no earlier than the date upon which the award document is signed by the Grants Officer, and (2) conform to the approved project proposal.

b. Funds obtained under this grant shall not be used for the construction of new facilities or for major structural changes in or additions to existing facilities.

c. Subject to paragraphs (a) and (b), allowability of costs incurred under this grant shall be determined in accordance with the principles and procedures set forth in the documents identified below, as amended prior to the date of the award.

(1) Exhibit X–2–65–1 of the Department of Health, Education, and Welfare Grants Administration Manual, if the Grantee is an institution of higher education; or

(2) Chapter 5–60 of the Department of Health, Education, and Welfare Grants Administration Manual, if the Grantee is a State or local Government agency; or

(3) Exhibit X–2–68–1 of the Department of Health, Education, and Welfare Grants Administration Manual, if the Grantee is a nonprofit institution, as defined therein. (20 U.S.C. 1119–1119a, 20 U.S.C. 331–332b, 42 U.S.C. 2000c–2000c–9, 20 U.S.C. 887, 20 U.S.C. 1222 and 42 U.S.C. 2781–2837)

d. In accordance with the policy of the Department of Health, Education, and Welfare, if the Grantee has an audited indirect cost rate that has been approved by the Division of Grants Administration Policy, this approved rate may be applied to both the Federal and non-Federal share of allowable direct costs of the project. When an indirect cost rate is applied to either the Federal or non-Federal share of project costs, no item normally included in the Grantee's indirect cost pool (such as supervision, accounting, budgeting, or maintenance) shall be listed as a direct cost of the project. Procedures for establishing Indirect Cost Rates are covered in Department of Health, Education, and Welfare brochures: OASC–1, A Guide for Educational Institutions; OASC–5, A Guide for Nonprofit Institutions; and OASC–6, A Guide for State Government Agencies.

5. *Accounts and records.* a. *Accounts.* The Grantee shall maintain accounts, records and other evidence pertaining to all costs incurred, and revenues or other applicable credits acquired under this grant. The system of accounting employed by the Grantee shall be in accordance with generally accepted accounting principles generally used by State or local agencies or institutions of higher education, or non-profit organizations, as appropriate, and will be applied in a consistent manner so that the project expenditures can be clearly identified.

b. *Cost sharing records.* The Grantee's records shall demonstrate that any contribution made to the project by the Grantee is not less, in proportion to the charges against the grant, than the percentage specified in the grant or any subsequent revision thereof.

c. *Examination of records.* All records directly relating to transactions under this grant are subject to inspection and audit by the Department of Health, Education, and Welfare and by the General Accounting Office at all reasonable times during the period of retention provided for in paragraph (d) below.

d. *Disposition of records.* Except as provided in Paragraph (e), all pertinent records and books of accounts related to this grant in the possession of the Grantee shall be preserved by the Grantee for a period of three (3) years after the end of the budget period, if audit by or on behalf of the Department has occurred by that time; or if audit by or on behalf of the Department has not occurred by that time, the records must be retained until audit or until five (5) years following the end of the budget period, whichever is earlier.

e. *Questioned expenditures.* Records relating to any litigation or claim arising out of the performance of this grant, or costs and expenses of this grant to which exception has been taken as a result of inspection or audit shall be retained by the Grantee until such litigation, claim, or exception has been disposed of. (20 U.S.C. 1119–1119a, 20 U.S.C. 331–332b, 42 U.S.C. 2000c–2000c–9, 20 U.S.C. 887, 20 U.S.C. 1222, and 42 U.S.C. 2781–2837)

6. *Fund control.* No funds shall be released to any public or private nonprofit agency, or combination thereof, unless the Grantee has submitted to the Grants Officer either—

a. A statement from an appropriate public financial officer certifying that the Grantee has established an accounting system with internal controls adequate to safeguard its assets, check the accuracy and reliability of accounting data, promote operating efficiency and encourage compliance with prescribed management policies, and that such officer shall be responsible for maintaining this accounting system; or

b. An opinion from a Certified Public Accountant or a duly licensed public accountant stating that the Grantee has established such an accounting system. (42 U.S.C. 2835)

7. *Preliminary audit.* Within three (3) months after the effective date of the grant, the Grantee will secure a preliminary audit survey of its accounting system and will submit a report thereon to the Grants Officer. (42 U.S.C. 2835)

8. *Payment procedures.* a. To obtain Federal funds, the Grantee must submit Forms 5141, Quarterly Estimated Requirements for Federal Cash, and OE-5140, with attachment 5232-A, Monthly/Quarterly Report of Disbursement of Federal Cash. Instructions for completing the forms are printed on the reverse side. The report of cash disbursements is to be submitted as a quarterly report and is due by the 10th day of the month following the end of a calendar quarter.

Inquiries regarding payment shall be addressed to the Director, Finance Division, U.S. Office of Education, 400 Maryland Avenue SW., Washington, D.C. 20202.

b. Any funds remaining unobligated at the expiration of the Budget period shall within ninety (90) days of the date of expiration of the said period be refunded by check made payable to the U.S. Office of Education. All refunds must reference the Grant Number shown on the Notification of Grant Award. (20 U.S.C. 1119–1119a, 20 U.S.C. 331–332b, 42 U.S.C. 2000c–2000c–9, 20 U.S.C. 887, 20 U.S.C. 1222, and 42 U.S.C. 2781–2837).

9. *Reports.* The Grantee shall submit the following reports to the Office of Education.

a. *Evaluation.* 1. Completed form furnished by HEW (See Part 181.6J of regulations)—October 15.

2. Interim report (See Part 181.9 of regulations)—May 1.

3. Final report (See Part 181.9 of regulations)—Ninety (90) days after expiration of the budget period.

b. *Statistical Information.* (Forms and Instructions to be submitted to grantee by DHEW).

1. The initial report will be due ninety (90) days after date of award, and should represent information applicable to the current school year.

2. The final report will be due ninety (90) days after the expiration of the budget period, and is to represent information applicable to the subsequent school year. (20 U.S.C. 1119–1119a, 20 U.S.C. 331–332b, 42 U.S.C. 2000c–2000c–9, 20 U.S.C. 887, 20 U.S.C. 1222, and 42 U.S.C. 2781–2837.)

10. *Printing and duplicating.* All printing and duplicating authorized under this grant are subject to the limitations and restrictions contained in the current issue of the U.S. Government Printing and Binding Regulations if done for the use of the Office of Education within the meaning of those Regulations. (U.S. Government Printing and Binding Regulations.)

11. *Termination.* a. Grants may be terminated in whole or in part by the Government in the event the Grantee fails to carry out its approved project proposal in accordance with applicable law and the terms of this grant. No grant shall be terminated unless the Grantee has been given reasonable notice and an opportunity to show cause why such action should not be taken, and has been afforded reasonable notice and opportunity for a full and fair hearing.

b. Termination shall be effected by delivery to the Grantee of a written notification thereof, signed by the Grants Officer.

Financial obligations incurred by the Grantee prior to the effective date of the termination will be allowable to the extent they would have been allowable had the grant not been terminated. The Grantee agrees to furnish the Grants Officer within sixty (60) days of the effective date of termination an itemized accounting of funds expended, obligated, and remaining under the grant. The Grantee also agrees to remit within thirty (30) days of the receipt of a written request therefor any amounts found due. (42 U.S.C. 2944.)

12. *Extension of project period or budget period.* When progress under the grant is delayed and circumstances make it necessary to request an extension of either the project period or the budget period, or both, without additional funds, it is the policy of the Office of Education to consider such extensions upon written request. (Where it appears that the activity to be accomplished within the project period or the budget period, or both, will be completed within three (3) months after the expiration date, it will not be necessary to request an extension. However, if it appears that the time required will exceed three (3) months, the Grants Officer should be informed and an extension should be requested.) (20 U.S.C. 1119–1119a, 20 U.S.C. 331–332b, 42 U.S.C. 2000c–2000c–9, 20, U.S.C. 887, 20 U.S.C. 1222 and 42 U.S.C. 2781–2837.)

13. *Applicability of State and local laws and institutional procedures regarding expenditure of funds.* Except to the extent otherwise provided for in this document or any document incorporated herein by reference, nothing herein or therein shall be construed so as to alter the applicability to the Grantee of any State or local law, rule, regulation, or any institutional procedure which would otherwise pertain to the expenditure of funds. (20 U.S.C. 1119–1119a, 20 U.S.C. 331–332b, 42 U.S.C. 2000c–2000c–9, 20 U.S.C. 887, 20 U.S.C. 1222, and 42 U.S.C. 2781–2837.)

14. *Copyright and publication.* a. The term "materials" as used herein means writings, sound recordings, films, pictorial reproductions, drawings or other graphic representations, computer programs, and works of any similar nature produced under this grant. The term does not include financial reports, cost analysis, and similar information incidental to grant administration.

b. It is the policy of the Office of Education that the results of activities supported by it should be utilized in the manner which would best serve the public interest. To that end, except as provided in paragraph (c), the Grantee shall not assert any rights at common law or in equity or establish any claim to statutory copyright in such materials; and all such materials shall be made freely available to the Government, the education community, and the general public.

c. Notwithstanding the provisions of paragraph (b) above, upon request of the Grantee or his authorized designee, arrangements for copyright of the materials for a limited period of time may be authorized by the Commissioner, through the Grants Officer, upon a showing satisfactory to the Office of Education that such protection will result in more effective development or dissemination of the materials and would be in the public interest.

d. With respect to any materials for which the securing of a copyright protection is authorized under paragraph (c), the Grantee hereby grants a royalty-free, nonexclusive and irrevocable license to the Government to publish, translate, reproduce, deliver, perform, use, and dispose of all such materials.

e. To the extent the Grantee has the right and permission to do so, the Grantee hereby grants to the Government a royalty-free, nonexclusive and irrevocable license to use in any manner, copyrighted material not first produced in the performance of this grant but which is incorporated in the materials. The Grantee shall advise the Grants Officer of any such copyrighted material known to it not to be covered by such license. (20 U.S.C. 1119–1119a, 20 U.S.C. 331–332b, 42 U.S.C. 2000c–2000c–9, 20 U.S.C. 887, 20 U.S.C. 1222, and 42 U.S.C. 2781–2837)

15. *Acknowledgement and disclaimer in publication.* Any publication or presentation resulting from or primarily related to the project being performed hereunder shall contain the following acknowledgment:

The project presented or reported herein was performed pursuant to a Grant from the U.S. Office of Education, Department of Health, Education, and Welfare. However, the opinions expressed herein do not necessarily reflect the position or policy of the U.S. Office of Education, and no official endorsement by the U.S. Office of Education should be inferred. (20 U.S.C. 1119–1119a, 20 U.S.C. 331–332b, 42 U.S.C. 2000c–2000c–9, 20 U.S.C. 887, 20 U.S.C. 1222, and 42 U.S.C. 2781–2837.)

16. *Patent rights*—a. *Policy.* In accordance with Department of Health, Education, and Welfare Regulations (45 CFR Subtitle A, Parts 6 and 8), all inventions made in the course of or under any Office of Education grant shall be promptly and fully reported to the Assistant Secretary (Health and Scientific Affairs), Department of Health, Education, and Welfare.

The grantee institution and the principal investigator shall neither have nor make any commitments or obligations which conflict with the requirements of this policy.

b. *Determination.* Determination as to ownership and disposition of invention rights, including whether a patent application shall be filed, and if so, the manner of obtaining, administering, and disposing of rights under any patent application or patent which may be issued shall be made either:

(1) By the Assistant Secretary (Health and Scientific Affairs) whose decision shall be considered as final, or

(2) Where the institution has a separate formal institutional agreement with the Office of Education or the Department, by the grantee institution in accordance with such agreement.

Patent applications shall not be filed on inventions under (1) above without prior written consent of the Assistant Secretary (Health and Scientific Affairs) or his representative. Any patent application filed by the Grantee on an Invention made in the course of or under an Office of Education grant shall include the following statement in the first paragraph of the specification:

"The invention described herein was made in the course of, or under, a grant from the U.S. Office of Education, Department of Health, Education, and Welfare."

c. *Reports and other requirements.* A complete written disclosure of each invention in the form specified by the Assistant Secretary (Health and Scientific Affairs) shall be made by the Grantee promptly after conception or first actual reduction to practice, whichever occurs first under the grant. Upon request, the Grantee shall furnish such duly executed instruments (prepared by the Government) and such other papers as are deemed necessary to vest in the Government the rights reserved to it under this policy statement to enable the Government to apply for and prosecute any patent application, in any country, covering each invention where the Government has the right to file such application.

The Grantee shall furnish interim reports (Annual Invention Statements) prior to the

continuation of any grant listing all inventions made during the budget period whether or not previously reported, or certifying that no inventions were made during the applicable period. Upon completion of the project period, the Grantee shall furnish a final invention report listing all inventions made during performance of work on the supported project or certifying that no inventions were made during that work.

d. *Supplementary patent agreements.* The Grantee shall obtain appropriate patent agreements to fulfill the requirements of this provision from all persons who perform any part of the work under the grant, except such clerical and manual labor personnel as will have no access to technical data, and except as otherwise authorized in writing by the Department.

The Grantee shall insert in each subcontract or agreement having experimental, developmental, or research work as one of its purposes, a clause making this provision applicable to the subcontractor and its employees.

e. *Definitions.* As used in this provision, the stated terms are defined as follows for the purposes hereof:

(1) "Invention" or "invention or discovery" includes any art, machine, manufacture, design, or composition of matter, or any new and useful improvement thereof, or any variety of plant, which is or may be patentable under the Patent Laws of the United States.

(2) "Made" when used in relation to any invention or discovery means the conception or first actual reduction to practice of such invention in the course of the grant.

f. *Inventions resulting from grants made in support of research by Federal employees.* Inventions resulting from grants made in support of research by Federal employees shall be reported simultaneously to the Assistant Secretary (Health and Scientific Affairs) pursuant to terms of the grant and to the employing agency under the terms of Executive Order 10096, as amended. (45 CFR Parts 6 and 8.)

17. *Travel.* Travel allowances shall be paid in accordance with applicable State and local laws and regulations and grantee policies. If none of these are applicable, travel shall be done in accordance with Federal Government regulations. No foreign travel is authorized under the grant unless prior approval is received from the Grant Officer. Travel between the United States and Guam, American Samoa, Puerto Rico, the U.S. Virgin Islands, the Canal Zone, and Canada is not considered foreign travel. (20 U.S.C. 1119–1119a, 20 U.S.C. 331–332b, 42 U.S.C. 2000c–2000c–9, 20 U.S.C. 887, 20 U.S.C. 1222, and 42 U.S.C. 2781–2837.)

18. *Equipment.* Title to, and accountability for, equipment shall be determined in accordance with Chapter I–410, Management of Equipment and Supplies Acquired Under Project Grants, of the Department of Health, Education, and Welfare Grants Administration Manual. (20 U.S.C. 1119–1119a, 20 U.S.C. 331–332b, 42 U.S.C. 2000c–2000c–9, 20 U.S.C. 887, 20 U.S.C. 1222, and 42 U.S.C. 2781–2837.)

19. *Service contracts.* The Grantee may enter into contracts or agreements (to the extent permitted by State and local law) for the provision of part of the services under this grant by other appropriate public or private agencies or institutions. Such contract or agreement shall incorporate these grant terms and all other rules and regulations applicable to the program, shall describe the services to be provided by the agency or institution, and shall contain provisions assuring that the Grantee will retain supervision and administrative control over the provision of services under the contract. Services to be provided by contract pursuant to this section shall be specified in the project proposal or in an amendment thereto, and the proposed contract shall be submitted to the Grants Officer and be approved by him in writing. (20 U.S.C. 1119–1119a, 20 U.S.C. 331–332b, 42 U.S.C. 2000c–2000c–9, 20 U.S.C. 887, 20 U.S.C. 1222, and 42 U.S.C. 2781–2837.)

20. *Health and safety standards.* Whenever the Grantee, acting under the terms of the grant, shall rent, lease, purchase, or otherwise obtain classroom facilities (or any other facilities) which will be used by students and faculty, the Grantee shall comply with all health and safety regulations and laws applicable to similar facilities being used in that locality for such purpose. (20 U.S.C. 1119–1119a, 20 U.S.C. 331–332b, 42 U.S.C. 2000c–2000c–9, 20 U.S.C. 887, 20 U.S.C. 1222, and 42 U.S.C. 2781–2837.)

21. *Salary limitations and reporting requirements.* a. Compensation paid from Federal or matching non-Federal funds to persons employed in carrying out the project shall be subject to the following limitations:

(1) In no case shall the rate of compensation be less than the Federal minimum wage rate, which is $1.60 per hour except as otherwise provided in Section 6(a)(1) of the Fair Labor Standards Act of 1938.

(2) Except as provided in paragraph (1) the rate of compensation shall not exceed the average rate paid in the community where the project is carried out to persons providing substantially comparable services, or the average rate paid to such persons in the area of the employee's immediately preceding employment, whichever is higher.

(3) In no case shall the rate of compensation exceed $15,000 per year, unless the Grantee obtains a specific exception from this requirement from the Grants Officer. A Grantee applying for such an exception shall submit a written justification together with information as to salary levels for persons with comparable skills or holding comparable positions in the same community (or in the nearest community where such persons are employed), and, if relevant, similar information for the last community in which a specific job applicant or incumbent was employed.

(4) Unless approved by the Grants Officer, the rate of compensation of any person being paid at a rate in excess of $6,000 per year shall not exceed by more than twenty percent (20%) that person's rate of compensation in his immediate preceding employment.

b. The Grantee shall maintain records adequate to demonstrate compliance with the limitations in (a). The Grantee shall also report to the Office of Education on or before July 15 of each year the names of all employees who, as of June 30 of that year, were receiving a salary of $10,000 or more per year, together with the amount of compensation paid to each such person from grant funds or matching funds since July 1 of the preceding year. (42 U.S.C. 2836(2) and 42 U.S.C. 2951.)

22. *Compensation.* If a staff member is involved simultaneously in two or more projects supported by funds from the Federal Government, he may not be compensated for more than a total of one-hundred percent (100%) time from such Government funds for all projects during any given period of time. (20 U.S.C. 1119–1119a, 20 U.S.C. 331–332b, 42 U.S.C. 2000c–2000c–9, 20 U.S.C. 887, 20 U.S.C. 1222, and 42 U.S.C. 2781–2837.)

23. *Prohibition of political activities.* No project shall be carried on in a manner involving the use of program funds, the provision of services, or the employment or assignment of personnel in a manner supporting or resulting in the identification of the project with (1) any partisan or nonpartisan political activity or any other political activity associated with a candidate, or contending faction or group, in an election from public or party office, (2) any activity to provide voters or prospective voters with transportation to the polls or similar assistance in connection with any such election, or (3) any voter registration activity. (42 U.S.C. 2943(b).)

24. *Restrictions on certain unlawful activities.* No individual employed or assigned by the Grantee shall, pursuant to or during the performance of services rendered in connection with any activity conducted or assisted under this Grant, plan, initiate, participate in, or otherwise aid or assist in the conduct of any unlawful demonstration, rioting, or civil disturbance. (42 U.S.C. 2963.)

25. *Labor standards.* To the extent that grant funds will be used for alteration and repair (including painting and decorating), of facilities, the Grantee shall furnish the Grants Officer with the following:

A description of the alteration or repair work and the estimated cost of the work to be performed at the site;

The proposed advertising and bid opening dates for the work;

The city, county, and State at which the work will be performed; and

The name and address of the person to whom the necessary wage determination and labor standards provisions are to be sent for inclusion in contracts; not later than six (6) weeks prior to the advertisement for bids for the alteration or repair work to be performed. The Grantee shall also include or have included in all such alterations or repairs the wage determination and labor standards provisions that are provided and required by the Secretary of Labor under 29 CFR Parts 3 and 5. (42 U.S.C. 2947)

26. *Equal employment opportunity.* With respect to repair and minor remodeling, the Grantee shall comply with and provide for Contractor and Subcontractor compliance with the requirements of Executive Order 11246 as implemented by 41 CFR Part 60. The terms required by Executive Order 11246 will be included in any contract for construction work, or modification thereof, as defined in said Executive Order. (Executive Order 11246)

APPENDIX B

MEMORANDUM OF UNDERSTANDING BETWEEN THE OFFICE OF ECONOMIC OPPORTUNITY AND THE DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

In anticipation of the delegation of authority to the Department of Health, Education, and Welfare (HEW) by the Office of Economic Opportunity (OEO) for the purpose of developing and carrying out the Emergency School Assistance Program under section 222(a) of the Economic Opportunity Act of 1964, OEO and HEW agree to the following:

A. *Policy.* 1. Subject to the provisions of the delegation instrument, HEW shall develop and carry out programs and projects designed to assist schools or school districts with substantial enrollments of children from low-income families in meeting the emergency transitional needs of such districts incident to the elimination of racial segregation and discrimination among students and faculty in elementary and secondary schools.

"Low-income families," as referred to in this agreement, are those families whose incomes fall below OEO's poverty line, as set forth in OEO Instruction 6004–1a.

2. Programs and projects assisted by HEW pursuant to the delegation of authority referred to above shall not provide general aid to elementary or secondary education in any school or school system; however, as authorized in section 244(5) of the Act, special, remedial, and other noncurricular educational assistance may be provided, including the following:

(a) The provision of additional professional or other staff members to meet emergency transitional needs and for the training and retraining of school staff members to meet such needs;

(b) Remedial and other services to meet the special needs of children in schools which are affected by desegregation plans or plans, including special services for gifted and talented children in such schools;

(c) Comprehensive guidance, counseling, and other personal services for pupils;

(d) Development of new instructional techniques and materials designed to meet the special needs of children in schools which are affected by desegregation plans;

(e) Such repair or minor remodeling or alteration of existing school facilities as may be necessary to meet emergency transitional needs and the lease or purchase of mobile or demountable classroom units or other mobile educational facilities for use in meeting such needs;

(f) Community activities, including public education efforts which are designed to meet emergency transition needs and are in support of a plan, program, project, or other activity having the objectives described in paragraph A1 of this agreement;

(g) Special administrative activities to meet emergency transitional needs such as the rescheduling of students or teachers, or the provision of information to parents and other members of the general public, incident to the implementation of a desegregation plan;

(h) Planning and evaluation activities; and

(i) Other specially designed programs or projects which are consistent with the terms of this Agreement and the delegation of authority it implements.

3. In carrying out activities under the delegation of authority referred to above, measures shall be taken to assure compliance with the provisions of sections 225 (c) and (d) of the Act relating to non-Federal share and maintenance of effort. In view of the fact that this is an emergency program designed to aid school districts which have for the most part already firmed up their budgets for the coming school year, it is understood that HEW may desire to waive the formal non-Federal share requirements otherwise imposed by section 225(c) and to rely instead on the school districts' general commitment to the purposes of the program. It is understood that these activities will be conducted in compliance with section 614 of the Act which prohibits Federal direction, supervision, or control over the curriculum, program of instruction, administration, or personnel of any educational institution or school system, and with other applicable provisions of such Act.

4. No program developed and carried out under such delegation of authority shall be operated as a replacement for any existing program under other Federal law.

B. *Administration and coordination.* 1. Grants and contracts to carry out programs and projects referred to in this agreement may be made directly to or with public or nonprofit private agencies, organizations or institutions, and contracts to carry out such programs and projects may be made to or with public or private agencies, organizations or institutions. Where feasible, community action agencies will be involved in planning and advisory functions and in the community activities contemplated by paragraph A2(f) of this agreement.

2. Primary authority to initiate policies, regulations, and issuances for such programs and projects shall rest with HEW. OEO and HEW will maintain liaison on proposed policies.

3. HEW shall be responsible for the administration of training and technical assistance grants and contracts, and all other contracts relating exclusively to such programs and projects.

4. HEW shall have the primary responsibility for inspection and audit of grants and contracts made or entered into by HEW in exercising the powers delegated to it by OEO.

5. HEW shall, in consultation with OEO, develop a plan for making a separate allotment of funds under section 225(b) of the Act which will assure an equitable distribution of assistance among the States for developing and carrying out the programs and projects referred to in this agreement.

6. All operating information, evaluation reports, and other data concerning the programs administered under the powers delegated to HEW by OEO shall be freely exchanged between the agencies pursuant to section 602(d) of the Act.

Dated: June 12, 1970.

JOHN G. VENEMAN,
Acting Secretary of Health, Education, and Welfare.

Dated: June 17, 1970.

DON RUMSFELD,
Director, Office of Economic Opportunity.

[F.R. Doc. 70-11162; Filed, Aug. 21, 1970; 8:51 a.m.]

Title 50—WILDLIFE AND FISHERIES

Chapter I—Bureau of Sport Fisheries and Wildlife, Fish and Wildlife Service, Department of the Interior

PART 32—HUNTING

Seney National Wildlife Refuge, Mich.

The following special regulation is issued and is effective on date of publication in the FEDERAL REGISTER.

§ 32.22 Special regulations; upland game, for individual wildlife refuge areas.

MICHIGAN

SENEY NATIONAL WILDLIFE REFUGE

The public hunting of ruffed- and sharp-tailed grouse, snowshoe hare, gray and black squirrels, coyote, fox, porcupine, raccoon, skunk, and crow on the Seney National Wildlife Refuge is permitted only on the area designated as open to hunting. This open area, comprising 85,200 acres, is delineated on maps available at refuge headquarters, Seney, Mich., and from the regional director, Bureau of Sport Fisheries and Wildlife, Federal Building, Fort Snelling, Twin Cities, Minn. 55111.

Hunting shall be in accordance with all applicable State regulations governing the hunting of these species subject to the following special conditions:

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(1) That portion of the refuge designated as area A is closed to all hunting until November 15.

(2) Foxes and raccoons may not be taken at night.

(3) All motorized conveyances are prohibited from traveling on dikes or off established roads and trails. Motorized bikes, all-terrain vehicles and snowmobiles are not permitted on the refuge.

The provisions of this special regulation supplements the regulations which govern hunting on wildlife refuge areas generally, which are set forth in Title 50, Code of Federal Regulations, Part 32, and are effective through February 28, 1971.

JOHN E. WILBRECHT,
Refuge Manager, Seney National Wildlife Refuge, Seney, Mich.

AUGUST 14, 1970.

[F.R. Doc. 70-11035; Filed, Aug. 21, 1970; 8:45 a.m.]

PART 32—HUNTING

Browns Park National Wildlife Refuge, Colo.

The following special regulation is issued and is effective on date of publication in the FEDERAL REGISTER.

§ 32.32 Special regulations; big game; for individual wildlife refuge areas.

COLORADO

BROWNS PARK NATIONAL WILDLIFE REFUGE

Public hunting of deer is permitted on the Browns Park National Wildlife Refuge, Colo., for the 1970 archery and rifle seasons except in those areas designated by signs as closed to hunting. Archery deer season is August 15 through September 20, 1970, inclusive. Rifle deer season is October 17 through November 6, 1970, inclusive. Hunting shall be in accordance with all applicable State regulations covering the hunting of deer.

The provisions of this special regulation supplements the regulations which govern hunting on wildlife refuge areas generally which are set forth in Title 50, Code of Federal Regulations, Part 32, and are effective through November 6, 1970.

H. J. JOHNSON,
Refuge Manager, Browns Park National Wildlife Refuge, Vernal, Utah.

AUGUST 7, 1970.

[F.R. Doc. 70-11032; Filed, Aug. 21, 1970; 8:45 a.m.]

PART 32—HUNTING

Kirwin National Wildlife Refuge, Kans.

The following special regulation is issued and is effective on date of publication in the FEDERAL REGISTER.

§ 32.32 Special regulations; big game; for individual wildlife refuge areas.

KANSAS

KIRWIN NATIONAL WILDLIFE REFUGE

Public hunting of deer with bow and arrow on the Kirwin National Wildlife Refuge, Kans., is permitted from October 1 through November 30, 1970, inclusive, but only on the area designated by signs as open to hunting. This open

area, comprising 3,300 acres, is delineated on maps available at refuge headquarters, 5 miles west of Kirwin, Kans., and from the office of the Regional Director, Bureau of Sport Fisheries and Wildlife, Post Office Box 1306, Albuquerque, N. Mex. 87103.

Hunting shall be in accordance with all applicable State regulations governing the archery hunting of deer.

The provisions of this special regulation supplement the regulations which govern hunting on wildlife refuge areas generally which are set forth in Title 50, Code of Federal Regulations, Part 32, and are effective through November 30, 1970.

KEITH S. HANSEN,
Refuge Manager, Kirwin National Wildlife Refuge, Kirwin, Kans.

AUGUST 21, 1970.

[F.R. Doc. 70-11033; Filed, Aug. 21, 1970; 8:45 a.m.]

PART 32—HUNTING

Seney National Wildlife Refuge, Mich.

The following special regulation is issued and is effective on date of publication in the FEDERAL REGISTER.

§ 32.32 Special regulations; big game; for individual wildlife refuge areas.

MICHIGAN

SENEY NATIONAL WILDLIFE REFUGE

Public hunting of deer and bear on the Seney National Wildlife Refuge is permitted only on the area designated as open to hunting. The open area, comprising 85,200 acres, is delineated on a map available at the refuge headquarters, Seney, Mich., and from the Regional Director, Bureau of Sport Fisheries and Wildlife, Federal Building, Fort Snelling, Twin Cities, Minn. 55111.

Hunting shall be in accordance with all applicable State and Federal regulations covering the hunting of deer and bear subject to the following special conditions:

(1) Bow and arrow hunting is permitted only on 33,525 acres of the refuge designated as Area B, from October 1 through November 14; and on the 85,200 acres of the refuge designated as Area A and Area B, from December 1 through December 31.

(2) Bear may be taken by archers only from October 1 through November 14 and by gun hunters only from November 15 through November 30. Bear may not be taken with aid of dogs.

(3) Camping is permitted only west of the Driggs River during the gun season. A Camp Registration Permit, obtainable at refuge headquarters, is required.

(4) All motorized conveyances are prohibited from traveling on dikes or off established roads and trails. Motorized bikes, All-Terrain Vehicles and snowmobiles are not permitted on the refuge.

The provisions of these special regulations supplement the regulations which govern hunting on wildlife refuge areas generally, which are set forth in Title 50, Code of Federal Regulations, Part 32 and are effective through December 31, 1970.

JOHN E. WILBRECHT,
Refuge Manager, Seney National Wildlife Refuge, Seney, Mich.

AUGUST 14, 1970.

[F.R. Doc. 70-11034; Filed, Aug. 21, 1970; 8:45 a.m.]

Title 7—AGRICULTURE

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

[Amdt. 5]

PART 906—ORANGES AND GRAPEFRUIT GROWN IN LOWER RIO GRANDE VALLEY IN TEXAS

Container, Pack, and Container Marking Regulations

On June 30, 1970, notice of proposed rule making was published in the FEDERAL REGISTER (35 F.R. 10595) that consideration was being given to a proposed amendment of § 906.340 *Container, pack, and container marking regulations*, which was recommended by the Texas Valley Citrus Committee, established pursuant to the marketing agreement, as amended, and Order No. 906, as amended (7 CFR Part 906), regulating the handling of oranges and grapefruit grown in the Lower Rio Grande Valley in Texas. This program is effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601-674).

The notice was based upon the recommendation of Texas Valley Citrus Committee which appraised the need for restricting the use of containers to those most suitable for the handling of grapefruit and oranges, to promote orderly marketing, to provide consumers with good quality fruit, and to maximize returns to producers pursuant to the declared policy of the act. According to the committee, it costs more to pack fruit in 20-pound bags than in cartons, and fruit in 20-pound bags returns less money to growers than does fruit packed in cartons. Under the amendment, the 20-pound bag will no longer be authorized for the shipment of oranges and grapefriut, beginning January 1, 1971. Delaying the effective date until January 1, 1971, is intended to give handlers ample opportunity to deplete their supply of 20-pound bags, which they might have on hand. No shippers filed any objections to the foregoing.

Within the time for filing written data, views, or arguments, an exception was filed by the Chase Bag Co., Greenwich, Conn., protesting the discontinuance of the use of this 20-pound bag. The company contends that through the use of the 20-pound bag, more fruit is sold at higher prices. In addition, the company maintains that an effective date of January 1, 1971, would not allow adequate time for the depletion of the inventories of 20-pound bags in the hands of shippers, and of bag material in the hands of manufacturers. However, as pointed out, no shippers objected to the proposed January 1, 1971, effective date.

After consideration of all relevant matters presented, including the proposal set forth in the aforesaid notice, the recommendation and information submitted by the Texas Valley Citrus Committee, the argument filed by the Chase Bag Co., and other available information, it is hereby found and determined that the amendment of § 906.340 *Container, pack, and container marking regulations*, as hereinafter set forth, is in accordance with the provisions of the said amended marketing agreement and order and will tend to effectuate the declared policy of the act.

Subdivision (iv) of paragraph (a)(1) of § 906.340 *Container, pack, and container marking regulations* is amended to read as follows:

§ 906.340 Container, pack, and container marking regulations.

(a) *Order.* * * *

(1) *Containers.* * * *

(iv) Bags having a capacity of 5 or 8 pounds of fruit;

* * * * *

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

Dated, August 19, 1970, to become effective January 1, 1971.

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

[F.R. Doc. 70-11113; Filed, Aug. 21, 1970; 8:50 a.m.]

[Lemon Reg. 441]

PART 910—LEMONS GROWN IN CALIFORNIA AND ARIZONA

Limitation of Handling

§ 910.741 Lemon regulation 441.

(a) *Findings.* (1) Pursuant to the marketing agreement, as amended, and Order No. 910, as amended (7 CFR Part 910), regulating the handling of lemons grown in California and Arizona, effective under the applicable provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601-674), and upon the basis of the recommendations and information submitted by the Lemon Administrative Committee, established under the said amended marketing agreement and order, and upon other available information, it is hereby found that the limitation of handling of such lemons, as hereinafter provided, will tend to effectuate the declared policy of the act.

(2) It is hereby further found that it is impracticable and contrary to the public interest to give preliminary notice, engage in public rule-making procedure, and postpone the effective date of this

section until 30 days after publication hereof in the FEDERAL REGISTER (5 U.S.C. 553) because the time intervening between the date when information upon which this section is based became available and the time when this section must become effective in order to effectuate the declared policy of the act is insufficient, and a reasonable time is permitted, under the circumstances, for preparation for such effective time; and good cause exists for making the provisions hereof effective as hereinafter set forth. The committee held an open meeting during the current week, after giving due notice thereof, to consider supply and market conditions for lemons and the need for regulation; interested persons were afforded an opportunity to submit information and views at this meeting; the recommendation and supporting information for regulation during the period specified herein were promptly submitted to the Department after such meeting was held; the provisions of this section, including its effective time, are identical with the aforesaid recommendation of the committee, and information concerning such provisions and effective time has been disseminated among handlers of such lemons; it is necessary, in order to effectuate the declared policy of the act, to make this section effective during the period herein specified; and compliance with this section will not require any special preparation on the part of persons subject hereto which cannot be completed on or before the effective date hereof. Such committee meeting was held on August 18, 1970.

(b) *Order.* (1) The respective quantities of lemons grown in California and Arizona which may be handled during the period August 23, 1970, through August 29, 1970, are hereby fixed as follows:

(i) District 1: Unlimited movement;

(ii) District 2: 221,000 cartons;

(iii) District 3: 4,001 cartons.

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

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

Dated: August 19, 1970.

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

[F.R. Doc. 70-11168; Filed, Aug. 21, 1970; 8:51 a.m.]

[Tokay Grape Reg. 6]

PART 926—TOKAY GRAPES GROWN IN SAN JOAQUIN COUNTY, CALIF.

Limitation of Shipments

Findings. (1) Pursuant to the marketing agreement, as amended, and Order No. 926, as amended (7 CFR Part 926), regulating the handling of Tokay grapes grown in San Joaquin County, Calif., effective under the applicable provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601-674), and upon the basis of the recommendations of the Industry Committee, established under the aforesaid amended marketing agreement and order, and upon other available information, it is hereby found that the limitation of shipments of Tokay grapes, as hereinafter provided, will tend to effectuate the declared policy of the act.

(2) The recommendations by the Industry Committee reflect its appraisal of the crop and the current and prospective market conditions. Shipments of Tokay grapes from the production area are expected to begin on or about August 24, 1970. The grade requirements provided herein are necessary to prevent the handling on and after August 24, 1970, of any Tokay grapes of a lower grade than that herein specified, so as to provide consumers with good quality fruit, consistent with (1) the overall quality of the crop, and (2) maximizing returns to the producers pursuant to the declared policy of the act. The container marking requirement, included herein, is necessary to prevent the trade from mismarking containers or omitting therefrom the grade identification of the contents.

(3) It is hereby further found that it is impracticable, unnecessary, and contrary to the public interest to give preliminary notice, engage in public rule-making procedure, and postpone the effective date of this regulation until 30 days after publication thereof in the FEDERAL REGISTER (5 U.S.C. 553) in that, as hereinafter set forth, the time intervening between the date when information upon which this regulation is based became available and the time when this regulation must become effective in order to effectuate the declared policy of the act is insufficient; a reasonable time is permitted, under the circumstances, for preparation for such effective time; and good cause exists for making the provisions hereof effective not later than August 24, 1970. A reasonable determination as to the supply of, and the demand for, Tokay grapes must await the development of the crop and adequate information thereon was not available to the Industry Committee until August 11, 1970; recommendation as to the need for, and the extent of, limitation of shipments was made at the meeting of said committee on August 11, 1970, after consideration of all available information relative to the supply and demand conditions for such grapes, at which time the recommendations and supporting information were transmitted to the Department; necessary supplemental data for consideration in connection with the regulation were not available until August 17, 1970; shipments of the current crop of such grapes are expected to begin on or about August 24, 1970, and this regulation should be applicable to all shipments of such grapes in order to effectuate the declared policy of the act; and compliance with the provisions of this regulation will not require of handlers any preparation therefor which cannot be completed by the effective time hereof.

§ 926.307 Tokay Grape Regulation 6.

(a) *Order.* During the period August 24, 1970, through December 31, 1970, no handler shall ship:

(1) Any Tokay grapes, grown in the production area, which do not meet the grade and size specifications of U.S. No. 1 Table Grapes and the following additional requirement: Of the 25 percent, by count, of the berries of each bunch which are attached to the lower part of the main stem, including laterals, at least 30 percent, by count, shall be fairly well colored.

(2) Any container of Tokay grapes, grown in the production area, unless such container bears, in plain letters and figures on one outside end, a Federal-State Inspection Service lot stamp number showing that such grapes have been inspected in accordance with the established grade set forth in this section.

(b) *Definitions.* As used herein, the terms "handler," "ship," and "production area" shall have the same meaning as when used in the amended marketing agreement and order; "U.S. No. 1 Table Grapes" and "fairly well colored" shall have the same meaning as when used in the U.S. Standards for Table Grapes (§§ 51.880-51.911 of this title).

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

Dated: August 21, 1970.

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

[F.R. Doc. 70-11206; Filed, Aug. 21, 1970; 11:24 a.m.]

PART 991—HOPS OF DOMESTIC PRODUCTION

Expenses of Hop Administrative Committee and Rate of Assessment for 1970-71 Marketing Year

Notice was published in the August 8, 1970, issue of the FEDERAL REGISTER (35 F.R. 12660) regarding proposed expenses of the Hop Administrative Committee for the 1970-71 marketing year and rate of assessment for that marketing year, pursuant to §§ 991.55 and 991.56 of Marketing Order No. 991, as amended (7 CFR Part 991), regulating the handling of hops of domestic production. The amended order is effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601-674).

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

After consideration of all relevant matter presented, including that in the notice, the information and recommendations submitted by the Hop Administrative Committee, and other available information, it is found that the expenses of the Hop Administrative Committee and rate of assessment for the marketing year beginning August 1, 1970, shall be as follows:

§ 991.305 Expenses of the Hop Administrative Committee and rate of assessment for the 1970–71 marketing year.

(a) *Expenses.* Expenses in the amount of $146,600 are reasonable and likely to be incurred by the Hop Administrative Committee during the marketing year beginning August 1, 1970, for its maintenance and functioning and for such purposes as the Secretary may, pursuant to the provisions of this part, determine to be appropriate.

(b) *Rate of assessment.* The rate of assessment for said marketing year, payable by each handler in accordance with § 991.56, is fixed at 0.25 cent per pound of salable hops.

It is further found that good cause exists for not postponing the effective time of this action until 30 days after publication in the FEDERAL REGISTER (5 U.S.C. 553) in that: (1) The relevant provisions of the amended marketing order require that the rate of assessment fixed for a particular marketing year shall be applicable to all salable hops handled during such year; and (2) the current marketing year began on August 1, 1970, and the rate of assessment herein fixed will automatically apply to all such hops beginning with that date.

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

Dated: August 18, 1970.

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

[F.R. Doc. 70–11094; Filed, Aug. 21, 1970; 8:49 a.m.]

Proposed Rule Making

DEPARTMENT OF JUSTICE

Immigration and Naturalization Service

[8 CFR Parts 211, 242]

ALIEN REGISTRATION RECEIPT CARDS

Notice of Proposed Rule Making

Pursuant to section 553 of Title 5 of the United States Code (80 Stat. 383), notice is hereby given of the proposed issuance of the following rules pertaining to the invalidation and surrender of Alien Registration Receipt Cards in certain instances. In accordance with section 553, interested persons may submit to the Commissioner of Immigration and Naturalization, Room 757, 119 D Street NE., Washington, D.C. 20536, written data, views, or arguments, in duplicate, relative to the proposed rules. Such representations may not be presented orally in any manner. All relevant material received within 20 days following the date of publication of this notice will be considered.

PART 211 — DOCUMENTARY REQUIREMENTS; IMMIGRANTS; WAIVERS

Subparagraph (1) *Form I-151, Alien Registration Receipt Card* of paragraph (b) *Aliens returning to an unrelinquished lawful permanent residence* of § 211.1 *Visas* is amended by adding the following sentence at the end thereof: "Form I-151 shall be invalid when presented in lieu of an immigrant visa or reentry permit by an alien who has departed for and seeks reentry from any foreign place and who, prior to his departure, was served with an order to show cause and in whose case deportation proceedings are pending."

PART 242—PROCEEDINGS TO DETERMINE DEPORTABILITY OF ALIENS IN THE UNITED STATES: APPREHENSION, CUSTODY, HEARING, AND APPEAL

Paragraph (c) *Service* of § 242.1 *Order to show cause and notice of hearing* is amended by adding the following two sentences at the end thereof: "Upon delivery of the order to show cause, the respondent shall surrender any evidence of his alien registration (including his Alien Registration Receipt Card, Form I-151) and any reentry permit which has been issued to him by the Service. If delivery is accomplished by certified or registered mail, the respondent shall personally surrender such documents at the time the deportation hearing is initially scheduled."

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

Dated: August 18, 1970.

RAYMOND F. FARRELL,
Commissioner of Immigration and Naturalization.

[F.R. Doc. 70-11060; Filed, Aug. 21, 1970; 8:47 a.m.]

POST OFFICE DEPARTMENT

[39 CFR Parts 126, 127]

REDUCTION IN PRESENT MAIL SACK WEIGHT LIMIT

Notice of Rule Making

Notice is hereby given of proposed rule making consisting of amendments codified in 39 CFR Parts 126 and 134. Following a study made by the Department in the area of safety, it is proposed to reduce the present maximum mail sack weight limit from 80 to 70 pounds. The amendments set out below will effect the proposed change in the Department's regulations.

Interested persons who desire to do so may submit written data, views, and arguments concerning the proposed regulations to the Deputy Assistant Postmaster General (Logistics), Bureau of Operations, Post Office Department, Washington, D.C. 20260, at any time prior to the 30th day following the date of publication of this notice in the FEDERAL REGISTER.

PART 126—SECOND CLASS BULK MAILINGS

In § 126.3 *Mailing*, amend paragraph (b) (2) to read as follows:

§ 126.3 Mailing.

* * * * *

(b) *Preparation by the mailer of copies in packages and sacks.* * * *

(2) *Maximum weight in sack.* The total weight of publications placed in one sack must not exceed 70 pounds.

* * * * *

PART 134—THIRD CLASS

In § 134.4 *Preparation—payment of postage*, amend paragraph (c) (2) to read as follows:

§ 134.4 Preparation-payment of postage.

* * * * *

(c) *Preparation by the mailer of pieces in packages and sacks.* * * *

(2) *Maximum weight in a sack.* The total weight of pieces placed in one sack must not exceed 70 pounds.

* * * * *

NOTE: The corresponding Postal Manual sections are 126.322 and 134.432.

(5 U.S.C. 301, 39 U.S.C. 501, 4351-70, 4451-53)

DAVID A. NELSON,
General Counsel.

[F.R. Doc. 70-11102; Filed, Aug. 21, 1970; 8:50 a.m.]

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

[50 CFR Part 32]

HAGERMAN NATIONAL WILDLIFE REFUGE, TEX.

Hunting

Notice is hereby given that pursuant to the authority vested in the Secretary of the Interior by the Migratory Bird Conservation Act of February 18, 1929, as amended (45 Stat. 1222; 16 U.S.C. 715), and the National Wildlife Refuge System Administration Act of 1966 (80 Stat. 927 as amended; 16 U.S.C. 668dd), it is proposed to amend 50 CFR Part 32 by the addition of Hagerman National Wildlife Refuge, Tex., to the list of areas open to the hunting of upland game and migratory game birds as legislatively permitted.

It has been determined that regulated hunting of upland game and migratory game birds may be permitted as designated on the Hagerman National Wildlife Refuge without detriment to the objectives for which the area was established.

It is the policy of the Department of the Interior, whenever practicable, to afford the public an opportunity to participate in the rulemaking process. Accordingly, interested persons may submit written comments, suggestions, or objections, with respect to the proposed amendment, to the Director, Bureau of Sport Fisheries and Wildlife, Washington, D.C. 20240, within 30 days of the date of publication of this notice in the FEDERAL REGISTER.

1. Section 32.11 is amended by the following addition:

§ 32.11 List of open areas; migratory game birds.

* * * * *

TEXAS

Hagerman National Wildlife Refuge.

* * * * *

2. Section 32.21 is amended by the following addition:

§ 32.21 List of open areas; upland game.

* * * * *

TEXAS

Hagerman National Wildlife Refuge.

* * * * *

JOHN S. GOTTSCHALK,
Director, Bureau of Sport Fisheries and Wildlife.

AUGUST 20, 1970.

[F.R. Doc. 70-11173; Filed, Aug. 21, 1970; 8:51 a.m.]

DEPARTMENT OF AGRICULTURE

Consumer and Marketing Service

[7 CFR Part 906]

ORANGES AND GRAPEFRUIT GROWN IN THE LOWER RIO GRANDE VALLEY IN TEXAS

Handling

Consideration is being given to the following proposal, as hereinafter set forth, which would limit the handling of oranges by establishing grades and sizes, pursuant to § 906.40 *Issuance of regulations*, which were recommended by the Texas Valley Citrus Committee, established pursuant to the marketing agreement, as amended, and Order No. 906, as amended (7 CFR Part 906), regulating the handling of oranges and grapefruit grown in the Lower Rio Grande Valley in Texas. This program is effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601-674).

All persons who desire to submit written data, views, or arguments in connection with the proposal should file the same with the Hearing Clerk, Room 112A, U.S. Department of Agriculture, Washington, D.C. 20250, not later than the 10th day after the publication of this notice in the FEDERAL REGISTER. All written submissions made pursuant to this notice will be made available for public inspection at the office of the Hearing Clerk during regular business hours (7 CFR 1.27(b)).

The recommendations by the Texas Valley Citrus Committee reflect its appraisal of the crop and current and prospective market conditions. Shipments of oranges from the production area are expected to begin on or about September 14, 1970. The grade and size requirements provided herein are necessary to prevent the handling on and after September 14, 1970, of any oranges of lower grades and smaller sizes than those herein specified, so as to provide consumers with good quality fruit, consistent with (1) the overall quality of the crop, and (2) maximizing returns to the producers pursuant to the declared policy of the act. In addition, such oranges must be inspected and certified no later than 48 hours prior to shipment.

Such proposal reads as follows:

§ 906.346 Orange Regulation 22.

(a) Order:

(1) During the period September 14, 1970, through October 15, 1971, no handler shall handle:

(i) Any oranges of any variety, grown in the production area, unless such oranges grade U.S. Fancy, U.S. No. 1, U.S. No. 1 Bright, U.S. No. 1 Bronze, U.S. Combination, with not less than 60 percent, by count, of the oranges in each container thereof grading at least U.S. No. 1 grade and the remainder grading U.S. No. 2; or U.S. No. 2.

(ii) Any oranges of any variety, grown as aforesaid, which are of a size smaller than 2 9/16 inches in diameter, except that not more than 10 percent, by count, of such oranges in any lot of containers, and not more than 15 percent, by count, of such oranges in any individual container in such lot may be of a size smaller than 2 9/16 inches in diameter; or

(iii) Any oranges of any variety, grown as aforesaid, for which inspection is required unless an appropriate inspection certificate has been issued with respect thereto not more than 48 hours prior to the time of shipment.

(b) All oranges of any variety, grown as aforesaid, handled during the period specified in this section are subject to all applicable container and pack requirements which are in effect pursuant to the aforesaid marketing agreement and order during such period.

(c) Terms used in the marketing agreement and order shall, when used herein, have the same meaning as is given to the respective term in said marketing agreement and order; and terms relating to grade and diameter, when used herein, have the same meaning as is given to the respective term in the U.S. Standards for Oranges (Texas and States other than Florida, California, and Arizona) (§§ 51.680-51.712 of this title).

Dated: August 19, 1970.

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

[F.R. Doc. 70-11115; Filed, Aug. 21, 1970; 8:51 a.m.]

[7 CFR Part 906]

ORANGES AND GRAPEFRUIT GROWN IN THE LOWER RIO GRANDE VALLEY IN TEXAS

Handling

Consideration is being given to the following proposal, as hereinafter set forth, which would limit the handling of grapefruit by establishing grades and sizes, pursuant to § 906.40 *Issuance of regulations*, which were recommended by the Texas Valley Citrus Committee, established pursuant to the marketing agreement, as amended, and Order No. 906, as amended (7 CFR Part 906), regulating the handling of oranges and grapefruit grown in the Lower Rio Grande Valley in Texas. This program is effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601-674).

All persons who desire to submit written data, views, or arguments in connection with the proposal should file the same with the Hearing Clerk, Room 112A, U.S. Department of Agriculture, Washington, D.C. 20250, not later than the 10th day after the publication of this notice in the FEDERAL REGISTER. All written submissions made pursuant to this notice will be made available for public inspection at the office of the Hearing Clerk during regular business hours (7 CFR 1.27(b)).

The recommendations by the Texas Valley Citrus Committee reflect its appraisal of the crop and current and prospective market conditions. Shipments of grapefruit from the production area are expected to begin on or about September 14, 1970. The grade and size requirements provided herein are necessary to prevent the handling on and after September 14, 1970, of any grapefruit of lower grades and smaller sizes that those herein specified, so as to provide consumers with good quality fruit, consistent with (1) the overall quality of the crop, and (2) maximizing returns to the producers pursuant to the declared policy of the act. In addition, such oranges must be inspected and certified no later than 48 hours prior to shipment.

Such proposal reads as follows:

§ 906.347 Grapefruit Regulation 22.

(a) Order:

(1) During the period September 14, 1970, through October 15, 1971, no handler shall handle:

(i) Any grapefruit of any variety, grown in the production area, unless such grapefruit grade U.S. Fancy; U.S. No. 1 Bright; U.S. No. 1; U.S. No. 1 Bronze; or U.S. No. 2;

(ii) Any grapefruit of any variety, grown in the production area, which are of a size smaller than 3 9/16 inches in diameter, except that not more than 10 percent, by count, of such grapefruit in any lot of containers, and not more than 15 percent, by count, of such grapefruit in any individual container in such lot, may be of a size smaller than 3 9/16 inches in diameter; or

(iii) Any grapefruit of any variety, grown as aforesaid, for which inspection is required unless an appropriate inspection certificate has been issued with respect thereto not more than 48 hours prior to the time of shipment.

(b) All grapefruit of any variety, grown as aforesaid, handled during the period specified in this section are subject to all applicable container and pack requirements which are in effect pursuant to the aforesaid marketing agreement and order during such period.

(c) Terms used in the marketing agreement and order shall, when used herein, have the same meaning as is given to the respective term in said marketing agreement and order; and terms relating to grade and diameter, when used herein, shall have the same meaning as is given to the respective term in the U.S. Standards for Grapefruit (Texas and States other than Florida, California, and Arizona) (§§ 51.620-51.658 of this title).

Dated: August 19, 1970.

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

[F.R. Doc. 70-11114; Filed, Aug. 21, 1970; 8:51 a.m.]

[7 CFR Part 946]

IRISH POTATOES GROWN IN WASHINGTON

Proposed Expenses and Rate of Assessment

Consideration is being given to the approval of the proposed expenses and rate of assessment hereinafter set forth, which were recommended by the State of Washington Potato Committee, established pursuant to Marketing Agreement No. 113 and Order No. 946 (7 CFR Part 946).

This marketing order program regulates the handling of Irish potatoes grown in Washington, and is effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601 et seq.).

All persons who desire to submit written data, views, or arguments in connection with these proposals may file the same, in quadruplicate, with the Hearing Clerk, Room 112-A, U.S. Department of Agriculture, Washington, D.C. 20250, not later than the 15th day after publication of this notice in the FEDERAL REGISTER. All written submissions made pursuant to this notice will be available for public inspection at the office of the Hearing Clerk during regular business hours (7 CFR 1.27(b)).

The proposals are as follows:

§ 946.223 Expenses and rate of assessment.

(a) The reasonable expenses that are likely to be incurred during the fiscal year ending May 31, 1971, by the State of Washington Potato Committee for its maintenance and functioning and for such other purposes as the Secretary may determine to be appropriate will amount to $10,050.00.

(b) The rate of assessment to be paid by each handler in accordance with the said marketing agreement and this part shall be one-tenth cent ($0.001) per hundredweight, or equivalent quantity, of potatoes handled by him as the first handler thereof during said fiscal period: *Provided,* That potatoes for canning, freezing, and "other processing" as defined in the recent amendment to the act (Public Law 91-196) shall be exempt.

(c) Unexpended income in excess of expenses for the fiscal year ending May 31, 1971, may be carried over as a reserve.

(d) Terms used in this section have the same meaning as when used in the said marketing agreement and this part.

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

Dated: August 18, 1970.

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

[F.R. Doc. 70-11095; Filed, Aug. 21, 1970; 8:49 a.m.]

[7 CFR Part 1007]

[Docket No. AO 366-A5]

MILK IN GEORGIA MARKETING AREA

Decision on Proposed Amendments to Marketing Agreement and to Order

A public hearing was held upon proposed amendments to the marketing agreement and the order regulating the handling of milk in the Georgia marketing area.

The hearing was held, pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601 et seq.), and the applicable rules of practice (7 CFR Part 900), at Atlanta, Ga., on June 12, 1970, pursuant to notice thereof issued on June 1, 1970 (35 F.R. 8748).

Upon the basis of the evidence introduced at the hearing and the record thereof, the Deputy Administrator, Regulatory Programs, on July 24, 1970 (35 F.R. 12128; F.R. Doc. 70-9778), filed with the Hearing Clerk, U.S. Department of Agriculture, his recommended decision containing notice of the opportunity to file written exceptions thereto.

The material issues, findings and conclusions, rulings, and general findings of the recommended decision are hereby approved and adopted and are set forth in full herein.

The material issues on the record of the hearing relate to:

1. Revising the method of computing a producer's base; and
2. Revising the rules relating to base transfers including transfers to non-base-holding producers.

FINDINGS AND CONCLUSIONS

The following findings and conclusions on the material issues are based on evidence presented at the hearing and the record thereof:

1. The method of computing a producer's base should be revised to provide for dividing his total deliveries during the September-January period by the actual days of delivery represented or by 145, whichever is greater.

This change was proposed and supported by all producer groups represented at the hearing.

A witness for proponent cooperatives stated that the present provision whereby the base of a producer, from whom at least 100 days' production was received at pool plants during the period September 1 to January 31, is computed by dividing his total deliveries during such period by 153, the total number of days in the 5-month period, creates inequities when producers are on every-other-day delivery.

He also indicated that the use of such divisor works a hardship on a producer whose milk may be off the market for a few days through no fault of his own. He cited instances of producers whose permits have been suspended temporarily because pesticide residues had been found in the milk. In many instances the source of the residue may have been purchased hay. He also mentioned other instances of dairy farmers who intended to begin shipping milk to the market as producers on September 1, but whose actual entrance on the market, for one reason or another, was delayed a few days. Other producers may have milk rejected for high acidity resulting from a power failure, or other circumstances over which the producer has no control. The cooperative association proposed a "grace period" of 8 days to avoid a reduction in the base of a producer whose milk was not delivered for a few days during the base-forming months.

The primary purpose of the base-excess plan is to encourage producers to maintain even production throughout the year. In the absence of price incentive to producers in this market, it has been found that production can be expected to fluctuate more widely during the year than handlers' Class I requirements.

Class I sales normally pick up in September with the end of the summer vacation period and the reopening of schools. To encourage production at this period, it was intended in the original order for this market that a producer would receive a base equal to his average daily production during the September-January period if he were on the market on the first day of September and continued as a producer during the entire period. Accordingly, any producer on the market for at least 100 days, but less than 153 days, now receives a base somewhat less than his average daily production delivered during the 5-month period.

In practice, the intent of the base provisions is not fully implemented for the producer on every-other-day delivery. Such a producer whose milk is delivered on the first day of September and every other day thereafter through January 31 will have delivered 154 days' production during the period. Those whose milk is first received on September 2, and each succeeding alternate day thereafter, will have delivered only 152 days' production. In both instances, the total volume of milk delivered is divided by 153. Thus, one producer's base is enhanced and the others' is reduced as a result of the use of a common divisor.

To illustrate—in the case of two producers, each producing exactly 1,000 pounds per day during the base-forming period, one whose milk is received on September 1, and on each alternate day thereafter, would have delivered 154,000 pounds of milk and would receive a base of 1,007 pounds. The other would deliver only 152,000 pounds of milk and would receive a base of only 993 pounds. Since each produced 153,000 pounds during the 153-day period, each should receive a base of 1,000 pounds.

The order should be amended to rectify the present situation for producers whose milk is delivered to the market on an every-other-day schedule. In addition, a grace period up to 8 days should be recognized so that any producer whose milk may be off the market for 8 days or less in the September-January period

can receive a full base. Accordingly, it is provided herein that the base of a producer, whose milk was received at a pool plant on at least 100 days during the September–January period, shall be computed by dividing the total deliveries of such producer by the number of days' production represented by such deliveries or by 145, whichever is greater.

2. Several changes should be made in the rules relating to base transfers to correct certain abuses that have developed, as well as to provide greater clarity.

Specifically, it should be provided that (1) a person may not hold both a "new producer base" and a base acquired by transfer, except as noted below, (2) partial transfers of base shall be effective on the first day of the month following application for transfer, (3) a producer who transfers base may not acquire additional base for 3 months, and (4) a producer who acquires base by transfer may not dispose of a portion of such base for 3 months.

As previously stated, the order provides that a producer from whom less than 100 days' production is received as producer milk during the September–January period may not have a base computed on the basis of his actual deliveries during such period. For such a producer it is provided that his base each month of delivery shall be 50 percent of his average daily deliveries during such month. This procedure continues until the producer has established a base on his deliveries during the next period of September through January. The reasons for this provision are set forth in the decision on the original order issued by the Assistant Secretary on January 15, 1969 (34 F.R. 960), official notice of which is taken.

Because bases can be transferred among producers, a question has arisen as to whether the order permits a new producer to acquire a base by transfer from a base-holding producer who desires to dispose of it, and at the same time receive a base computed as 50 percent of his current monthly deliveries.

It was not contemplated that a new producer could acquire base by both procedures and thus enhance his returns as compared to those of other producers.

As an example, in some cases the herd and base were transferred to a neighbor or relative who had not previously been a producer. The person to whom the base was transferred was considered a new producer, since individually such person had not been a producer who had earned a base during the previous September–January period. As such, he received a "new producer base" equal to 50 percent of his month's production plus the base which had been transferred to him.

It is the intent of the order that the "50 percent base" apply only to a producer who does not hold an established base, whether earned or acquired by transfer, except a producer who earned an established base and subsequently transferred such base to another person. The order, therefore, is amended to make this point clear.

Producers represented at the hearing supported the above rule and stated that it should apply to all transfers made prior to the effective date of any amendments resulting from the present proceeding. On June 8 the market administrator notified all producers that, on and after June 1, any "new producer" who acquired a base by transfer could not retain his "new producer base", but that transfers made prior to that date would not be affected. Applying the new rule to transfers made prior to June 1 would be inequitable and could work a severe hardship on "new producers" who, prior to June 1, acquired additional base in good faith, relying on the administrative interpretation then in effect. Many of such producers purchased the additional base at considerable cost and invested additional capital in cows and other facilities to increase their production. To nullify such transfers on the effective date of this proposed amendment could cause a severe financial loss to such producers. Accordingly, transfers of base to new producers made prior to June 1, 1970, shall not be affected by this amendment and may be retained through February 1971.

Producer witnesses also emphasized the need for clarifying the status of individuals who acquire a portion of the base held by a partnership, corporation, or family unit when such business is dissolved. They foresaw the possibility that under the existing order persons who acquired such base might be considered new producers and receive a base equal to 50 percent of their production in addition to that acquired by transfer from the dissolved entity. The amendment herein adopted which denies the "new producer" base to any person who holds a base, whether earned or acquired by transfer, eliminates such possibility.

The order now permits a base to be transferred in its entirety, or in units of not less than 100 pounds. No change should be made in this regard. However, the rules with respect to transfers should be revised as they relate to partial bases to eliminate some abuses that have developed.

Currently, the order provides that any base transfer is effective as of the "end of the month" in which application for transfer is made to the market administrator. In practice, this has been interpreted to mean that the transfer is effective as of the first day of the month in which the transfer is requested, unless a specific date is set forth in the application filed with the market administrator.

A witness for the cooperative associations testified that, in the case of partial transfers, the retroactive effective date, together with the lack of any limitation on the frequency of transfers, has afforded an opportunity for exploitation of the base-excess provisions. In certain cases, a producer who, as the end of the month approaches, realized that his production for the month will be less than his allotted base has transferred a portion of his base to a neighbor with excess production by reporting the transfer prior to the last day of the month. The following month the neighbor transferred such base back to the original holder.

Similarly, a group of producers may shift bases within the group as the end of the month approaches in order to maximize the base returns of the entire group at the expense of the remaining producers in the pool.

Consequently, it is provided that, in the case of a partial transfer of base, such transfer shall be effective as of the first day of the month following that in which the application for transfer is made to the market administrator. An exception is made for the month of March because a producer does not know until March 5 of each year what his base will be for the 12-month period beginning March 1.

A producer who finds that his established base exceeds his anticipated production for the year should be permitted to transfer that portion of his base, in excess of his requirements, to another producer effective as of March 1. For such transfer to become effective on March 1, the signed application for transfer must be received by the market administrator no later than March 15.

In the case of transfer of an entire base, the order is amended to provide that the transfer may be made effective as of the day on which the transfer takes place, if the market administrator receives an application for such transfer within 5 days of the transaction. Usually an entire base is transferred only in the case of death or the retirement of the producer. In the latter instance, the base transfer often is accompanied by a dispersal sale at which the herd and the base are disposed of simultaneously. When the entire herd is dispersed, the base of the selling producer should be transferable on the same date. However, if application for transfer is not made within the 5-day period, the transfer shall become effective as of the first day of the following month.

To further insure that there will be no month-to-month transfers between producers or between groups of producers to enhance unduly the returns of the producers who are parties thereto, no producer who has received base by transfer should be permitted to dispose of any base to another producer until 3 full months have elapsed. Similarly, no producer who has transferred base to another should be permitted to acquire additional base by transfer until 3 full months have elapsed. Such rules do not interfere with the acquisition of additional base by a producer who intends to increase his production on a long-term basis. Neither do they affect adversely the producer who is reducing the size of his operation and desires to dispose of base in excess of his anticipated production.

In the case of jointly held bases, transfers of either the entire base or a portion thereof should be recognized only if the application for transfer is signed by each of the joint holders. Literally interpreted, the present provision requires joint signatures on the application only when the entire base is being transferred. In the case of partial transfer, however, a question also arises as to whether one of the

joint holders has the right to dispose of a portion of such jointly held base. To relieve the market administrator of deciding this question, each joint holder should be required to sign any application for transfer.

The order now provides that an application for transfer of base must be signed by the baseholder or his heirs. In the case of bases held by estates or held in trust, the executor or trustee should have authority to sign an application for transfer of such base.

RULINGS ON PROPOSED FINDINGS AND CONCLUSIONS

Briefs and proposed findings and conclusions were filed on behalf of certain interested parties. These briefs, proposed findings and conclusions, and the evidence in the record were considered in making the findings and conclusions set forth above. To the extent that the suggested findings and conclusions filed by interested parties are inconsistent with the findings and conclusions set forth herein, the requests to make such findings or reach such conclusions are denied for the reasons previously stated in this decision.

GENERAL FINDINGS

The findings and determinations hereinafter set forth are supplementary and in addition to the findings and determinations previously made in connection with the issuance of the aforesaid order and of the previously issued amendments thereto; and all of said previous findings and determinations are hereby ratified and affirmed, except insofar as such findings and determinations may be in conflict with the findings and determinations set forth herein.

(a) The tentative marketing agreement and the order, as hereby proposed to be amended, and all of the terms and conditions thereof, will tend to effectuate the declared policy of the Act;

(b) The parity prices of milk as determined pursuant to section 2 of the Act are not reasonable in view of the price of feeds, available supplies of feeds, and other economic conditions which affect market supply and demand for milk in the marketing area, and the minimum prices specified in the proposed marketing agreement and the order, as hereby proposed to be amended, are such prices as will reflect the aforesaid factors, insure a sufficient quantity of pure and wholesome milk, and be in the public interest; and

(c) The tentative marketing agreement and the order, as hereby proposed to be amended, will regulate the handling of milk in the same manner as, and will be applicable only to persons in the respective classes of industrial and commercial activity specified in, a marketing agreement upon which a hearing has been held.

RULINGS ON EXCEPTIONS

No exceptions were filed to the recommended decision.

Annexed hereto and made a part hereof are two documents, a marketing agreement regulating the handling of milk, and an order amending the order regulating the handling of milk in the Georgia marketing area which have been decided upon as the detailed and appropriate means of effectuating the foregoing conclusions.

It is hereby ordered, That this entire decision, except the attached marketing agreement, be published in the FEDERAL REGISTER. The regulatory provisions of the marketing agreement are identical with those contained in the order as hereby proposed to be amended by the attached order which is published with this decision.

REFERENDUM ORDER TO DETERMINE PRODUCER APPROVAL; DETERMINATION OF REPRESENTATIVE PERIOD; AND DESIGNATION OF REFERENDUM AGENT

It is hereby directed that a referendum in which each individual producer has one vote be conducted and completed on or before the 30th day from the date this decision is issued, in accordance with the procedure for the conduct of referenda (7 CFR 900.300 et seq.), to determine whether the proposed base plan of payment to producers, as specified in the attached order as amended and as hereby proposed to be amended, regulating the handling of milk in the Georgia marketing area is approved or favored by producers, as defined under the terms of the order, as amended and as hereby proposed to be amended, and who, during the representative period, were engaged in the production of milk for sale within the aforesaid marketing area.

The representative period for the conduct of such referendum is hereby determined to be June 1970.

The agent of the Secretary to conduct such referendum is hereby designated to be E. Hickman Greene.

Signed at Washington, D.C., on August 18, 1970.

RICHARD E. LYNG,
Assistant Secretary.

Order[1] *amending the order, regulating the handling of milk in the Georgia marketing area.*

FINDINGS AND DETERMINATIONS

The findings and determinations hereinafter set forth are supplementary and in addition to the findings and determinations previously made in connection with the issuance of the aforesaid order and of the previously issued amendments thereto; and all of said previous findings and determinations are hereby ratified and affirmed, except insofar as such findings and determinations may be in conflict with the findings and determinations set forth herein.

(a) *Findings.* A public hearing was held upon certain proposed amendments to the tentative marketing agreement and to the order regulating the handling of milk in the Georgia marketing area. The hearing was held pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601 et seq.), and the applicable rules of practice and procedure (7 CFR Part 900).

Upon the basis of the evidence introduced at such hearing and the record thereof, it is found that:

(1) The said order as hereby amended, and all of the terms and conditions thereof, will tend to effectuate the declared policy of the Act;

(2) The parity prices of milk, as determined pursuant to section 2 of the Act, are not reasonable in view of the price of feeds, available supplies of feeds, and other economic conditions which affect market supply and demand for milk in the said marketing area, and the minimum prices specified in the order as hereby amended, are such prices as will reflect the aforesaid factors, insure a sufficient quantity of pure and wholesome milk, and be in the public interest;

(3) The said order as hereby amended regulates the handling of milk in the same manner as, and is applicable only to persons in the respective classes of industrial or commercial activity specified in, a marketing agreement upon which a hearing has been held.

Order relative to handling. It is therefore ordered that on and after the effective date hereof the handling of milk in the Georgia marketing area shall be in conformity to and in compliance with the terms and conditions of the order, as amended, and as hereby amended, as follows:

The provisions of the proposed marketing agreement and order amending the order contained in the recommended decision issued by the Deputy Administrator, Regulatory Programs, on July 24, 1970, and published in the FEDERAL REGISTER on July 29, 1970 (35 F.R. 12128; F.R. Doc. 70-9778), shall be and are the terms and provisions of this order, amending the order, and are set forth in full herein:

1. Revise the introductory text of § 1007.110 and paragraph (c) of § 1007.110 as follows:

§ 1007.110 Base.

The market administrator shall determine a base for each producer whose milk in the immediately preceding months of September through January was delivered to pool plants on not less than 100 days by dividing the total pounds of such producer's deliveries by the number of days' production represented by such deliveries or by 145, whichever is greater, subject to the following conditions:

* * * * *

(c) In the case of a producer who delivered no milk to a pool plant, or who delivered less than 100 days' production to a pool plant, during the months of September through January and who has not acquired a base by transfer pursuant to § 1007.111(b), the base of such producer shall be 50 percent of his average daily deliveries of producer milk for each month until a base is computed for

[1] This order shall not become effective unless and until the requirements of § 900.14 of the rules of practice and procedure governing proceedings to formulate marketing agreements and marketing orders have been met.

him on the basis of not less than 100 days in a subsequent September–January period or until he acquires a base by transfer pursuant to § 1007.111(b): *Provided*, That a person for whom a base has been computed pursuant to this paragraph, and who acquired additional base by transfer prior to June 1, 1970, may continue to hold both bases through February 1971; and

* * * * *

2. In § 1007.111, paragraphs (b) and (c) are revised to read as follows:

§ 1007.111 Base rules.

* * * * *

(b) Except for bases assigned pursuant to § 1007.110 (b), (c) and (d) a base may be transferred in its entirety, or in amounts of not less than 100 pounds, by a person holding such base to any other person who currently is, or will become, a producer as defined in § 1007.15 within the month in which the transfer is to be effective. Application for transfer must be made to the market administrator on forms approved by the market administrator and signed by the baseholder(s), his heirs, executor or trustee, and by the person to whom such base is to be transferred, subject to the following conditions:

(1) A transfer of an entire base may be made effective any day of the month if application for such transfer is filed with the market administrator within 5 days thereafter. Otherwise such transfer shall be effective the first day of the month following that in which application is made;

(2) A transfer of a portion of a base shall be effective the first day of the month following that in which application for such transfer is made to the market administrator, except that a portion of a base may be transferred to be effective on March 1 of any year if application for such transfer is filed with the market administrator no later than March 15;

(3) A producer who has received base by transfer on or after March 1 of any year may not transfer any portion of his base for 3 full months following the effective date of such transfer;

(4) A producer who has transferred base on or after March 1 of any year may not receive additional base by transfer for 3 full months following the effective date of such transfer; and

(5) A base which is held jointly or as a partnership may be transferred in part, or in its entirety, only upon application signed by each joint holder or partner, his heirs, executor or trustee, and by the person to whom such base is to be transferred;

(c) A base which has been established by two or more persons operating a dairy farm jointly or as a partnership may be divided among the joint holders or partners if written notification of the agreed division of base signed by each joint holder or partner, his heirs, executor or trustee, is received by the market administrator prior to the first day of the month on which such division is to be effective.

[F.R. Doc. 70-11096; Filed, Aug. 21, 1970; 8:49 a.m.]

[7 CFR Part 1099]

[Docket No. AO-183-A25]

MILK IN PADUCAH, KY., MARKETING AREA

Decision on Proposed Amendments to Marketing Agreement and to Order

A public hearing was held upon proposed amendments to the marketing agreement and the order regulating the handling of milk in the Paducah, Ky., marketing area.

The hearing was held, pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601 et seq.), and the applicable rules of practice (7 CFR Part 900), at Paducah, Ky., on July 9, 1970, pursuant to notice thereof issued on June 26, 1970 (35 F.R. 10695).

Upon the basis of the evidence introduced at the hearing and the record thereof, the Deputy Administrator, Regulatory Programs, on August 7, 1970 (35 F.R. 12767; F.R. Doc. 70-10540), filed with the Hearing Clerk, U.S. Department of Agriculture, his recommended decision containing notice of the opportunity to file written exceptions thereto.

The material issues, findings and conclusions, rulings, and general findings of the recommended decision are hereby approved and adopted and are set forth in full herein.

The material issues on the record of the hearing relate to:

1. Automatic pooling of a supply plant operated by a cooperative association, and

2. Whether an emergency exists which requires the omission of a recommended decision.

FINDINGS AND CONCLUSIONS

The following findings and conclusions on the material issues are based on evidence presented at the hearing and the record thereof:

1. The order should be amended to provide that, in the case of a supply plant operated by a cooperative association, the milk which the association causes to be delivered to other pool plants directly from the farms of member producers should be considered a receipt at the supply plant of the association for the purpose of determining the qualification of such plant as a pool plant. Further the cooperative association which operates it also must have delivered to pool distributing plants during the month, or during the immediately preceding 12-month period, at least two-thirds of the total volume of producer milk delivered to all plants by producers who are members of such cooperative association. Such total shall include both direct-delivered milk and the milk moved to pool plants from the cooperative association plant to be qualified.

The cooperative association, which represents all the producers supplying the Paducah market at the present time, proposed that a supply plant operated by a cooperative association be a pool plant if during the month, or during the immediately preceding 12-month period, the total volume of milk received at other pool plants from producers who are members of such association, plus the milk moved to such plants from the plant of the cooperative association, is at least two-thirds of the total volume of producer milk delivered to all plants by producers who are members of such cooperative association.

The association operates a plant which has receiving and storage facilities at Paducah, Ky. Here the milk which is in excess of the requirements of pool distributing plants is assembled for transfer to nonpool plants for use in manufactured dairy products. Usually, such milk is merely reloaded from small pickup tanks to larger tanks on the premises of the plant. On other occasions, the milk is received in the plant and later reloaded for delivery to manufacturing plants. Very little milk actually is moved from the association plant to the distributing plants in the market even though it provides a supply-balancing function in the Paducah market.

The association witness stated that it is becoming increasingly difficult for the cooperative association to insure that the plant will continue to meet the shipping requirements for a pool supply plant as set forth in the order.

There are two reasons for this. The pool distributing plants are scattered throughout the marketing area. Except for one small plant in Paducah, they are closer to the producers' farms than is the association plant. Thus, it is more economical to move milk directly from the farm to the handlers' plants than it is to haul it to Paducah, receive it at the cooperative association plant, reload it and haul it back to distributing plants closer to where the milk was produced.

Another compelling factor is that three of the four pool distributing plants are not equipped to receive substantial amounts of milk from another plant. Two of these plants are very small and handle less than a tank load of milk per day. A third plant is so located that it is extremely difficult to maneuver a large tank truck to a point where it can be unloaded into the plant. As a result, only occasional loads of supplemental milk are moved from the cooperative supply plant to the plants of other handlers.

In past years, the association was able to keep its plant qualified by receiving some milk there and moving it to other pool plants. Such a procedure is no longer feasible because the plants which received most of such milk have ceased operations. Four former pool distributing plants have closed since May 1968. One plant closed in that month. Two others ceased operation in 1969. In June 1970 another large plant ceased to bottle milk. Thus, the opportunity for the association to qualify its plants by meeting the

present shipping requirements has been severely curtailed.

The plant nevertheless serves a very useful function for the market. All the excess supplies are received or assembled at the plant for movement to manufacturing plants. Because only two manufacturing plants are within reasonable hauling distance, both of them located well beyond the limits of the Paducah milkshed, it is necessary that the milk be assembled before being moved to these plants.

A witness for the proponent cooperative association testified that not only is it impractical to divert milk directly from the farm to these plants because of the distances involved, but also that the plants are reluctant, and at times unwilling, to accept milk in the small tank trucks used for farm pickup. Thus, the association has no choice but to assemble the milk at Paducah and reload it into larger tanks for delivery to these plants.

During the fall and winter months, the excess milk of the market is sometimes moved to other markets for Class I use. The local cooperative association is a division of Dairymen, Inc., which has members who are producers in several markets in the southeastern part of the United States. When shortages occur in one of these markets, Dairymen, Inc., calls on its divisions in other markets to ship their excess milk to make up the deficit.

The witness for the cooperative association stated that, in view of the limited shipments from the cooperative plant to other pool plants in the Paducah market, a situation easily could develop where the plant might supply more milk to pool plants under some other order, and thus become subject to regulation under such order rather than under the Paducah order. He stated that this would create a chaotic situation, particularly if the plant became subject to different orders in succeeding months. He also expressed the fear that producers would be adversely affected if such a shift of regulation occurred during a month when the so-called "Louisville Plan" was in operation.

It was his contention that the cooperative plant should be subject to regulation under the Paducah order as long as the association continues to supply the major portion of its producer members' milk to Paducah regulated handlers, and its shipments to other order markets are occasional and incidental to the handling of the reserve supplies of the Paducah market.

The primary function of the plant, as previously indicated, is to serve as a balancing and surplus disposal plant for the Paducah market. Its shipments to other markets are incidental to and an integral part of the orderly disposition of the reserve supply in the Paducah market. In view of the plant's association with the Paducah market and the fact that it is operated by a cooperative association whose producer members constitute the entire source of the supply for this market, it is reasonable that the plant continue to be a pool plant under the Paducah order as long as the association operating it continues to be a principal supplier of the Paducah market.

While the proposed amendment submitted by the cooperative association would insure the plant's continued pooling in Paducah when not supplying milk to other markets, it would not prevent the plant from becoming subject to regulation under some other order if its shipments to plants under the other order were to exceed the actual movements of milk from the Paducah plant to the pool plants of other Paducah handlers.

Most of the orders in the southeast, to which milk might be moved, provide that a supply plant shall be subject to regulation when it meets the specified shipping requirements of the particular order and delivers a greater percentage of its milk to plants defined as pool plants under such order than is delivered to pool plants under the other order to which it might be subject. In view of the limited volume of milk actually moving through the Paducah plant, even small shipments of milk to other order plants could result in a shift of the regulation of such plant from Paducah. It is concluded therefore that the milk which is delivered directly to pool plants from the farms of member producers shall be considered a receipt at the cooperative association supply plant for the purposes of qualifying such plant as a pool plant in Paducah. Under such a provision, it would be unlikely that its shipments to other markets would result in the plant becoming a pool plant under some other order as long as the current supply of producer milk of the association continues to be primarily associated with the Paducah market.

The cooperative association witness stated that the two-thirds requirement should apply to milk received either in the current month or in the immediately preceding 12-month period. He stated that this is necessary to insure continued pooling of the cooperative association plant in the event unforeseen circumstances make it impossible to meet the two-thirds requirement in a particular month. He pointed out that four pool distributing plants have ceased operating within the past 2-year period. Although he had no knowledge of the likelihood of any other plant closing, such a possibility always exists.

He also pointed out that the remaining plants distribute milk over a wide area, including portions of adjoining milk marketing areas. If one of such plants closed or became subject to regulation under an other order, it might be impossible for the association to meet the two-thirds requirement in the month in which this occurred. Permitting continued pooling of the association plant on the basis of its performance in the preceding 12-month period will promote orderly marketing, since it will afford the association time to adjust its operations to the changed marketing conditions.

No testimony was offered in opposition to the proposed amendment.

2. The due and timely execution of the functions of the Secretary in this proceeding does not unavoidably require the omission of a recommended decision.

The cooperative association urged the omission of a recommended decision. It indicated that it was imperative that the order be amended as soon as possible to insure the continued pooling of the association plant. It pointed out that the months for qualifying a supply plant run from August through January. It felt the amendment should be made effective August 1 or soon thereafter to insure the plant's continued pool status.

It can be expected that the plant will continue to be a pool plant for the month of August and, unless it has substantial shipments of milk to pool plants under other orders in August, will likewise continue to be a pool plant for the month of September.

In these circumstances, it appears there is no emergency which would justify the omission of a recommended decision.

Rulings on Proposed Findings and Conclusions

Briefs and proposed findings and conclusions were filed on behalf of certain interested parties. These briefs, proposed findings and conclusions and the evidence in the record were considered in making the findings and conclusions set forth above. To the extent that the suggested findings and conclusions filed by interested parties are inconsistent with the findings and conclusions set forth herein, the requests to make such findings or reach such conclusions are denied for the reasons previously stated in this decision.

General Findings

The findings and determinations hereinafter set forth are supplementary and in addition to the findings and determinations previously made in connection with the issuance of the aforesaid order and of the previously issued amendments thereto; and all of said previous findings and determinations are hereby ratified and affirmed, except insofar as such findings and determinations may be in conflict with the findings and determinations set forth herein.

(a) The tentative marketing agreement and the order, as hereby proposed to be amended, and all of the terms and conditions thereof, will tend to effectuate the declared policy of the Act;

(b) The parity prices of milk as determined pursuant to section 2 of the Act are not reasonable in view of the price of feeds, available supplies of feeds, and other economic conditions which affect market supply and demand for milk in the marketing area, and the minimum prices specified in the proposed marketing agreement and the order, as hereby proposed to be amended, are such prices as will reflect the aforesaid factors, insure a sufficient quantity of pure and wholesome milk, and be in the public interest; and

(c) The tentative marketing agreement and the order, as hereby proposed to be amended, will regulate the handling

of milk in the same manner as, and will be applicable only to persons in the respective classes of industrial and commercial activity specified in, a marketing agreement upon which a hearing has been held.

RULINGS ON EXCEPTIONS

No exceptions were filed to the recommended decision.

MARKETING AGREEMENT AND ORDER

Annexed hereto and made a part hereof are two documents, a marketing agreement regulating the handling of milk, and an order amending the order regulating the handling of milk in the Paducah, Ky., marketing area which have been decided upon as the detailed and appropriate means of effectuating the foregoing conclusions.

It is hereby ordered, That this entire decision, except the attached marketing agreement, be published in the FEDERAL REGISTER. The regulatory provisions of the marketing agreement are identical with those contained in the order as hereby proposed to be amended by the attached order which is published with this decision.

DETERMINATION OF PRODUCER APPROVAL AND REPRESENTATIVE PERIOD

June 1970 is hereby determined to be the representative period for the purpose of ascertaining whether the issuance of the order, as amended and as hereby proposed to be amended, regulating the handling of milk in the Paducah, Ky., marketing area is approved or favored by producers, as defined under the terms of the order, as amended and as hereby proposed to be amended, and who, during such representative period, were engaged in the production of milk for sale within the aforesaid marketing area.

Signed at Washington, D.C., on August 19, 1970.

RICHARD E. LYNG,
Assistant Secretary.

Order[1] *amending the order, regulating the handling of milk in the Paducah, Kentucky, marketing area.*

FINDINGS AND DETERMINATIONS

The findings and determinations hereinafter set forth are supplementary and in addition to the findings and determinations previously made in connection with the issuance of the aforesaid order and of the previously issued amendments thereto; and all of said previous findings and determinations are hereby ratified and affirmed, except insofar as such findings and determinations may be in conflict with the findings and determinations set forth herein.

(a) *Findings.* A public hearing was held upon certain proposed amendments to the tentative marketing agreement and to the order regulating the handling of milk in the Paducah, Ky., marketing area.

The hearing was held pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601 et seq.), and the applicable rules of practice and procedure (7 CFR Part 900).

Upon the basis of the evidence introduced at such hearing and the record thereof, it is found that:

(1) The said order as hereby amended, and all of the terms and conditions thereof, will tend to effectuate the declared policy of the Act;

(2) The parity prices of milk, as determined pursuant to section 2 of the Act, are not reasonable in view of the price of feeds, available supplies of feeds, and other economic conditions which affect market supply and demand for milk in the said marketing area, and the minimum prices specified in the order as hereby amended, are such prices as will reflect the aforesaid factors, insure a sufficient quantity of pure and wholesome milk, and be in the public interest; and

(3) The said order as hereby amended regulates the handling of milk in the same manner as, and is applicable only to persons in the respective classes of industrial or commercial activity specified in, a marketing agreement upon which a hearing has been held.

Order relative to handling. It is therefore ordered that on and after the effective date hereof the handling of milk in the Paducah, Ky., marketing area shall be in conformity to and in compliance with the terms and conditions of the order, as amended, and as hereby amended, as follows:

The provisions of the proposed marketing agreement and order amending the order contained in the recommended decision issued by the Deputy Administrator, Regulatory Programs, on August 7, 1970, and published in the FEDERAL REGISTER on August 12, 1970 (35 F.R. 12767; F.R. Doc. 70-10540), shall be and are the terms and provisions of this order, amending the order, and are set forth in full herein:

Revise § 1099.8(b) by adding at the end thereof the following:

§ 1099.8 Pool plant.

* * * * *

(b) * * * *And provided further,* That in the case of a supply plant operated by a cooperative association which supplies to other pool plants at least two-thirds of the producer milk of its producer members (including both the milk delivered directly from the farms of member producers and that delivered from the plant of the association) delivered to all plants during the current month or during the immediately preceding 12-month period, the milk which such association causes to be delivered to the pool plants of other handlers in its capacity as a handler pursuant to § 1099.10 (e), shall be considered as having been received first at the plant of such cooperative association for the purpose of qualifying such plant as a pool plant pursuant to this paragraph.

[F.R. Doc. 70-11116; Filed, Aug. 21, 1970; 8:51 a.m.]

[1] This order shall not become effective unless and until the requirements of § 900.14 of the rules of practice and procedure governing proceedings to formulate marketing agreements and marketing orders have been met.

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Public Health Service

[42 CFR Part 81]

Air Quality Control Regions

Notice of Proposed Designation of Interstate Regions and Consultations With Appropriate State and Local Authorities

Pursuant to authority delegated by the Secretary and redelegated to the Commissioner of the National Air Pollution Control Administration (33 F.R. 9909), notice is hereby given of a proposal to designate Interstate Air Quality Control Regions as set forth in the following new §§ 81.90–81.94 inclusive which would be added to Part 81 of Title 42, Code of Federal Regulations. It is proposed to make such designations effective upon republication.

Interested persons may submit written data, views, or arguments in triplicate to the Office of the Commissioner, National Air Pollution Control Administration, Parklawn Building, Room 17-82, 5600 Fishers Lane, Rockville, Md. 20852. All relevant material received not later than 30 days after the publication of this notice will be considered.

Interested authorities of the States of Arkansas, Florida, Georgia, Louisiana, Maine, New Hampshire, North Carolina, Oklahoma, Texas, and Virginia and appropriate local authorities, both within and without the proposed regions, who are affected by or interested in the proposed designations, are hereby given notice of an opportunity to consult with representatives of the Secretary concerning such designations. The schedule for such consultations is as follows:

Androscoggin Valley Interstate Air Quality Control Region (Maine-New Hampshire), September 11, 1970, 10 a.m., City Hall Auditorium, Corner of Maine and Mason Streets, Berlin, N.H.

Jacksonville (Florida)—Brunswick (Georgia) Interstate Air Quality Control Region, September 16, 1970, 10 a.m., Room 765, Federal Office Building, 400 West Bay Street, Jacksonville, Fla.

Monroe (Louisiana)—El Dorado (Arkansas) Interstate Air Quality Control Region, September 2, 1970, 2 p.m., Third Floor Arkansas Courtroom, U.S. Post Office and Court Building, Fifth and State Line, Texarkana, Ark.

Norfolk (Virginia)—Elizabeth City (North Carolina) Interstate Air Quality Control Region, September 8, 1970, 10 a.m., Conference Room A, Kiern Memorial Library, 301 East City Hall Avenue, Norfolk, Va.

Shreveport—Texarkana—Tyler Interstate Air Quality Control Region (Arkansas-Losuisiana-Oklahoma-Texas), September 2, 1970, 10 a.m., Third Floor Arkansas Courtroom, U.S. Post Office and Court Building, Fifth and State Line, Texarkana, Ark.

Mr. Doyle J. Borchers is hereby designated as Chairman for these consultations. The Chairman shall fix the time, date, and place of later sessions and may convene, reconvene, recess, and adjourn the sessions as he deems appropriate to expedite the proceedings.

State and local authorities wishing to participate in a particular consultation should notify the Office of the Commissioner, National Air Pollution Control Administration, Parklawn Building, Room 17-82, 5600 Fishers Lane, Rockville, Md. 20852, of such intention at least 1 week prior to the consultation.

In Part 81 of the following new sections are proposed to be added to read as follows:

§ 81.90 Androscoggin Valley Interstate Air Quality Control Region.

The Androscoggin Valley Interstate Air Quality Control Region (Maine-New Hampshire) consists of the territorial area encompassed by the boundaries of the following jurisdictions or described area (including the territorial area of all municipalities (as defined in section 302 (f) of the Clean Air Act, 42 U.S.C. 1857h (f)) geographically located within the outermost boundaries of the area so delimited):

In the State of Maine:

Androscoggin County.

In the county of Franklin:

Avon Town.	Phillips Town.
Carthage Town.	Salem Township.
Chesterville Town.	Strong Town.
Farmington Town.	Temple Town.
Freeman Township.	Township No. 6.
Industry Town.	Washington Township.
Jay Town.	Weld Town.
New Sharon Town.	Wilton Town.
New Vineyard Town.	
Perkins Township.	

In the county of Oxford:

Albany Township.	Mason Township.
Andover Town.	Mexico Town.
Andover North Surplus.	Milton Township.
Andover West Surplus.	Newry Town.
Batchelders Grant.	Norway Town.
Bethel Town.	Oxford Town.
Buckfield Town.	Paris Town.
Byron Town.	Peru Town.
Canton Town.	Riley Township.
Dixfield Town.	Roxbury Town.
Gilead Town.	Rumford Town.
Grafton Township.	Stoneham Town.
Greenwood Town.	Stow Town.
Hanover Town.	Sumner Town.
Hartford Town.	Sweden Town.
Hebron Town.	Waterford Town.
Lovell Town.	West Paris Town.
	Woodstock Town.

In the State of New Hampshire:

Coos County.

§ 81.91 Jacksonville (Florida)—Brunswick (Georgia) Interstate Air Quality Control Region.

The Jacksonville (Florida)—Brunswick (Georgia) Interstate Air Quality Control Region consists of the territorial area encompassed by the boundaries of the following jurisdictions or described area (including the territorial area of all municipalities (as defined in section 302 (f) of the Clean Air Act, 42 U.S.C. 1857h(f)) geographically located within the outermost boundaries of the area so delimited):

In the State of Florida:

Counties

Alachua.	Bradford.
Baker.	Clay.

Counties—Continued

Columbia.	Liberty.
Dixie.	Madison.
Duval.	Marion.
Flagler.	Nassau.
Franklin.	Putnam.
Gadsden.	Saint Johns.
Gilchrist.	Suwannee.
Hamilton.	Taylor.
Jefferson.	Union.
Lafayette.	Wakulla.
Leon.	

In the State of Georgia:

Counties

Camden.	Glynn.

§ 81.92 Monroe (Louisiana)—El Dorado (Arkansas) Interstate Air Quality Control Region.

The Monroe (Louisiana)—El Dorado (Arkansas) Interstate Air Quality Control Region consists of the territorial area encompassed by the boundaries of the following jurisdictions or described area (including the territorial area of all municipalities (as defined in section 302 (f) of the Clean Air Act, 42 U.S.C. 1857h(f)) geographically located within the outermost boundaries of the area so delimited):

In the State of Louisiana:

Parishes

Caldwell.	Morehouse.
Catahoula.	Ouachita.
Concordia.	Richland.
East Carroll.	Tensas.
Franklin.	Union.
La Salle.	West Carroll.
Madison.	

In the State of Arkansas:

Counties

Ashley.	Nevada.
Bradley.	Ouachita.
Calhoun.	Union.

§ 81.93 Norfolk (Virginia)—Elizabeth City (North Carolina) Interstate Air Quality Control Region.

The Norfolk (Virginia)—Elizabeth City (North Carolina) Interstate Air Quality Control Region consists of the territorial area encompassed by the boundaries of the following jurisdictions or described area (including the territorial area of all municipalities (as defined in section 302(f) of the Clean Air Act, 42 U.S.C. 1857h(f)) geographically located within the outermost boundaries of the area so delimited):

In the State of Virginia:

Counties

Isle of Wight.	Southampton.
James City.	York.
Nansemond.	

Cities

Chesapeake.	Portsmouth.
Franklin.	Suffolk.
Hampton.	Virginia Beach.
Newport News.	Williamsburg.
Norfolk.	

In the State of North Carolina:

Counties

Camden.	Gates.
Chowan.	Pasquotank.
Currituck.	Perquimans.

§ 81.94 Shreveport—Texarkana—Tyler Interstate Air Quality Control Region.

The Shreveport — Texarkana — Tyler Interstate Air Quality Control Region (Arkansas-Louisiana-Oklahoma-Texas) consists of the territorial area encompassed by the boundaries of the following jurisdictions or described area (including the territorial area of all municipalities (as defined in section 302(f) of the Clean Air Act, 42 U.S.C. 1857h(f)) geographically located within the outermost boundaries of the area so delimited):

In the State of Arkansas:

Counties

Columbia.	Little River.
Hempstead.	Miller.
Howard.	Sevier.
Lafayette.	

In the State of Louisiana:

Parishes

Bienville.	Lincoln.
Bossier.	Natchitoches.
Caddo.	Red River.
Claiborne.	Sabine.
De Soto.	Webster.
Jackson.	Winn.

In the State of Oklahoma:

Counties

Choctaw.	Pushmataha.
McCurtain.	

In the State of Texas:

Counties

Anderson.	Marion.
Bowie.	Morris.
Camp.	Panola.
Cass.	Rains.
Cherokee.	Red River.
Delta.	Rusk.
Franklin.	Smith.
Gregg.	Titus.
Harrison.	Upshur.
Henderson.	Van Zandt.
Hopkins.	Wood.
Lamar.	

This action is proposed under the authority of sections 107(a) and 301(a) of the Clean Air Act, section 2, Public Law 90-148, 81 Stat. 490, 504, 42 U.S.C. 1857c-2(a), 1857g(a).

Dated: August 18, 1970.

JOHN T. MIDDLETON,
Commissioner, National Air Pollution Control Administration.

[F.R. Doc. 70-11090; Filed, Aug. 21, 1970; 8:49 a.m.]

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

[14 CFR Part 39]

[Docket No. 10521]

BRITISH AIRCRAFT CORPORATION VISCOUNT MODELS 744, 745D, AND 810 SERIES AIRPLANES

Proposed Airworthiness Directive

The Federal Aviation Administration is considering amending Part 39 of the

Federal Aviation Regulations by adding an airworthiness directive applicable to British Aircraft Corp. Viscount Models 744, 745D, and 810 Series airplanes. Amendment 39-916 (AD 70-2-4) requires the installation of a bus-bar undervoltage warning system on these airplanes. Subsequent to the issuing of Amendment 39-916, it has been determined that there is a hazardous drift in the Rotax voltage sensing unit in the bus-bar undervoltage warning system due to collector-emitter leakage current. This could result in failure of the warning system to indicate until a dangerously low bus-bar condition exists. Since this conditions is likely to exist or develop in other airplanes of the same type design, the proposed airworthiness directive would require replacement of the existing transistor T.1 in the Rotax voltage sensing unit with a new transistor on British Aircraft Corp. Viscount Models 744, 745D, and 810 Series airplanes.

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 docket number and be submitted in duplicate to the Federal Aviation Administration, Office of the General Counsel, Attention: Rules Docket, 800 Independence Avenue SW., Washington, D.C. 20590. All communications received on or before September 24, 1970, will be considered by the Administrator before taking action upon the proposed rule. The proposals contained in this notice may be changed in the light of comments received. All comments will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons.

This amendment is proposed under the authority of sections 313(a), 601, and 603 of the Federal Aviation Act of 1958 (49 U.S.C. 1354(a), 1421, 1423) and of section 6(c) of the Department of Transportation Act (49 U.S.C. 1655(c)).

In consideration of the foregoing, it is proposed to amend § 39.13 of Part 39 of the Federal Aviation Regulations by adding the following new airworthiness directive:

BRITISH AIRCRAFT CORPORATION. Applies to Vickers Viscount Models 744, 745D, and 810 Series airplanes.

Compliance is required as indicated.

To prevent a hazardous drift in the bus-bar undervoltage sensing unit setting, within the next 1,000 hours' time in service after the effective date of this AD or upon installation of the bus-bar undervoltage warning light in accordance with AD 70-2-4, whichever occurs later, incorporate Rotax Modification SP7174 by replacing the transistor T.1 in the Rotax Voltage Sensing Unit Type U.3619 with a new transistor in accordance with Rotax Service Bulletin No. 24-368 dated May 4, 1970, or later ARB-approved issue or an FAA approved equivalent. (British Aircraft Corp. Bulletin for Modification No. D3246, third issue, dated May 12, 1970, and Bulletin for Modification FG.2123, third issue, dated May 12, 1970, refer to this subject.)

Issued in Washington, D.C., on August 18, 1970.

EDWARD C. HODSON,
Acting Director,
Flight Standards Service.

[F.R. Doc. 70-11079; Filed, Aug. 21, 1970; 8:48 a.m.]

[14 CFR Part 71]

[Airspace Docket No. 70-CE-73]

CONTROL ZONE AND TRANSITION AREA

Proposed Alteration

The Federal Aviation Administration is considering amending Part 71 of the Federal Aviation Regulations so as to alter the control zone and transition area at Oshkosh, Wis.

Interested persons may participate in the proposed rule making by submitting such written data, views or arguments as they may desire. Communications should be submitted in triplicate to the Director, Central Region, Attention: Chief, Air Traffic Division, Federal Aviation Administration, Federal Building, 601 East 12th Street, Kansas City, Mo. 64106. All communications received within 45 days after publication of this notice in the FEDERAL REGISTER will be considered before action is taken on the proposed amendments. No public hearing is contemplated at this time, but arrangements for informal conferences with Federal Aviation Administration officials may be made by contacting the Regional Air Traffic Division Chief. Any data, views or arguments 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 proposals contained in this notice may be changed in the light of comments received.

A public docket will be available for examination by interested persons in the Office of the Regional Counsel, Federal Aviation Administration, Federal Building, 601 East 12th Street, Kansas City, Mo. 64106.

Since designation of controlled airspace at Oshkosh, Wis., an amended instrument approach procedure has been developed for the Fond du Lac County Airport, Fond du Lac, Wis. In addition, the criteria for designating controlled airspace have been changed after controlled airspace was designated for the protection of IFR air traffic at Fond du Lac County Airport and at the Whittman Field Airport, Oshkosh, Wis. Accordingly, it is necessary to alter the Oshkosh control zone and transition area to adequately protect aircraft executing the amended approach procedure and to comply with the new control zone and transition area criteria.

In consideration of the foregoing, the Federal Aviation Administration proposes to amend Part 71 of the Federal Aviation Regulations as hereinafter set forth:

(1) In § 71.171 (35 F.R. 2054), the following control zone is amended to read:

OSHKOSH, WIS.

Within a 5-mile radius of Whittman Field (latitude 43°59'20" N., longitude 88°33'15" W.); within 3 miles each side of the Oshkosh VOR 275° radial extending from the 5-mile radius zone to 9½ miles west of the VOR; and within 3 miles each side of the Oshkosh VOR 182° radial extending from the 5-mile radius zone to 9½ miles south of the VOR.

(2) In § 71.181 (35 F.R. 2134), the following transition area is amended to read:

OSHKOSH, WIS.

That airspace extending upward from 700 feet above the surface within a 10-mile radius of the Whittman Field (latitude 43°59'20" N., longitude 88°33'15" W.); within 3½ miles each side of the 275° radial of the Oshkosh VOR extending from the 10-mile radius area to 12 miles west of the VOR; within 9½ miles west and 4½ miles east of the 008° radial of the Oshkosh VOR extending from the 10-mile radius area to 18½ miles north of the VOR; within 9½ miles east and 4½ miles west of the 182° radial of the Oshkosh VOR extending from the 10-mile radius area to 18½ miles south of the VOR; within an 8½-mile radius of the Fond du Lac County Airport (latitude 43°46'10" N., longitude 88°29'30" W.); and within 9½ miles south and 4½ miles north of a 275° bearing from the Fond du Lac County Airport, extending from the 8½-mile radius area to 18½ miles west of the airport excluding the portion which overlies the Appleton, Wis. 700-foot floor transition area; and that airspace extending upward from 1,200 feet above the surface bounded by a line beginning at latitude 44°36'00" N., longitude 87°47'15" W.; to latitude 44°36'00" N., longitude 87°27'00" W.; to latitude 43°30'00" N., longitude 87°27'00" W.; to 43°30'00" N., longitude 88°30'00" W.; to latitude 43°40'40" N., longitude 89°38'20" W., thence north along the east boundary of V-177W to latitude 44°19'50" N., longitude 89°29'00" W.; thence counterclockwise via the arc of a 15-mile radius circle centered on the Stephens Point, Wis. VOR; to latitude 44°28'30" N., longitude 89°14'25" W.; to latitude 44°29'25" N., longitude 88°35'00" W.; thence clockwise via the arc of a 20-mile radius circle centered on the Green Bay, Wis. VOR to the point of beginning excluding the portion which overlies the Cecil, Wis. transition area.

These amendments are proposed under the authority of section 307(a) of the Federal Aviation Act of 1958 (49 U.S.C. 1348), and of section 6(c) of the Department of Transportation Act (49 U.S.C. 1655(c)).

Issued in Kansas City, Mo., on August 7, 1970.

DANIEL E. BARROW,
Acting Director, Central Region.

[F.R. Doc. 70-11089; Filed, Aug. 21, 1970; 8:49 a.m.]

[14 CFR Part 71]

[Airspace Docket No. 70-WE-20]

CONTROL AREA AND REPORTING POINT

Proposed Alteration

The Federal Aviation Administration is considering amendments to Part 71 of the Federal Aviation Regulations that would realign Control 1316 and redesignate the Perch domestic reporting point.

Interested persons may participate in the proposed rule making by submitting such written data, views, or arguments as they may desire. Communications should identify the airspace docket number and be submitted in triplicate to the Director, Western Region, Attention: Chief Air Traffic Division, Federal Aviation Administration, 5651 West Manchester Avenue, Post Office Box 92007, Worldway Postal Center, Los Angeles, Calif. 90009. All communications received within 30 days after publication of this notice in the FEDERAL REGISTER will be considered before action is taken on the proposed amendments. The proposals contained in this notice may be changed in the light of comments received.

An official docket will be available for examination by interested persons at the Federal Aviation Administration, Office of the General Counsel, Attention: Rules Docket, 800 Independence Avenue SW., Washington, D.C. 20590. An informal docket also will be available for examination at the office of the Regional Air Traffic Division Chief.

As parts of these proposals relate to the navigable airspace outside the United States, this notice is submitted in consonance with the ICAO International Standards and Recommended Practices.

Applicability of International Standards and Recommended Practices by the Air Traffic Service, FAA, in areas outside domestic airspace of the United States is governed by Article 12 and Annex 11 to the Convention on International Civil Aviation (ICAO), which pertains to the establishment of air navigation facilities and services necessary to promoting the safe, orderly and expeditious flow of civil air traffic. Its purpose is to insure that civil flying on international air routes is carried out under uniform conditions designed to improve the safety and efficiency of air operations.

The International Standards and Recommended Practices in Annex 11 apply in those parts of the airspace under the jurisdiction of a contracting State, derived from ICAO, wherein air traffic services are provided and also whenever a contracting State accepts the responsibility of providing air traffic services over high areas or in airspace of undetermined sovereignty. A contracting State accepting such responsibility may apply the International Standards and Recommended Practices to civil aircraft in a manner consistent with that adopted for airspace under its domestic jurisdiction.

In accordance with Article 3 of the Convention on International Civil Aviation, Chicago, 1944, State aircraft are exempt from the provisions of Annex 11 and its Standards and Recommended Practices. As a contracting State, the United States agreed by Article 3(d) that its State aircraft will be operated in international airspace with due regard for the safety of civil aircraft.

Since these actions involve, in part, the designation of navigable airspace outside the United States, the Administrator has consulted with the Secretary of State and the Secretary of Defense in accordance with the provisions of Executive Order 10854.

The FAA proposes the following airspace actions:

1. Realign Control 1316 as that airspace within 5 miles each side of the Los Angeles, Calif., VOR 265°T (250°M) radial extending from the VOR to the Oakland Oceanic Control Area boundary and between lines diverging at an angle of 5° from the 265°T (250°M) radial extending from the Los Angeles VOR to the Oakland Oceanic Control Area boundary, excluding the airspace below 5,000 feet MSL within W-289.

2. Redesignate the Perch Intersection Reporting Point as the intersection of Los Angeles 265°T (250°M) and Ventura, Calif., 200°T (185°M) radials.

This realignment of Control 1316 and redesignation of the Perch Intersection would provide a more direct track for overseas traffic to intercept Oceanic Route Bravo and would also provide for a more efficient control of IFR traffic.

These amendments are proposed under the authority of section 307(a) and 1110 of the Federal Aviation Act of 1958 (49 U.S.C. 1348 and 1510); Executive Order 10854 (24 F.R. 9565); and section 6(c) of the Department of Transportation Act (49 U.S.C. 1655(c)).

Issued in Washington, D.C., on August 14, 1970.

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

[F.R. Doc. 70-11086; Filed, Aug. 21, 1970; 8:49 a.m.]

[14 CFR Part 71]

[Airspace Docket No. 70-CE-72]

TRANSITION AREA

Proposed Alteration

The Federal Aviation Administration is considering amending Part 71 of the Federal Aviation Regulations so as to alter the transition area at Hayward and Cable, Wis.

Interested persons may participate in the proposed rule making by submitting such written data, views or arguments as they may desire. Communications should be submitted in triplicate to the Director, Central Region, Attention: Chief, Air Traffic Division, Federal Aviation Administration, Federal Building, 601 East 12th Street, Kansas City, Mo. 64106. All communications received within 45 days after publication of this notice in the FEDERAL REGISTER will be considered before action is taken on the proposed amendment. No public hearing is contemplated at this time, but arrangements for informal conferences with Federal Aviation Administration officials may be made by contacting the Regional Air Traffic Division Chief. Any data, views or arguments 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.

A public docket will be available for examination by interested persons in the Office of the Regional Counsel, Federal Aviation Administration, Federal Building, 601 East 12th Street, Kansas City, Mo. 64106.

Since designation of controlled airspace at Hayward, Wis., an amended instrument approach procedure has been developed for the Hayward Municipal Airport. In addition, the criteria for designation of transition areas have been changed since transition areas were designated for the protection of IFR traffic at this Airport and Cable Union Airport. Accordingly, it is necessary to alter the Hayward, Wis., transition area to adequately protect aircraft executing the amended approach procedure and to also alter the Hayward and Cable, Wis., transition areas to comply with the new transition area criteria.

In consideration of the foregoing, the Federal Aviation Administration proposes to amend Part 71 of the Federal Aviation Regulations as hereinafter set forth:

In § 71.181 (35 F.R. 2134), the following transition area is amended to read:

HAYWARD AND CABLE, WIS.

That airspace extending upward from 700 feet above the surface within a 7-mile radius of Hayward Municipal Airport (latitude 46°-01'25" N., longtiude 91°26'35" W.); and within an 8-mile radius of Cable Union Airport (latitude 46°11'35" N., longitude 91°-15'00" W.), and within 2½ miles each side of the 026° bearing from Hayward Municipal Airport extending from the Hayward Municipal Airport 7-mile radius area to 15 miles northeast of the airport; and that airspace extending upward from 1,200 feet above the surface within 9½ miles northwest and 6 miles southeast of the 026° bearing from Hayward Municipal Airport, extending from 3 miles northeast to 27½ miles northeast of the airport; and within 9½ miles southeast and 4½ miles northwest of the 228° bearing from Cable Union Airport, extending from 5 miles southwest to 27½ miles southwest of the airport.

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

Issued in Kansas City, Mo., on August 7, 1970.

DANIEL E. BARROW,
Acting Director, Central Region.

[F.R. Doc. 70-11088; Filed, Aug. 21, 1970; 8:49 a.m.]

[14 CFR Part 71]

[Airspace Docket No. 70-WE-21]

CONTROL ZONE AND TRANSITION AREA

Proposed Designation and Alteration

The Federal Aviation Administration is considering amendments to Part 71 of the Federal Aviation Regulations that would designate a control zone at Point Mugu, Calif., and alter the Oxnard, Calif., transition area.

Interested persons may participate in the proposed rule making by submitting

such written data, views, or arguments as they may desire. Communications should identify the airspace docket number and be submitted in triplicate to the Director, Western Region, Attention: Chief, Air Traffic Division, Federal Aviation Administration, 5651 West Manchester Avenue, Post Office Box 92007, Worldway Postal Center, Los Angeles, Calif. 90009. All communications received within 30 days after publication of this notice in the FEDERAL REGISTER will be considered before action is taken on the proposed amendments. The proposals contained in this notice may be changed in the light of comments received.

An official docket will be available for examination by interested persons at the Federal Aviation Administration, Office of the General Counsel, Attention: Rules Docket, 800 Independence Avenue SW., Washington, D.C. 20590. An informal docket also will be available for examination at the office of the Regional Air Traffic Division Chief.

As parts of these proposals relate to the navigable airspace outside the United States, this notice is submitted in consonance with the ICAO International Standards and Recommended Practices.

Applicability of International Standards and Recommended Practices by the Air Traffic Service, FAA, in areas outside domestic airspace of the U.S. is governed by Article 12 of and Annex 11 to the Convention on International Civil Aviation, which pertain to the establishment of air navigation facilities and services necessary to promoting the safe, orderly and expeditious flow of civil air traffic. Their purpose is to insure that civil flying on international air routes is carried out under uniform conditions designed to improve the safety and efficiency of air operations.

The International Standards and Recommended Practices in Annex 11 apply in those parts of the airspace under the jurisdiction of a contracting state, derived from ICAO, wherein air traffic services are provided and also whenever a contracting state accepts the responsibility of providing air traffic services over high seas or in airspace of undetermined sovereignty. A contracting state accepting such responsibility may apply the International Standards and Recommended Practices to civil aircraft in a manner consistent with that adopted for airspace under its domestic jurisdiction.

In accordance with Article 3 of the Convention on International Civil Aviation, Chicago, 1944, State aircraft are exempt from the provisions of Annex 11 and its Standards and Recommended Practices. As a contracting State, the United States agreed by Article 3(d) that its State aircraft will be operated in international airspace with due regard for the safety of civil aircraft.

Since these actions involve, in part, the designation of navigable airspace outside the United States, the Administrator has consulted with the Secretary of State and the Secretary of Defense in accordance with the provisions of Executive Order 10854.

The airspace actions proposed in this docket would:

1. Designate a control zone within a 5-mile radius of NAS Point Mugu (lat. 34°07'05'' N., long. 119°07'20'' W.) and within the arc of a 12-mile radius circle centered on the Point Mugu TACAN, extending clockwise from the 200° radial to the 252° radial, excluding the portion within the Oxnard, Calif. (Ventura County Airport) control zone when it is effective.

2. Amend the 700 and 1,200 foot floor portions of the Oxnard, Calif., transition area to read as follows:

That airspace extending upward from 700 feet above the surface within a 7-mile radius of the Point Mugu RBN; and that airspace extending upward from 1,200 feet above the surface bounded on the east by long. 118°50'00'' W., on the south by lat. 34°00'00'' N., on the west by long. 120°00'00'' W., and on the north by a line extending from lat. 34°20'00'' N., long. 120°00'00'' W., to lat. 34°20'00'' N., long. 119°30'00'' W., to lat. 34°30'00'' N., long. 119°30'00'' W., to lat. 34°30'00'' N., long. 118°50'00'' W., within the arc of a 34-mile radius circle centered on the Point Mugu TACAN, extending clockwise from the 165° radial to the 255° radial, and within 14 miles southeast and 9 miles northwest of the Point Mugu TACAN 220° radial, extending from the 34-mile radius area to 49 miles southwest of the TACAN, excluding the portion within Warning Area W-412.

The portion of the proposed control zone and transition area within W-289 would be joint use airspace.

The proposed NAS Point Mugu control zone and alteration of the Oxnard transition area are needed to provide controlled airspace for:

1. Aircraft executing instrument approach and departure procedures to NAS Point Mugu;

2. Aircraft holding at the Stingray Intersection; and

3. Aircraft departing the Los Angeles Metroplex area northwestbound toward Santa Barbara, Calif., and Gaviota, Calif.

These amendments are proposed under the authority of section 307(a) and 1110 of the Federal Aviation Act of 1958 (49 U.S.C. 1348 and 1510); Executive Order 10854 (24 F.R. 9565); and section 6(c) of the Department of Transportation Act (49 U.S.C. 1655(c)).

Issued in Washington, D.C., on August 19, 1970.

T. MCCORMACK,
Acting Chief, Airspace and Air Traffic Rules Division.

[F.R. Doc. 70-11101; Filed, Aug. 21, 1970; 8:50 a.m.]

[14 CFR Parts 71, 75]

[Airspace Docket No. 70-WA-30]

POSITIVE CONTROL AREA

Proposed Alteration

The Federal Aviation Administration is considering amending Part 71 and Part 75 of the Federal Aviation Regulations to expand the positive control area in south Texas, from flight level 240 to and including flight level 600 and to revoke Jet Advisory Areas Nos. 25 and 29.

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 airspace docket number and be submitted in triplicate to the Director, Southwest Region, Attention: Chief, Air Traffic Division, Federal Aviation Administration, Post Office Box 1689, Fort Worth, Tex. 76101. All communications received within 30 days after publication in the FEDERAL REGISTER will be considered before action is taken on the proposed amendments. The proposals contained in this notice may be changed in the light of comments received.

An official docket will be available for examination by interested persons at the Federal Aviation Administration, Office of the General Counsel, Attention: Rules Docket, 800 Independence Avenue SW., Washington, D.C. 20590.

Area positive control is presently designated throughout most of the United States as that part of continental control area between Flight Level 240 and Flight Level 600. It was stated that separate actions to expand positive control area may be proposed as the FAA attains the capability to provide control service. The area proposed for expansion of positive control area is the airspace from Flight Level 240 to Flight Level 600 bounded by a line beginning at latitude 26°42'30'' N., longitude 97°16'00'' W., thence via a line 3 nautical miles from the coastline to the United States/Mexican border, along the United States/Mexican border to latitude 26°30'00'' N., longitude 99°06'10'' W.; latitude 26°37'45'' N., longitude 97°-34'00'' W., thence to point of beginning.

The FAA is currently installing a radar system at Oilton, Tex., to be commissioned on or about November 4, 1970. With the commissioning of this equipment radar coverage will be available in the entire south Texas area.

These amendments are proposed under the authority of section 307(a) of the Federal Aviation Act of 1958 (49 U.S.C. 1348) and section 6(c) of the Department of Transportation Act (49 U.S.C. 1655(c)).

Issued in Washington, D.C., on August 14, 1970.

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

[F.R. Doc. 70-11087; Filed, Aug. 21, 1970; 8:49 a.m.]

[14 CFR Part 93]

[Docket No. 9974; Notice 70-34]

HIGH DENSITY TRAFFIC AIRPORTS

Notice of Proposed Rule Making

The Federal Aviation Administration is considering amending Part 93 of the Federal Aviation Regulations to continue in effect special air traffic rules for high density traffic airports which would

otherwise expire on October 25, 1970, and to exempt helicopters from the applicability of the rules.

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 the 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 October 1, 1970, 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.

The conditions which led to the promulgation of the High Density Traffic Airports Rule continue to exist. Although there has been some improvement in the capability of the system to accommodate additional traffic, it has not been of such a magnitude as to be able to handle unrestricted traffic at the five affected airports without the excessive delays which the rule was designed to relieve.

Federal Aviation Administration studies indicate that after comparing the number of operations and aircraft delays at the five high density traffic airports between the periods June 1968 through April 1969, and June 1969 through April 1970, there is an overall 5 percent decrease in the number of operations and an overall 30 percent decrease in aircraft delays. More specifically, during this comparative period of time, John F. Kennedy experienced a 6.9 percent decrease in the number of operations and a 45.8 percent decrease in delays. La Guardia had a 4.5 percent decrease in the number of operations and a 25.7 percent decrease in aircraft delays. While Newark had a 9.6 percent decrease in number of operations, there was a 14.6 percent increase in aircraft delays. The increase in delay time at the Newark Airport could well have resulted from problems attributable to massive construction changes, limited airport facilities, coupled with unique traffic conflicts associated with the New York terminal area. However, at Washington National and Chicago O'Hare Airports, the respective decrease in number of aircraft operations and aircraft delays were 3 percent and 1 percent and 27.8 percent and 8.8 percent.

By reason of the foregoing, there is substantial support to conclude that the High Density Traffic Airports Rule has been effective in leveling off peak traffic hours to more manageable proportions and except for the case of one airport, resulting in decreases in both aircraft operations and delays. Even though the traffic picture at the five high density airports appears favorable, and despite the fact that the FAA has recently established a Central Flow Control System that may have a future significant effect upon the traffic picture at these airports, it is still believed necessary to provide air traffic restraints in the form of allocation of quotas at the five high density traffic airports.

All of the hourly allocations and quotas for each affected airport have been reviewed by the Federal Aviation Administration. The existing quotas are deemed realistic and proposed for continued operation. However, during this review it became appearent that helicopter operation conducted at all the airports involved have had minimal impact upon fixed-wing operations and may be excluded from the applicability of the rule.

Since its inception this rule has been continuously reviewed and, except for minor amendments, has been extended on a temporary basis. It is the judgment of the FAA that this rule is still necessary. It is also deemed advisable that it should be made effective for 1 year beyond the present date of October 25, 1970. During this additional period the FAA will continuously and uninterruptedly review, modify or otherwise amend the rules as needed. If during this time it becomes clear that the rule is unnecessary, the appropriate regulatory action will be taken by the FAA.

In consideration of the foregoing, it is proposed to amend Part 93 of the Federal Aviation Regulations as follows:

1. By amending § 93.121 to read as follows:

§ 93.121 Applicability.

This subpart designates high density traffic airports and prescribes the aircraft equipment and air traffic rules for operating aircraft, other than helicopters, to or from those airports.

§ 93.131 [Amended]

2. By amending § 93.131 by deleting the date "October 25, 1970," and inserting the date "October 25, 1971," in place thereof.

These amendments to Part 93 of the Federal Aviation Regulations are proposed under the authority of §§ 103, 307 (a), (b), and (c), 313(a), and 601 of the Federal Aviation Act of 1958 (49 U.S.C. 1303, 1348 (a), (b), and (c), 1354(a), and 1421); § 6(c) of the Department of Transportation Act (49 U.S.C. 1665(c); and § 1.4(b), Part 1 of the regulations of the Office of the Secretary (49 CFR 1.4(b)).

Issued in Washington, D.C., on August 17, 1970.

WILLIAM M. FLENER,
Director, Air Traffic Service.

[F.R. Doc. 70-11078; Filed, Aug. 21, 1970; 8:48 a.m.]

Hazardous Materials Regulations Board

[49 CFR Part 178]

[Docket No. HM-55; Notice 70-16]

TRANSPORTATION OF HAZARDOUS MATERIALS

Polyethylene Liners

The Hazardous Materials Regulations Board is considering amending §§ 178.35 and 178.35a of the Department's Hazardous Materials Regulations to increase the marked capacity of DOT Specifications 2S and 2SL polyethylene liners from 29 and 53 gallons to 30 and 55 gallons respectively. Also, the Board is considering adding a new note 2 to § 178.24-2 to authorize the use of high density polyethylene (Type III) in Specification 2U liners up to 6½ gallons maximum capacity.

Interested persons are invited to give their views on this proposal. Communications should identify the docket number and be submitted in duplicate to the Secretary, Hazardous Materials Regulations Board, Department of Transportation, 400 Sixth Street SW., Washington, D.C. 20590. Communications received on or before October 20, 1970, will be considered before final action is taken on the proposal. All comments received will be available for examination by interested persons at the Office of the Secretary, Hazardous Materials Regulations Board, both before and after the closing date for comments.

A petitioner contends that the present limitations on DOT Specification 2S and 2SL were imposed due to the insignificant number of liners involved in 1956 when the Specification 2S liner was first authorized. The smaller capacity liners were tailored to fit standard 30- and 55-gallon overpacks. The petitioners now desire to provide and use liners of generally accepted commercial capacities. Several special permits have been issued since 1964 to authorize the higher capacities. The Board agrees that the capacity specified in the two specifications should be adjusted as proposed.

One petitioner has requested the authorization of high density polyethylene (Type III) for construction of Specification 2U liners up to 6½ gallons maximum capacity. This type of polyethylene has been authorized by special permits since 1965. Since that time, more than 500,000 liners of this type have been used for shipment of hazardous materials. The Board believes the regulation should be amended to provide for this type of packaging.

In consideration of the foregoing, the Board proposes to amend 49 CFR Part 178 as follows:

A. In § 178.24-2 paragraph (a) Note 2 would be added to read as follows:

§ 178.24 Specification 2U; molded or thermoformed polyethylene containers having rated capacity of over one gallon. Removable head containers or containers fabricated from film not authorized.

§ 178.24–2 Material.

(a) * * *

NOTE 2: Type III polyethylene, as specified in Appendix B to this part, is authorized for containers up to 6 gallons marked capacity (6½ gallons maximum capacity).

B. Section 178.35 would be amended by amending the table in § 178.35–3 as follows:

1. The fourth entry in the first column would be changed from "29" to "30".
2. The fifth entry in the first column would be changed from "53" to "55".
3. The fourth entry in the second column would be changed from "30" to "32".
4. The fifth entry in the second column would be changed from "54" to "58".

C. Section 178.35a would be amended by amending the table in § 178.35a–2 as follows:

1. The third entry in the first column would be changed from "29" to "30".
2. The fourth entry in the first column would be changed from "53" to "55".
3. The third entry in the second column would be changed from "30.5" to "32".
4. The fourth entry in the second column would be changed from "54.5" to "58".

This proposal is made under the authority of sections 831–835 of title 18, United States Code, section 9 of the Department of Transportation Act (49 U.S.C. 1657), and title VI and section 902 (h) of the Federal Aviation Act of 1958 (49 U.S.C. 1421–1430 and 1472(h)).

Issued in Washington, D.C., on August 18, 1970.

W. F. REA III,
Rear Admiral, U.S. Coast Guard, By direction of Commandant, U.S. Coast Guard.

SAM SCHNEIDER,
Board Member, for the Federal Aviation Administration.

ROBERT A. KAYE,
Director, Bureau of Motor Carrier Safety, Federal Highway Administration.

CARL V. LYON,
Acting Administrator, Federal Railroad Administration.

[F.R. Doc. 70–11075; Filed, Aug. 21, 1970; 8:48 a.m.]

[49 CFR Part 178]

[Docket No. HM–25; Notice 70–15]

TRANSPORTATION OF HAZARDOUS MATERIALS

Special Composite Package for Electrolyte (Acid) or Alkaline Corrosive Battery Fluid

The Hazardous Materials Regulations Board is considering amending § 178.205–37(a) of the Department's Hazardous Materials Regulations to authorize the use of multiwall polyethylene or other suitable plastic bags within specification 12B fiberboard boxes for shipment of electrolyte acid or alkaline corrosive battery fluid.

On May 28, 1969, the Hazardous Materials Regulations Board published a notice of proposed rule making, Docket No. HM–25; Notice 69–15 (34 F.R. 8245) proposing to specify packaging requirements for these materials consistent with the terms of special permits in existence for several years. On November 21, 1969, amendment 178–8 was published (34 F.R. 18554) with minor changes based on comments received.

Subsequent to the amendment, it was brought to the Board's attention that at least one style of bag used for several years under special permit was not a 3-mil bag within another 3-mil bag, but in fact was a multiwall bag. The Board believes there was no intent to evade or defeat the terms of the special permit but a misunderstanding of its terms. The bags used were of multiwall construction with a common heat seal. More than 1 million bags of this construction were sold for electrolyte service.

Two additional criteria were suggested as important factors relating to the integrity of this packaging: (1) The bag must be of sufficient size so that it will be fully supported by the fiberboard box, and (2) heat-sealed joints should be at least ⅛-inch wide to insure a strong seal.

In consideration of the foregoing, it is proposed to amend paragraph (a) of § 178.205–37 to read as follows:

§ 178.205 Specification 12B; fiberboard boxes.

§ 178.205–37 Special box; authorized polyethylene or other suitable plastic bags for packaging of electrolyte (acid) or alkaline corrosive battery fluid only.

(a) Box must comply with this specification except as follows: Box must be one-piece construction of slotted style and may have die-cut areas of minimum size to provide access to an inside closure part. Box must contain one multiwall bag made of polyethylene or other suitable plastic of sufficient size and capacity to be capable of coming into contact with all of the interior surfaces of the box when filled. Each ply of the bag must be formed from virgin film not less than 0.003 inch thick. Joints must be heat sealed and not less than ⅛-inch wide.

* * * * *

Interested persons are invited to give their views on this proposal. Communications should identify the docket number and be submitted in duplicate to the Secretary, Hazardous Materials Regulations Board, Department of Transportation, 400 Sixth Street SW., Washington, D.C. 20590. Communications received on or before October 20, 1970, will be considered before final action is taken on the proposal. All comments received will be available for examination by interested persons at the Office of the Secretary, Hazardous Materials Regulations Board, both before and after the closing date for comments.

This proposal is made under the authority of sections 831–835 of title 18, United States Code, section 9 of the Department of Transportation Act (49 U.S.C. 1657) and title VI and section 902 (h) of the Federal Aviation Act of 1958 (49 U.S.C. 1421–1430 and 1472(h)).

Issued in Washington, D.C., on August 18, 1970.

W. F. REA III
Rear Admiral, U.S. Coast Guard, By direction of Commandant, U.S. Coast Guard.

SAM SCHNEIDER,
Board Member, for the Federal Aviation Administration.

ROBERT A. KAYE,
Director, Bureau of Motor Carrier Safety, Federal Highway Administration.

CARL V. LYON,
Acting Administrator, Federal Railroad Administration.

[F.R. Doc. 70–11074; Filed, Aug. 21, 1970; 8:48 a.m.]

National Highway Safety Bureau

[49 CFR Part 571]

[Docket No. 70–18; Notice 1]

AIRBRAKE LINE COUPLERS

Proposed Motor Vehicle Safety Standard

Rule making proceedings concerning brake systems on multipurpose passenger vehicles, trucks, buses, and trailers were initiated by a notice published on October 11, 1967 (32 F.R. 14279, Docket 1–2). The notice placed particular emphasis on airbrake systems. The purpose of this notice is to propose a new motor vehicle safety standard to establish requirements for airbrake line couplers manufactured for use on vehicles designed to be used in combination with other vehicles equipped with airbrakes. The proposed standard would be both a vehicle and an equipment standard, but the equipment aspect would be limited to items manufactured for use on vehicles produced after the effective date of the standard.

The integrity of airbrake line couplers is essential to the safe operation of combinations of airbrake-equipped vehicles. The couplers must be capable of being readily coupled and uncoupled and of withstanding high air pressures after being subjected to a variety of adverse conditions. It is proposed to require an airbrake line coupler to meet specified performance requirements after being subjected to any one of several operations designed to reveal the following characteristics: Endurance during normal coupling and uncoupling, impact resistance at low temperature, and corrosion resistance. Requirements are also proposed for low and high temperature performance. The proposed requirements are

derived from those of Society of Automotive Engineers (SAE) Recommended Practice J318, "Air Brake Gladhand Service (Control) and Emergency (Supply) Line Couplers," November 1967.

To insure compatibility of couplers, configuration requirements adapted from SAE Recommended Practice J318 are proposed. Proposed location requirements are derived in part from SAE Recommended Practice 702a, "Brake and Electrical Connection Locations," July 1966 and in part from SAE Recommended Practice J849a, "Full Trailer Connection and Accessory Location," July 1966.

The use of manual shutoff cocks poses the danger of accidental shutoff of the air supply to towed vehicles. The notice therefore proposes to prohibit the use of such devices.

Proposed effective date: January 1, 1972.

In consideration of the above, it is proposed that a motor vehicle safety standard on airbrake line couplers be issued, to read as set forth below. Comments are invited on the proposal, particularly on alternate methods of coupling, on problems of compatibility with present equipment, and on the lead time required for compliance. Comments should identify the docket and be submitted to the Docket Section, National Highway Safety Bureau, Room 4223, 400 Seventh Street SW., Washington, D.C. 20591. It is requested, but not required, that 10 copies be submitted.

All comments received before the close of business on November 19, 1970, will be considered, and will be available for examination in the Rules Docket at the above address both before and after the closing date. To the extent possible, comments filed after the above date will also be considered by the Bureau. However, the rule making action may proceed at any time after that date, and comments received after the closing date and too late for consideration in regard to the action will be treated as suggestions for future rule making. The Bureau will continue to file relevant material, as it becomes available, in the docket after the closing date, and it is recommended that interested persons continue to examine the docket for new materials.

This notice of proposed rule making is issued under the authority of sections 103 and 119 of the National Traffic and Motor Vehicle Safety Act of 1966, 15 U.S.C. 1392, 1407 and the delegations of authority at 49 CFR 1.51 (35 F.R. 4955) and 49 CFR 501.8 (35 F.R. 11126).

Issued on August 18, 1970.

RODOLFO A. DIAZ,
Acting Associate Director,
Motor Vehicle Programs.

AIRBRAKE LINE COUPLERS

S1. *Purpose and scope.* This standard specifies requirements for airbrake line couplers, to reduce hazards caused by faulty operation of airbrake connections on combination vehicles.

S2. *Application.* This standard applies to trucks, buses, and trailers equipped with airbrake systems and to airbrake line couplers manufactured for use in vehicles to which this standard applies.

S3. *Definitions.* "Airbrake line coupler" means the device by which an airbrake line on a vehicle is connected with an airbrake line on another vehicle.

"Control line" means an air line from the brake control valve of a towing vehicle that operates a device that controls the flow of air from the air reservoirs of a towed vehicle to the brake chambers of the towed vehicle.

"Coupler reference point" means the point on the airbrake line coupler described by the intersection of the longitudinal centerline of the threaded port with the plane of the outer face of the port.

"Supply line" means an air line providing air from the reservoirs of a towing vehicle to the reservoirs of a towed vehicle.

S4. *Requirements.* Each vehicle equipped with an airbrake system and designed to be used in combination with another vehicle equipped with an airbrake system shall have airbrake line couplers that meet the following requirements. Where a tolerance or a range of test conditions is specified, the tested item must be capable of meeting the requirements at every point within the range.

S4.1 *Design and critical dimensions.* Each airbrake line coupler (hereafter referred to as "coupler") shall have the shape and dimensions specified in either figure 1 or figure 2, as appropriate.

S4.2 *Labeling.* Control line couplers and supply line couplers shall be permanently identified by the words "control" or "supply" in letters not less than one-eighth inch high embossed on the coupler surface.

S4.3 *Performance.* After being subjected to the operations described in any one of S4.3.1, S4.3.2, or S4.3.3, followed by conditioning at 70°±10° F. for 6 hours, a pair of couplers shall be capable of being coupled and uncoupled at 0 pounds per square inch (p.s.i.) by a torque of not less than 25 pounds per inch and not more than 150 pounds per inch, and shall be capable of being uncoupled at 100 p.s.i. by a torque of not less than 26 pounds per inch and not more than 150 pounds per inch. When coupled the pair of couplers shall withstand a line pressure of 150 p.s.i. without leakage through the coupler bodies or between packing faces.

S4.3.1 With a pair of couplers in contact in the open position, rotate the couplers at a uniform rate until the positive stops are reached. The rotation time shall be not less than 1 second and not more than 3 seconds. Rotate the couplers in the opposite direction at a uniform rate until the open position is reached. The rotation time shall be not less than 1 second and not more than 3 seconds. Repeat until 1,000 cycles have been made. Ambient temperature shall be continuously maintained at 70°±10° F.

S4.3.2 Condition a pair of couplers at −50° F. for 6 hours. Within 10 seconds after removing each coupler from the −50° F. conditions into air at 70° ± 10° F., drop the coupler onto a concrete surface from a height of 6 feet.

S4.3.3 Subject a pair of couplers to a continuous 24 hour salt spray test in accordance with American Society of Testing and Materials Standard B 117, Standard Method of Salt Spray (Fog) Testing, August 1964.

S4.4 *High temperature performance.* After being exposed to a temperature of 125° F. for 24 hours and while still exposed to that temperature, a pair of couplers shall be capable of being coupled by a torque of not more than 200 pounds per inch at a line pressure of 0 p.s.i., and when coupled shall be capable of withstanding a line pressure of 150 p.s.i. without leakage through the coupler bodies or between packing faces.

S4.5 *Low temperature performance.* After being exposed to a temperature of −50° F. for 6 hours and while still exposed to that temperature, a pair of couplers shall be capable of being coupled by a torque of not more than 200 pounds per inch at a line pressure of 0 p.s.i., and when coupled shall be capable of withstanding a line pressure of 150 p.s.i. without leakage through the coupler bodies or between packing faces.

S4.6 *Location.* Control line couplers shall be located on the curb side and supply line couplers on the road side of the longitudinal centerline of a vehicle within the spatial limits described in S4.6.1 and S4.6.2.

S4.6.1 When a coupler is mounted on the front of a trailer, the coupler reference point shall be from 0 to 30 inches above the bottom of the trailer nose, from 3 to 15 inches on either side of the longitudinal centerline of the trailer, and from 4 inches rearward to 4 inches forward of the front surface of the trailer.

S4.6.2 When a coupler is mounted on the rear of a trailer, a bus, or a truck other than a truck tractor, the coupler reference point shall be located within the following spatial limits relative to the intended location of the center of the tow bar eye of the towed vehicle.

(a) Longitudinally—from 4 to 12 inches forward;

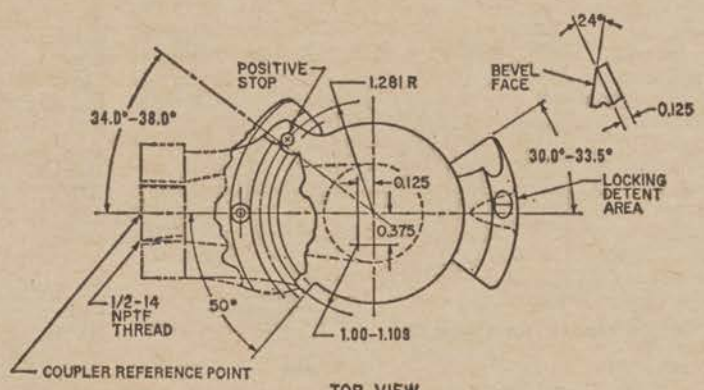
(b) Transversely—from 3 to 15 inches to either side;

(c) Vertically—from 2 to 6 inches below.

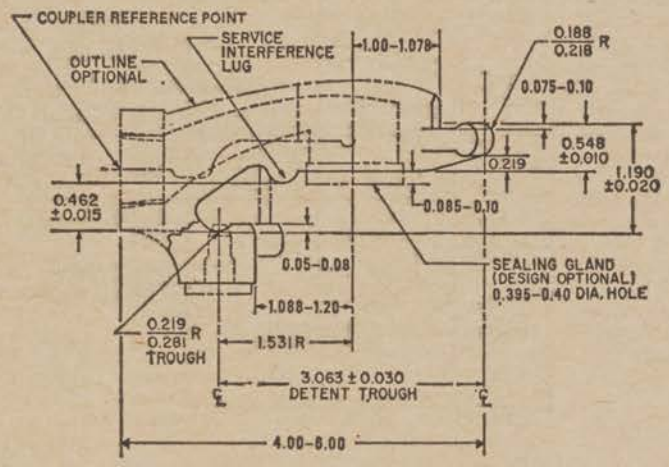
S4.7 *Manual shutoff cock.* There shall be no manual shutoff cock on any brake line.

Figure 1

CONTROL LINE AIR BRAKE COUPLER



TOP VIEW

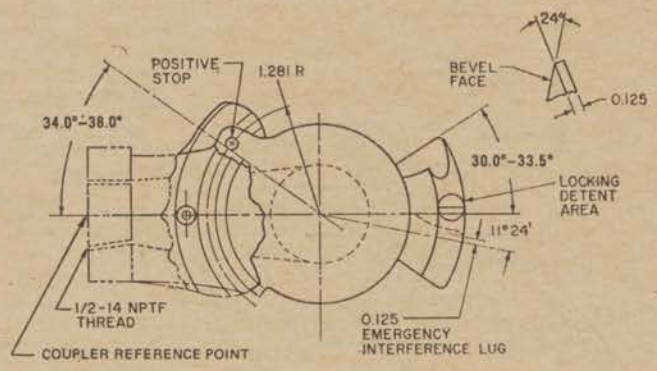


SIDE VIEW

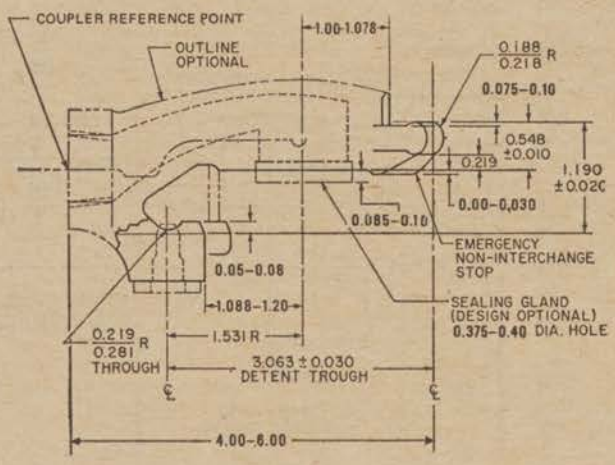
(All dimensions in inches)

Figure 2

SUPPLY LINE AIR BRAKE COUPLER



TOP VIEW



SIDE VIEW

(All dimensions in inches)

[F.R. Doc. 70-10994; Filed, Aug. 21, 1970; 8:45 a.m.]

[49 CFR Part 571]

[Docket No. 69-2, Notice 3]

VEHICLE POWER REQUIREMENTS; TRUCKS AND BUSES

Proposed Motor Vehicle Safety Standard

On January 17, 1969, an advance notice of proposed rule making was issued (34 F.R. 1055), concerning acceleration and speed maintenance capabilities on ascending grades of passenger cars, multipurpose passenger vehicles, trucks, buses and motorcycles. Comments and data received in response to that notice have been carefully considered. This notice proposes a new motor vehicle safety standard to establish power requirements for trucks and buses with GVWR of more than 10,000 pounds, the classes of vehicles that have been found to present major safety problems in this area of performance.

Evidence gathered in a number of highway studies indicates that a significant percentage of highway accidents are the result of speed differentials of moving vehicles, combined with the inability of some drivers to properly gauge the speed of slow-moving vehicles. The speed differential, especially on ascending grades, is due in large part to the lack of adequate engine capacity in relation to vehicle size. Data indicate that larger vehicles with low horsepower ratings have a disproportionately high accident rate, often involving passing maneuvers and rear-end collisions. The purpose of the proposed standard is to specify vehicle power requirements that would ensure adequate engine capacity to accelerate and negotiate grades without disrupting the flow of traffic. A substantial safety hazard resulting from the response of other drivers to slow-moving vehicles would thereby be diminished.

The proposed standard would require that propulsion engines in vehicles manufactured on or after January 1, 1972 have a ratio of horsepower to gross vehicle weight rating or gross combination weight rating, as applicable, of at least 1/250. For vehicles manufactured on or after January 1, 1974, the required minimum ratio would be 1/200.

The proposal would set requirements for bare engine horsepower, thus precluding the necessity for repeated and costly road testing with various accessory components. The test procedure is designed to be economical and readily usable. It is an engine dynamometer test based on SAE Standard J816a, "Engine Test Code—Nonturbocharged Spark Ignition and Diesel." As this test or some variation of it is presently conducted by most engine manufacturers, test facilities would be readily available.

Proposed effective date: January 1, 1972.

Interested persons are invited to submit data, views and arguments concerning the proposed standard. Comments should refer to the docket and notice number, and be submitted to: Docket Section, National Highway Safety Bureau, Room 4223, 400 Seventh Street SW., Washington, D.C. 20591. It is requested, but not required, that 10 copies be submitted. All comments received before the close of business on November 19, 1970, will be considered. Comments filed after the above date will also be considered by the Bureau. The rulemaking action may, however, proceed at any time after that date and comments received too late for consideration in regard to the action will be treated as suggestions for future rulemaking. The Bureau will continue to file relevant material, as it becomes available, in the docket after the closing date, and it is recommended that interested persons continue to examine the docket for new materials.

This notice of proposed rulemaking is issued under the authority of sections 103 and 119 of the National Traffic and Motor Vehicle Safety Act (15 U.S.C. 1392, 1407), and the delegations of authority at 49 CFR 1.51 (35 F.R. 4955) and 49 CFR 501.8 (35 F.R. 11126).

Issued on August 18, 1970.

RODOLFO A. DIAZ,
Acting Associate Director,
Motor Vehicle Programs.

VEHICLE POWER REQUIREMENTS—TRUCKS AND BUSES

S1. *Purpose and scope.* This standard specifies vehicle power requirements, to assure adequate ability to accelerate and negotiate grades without disrupting the traffic flow.

S2. *Application.* This standard applies to trucks and buses with gross vehicle weight rating of more than 10,000 pounds.

S3. *Definition.* "Bare engine" means an engine equipped with fly-wheel, fuel pump, water pump, oil pump, exhaust emission control, oil pan, exhaust manifold, carburetor and distributor, to the extent that these are part of the engine system as installed in the vehicle, but without hydraulic pump, cooling fan, generator, air compressor, air cleaner, muffler, or any other component not essential to operation of the engine.

S4. *Requirements.* The engine used for propulsion of a vehicle shall, when tested according to S5, be able to develop horsepower in the following ratio to the vehicle's gross combination weight rating, or to the vehicle's gross vehicle weight rating if the vehicle does not have a gross combination weight rating:

Vehicles manufactured on or after January 1, 1974—1/200.
Vehicles manufactured on or after January 1, 1972—1/200.

S5. *Horsepower test.*

S5.1 *Conditions.* The requirements of S4 shall be met under the following conditions. Where a range of conditions is specified, the vehicle shall be able to meet the requirements of S4 at all points within the range.

S5.1.1 The test is performed on the bare engine, mounted on a laboratory dynamometer at the same angle as the engine is mounted in the vehicle.

S5.1.2 External cooling fans and external power for ignition and starting are used.

S5.1.3 The engine exhaust is connected to a muffler or exhaust system whose back pressure does not exceed the value specified by the manufacturer.

S5.1.4 Engine adjustments are made before the test in accordance with the manufacturer's instructions, including those for control of exhaust emissions, and no further changes or adjustments are made during the test.

S5.1.5 Fuel and lubricating oil used during the test conform to the manufacturer's recommendations.

S5.1.6 At each speed, test data are recorded when the torque, speed, and the following temperatures have remained constant within ±1 percent for at least 5 minutes:

a. Inlet air for combustion, measured 6 inches from the air inlet horn.

b. Lubricating oil temperature, measured in the sump.

c. Fuel temperature, measured at the inlet to the fuel pump.

d. Exhaust temperature, measured 6 inches downstream of the exhaust outlet flange.

e. Coolant temperature, measured at the inlet to the engine.

S5.1.7 Coolant outlet temperature in liquid cooled engines is controlled at 175±10° F. unless otherwise specified by the manufacturer.

S5.1.8 For spark ignition engines, tests are run at full throttle. For diesel engines, the tests are run at a fixed rack setting, with the rack set to provide, at maximum test speed, the maximum power at which the exhaust opacity is not more than 20 percent, measured by the smoke measurement system specified in Subpart "J" of the Department of Health, Education, and Welfare Standards for Exhaust Emissions, Fuel Evaporative Emissions and Smoke Emissions Applicable to 1970 and Later Vehicles and Engines, 49 CFR 85.124 (33 F.R. 8320, June 4, 1968).

S5.1.9 The engine is run in on the dynamometer according to the manufacturer's recommendations. In the absence of a recommended run-in procedure, the engine is run in according to the following sequence:

Run No.	Load (fraction of rated horsepower)	Duration (minutes)	Speed
1	0	15	600 r.p.m. (or lowest stable speed).
2	0	15	25 percent of maximum engine speed.
3	¼	120	75 percent of maximum engine speed.
4	¾	240	Maximum engine speed.
5	¾	300	Maximum engine speed.
6	¼	60	Maximum engine speed.

S5.1.10 Barometric pressure is between 28 and 31 inches of mercury.

S5.1.11 Inlet air temperature is between 40 and 120° F.

S5.2 *Procedures.*

S5.2.1 Mount the bare engine on a dynamometer and measure the torque output at 600 r.p.m. or the lowest stable engine speed, whichever is higher.

S5.2.2 Repeat the measurement at higher engine speeds, at 100 r.p.m. increments, up to the maximum engine speed.

S5.2.3 Repeat the measurement at the same engine speeds in reverse order, from maximum speed down to the lowest test speed.

S5.2.4 Compute the observed horsepower at each speed, using the average of the two torque measurements at each speed, by the following formula:

$$\text{observed horsepower} = \frac{\text{torque (foot pounds)} \times \text{speed (rpm)}}{5252}$$

S5.2.5 The engine horsepower required by S4 is the highest corrected horsepower found at any of the test speeds. Compute the corrected horsepower as follows:

(a) Spark ignition engines:

$$\text{Corrected hp} = \text{Observed hp} \left(\frac{29.00}{B}\right) \sqrt{\frac{T-460}{545}}$$

(b) Diesel engines:

$$\text{Corrected hp} = \text{Observed hp} \left(\frac{29.00}{B}\right)\left(\frac{T-460}{545}\right)$$

Where B=Barometric pressure in inches of mercury and T=Engine inlet air temperature in degrees Fahrenheit.

[F.R. Doc. 70-11099; Filed, Aug. 21, 1970; 8:49 a.m.]

Office of Pipeline Safety

[49 CFR Part 192]

[Notice 70-13; Docket No. OPS-3E]

MINIMUM FEDERAL SAFETY STANDARDS FOR GAS PIPELINES

Odorization of Gas; Notice of Public Hearing

Section 192.625 of the new Federal gas pipeline safety standards (35 F.R. 13248; Aug. 19, 1970) provides for odorization of combustible gases in mains and service lines. However, the notice of proposed rule making published on April 2, 1970 (35 F.R. 5482), proposed also to require the odorization of gas in high pressure transmission lines. This proposal was based on a requirement that presently exists in the States of California, New York, New Jersey, Massachusetts, and Vermont (previously Wisconsin was erroneously included in this list). Because the comments received on the original notice were almost unanimously opposed to the odorization of gas in high pressure transmission lines, a supplemental notice was issued on June 10, 1970, requesting additional comments. (Notice 70-11; 35 F.R. 9293, June 13, 1970.)

The comments received on the June 10 notice also generally opposed the proposal. However, the States of New York, New Jersey, and Massachusetts urged that the requirement be adopted as originally proposed. These States indicated that their experience with the odorization of transmission lines did not support the objections that had been listed in the supplemental notice.

Some distribution companies in these States also supported the original proposal and sought to refute the listed objections. These companies maintained that since many high-pressure transmission lines are located in highly populated areas, often very close to buildings used as dwellings, schools, and places of assembly, and since the use of odorant is still one of the most effective means of locating leaks in gas facilities, its use should be required in all facilities transporting or distributing gas.

These same companies reported that they have experienced no difficulties in handling odorized gas through compressor and regulating stations. They also contended that odorant is no more detrimental to the systems of industrial customers of transmission lines than it is to those of distribution lines and that, in any event, the removal of mercaptan-type odorants by filtration poses no difficulties.

In reply to the objections based on the cost of equipment necessitated by an odorization requirement for transmission lines, it was argued that the cost of installing and maintaining odorization equipment at each delivery point is much greater than the cost of equipment for odorization in the transmission line, and that these greater costs will be reflected in the rates charged the consumer.

On the other hand, commenters opposing the requirement for odorization of gas in transmission lines stated the following objections in addition to those listed in Notice 70-11:

1. Such a requirement not only would not result in added safety but may actually introduce a hazard, since highly corrosive sulphur compounds in odorants might precipitate out of the gas stream as liquids, collect at low points in the pipeline, and produce rapid internal corrosion of sufficient magnitude to cause a rupture.

2. Difficulty in regulating the necessary level of odorant in distribution systems would result. Use of incompatible odorants could result in unfamiliar odors which the public could not identify as gas.

3. The presence of liquids resulting from odorization would decrease the efficiency of transmission lines by decreasing throughput.

4. Disposal of odorant scrubbed from supplies to customers requiring unodorized gas would be difficult and costly.

5. Even though gas en route to storage would have been excepted from the requirement as proposed, odorization of gas in transmission lines would interfere with underground storage, since often gas in a transmission line may be transported to storage and to market simultaneously, and it is impossible to separate them.

Some commenters supported the requirement for odorization of transmission lines, but suggested that the exceptions be enlarged to include gas in service lines or mains used for domestic purposes in compressor plants, and gas that by its origin and makeup possesses a natural odorant fulfilling the requirements of the section.

From the foregoing, it is apparent that the information on hand is conflicting and still inconclusive. Further, the comments were largely expressions of opinion, with little objective information to support those opinions. Therefore, to ensure that all interested persons have ample opportunity to furnish further supporting information, the Office of Pipeline Safety will conduct a public hearing at 10 a.m. on Thursday, September 17, in room 2230, 400 7th Street SW., Washington, D.C. If further action appears warranted based on the information received at this hearing, there will be adequate time to take such action before November 12, 1970, when the new Federal safety standards take effect. Such action might include temporary extension of the interim standards to allow time for further rulemaking in this area.

The hearing will be an informal one. It will not be a judicial or evidentiary type of hearing. There will be no cross-examination of persons presenting statements. A staff member of the Office of Pipeline Safety will make an opening statement outlining the problem. Interested persons will then have an opportunity to present their initial oral statements. After all initial statements have been completed, those persons who wish to make rebuttal statements will be given the opportunity to do so in the same order in which they made their initial statements. Additional procedures for the conduct of the hearing will be announced at the hearing.

Interested persons are invited to attend the hearing and present oral or written statements on the matters set for hearing. These statements will be made a part of the record of the hearing, the transcript of which will be a matter of public record. Any person who wishes to make oral statements at the hearing should notify the Director, Office of Pipeline Safety, before September 10, 1970, stating the amount of time required for his initial statement.

All communications concerning this hearing should be addressed to the Director, Office of Pipeline Safety, Department of Transportation, Washington, D.C. 20590.

This notice is issued under the authority of the Natural Gas Pipeline Safety Act of 1968 (49 U.S.C. 1671 et seq.), Part 1 of the regulations of the Office of the Secretary of Transportation (49 CFR Part 1), and the delegation of authority to the Director, Office of Pipeline Safety, dated November 6, 1968 (33 F.R. 16468).

Issued in Washington, D.C., on August 18, 1970.

W. C. JENNINGS,
Acting Director,
Office of Pipeline Safety.

[F.R. Doc. 70-11061; Filed, Aug. 21, 1970; 8:47 a.m.]

Notices

DEPARTMENT OF AGRICULTURE

Office of the Secretary

ADMINISTRATOR, FOREIGN AGRICULTURAL SERVICE

Delegation of Authority Relating to Agreements Limiting Imports of Certain Meats

Pursuant to the delegation of authority from the Secretary of Agriculture to me, dated August 18, 1970, I hereby delegate to the Administrator, Foreign Agricultural Service, the following functions delegated to me therein:

1. Authority to concur in the negotiation by the Secretary of State pursuant to section 204 of the Agricultural Act of 1956, as amended (7 U.S.C. 1854), of bilateral agreements with representatives of governments of foreign countries limiting the export from the respective countries and the importation into the United States of fresh, chilled, or frozen cattle meat (item 106.10 of the Tariff Schedules of the United States) and fresh, chilled, or frozen meat of goats and sheep, except lambs (item 106.20 of the Tariff Schedules of the United States) which are the products of such countries.

2. Authority to request, with the concurrence of the Secretary of State and the Special Representative for Trade Negotiations, the Commissioner of Customs to take action and supply information with respect to entry, or withdrawal from warehouse, for consumption in the United States of such meats to carry out any such agreements or implementing regulations.

The authority delegated hereunder may not be redelegated.

Signed at Washington, D.C., on August 18, 1970.

CLARENCE D. PALMBY,
Assistant Secretary For International Affairs and Commodity Programs.

[F.R. Doc. 70-11112; Filed, Aug. 21, 1970; 8:50 a.m.]

ASSISTANT SECRETARY FOR INTERNATIONAL AFFAIRS AND COMMODITY PROGRAMS

Delegation of Authority Relating to Agreements Limiting Imports of Certain Meats

Pursuant to the authority vested in me by Executive Order 11539, dated June 30, 1970 (35 F.R. 10733), I hereby delegate to the Assistant Secretary for International Affairs and Commodity Programs the following functions assigned to me therein:

1. Authority to concur in the negotiation by the Secretary of State pursuant to section 204 of the Agricultural Act of 1956, as amended (7 U.S.C. 1854), of bilateral agreements with representatives of governments of foreign countries limiting the export from the respective countries and the importation into the United States of fresh, chilled, or frozen cattle meat (item 106.10 of the Tariff Schedules of the United States) and fresh, chilled, or frozen meat of goats and sheep, except lambs (item 106.20 of the Tariff Schedules of the United States) which are the products of such countries.

2. Authority to request, with the concurrence of the Secretary of State and the Special Representative for Trade Negotiations, the Commissioner of Customs to take action and supply information with respect to entry, or withdrawal from warehouse, for consumption in the United States of such meats to carry out any such agreements or implementing regulations.

The authority delegated hereunder may be redelegated.

Signed at Washington, D.C., on August 18, 1970.

CLIFFORD M. HARDIN,
Secretary of Agriculture.

[F.R. Doc. 70-11111; Filed, Aug. 21, 1970; 8:50 a.m.]

FEDERAL POWER COMMISSION

[Docket No. G-9396, etc.]

SKELLY OIL CO. ET AL.

Findings and Order

AUGUST 11, 1970.

Findings and order after statutory hearing issuing certificates of public convenience and necessity, amending orders issuing certificates, permitting and approving abandonment of service, terminating certificates, making successors co-respondents, redesignating proceedings, making rate change effective, accepting agreement and undertaking for filing, requiring filing of agreements and undertakings, and accepting related rate schedules and supplements for filing.

Each of the applicants listed herein has filed an application pursuant to section 7 of the Natural Gas Act for a certificate of public convenience and necessity authorizing the sale and delivery of natural gas in interstate commerce or for permission and approval to abandon service or a petition to amend an order issuing a certificate, all as more fully set forth in the applications and petitions, as supplemented and amended.

Applicants have filed related FPC gas rate schedules or supplements thereto and propose to initiate, abandon, add to, or discontinue in part natural gas service in interstate commerce as indicated in the tabulation herein. All sales certificated herein are at rates either equal to or below the ceiling prices established by the Commission's Statement of General Policy No. 61-1, as amended, or involve sales for which permanent certificates have been previously issued; except that sales from areas for which area rates have been determined are authorized to be made at or below the applicable area base rates adjusted for quality of the gas, and under the conditions prescribed in the orders determining said rates.

Cotton Petroleum Co., applicant in Docket No. CI70-45, proposes to continue in part the sale of natural gas heretofore authorized in Docket No. G-15714 to be made pursuant to Humble Oil & Refining Co. (Operator), et al., FPC Gas Rate Schedule No. 239. An instrument of ratification of said contract is presently on file as applicant's FPC Gas Rate Schedule No. 2 and the sale from additional acreage proposed herein will be made pursuant to said rate schedule. At the time that applicant's rate schedule was accepted for filing, a proposed increased rate filed by Humble was suspended in Docket No. RI69-726. Concurrently with the issuance of a temporary certificate to applicant for applicant's initial sales, applicant was made a co-respondent in said proceeding. Humble's rate was made effective subject to refund prior to the date of the assignment of the acreage from which sales are proposed in the instant application. Concurrently with the instant application applicant filed a motion to make the rate effective subject to refund with respect to the initial sales under its FPC Gas Rate Schedule No. 2. The motion was accompanied by an agreement and undertaking to assure the refund of any amounts collected by applicant in excess of the amount determined to be just and reasonable in Docket No. RI69-726. Therefore, with respect to the initial sales under applicant's FPC Gas Rate Schedule No. 2, the rate suspended in Docket No. RI69-726 will be made effective as of April 6, 1970, the date of filing of the motion. With respect to sales from the additional acreage proposed in the instant application, applicant will be placed in the same rate position as its assignor, Humble, and will be permitted to collect the increased rate subject to refund as of the date of initial delivery from the additional acreage. The agreement and undertaking will be accepted for filing to assure all refunds in Docket No. RI69-726. Prior to the date of the assignment of additional acreage from which sales are proposed in the instant application, Humble filed an increased rate which, at the time of filing of the instant application, was suspended in Docket No. RI70-906. Said rate is now effective subject to refund in Docket No. RI70-906. Therefore, with respect to sales from the additional acreage, applicant will be

placed in the same rate position as Humble at the time of the assignment and will be made a co-respondent in the proceeding pending in Docket No. RI70-906; and said proceeding will be redesignated accordingly. If applicant desires to collect the increased rate subject to refund in Docket No. RI70-906 for sales from the additional acreage, it should file a motion to make the rate effective subject to refund.

Crown Petroleum, Inc., applicant in Docket No. CI70-925, proposes to continue in part the sale of natural gas heretofore authorized in Docket No. G-4579 to be made pursuant to Cities Service Oil Co. (Operator) et al., FPC Gas Rate Schedule No. 168. The contract comprising said rate schedule will also be accepted for filing as a rate schedule of applicant. The presently effective rate under said rate schedule is in effect subject to refund in Docket No. RI69-521. Cities Service collected prior increased rates for locked-in periods subject to refund in Dockets Nos. RI65-26 and RI66-398. Applicant indicates in its certificate application that in addition to the refund obligation required by § 154.92(d)(3) of the regulations under the Natural Gas Act it intends to be responsible for the total refund from the date that the increased rate of its assignor became effective subject to refund. Therefore, applicant will be made a co-respondent in the proceedings pending in Dockets Nos. RI65-26, RI66-398, and RI69-521; said proceedings will be redesignated accordingly; and applicant will be required to file agreements and undertakings to assure the refunds of all amounts collected by Cities Service and itself in excess of the amount determined to be just and reasonable in said proceedings with respect to sales from the subject acreage.

Dugan Production Corp., applicant in Docket No. CI70-939, proposes to continue in part the sale of natural gas heretofore authorized in Docket No. G-17019 to be made pursuant to Gulf Oil Corp. FPC Gas Rate Schedule No. 150. The contract comprising said rate schedule will also be accepted for filing as a rate schedule of applicant. The presently effective rate under said rate schedule is in effect subject to refund in Docket No. RI69-709. Applicant indicates in its certificate application that in addition to the refund obligation required by § 154.92(d)(3) of the regulations under the Natural Gas Act it intends to be responsible for the total refund from the date the increased rate of its assignor became effective subject to refund. Therefore, applicant will be made a co-respondent in the proceeding pending in Docket No. RI69-709; said proceeding will be redesignated accordingly; and applicant will be required to file an agreement and undertaking to assure the refund of all amounts collected by Gulf Oil Corp. and itself in excess of the amount determined to be just and reasonable in said proceeding with respect to sales from the subject acreage.

Aikman Bros. Corp., applicant in Docket No. CI70-979, proposes to continue in part the sale of natural gas heretofore authorized in Docket No. G-11832 to be made pursuant to Pan American Petroleum Corp. (Operator) et al., FPC Gas Rate Schedule No. 192. The contract comprising said rate schedule will also be accepted for filing as a rate schedule of applicant. The effective rate under Pan American's rate schedule on the effective date of the transfer of the producing properties was subject to refund in Docket No. RI69-350 and the presently effective rate under said rate schedule is subject to refund in Docket No. RI70-1060. Applicant indicates in its certificate application that in addition to the refund obligation required by § 154.92(d)(3) of the regulations under the Natural Gas Act, it intends to be responsible for the total refund from the date that the increased rate of its assignor became effective subject to refund. Therefore, applicant will be made a co-respondent in the proceedings pending in Dockets Nos. RI69-350 and RI70-1060; said proceedings will be redesignated accordingly; and applicant will be required to file agreements and undertakings in said proceedings to assure the refunds of all amounts collected by Pan American and itself in excess of the amounts determined to be just and reasonable in said proceedings.

The Commission's staff has reviewed each application and recommends each action ordered as consistent with all substantive Commission policies and required by the public convenience and necessity.

After due notice by publication in the FEDERAL REGISTER, no petitions to intervene, notices of intervention or protests to the granting of the applications have been filed.

At a hearing held on August 6, 1970, the Commission on its own motion received and made a part of the record in this proceeding all evidence, including the applications and petitions, as supplemented and amended, and exhibits thereto, submitted in support of the authorizations sought herein, and upon consideration of the record,

The Commission finds:

(1) Each applicant herein is a "natural-gas company" within the meaning of the Natural Gas Act as heretofore found by the Commission or will be engaged in the sale of natural gas in interstate commerce for resale for ultimate public consumption, subject to the jurisdiction of the Commission, and will, therefore, be a "natural-gas company" within the meaning of the Natural Gas Act upon the commencement of service under the authorizations hereinafter granted.

(2) The sales of natural gas hereinbefore described, as more fully described in the applications in this proceeding, will be made in interstate commerce subject to the jurisdiction of the Commission; and such sales by applicants, together with the construction and operation of any facilities subject to the jurisdiction of the Commission necessary therefor, are subject to the requirements of subsections (c) and (e) of section 7 of the Natural Gas Act.

(3) Applicants are able and willing properly to do the acts and to perform the service proposed and to conform to the provisions of the Natural Gas Act and the requirements, rules and regulations of the Commission thereunder.

(4) The sales of natural gas by applicants, together with the construction and operation of any facilities subject to the jurisdiction of the Commission necessary therefor, are required by the public convenience and necessity and certificates therefor should be issued as hereinafter ordered and conditioned.

(5) It is necessary and appropriate in carrying out the provisions of the Natural Gas Act and the public convenience and necessity require that the orders issuing certificates of public convenience and necessity in various dockets involved herein should be amended as hereinafter ordered and conditioned.

(6) The sales of natural gas proposed to be abandoned as hereinbefore described and as more fully described in the applications and in the tabulation herein are subject to the requirements of subsection (b) of section 7 of the Natural Gas Act.

(7) The abandonments proposed by applicants herein are permitted by the public convenience and necessity and should be approved as hereinafter ordered.

(8) It is necessary and appropriate in carrying out the provisions of the Natural Gas Act that the certificates heretofore issued to applicants relating to the abandonments hereinafter permitted and approved should be terminated or that the orders issuing said certificates should be amended by deleting therefrom authorization to sell natural gas from the subject acreage.

(9) It is necessary and appropriate in carrying out the provisions of the Natural Gas Act that Cotton Petroleum Co. should be made a co-respondent in the proceeding pending in Docket No. RI70-906, that said proceeding should be redesignated accordingly, that the change in rate suspended in Docket No. RI69-726 should be made effective subject to refund with respect to certain sales under Cotton's FPC Gas Rate Schedule No. 2, and that the agreement and undertaking submitted by Cotton in Docket No. RI69-726 should be accepted for filing.

(10) It is necessary and appropriate in carrying out the provisions of the Natural Gas Act that Crown Petroleum, Inc., should be made a co-respondent in the proceedings pending in Dockets Nos. RI65-26, RI66-398, and RI69-521; that said proceedings should be redesignated accordingly; and that Crown Petroleum, Inc., should be required to file agreements and undertakings in said proceedings.

(11) It is necessary and appropriate in carrying out the provisions of the Natural Gas Act that Dugan Production Corp. should be made a co-respondent in the proceeding pending in Docket No. RI69-709, that said proceeding should be redesignated accordingly, and that

Dugan should be required to file an agreement and undertaking.

(12) It is necessary and appropriate in carrying out the provisions of the Natural Gas Act that Aikman Bros. Corp. should be made a co-respondent in the proceedings pending in Dockets Nos. RI69-350 and RI70-1060, that said proceedings should be redesignated accordingly, and that Aikman should be required to file agreements and undertakings.

(13) It is necessary and appropriate in carrying out the provisions of the Natural Gas Act that the FPC gas rate schedules and supplements related to the authorizations hereinafter granted should be accepted for filing.

The Commission orders:

(A) Certificates of public convenience and necessity are issued upon the terms and conditions of this order authorizing sales by applicants of natural gas in interstate commerce for resale, together with the construction and operation of any facilities subject to the jurisdiction of the Commission necessary therefor, all as hereinbefore described and as more fully described in the applications and in the tabulation herein.

(B) The certificates granted in paragraph (A) above are not transferable and shall be effective only so long as Applicants continue the acts or operations hereby authorized in accordance with the provisions of the Natural Gas Act and the applicable rules, regulations, and orders of the Commission.

(C) The grant of the certificates issued in paragraph (A) above shall not be construed as a waiver of the requirements of section 4 of the Natural Gas Act or of Part 154 or Part 157 of the Commission's regulations thereunder and is without prejudice to any findings or orders which have been or which may hereafter be made by the Commission in any proceedings now pending or hereafter instituted by or against applicants. Further, our action in this proceeding shall not foreclose nor prejudice any future proceedings or objections relating to the operation of any price or related provisions in the gas purchase contracts herein involved. Nor shall the grant of the certificates aforesaid for service to the particular customers involved imply approval of all of the terms of the contracts, particularly as to the cessation of service upon termination of said contracts as provided by section 7(b) of the Natural Gas Act. The grant of the certificates aforesaid shall not be construed to preclude the imposition of any sanctions pursuant to the provisions of the Natural Gas Act for the unauthorized commencement of any sales of natural gas subject to said certificates.

(D) The certificates issued herein are subject to the following conditions:

(a) The initial rate for sales authorized in Dockets Nos. CI70-940, CI70-947, CI70-962, CI70-973; CI70-986 and CI70-998 shall be 17 cents per Mcf at 14.65 p.s.i.a. subject to B.t.u. adjustment. Applicants in Dockets Nos. CI70-947 and CI70-973 shall file three copies each of a billing statement reflecting such rate as required by the regulations under the Natural Gas Act. Applicant in Docket No. CI70-998 shall file three copies of a billing statement for the first month's service.

(b) The initial rate for sales authorized in Dockets Nos. CI70-978 and CI70-1030 shall be 15 cents per Mcf at 14.65 p.s.i.a. including tax reimbursement and subject to B.t.u. adjustment. In the event that the Commission amends its Statement of General Policy No. 61-1, by adjusting the boundary between the Oklahoma Panhandle area and the Oklahoma "Other" area, so as to increase the initial wellhead price for new gas, applicants thereupon may substitute the new rates reflecting the amounts of such increases and thereafter collect the new rates prospectively in lieu of the initial rates herein authorized in said dockets.

(c) In Docket No. CI70-978 the provision contained in the subject contract providing for a rate increase to an applicable area rate or area settlement rate will only be applicable upon Commission approval of a just and reasonable rate or settlement rate in an applicable area rate proceeding.

(d) The initial rate for the sale authorized in Docket No. CI70-1015 shall be 16.0 cents per Mcf at 14.65 p.s.i.a.

(e) Issuance of the certificates shall not be construed as constituting approval of the advance payment provisions of the contracts, Article IV (Docket No. CI70-940); sections 7 and 8 of Article III (Dockets Nos. CI70-947, CI70-973 and CI70-998); Article 6.1 (Docket No. CI70-978); and Article II (Docket No. CI70-986), and any such payments shall be subject to future orders of the Commission concerning the propriety of such payments.

(f) Applicants in Dockets Nos. CI70-947, CI70-973, CI70-986, CI70-998 and CI70-1015 shall not require buyers to take-or-pay for an annual quantity of gas well gas during the first 2 contract years which is in excess of an average of 1 Mcf per day for each 3,650 Mcf of determined gas well gas reserves and a 1 Mcf per day for each 7,300 Mcf of determined gas reserves thereafter or the specified contract quantities, whichever are the lesser amounts.

(g) The certificates issued in Dockets Nos. CI70-978 and CI70-986 are conditioned upon any determination which may be made in the proceeding pending in Docket No. R-338 with respect to the transportation of liquefiable hydrocarbons.

(E) The orders issuing certificates in Dockets Nos. G-9396, G-15912, and CI70-45 are amended by adding thereto or deleting therefrom authorization to sell natural gas as described in the tabulation herein.

(F) The orders issuing certificates in the following dockets are amended to reflect the deletion of acreage where new certificates are issued herein or existing certificates are amended herein to authorize service from the subject acreage:

Amend to delete acreage	*New certificate and/or amendment to add acreage*
G-4579	CI70-925
G-11832	CI70-979
G-15714	CI70-45
G-17019	CI70-939
G-20465	CI70-951
CI68-1246	C170-1059

(G) The orders issuing certificates in Dockets Nos. G-10048, CI61-92, CI70-869, and CI70-870 are amended to reflect the successors in interest as certificate holders.

(H) Permission for and approval of the abandonment of service by applicants, as hereinbefore described, all as more fully described in the applications and in the tabulation herein are granted.

(I) Permission for and approval of the abandonments in Dockets Nos. CI70-1060 and CI70-1061 shall not be construed to relieve applicant of any refund obligations in the rate proceeding pending in Docket No. RI64-444.

(J) The certificates heretofore issued in Dockets Nos. G-8735, G-17869, CI64-441, CI65-377, CI66-122, CI66-354, and CI67-214 are terminated.

(K) Cotton Petroleum Co. is made a co-respondent in the proceeding pending in Docket No. RI70-906 with respect to sales made from acreage added by Supplement Nos. 9, 10, and 11 to its FPC Gas Rate Schedule No. 2; and said proceeding is redesignated accordingly. If Cotton desires to collect the increased rate subject to refund for sales from said acreage, it should file a motion to make the rate subject to refund with respect to such sales.

(L) The rates, charges, and classifications set forth in Supplement No. 36 to Humble Oil & Refining Co. (Operator) et al., FPC Gas Rate Schedule No. 239 shall be effective subject to refund in Docket No. RI69-726 as of April 6, 1970, with respect to sales made pursuant to Cotton Petroleum Co., FPC Gas Rate Schedule No. 2 and Supplement Nos. 1 through 8 thereto; and said rate shall be collected by Cotton subject to refund in Docket No. RI69-726 as of the date of initial delivery from acreage added by Supplement Nos. 9, 10, and 11 to Cotton Petroleum Co., FPC Gas Rate Schedule No. 2. Said effective rate shall be charged and collected subject to any future orders of the Commission in Docket No. RI69-726. Cotton shall comply with the refunding procedure required by the Natural Gas Act and § 154.102 of the regulations thereunder. The agreement and undertaking submitted by Cotton in Docket No. RI69-726 is accepted for filing and shall remain in full force and effect until discharged by the Commission.

(M) Crown Petroleum, Inc., is made a co-respondent in the proceedings pending in Dockets Nos. RI65-26, RI66-398, and RI69-521 and said proceedings are redesignated accordingly. Crown Petroleum, Inc., shall comply with the refunding procedure required by the Natural Gas Act and § 154.102 of the regulations thereunder.

(N) Within 30 days from the date of this order, Crown Petroleum, Inc., shall

execute, in the form set out below, and shall file with the Secretary of the Commission acceptable agreements and undertakings in Dockets Nos. RI65-26, RI66-398, and RI69-521 to assure the refunds of all amounts collected by Cities Service Oil Co. (Operator) et al., and itself, together with interest at the rate of 7 percent per annum, in excess of the amounts determined to be just and reasonable in said proceedings with respect to sales from the acreage from which sales are authorized herein in Docket No. CI70-925. Unless notified to the contrary by the Secretary of the Commission within 30 days from the date of submission, such agreements and undertakings shall be deemed to have been accepted for filing. The agreements and undertakings shall remain in full force and effect until discharged by the Commission.

(O) Dugan Production Corporation is made a co-respondent in the proceeding pending in Docket No. RI69-709 and said proceeding is redesignated accordingly. Dugan Production Corp. shall comply with the refunding procedure required by the Natural Gas Act and § 154.102 of the regulations thereunder.

(P) Within 30 days from the date of this order, Dugan Production Corp. shall execute, in the form set out below, and shall file with the Secretary of the Commission an acceptable agreement and undertaking in Docket No. RI69-709 to assure the refund of all amounts collected by Gulf Oil Corp. and itself, together with interest at the rate of 7 percent per annum, in excess of the amount determined to be just and reasonable in said proceeding with respect to sales authorized herein in Docket No. CI70-939. Unless notified to the contrary by the Secretary of the Commission within 30 days from the date of submission, such agreement and undertaking shall be deemed to have been accepted for filing. The agreement and undertaking shall remain in full force and effect until discharged by the Commission.

(Q) Aikman Bros. Corp. is made a co-respondent in the proceedings pending in Dockets Nos. RI69-350 and RI70-1060 and said proceedings are redesignated accordingly. Aikman shall charge and collect the rate of 18.07 cents per Mcf at 14.65 p.s.i.a., subject to refund in Docket No. RI69-350, for sales made from February 1, 1970, through June 21, 1970, and the rate of 18.57 cents per Mcf at 14.65 p.s.i.a., subject to refund in Docket No. RI70-1060, for sales made from June 22, 1970. Aikman shall comply with the refunding procedure required by the Natural Gas Act and § 154.102 of the regulations thereunder.

(R) Within 30 days from the date of this order, Aikman Bros. Corp. shall execute, in the form set out below, and shall file with the Secretary of the Commission acceptable agreements and undertakings in Dockets Nos. RI69-350 and RI70-1060 to assure the refunds of all amounts collected by Pan American Petroleum Corp. (Operator) et al., and itself, together with interest at the rate of 7 percent per annum, in excess of the amounts determined to be just and reasonable in said proceedings with respect to the sales from the acreage from which sales are authorized herein in Docket No. CI70-979. Unless notified to the contrary by the Secretary of the Commission within 30 days from the date of submission, such agreements and undertakings shall be deemed to have been accepted for filing. The agreements and undertakings shall remain in full force and effect until discharged by the Commission.

(S) The rate schedules and rate schedule supplements related to the authorizations granted herein are accepted for filing or are redesignated, all as described in the tabulation herein.

By the Commission.

[SEAL] GORDON M. GRANT, *Secretary.*

Docket No. and date filed	Applicant	Purchaser, field, and location	FPC rate schedule to be accepted: Description and date of document	No.	Supp.
G-9396 D 12-4-69	Skelly Oil Co.	El Paso Natural Gas Co., acreage in Rio Arriba County, N. Mex.	Letter agreement 2-25-66.[1]	90	13
G-10048 E 6-1-70	Aikman Bros. Corp. (successor to J. M. Huber Corp).	Natural Gas Pipeline Co. of America, West Beaver Panhandle Field, Beaver County, Okla.	J. M. Huber Corp., FPC GRS No. 19.	10	
			Supplement No. 1	10	1
			Notice of succession 5-25-70.		
			Assignment 12-17-69 [2]	10	2
			Assignment 4-25-70 [5]	10	3
G-15912 C 12-4-69	Skelly Oil Co.	El Paso Natural Gas Co., acreage in Rio Arriba County, N. Mex.	Letter agreement 2-25-66.[1]	131	9
			Notice of change 12-2-69	131	10
CI61-92 E 5-25-70	Beaver Mesa Exploration Co. (successor to Antelope Gas Products Co.).	Kansas-Nebraska Natural Gas Co., Inc., Little Hoot Field, Logan County, Colo.	Antelope Gas Products Co., FPC GRS No. 2.	2	
			Notice of succession 5-20-70.		
			Assignment 4-14-69 [4]	2	1
			Assignment 1-5-70 [5]	2	2
			Effective date: 1-1-69		
CI70-45 (G-15714) C 4-6-70 [6]	Cotton Petroleum Co.	Transwestern Pipeline Co., Bradford Cleveland Field, Lipscomb County, Tex.	Farmout Agreement 11-11-69	2	9
			Letter Agreement 2-27-70	2	10
			Assignment 3-30-70 [7] [8]	2	11
CI70-169 (CI65-377) B 8-15-69	Peabody Coal Co.	Texas Gas Transmission Corp., Midland Field, Muhlenberg County, Ky.	Notice of cancellation (undated).[9] [10]	1	3
CI70-221 (CI66-122) B 9-2-69	do	do	Notice of cancellation 8-29-69.[9] [10]	2	3
CI70-222 (CI66-354) B 9-2-69	do	do	Notice of cancellation 8-29-69.[9] [10]	3	2
CI70-869 E 3-17-70	Glen E. Jeffery (successor to T. P. McAdams, Jr. (Operator) et al.)	Northern Natural Gas Co., McKinney-Finch Field, Meade County, Kans.	T. P. McAdams, Jr. (Operator), et al., FPC GRS No. 2.	2	
			Supplement Nos. 1-2	2	1-2
			Notice of succession 3-9-70		
			Assignment 10-1-69	2	3
			Effective date: 10-1-69		
CI70-870 E 3-17-70	do	do	T. P. McAdams, Jr. (Operator) et al., FPC GRS No. 1.	1	
			Supplements Nos. 1-2	1	1-2
			Notice of succession 3-9-70.		
			Assignment 10-1-69	1	3
			Effective date: 10-1-69		
CI70-925 (G-4579) F 4-10-70	Crown Petroleum, Inc. (successor to Cities Service Oil Co.).	Northern Natural Gas Co., Evalyn-Condit Field, Hugoton (Deep) Area, Seward County, Kans.	Contract 5-22-63 [11]	6	
			Letter Agreement 8-27-63	6	1
			Supplemental Agreement 6-5-67.	6	2
			Assignment 1-20-70 [12]	6	3
			Assignment 3-17-70 [13]	6	4
			Effective date: 3-17-70		
(G-4579) [14]	Cities Service Oil Co. (Operator) et al.	do	Assignment 1-20-70 [10] [13]	168	17
CI70-939 (G-17019) F 4-13-70	Dugan Production Corp. (successor to Gulf Oil Corp.).	El Paso Natural Gas Co., Gallegos Gallup Field, San Juan County, N. Mex.	Contract 9-3-58 [16]	2	
			Agreement 4-17-69	2	1
			Assignment 2-6-70 [17]	2	2
			Effective date: 10-1-69		
CI70-940 A 4-15-70 6-15-70 [18]	Pan American Petroleum Corp.[18]	Michigan Wisconsin Pipe Line Co., Laverne Gas Area, Harper County, Okla.	Contract 3-23-70	548	
			Letter agreement 5-28-70 [8]	548	1
CI70-947 A 4-17-70	Earl T. Smith & Associates, Inc. (Operator) et al.	Northern Natural Gas Co., Cambridge Upper Morrow Field, Ochiltree and Lipscomb Counties, Tex.	Contract 2-12-70	1	
			Compliance 6-15-70 [8] [20]	1	1
CI70-951 (G-20465) F 4-3-70	Kenneth P. Milliken et al. (successor to Mountain States Natural Gas Corp.).	El Paso Natural Gas Co., acreage in Rio Arriba and San Juan Counties, N. Mex.	Contract 12-2-59 [21]	1	
			Supplemental agreement 4-8-60.	1	1
			Supplemental agreement 3-7-61.	1	2
			Assignment 10-30-69 [22]	1	3
			Effective date: 10-1-69		

Filing code: A—Initial service.
B—Abandonment.
C—Amendment to add acreage.
D—Amendment to delete acreage.
E—Succession.
F—Partial succession.

See footnotes at end of table.

Docket No. and date filed	Applicant	Purchaser, field, and location	FPC rate schedule to be accepted: Description and date of document	No.	Supp.
CI70-962 A 4-22-70	Shenandoah Oil Corp. (Operator) et al.	Michigan Wisconsin Pipe Line Co., acreage in Woodward County, Okla.	Contract 2-19-70	12	
			Letter agreement 4-28-70	12	1
			Compliance 6-9-70 [8] [23]	12	2
CI70-973 A 4-23-70	Aikman Bros. Corp	Northern Natural Gas Co., West Lorena Field, Texas County, Tex.	Contract 3-2-70	9	
			Compliance 6-22-70 [8] [24]	9	1
CI70-978 A 4-29-70	Amerada Hess Corp.	Panhandle Eastern Pipe Line Co., North Avard Area, Woods County, Okla.	Contract 3-9-70	159	
			Compliance 6-19-70 [8] [25]	159	1
CI70-979 (G-11832) F 4-21-70	Aikman Bros. Corp. (successor to Pan American Petroleum Corp.).	Northern Natural Gas Co., Hansford Upper Morrow Field, Ochiltree County, Tex.	Contract 1-16-57 [26]	8	
			Letter agreement 9-6-57	8	1
			Amendatory agreement 4-17-58.	8	2
			Supplemental agreement 8-17-59.	8	3
			Letter agreement 8-17-59	8	4
			Assignment 1-14-70 [27]	8	5
			Effective date: 2-1-70		
CI70-986 A 5-1-70	Cleary Funds, Inc., et al.	Panhandle Eastern Pipe Line Co., Salon Field, Ellis County, Okla.	Contract 3-31-70	2	
			Compliance 6-9-70 [8] [28]	2	1
CI70-998 A 5-7-70	Rimrock Exploration Co., agent (Operator) et al.	Northern Natural Gas Co., Mocane-Laverne Field, Beaver County, Okla.	Contract 4-1-70	1	
			Compliance 6-15-70 [8] [29]	1	1
CI70-1015 A 5-13-70	Beacon Resources Corp. (Operator) et al.	Northern Natural Gas Co., Evalyn-Condit Field, Seward County, Kans.	Contract 5-4-70	3	
			Compliance 6-24-70 [8] [30]	3	1
C-70-1030 A 5-20-70	Jones & Pellow Oil Co	Michigan Wisconsin Pipe Line Co., Woodward Area, Major County, Okla.	Contract 4-16-70	14	
			Compliance (undated) [8] [31]	14	1
CI70-1059 (CI68-1246) F 6-1-70	J. Howard Marshall II (Operator) et al. (successor to C. J. Pinner (Operator) et al.).	Arkansas Louisiana Gas Co., Gilmer Field, Upshur County, Tex.	Contract 4-2-68 [32]	1	
			Assignment 1-9-70 [33]	1	1
			Effective date: 1-1-70		
CI70-1060 (G-17869) B 6-5-70	H. L. Hunt et al	Lone Star Gas Co., Sherman Field, Grayson County, Tex.	Notice of cancellation (undated).[10] [34]	24	2
CI70-1061 (G-17869) B 6-5-70	do	do	Notice of cancellation (undated).[10] [34]	23	2
CI70-1062 A 6-5-70	A. C. Radford et al	United Fuel Gas Co., Elk District, Kanawha County, W. Va.	Contract 5-15-70 [8]	13	
CI70-1063 A 5-27-70	Pennzoil United, Inc	United Fuel Gas Co., Spencer District, Roane County, W. Va.	Contract 3-3-69 [8] [35]		
CI70-1064 A 5-27-70	do	United Fuel Gas Co., Henry District, Clay County, W. Va.	Contract 8-22-69 [8] [35]	25	
CI70-1065 A 5-28-70	R. H. Adkins, d.b.a. Fry Gas Co. and Workman Gas Co.	United Fuel Gas Co., Harts Creek District, Lincoln County, W. Va.	Contract 6-7-56 [8] [35]	97	
CI70-1066 A 5-28-70	Sallie Skidmore, agent for C. F. Kirk, trustee.	United Fuel Gas Co., acreage in Martin County, Ky.	Contract 6-21-50 [36]	1	
			Letter agreement 10-21-52.	1	1
			Letter agreement 12-15-52.	1	2
CI70-1068 (G-8735) B 6-8-70	Harry R. Cronin, Jr., et al., d.b.a. HRC Gas & Oil Associates.	Consolidated Gas Supply Corp., acreage in Wetzel County, W. Va.	Notice of cancellation 6-7-70.[10] [34]	2	2
CI70-1069 (CI64-441) B 6-8-70	Genere Gas Industries, Inc.	Texas Gas Transmission Corp., Northeast Bethany Field, Panola County, Tex.	Notice of cancellation 6-5-70.[10] [34]	2	2
CI70-1071 A 6-8-70	N. G. Clark	Equitable Gas Co., Hackers Creek District, Lewis County, W. Va.	Contract 5-13-70 [8]	15	
CI70-1073 A 6-8-70	D. Lyman Stubblefield	El Paso Natural Gas Co., East Panhandle Field, Wheeler County, Tex.	Contract 5-7-70 [8]	1	
CI70-1074 (CI67-214) B 6-8-70	Willard E. Ferrell, agent for Medicine Men Development Co.	Equitable Gas Co., Union District, Ritchie County, W. Va.	Notice of cancellation 5-29-70. [10] [34]	17	1
CI70-1077 A 6-8-70	Ray Resources Corp	Equitable Gas Co., acreage in Braxton County, W. Va.	Contract 5-20-70 [8]	2	

See footnotes at end of table.

[1] Transfers the production from the Well No. 21, Jicarillo B Lease from dedication under a high-pressure contract (FPC GRS No. 90) to a low-pressure contract (FPC GRS No. 131).
[2] Conveys interest from J. M. Huber to Dudley R. Stanley.
[3] Conveys interest from Dudley R. Stanley to Aikman Bros. Corp.
[4] From Antelope Gas Products Co. to Excel Oil Corp. (no filings were made by Excel).
[5] From Excel Oil Corp. to Beaver Mesa Exploration Co.
[6] Applicant has previously succeeded to other interests covered by Humble Oil & Refining Co. (Operator) et al., FPC GRS No. 239, the basic contract of which is on file as Cotton Petroleum Co. FPC GRS No. 2.
[7] Assigns acreage from Humble to Cotton Petroleum Co. pursuant to the Nov. 11, 1969, Farmout Agreement.
[8] Effective date: Date of initial delivery (applicant shall advise the Commission as to such date).
[9] Commission order dated June 23, 1969, in Docket No. CP69-227 authorized Texas Gas Transmission Corp. to convert the Midland Kentucky Gas Field to an underground gas storage field.
[10] Effective date: Date of this order.
[11] Also on file as Cities Service Oil Co. (Operator) et al., FPC GRS No. 168.
[12] Conveys acreage from Cities Service Oil Co. to Johnnie C. Ross.
[13] Conveys acreage from Johnnie C. Ross to applicant.
[14] No certificate filing made or necessary, only the related rate filing is being accepted for filing.
[15] Conveys acreage from Cities Service to Johnnie C. Ross who subsequently reassigned the acreage to Crown Petroleum, Inc.
[16] On file as Gulf Oil Corp. FPC GRS No. 150.
[17] From Gulf Oil Corp. to applicant. Also includes two assignments dated Jan. 21, 1970.
[18] Contract provides for a rate of 20 cents subject to B.t.u. adjustment, however, applicant states willingness to accept a permanent certificate at 17 cents subject to B.t.u. adjustment. By letter dated June 11, 1970, applicant also agrees to accept a certificate conditioned as to advance payments.
[19] Amendment to the application to reflect revision of contract pricing provision by Letter Agreement dated May 28, 1970 (Supp. No. 1).
[20] Accepts conditioned temporary certificate issued June 11, 1970. Applicant states willingness to accept a permanent certificate under the same conditions imposed in the temporary certificate.
[21] On file as Mountain States Natural Gas Corp. FPC GRS No. 5.
[22] From Mountain States Natural Gas Corp.to applicants.
[23] Complies with temporary certificate issued June 5, 1970. Applicant states willingness to accept a permanent certificate under the same conditions imposed in the temporary certificate.
[24] Complies with temporary certificate issued June 18, 1970. Applicant states willingness to accept a permanent certificate under the same conditions imposed in the temporary certificate.
[25] Complies with temporary certificate issued May 22, 1970. Applicant states willingness to accept a permanent certificate conditioned as the temporary certificate.
[26] Also on file as Pan American Petroleum Corp. (Operator) et al., FPC GRS No. 192.
[27] Conveys acreage from Pan American Petroleum Corp. to Aikman Bros. Corp.
[28] Complies with temporary certificate issued May 28, 1970. Applicant states willingness to accept a permanent certificate conditioned as the temporary certificate.
[29] Complies with temporary certificate issued June 11, 1970. Applicant states willingness to accept a permanent certificate conditioned as the temporary certificate.
[30] Complies with temporary certificate issued June 18, 1970. Applicant states willingness to accept a permanent certificate conditioned as the temporary certificate.
[31] Complies with temporary certificate issued June 11, 1970. Applicant states willingness to accept a permanent certificate conditioned as the temporary certificate.
[32] Currently on file as C. J. Pinner (Operator) et al., FPC GRS No. 2.
[33] From C. J. Pinner to applicant.
[34] Source of gas depleted.
[35] Sale being rendered without prior Commission authorization.
[36] Sale being rendered on June 7, 1954.

Suggested agreement and undertaking:

BEFORE THE FEDERAL POWER COMMISSION

(Name of Respondent)

Docket No.

AGREEMENT AND UNDERTAKING OF (NAME OF RESPONDENT) TO COMPLY WITH REFUNDING AND REPORTING PROVISIONS OF SECTION 154.102 OF THE COMMISSION'S REGULATIONS UNDER THE NATURAL GAS ACT

(Name of Respondent) hereby agrees and undertakes to comply with the refunding and reporting provisions of section 154.102 of the Commission's regulations under the Natural Gas Act insofar as they are applicable to the proceeding in Docket No. ------, and has caused this agreement and undertaking to be executed and sealed in its name by a duly authorized officer this ------ day of ------, 19--.

(Name of Respondent)

By ----------

Attest:

[F.R. Doc. 70-10888; Filed, Aug. 21, 1970; 8:45 a.m.]

[Docket No. G-7079, etc.]

R. L. WHARTON ET AL.

Findings and Order

AUGUST 12, 1970.

Findings and order after statutory hearing issuing certificates of public convenience and necessity, amending orders issuing certificates, permitting and approving abandonment of service, terminating certificates, terminating proceeding, substituting respondents, making successors co-respondents, redesignating proceedings, making rate change effective, requiring filing of agreements and undertakings, and accepting related rate schedules and supplements for filing.

Each of the applicants listed herein has filed an application pursuant to section 7 of the Natural Gas Act for a certificate of public convenience and necessity authorizing the sale and delivery of natural gas in interstate commerce or for permission and approval to abandon service or a petition to amend an order issuing a certificate, all as more fully set forth in the applications and petitions, as supplemented and amended.

Applicants have filed related FPC gas rate schedules or supplements thereto and propose to initiate, abandon, add to, or discontinue in part natural gas service in interstate commerce as indicated in the tabulation herein. All sales certificated herein are at rates either equal to or below the ceiling prices established by the Commission's Statement of General Policy No. 61-1, as amended, or involve sales for which permanent certificates have been previously issued; except that sales from areas for which area rates have been determined are authorized to be made at or below the applicable area base rates adjusted for quality of the gas, and under the conditions prescribed in the orders determining said rates.

Featherstone Farms, Ltd., applicant in Docket No. CI65-770, proposes to continue the sale of natural gas heretofore authorized in said docket to be made pursuant to Olen F. Featherstone et al., FPC Gas Rate Schedule No. 4. Said rate schedule will be redesignated as that of Applicant. The presently effective rate under Olen F. Featherstone et al. FPC Gas Rate Schedule No. 4 is in effect subject to refund in Docket No. RI67-50. The effective date of transfer of the producing properties is April 2, 1967, and the effective date of the rate subject to refund in Docket No. RI67-50 is February 2, 1970. Therefore, applicant will be substituted in lieu of Olen F. Featherstone et al., as respondent in said proceeding; said proceeding will be redesignated accordingly; and applicant will be required to file an agreement and undertaking to assure the refund of all amounts collected in excess of the amount determined to be just and reasonable in said proceeding.

George A. Bernat (Operator) et al., applicant in Docket No. CI66-112, proposes to continue the sale of natural gas heretofore authorized in said docket to be made pursuant to Sentinel Petroleum Corp. FPC Gas Rate Schedule No. 1. Said rate schedule will be redesignated as that of applicant. The presently effective rate under Sentinel's rate schedule is in effect subject to refund in Docket No. RI64-492 and a prior increased rate was collected for a locked-in period subject to refund in Docket No. RI64-58. Applicant requests to be made co-respondent in said proceedings. Therefore, applicant will be made co-respondent and said proceedings will be redesignated accordingly.

John H. Hill, applicant in Docket No. CI70-944, proposes to continue in part the sale of natural gas heretofore authorized in Docket No. CI60-722 to be made pursuant to Pan American Petroleum Corp. FPC Gas Rate Schedule No. 276. The contract comprising said rate schedule will also be accepted for filing as a rate schedule of applicant. The presently effective rate under said rate schedule is in effect subject to refund in Docket No. RI69-349. On January 6, 1970, Pan American filed with the Commission a notice of change in rate under its FPC Gas Rate Schedule No. 276. By order issued January 28, 1970, in Docket No. RI70-1091, et al., the Commission suspended the proposed change in Docket No. RI70-1101 until July 6, 1970, and thereafter until made effective. The notice of change was designated at Supplement No. 5 to the rate schedule. On May 4, 1970, applicant filed a motion to make the change in rate effective subject to refund. Therefore, applicant will be made a co-respondent in the proceeding pending in Docket No. RI70-1101; said proceeding will be re-designated accordingly; the change in rate suspended in Docket No. RI70-1101 will be made effective subject to refund with respect to sales by applicant; and applicant will be required to file an agreement and undertaking to assure the refund of any amounts collected by him in excess of the amount determined to be just and reasonable in said proceeding.

Texas Oil & Gas Corp., applicant in Docket No. CI70-968, proposes to continue in part the sale of natural gas heretofore authorized in Docket No. CI66-942 to be made pursuant to Pan American Petroleum Corp. (Operator) et al., FPC Gas Rate Schedule No. 449. The contract comprising said rate schedule will also be accepted for filing as a rate schedule of applicant. The presently effective rate under Pan American's rate schedule is in effect subject to refund in Docket No. RI69-224. Applicant requests to be made a co-respondent in said proceeding. Therefore, applicant will be made a co-respondent and said proceeding will be redesignated accordingly. Applicant has heretofore filed a general undertaking to assure the refund of amounts collected in excess of amounts determined to be just and reasonable in proceedings under section 4(e) of the Natural Gas Act.

J. M. Huber Corp., applicant in Docket No. CI70-977, proposes to continue in part the sale of natural gas heretofore authorized in Docket No. CI60-466 to be made pursuant to Cabot Corp. (SW) (Operator) et al., FPC Gas Rate Schedule No. 53. The contract comprising said rate schedule will also be accepted for filing as a rate schedule of applicant. The presently effective rate under Cabot's rate schedule is in effect subject to refund in Docket No. RI67-257. Applicant has heretofore filed a general undertaking to assure the refund of amounts collected in excess of amounts determined to be just and reasonable in proceedings under section 4(e) of the Natural Gas Act. Therefore, applicant will be made a co-respondent in the proceeding pending in Docket No. RI67-257 and said proceeding will be redesignated accordingly.

The Commission's staff has reviewed each application and recommends each action ordered as consistent with all substantive Commission policies and required by the public convenience and necessity.

After due notice by publication in the FEDERAL REGISTER, no petitions to intervene, notices of intervention or protests to the granting of the applications have been filed.

At a hearing held on August 6, 1970, the Commission on its own motion received and made a part of the record in this proceeding all evidence, including the applications and petitions, as supplemented and amended, and exhibits thereto, submitted in support of the authorizations sought herein, and upon consideration of the record.

The Commission finds:

(1) Each applicant herein is a "natural-gas company" within the meaning of the Natural Gas Act as heretofore found by the Commission or will be engaged in the sale of natural gas in interstate commerce for resale for ultimate public consumption, subject to the jurisdiction of the Commission, and will, therefore, be a "natural-gas company" within the meaning of the Natural Gas Act upon the commencement of service under the authorizations hereinafter granted.

(2) The sales of natural gas hereinbefore described, as more fully described in the applications in this proceeding, will be made in interstate commerce subject to the jurisdiction of the Commission; and such sales by applicants, together with the construction and operation of

any facilities subject to the jurisdiction of the Commission necessary therefor, are subject to the requirements of subsections (c) and (e) of section 7 of the Natural Gas Act.

(3) Applicants are able and willing properly to do the acts and to perform the service proposed and to conform to the provisions of the Natural Gas Act and the requirements, rules and regulations of the Commission thereunder.

(4) The sales of natural gas by applicants, together with the construction and operation of any facilities subject to the jurisdiction of the Commission necessary therefor, are required by the public convenience and necessity and certificates therefor should be issued as hereinafter ordered and conditioned.

(5) It is necessary and appropriate in carrying out the provisions of the Natural Gas Act and the public convenience and necessity require that the orders issuing certificates of public convenience and necessity in various dockets involved herein should be amended as hereinafter ordered and conditioned.

(6) The sales of natural gas proposed to be abandoned as hereinbefore described and as more fully described in the applications and in the tabulation herein are subject to the requirements of subsection (b) of section 7 of the Natural Gas Act.

(7) The abandonments proposed by applicants herein are permitted by the public convenience and necessity and should be approved as hereinafter ordered.

(8) It is necessary and appropriate in carrying out the provisions of the Natural Gas Act that the certificates heretofore issued to applicants relating to the abandonments hereinafter permitted and approved should be terminated or that the orders issuing said certificates should be amended by deleting therefrom authorization to sell natural gas from the subject acreage.

(9) It is necessary and appropriate in carrying out the provisions of the Natural Gas Act that the rate proceeding pending in Docket No. RI70-998 should be terminated only with respect to sales made pursuant to Mobil Oil Corp. FPC Gas Rate Schedule No. 385.

(10) It is necessary and appropriate in carrying out the provisions of the Natural Gas Act that Featherstone Farms, Ltd., should be substituted in lieu of Olen Featherstone et al., as respondent in the proceeding pending in Docket No. RI67-50; that said proceeding should be redesignated accordingly; and that Featherstone Farms, Ltd., should be required to file an agreement and undertaking.

(11) It is necessary and appropriate in carrying out the provisions of the Natural Gas Act that George A. Bernat (Operator) et al., should be made a co-respondent in the proceedings pending in Dockets Nos. RI64-58 and RI65-492, and that said proceedings should be redesignated accordingly.

(12) It is necessary and appropriate in carrying out the provisions of the Natural Gas Act that John H. Hill should be made a co-respondent in the proceeding pending in Docket No. RI70-1101, that said proceeding should be redesignated accordingly; that the proposed change in rate suspended in said proceeding should be made effective subject to refund with respect to sales by Hill, and that Hill should be required to file an agreement and undertaking.

(13) It is necessary and appropriate in carrying out the provisions of the Natural Gas Act that Texas Oil & Gas Corp. should be made a co-respondent in the proceeding pending in Docket No. RI69-224 and that said proceeding should be redesignated accordingly.

(14) It is necessary and appropriate in carrying out the provisions of the Natural Gas Act that J. M. Huber Corp. should be made a co-respondent in the proceeding pending in Docket No. RI67-257 and that said proceeding should be redesignated accordingly.

(15) It is necessary and appropriate in carrying out the provisions of the Natural Gas Act that the FPC gas rate schedules and supplements related to the authorizations hereinafter granted should be accepted for filing.

The Commission orders:

(A) Certificates of public convenience and necessity are issued upon the terms and conditions of this order authorizing sales by applicants of natural gas in interstate commerce for resale, together with the construction and operation of any facilities subject to the jurisdiction of the Commission necessary therefor, all as hereinbefore described and as more fully described in the applications and in the tabulation herein.

(B) The certificates granted in paragraph (A) above are not transferable and shall be effective only so long as applicants continue the acts or operations hereby authorized in accordance with the provisions of the Natural Gas Act and the applicable rules, regulations and orders of the Commission.

(C) The grant of the certificates issued in paragraph (A) above shall not be construed as a waiver of the requirements of section 4 of the Natural Gas Act or of Part 154 or Part 157 of the Commission's Regulations thereunder and is without prejudice to any findings or orders which have been or which may hereafter be made by the Commission in any proceedings now pending or hereafter instituted by or against applicants. Further, our action in this proceeding shall not foreclose nor prejudice any future proceedings or objections relating to the operation of any price or related provisions in the gas purchase contracts herein involved. Nor shall the grant of the certificates aforesaid for service to the particular customers involved imply approval of all of the terms of the contracts, particularly as to the cessation of service upon termination of said contracts as provided by section 7(b) of the Natural Gas Act. The grant of the certificates aforesaid shall not be construed to preclude the imposition of any sanctions pursuant to the provisions of the Natural Gas Act for the unauthorized commencement of any sales of natural gas subject to said certificates.

(D) The certificates issued herein and the amended certificates are subject to the following conditions:

(a) The initial rate for the sale authorized in Docket No. CI70-431 shall be 27.46 cents per Mcf at 15.325 p.s.i.a.

(b) The initial rate for the sale authorized in Docket No. CI70-1107 shall be 17 cents per Mcf at 14.65 p.s.i.a.

(c) The rate for the sale authorized in Docket No. CI63-356 shall be 15 cents per Mcf at 14.65 p.s.i.a. including tax reimbursement.

(d) The rate for the sale authorized in Docket No. CI70-236 shall be 15 cents per Mcf at 14.65 p.s.i.a. including tax reimbursement and subject to B.t.u. adjustment.

(E) The orders issuing certificates in Dockets Nos. G-10665, G-16367, CI63-356, CI66-1258, CI69-197, CI69-1179, and CI70-236 are amended by adding thereto or deleting therefrom authorization to sell natural gas as described in the tabulation herein.

(F) The authorization granted in Docket No. G-10665 in paragraph (E) above shall not be construed to relieve applicant of any refund obligations in the proceedings pending in Dockets Nos. RI65-380 and RI70-746 with respect to the acreage being deleted.

(G) The orders issuing certificates in Dockets Nos. CI60-466, CI60-722, and CI66-942 are amended by deleting therefrom authorization to sell natural gas from acreage assigned to applicants in Dockets Nos. CI70-977, CI70-944, and CI70-968, respectively.

(H) The orders issuing certificates in Dockets Nos. G-7079, CI65-770, CI66-112, CI67-564, CI67-565, CI67-566, CI67-567, CI67-568, CI67-569, and CI67-570 are amended to reflect the successors in interest as certificate holders.

(I) The orders issuing certificates in Dockets Nos. CI64-953, CI69-766 and CI69-849 are amended to reflect the change in operators as described in the tabulation herein.

(J) The orders issuing certificates in Dockets Nos. CI70-597, CI70-716 and CI70-783 are amended to reflect the change in name from International Nuclear Corp. to Inexco Oil Co.

(K) Permission for and approval of the abandonment of service by applicants, as hereinbefore described, all as more fully described in the applications and in the tabulation herein are granted.

(L) The certificates heretofore issued in Dockets Nos. CI63-838 and CI66-894 are terminated.

(M) The rate proceeding pending in Docket No. RI70-998 is terminated only with respect to sales made pursuant to Mobil Oil Corp. FPC Gas Rate Schedule No. 385.

(N) Featherstone Farms, Ltd., is substituted in lieu of Olen F. Featherstone et al., as respondent in the proceeding pending in Docket No. RI67-50 and said proceeding is redesignated accordingly. Featherstone Farms, Ltd., shall charge and collect for sales made pursuant to its FPC Gas Rate Schedule No. 2 the rate of 16 cents per Mcf at 14.65 p.s.i.a., subject to treating costs, for sales made from April 2, 1967, through February 1, 1970, and the rate of 18 cents per Mcf at 14.65

p.s.i.a., subject to treating costs and subject to refund in Docket No. RI67-50, for sales made from February 2, 1970. Featherstone Farms, Ltd., shall comply with the refunding procedure required by the Natural Gas Act and § 154.102 of the regulations thereunder.

(O) Within 30 days from the date of this order, Featherstone Farms, Ltd., shall execute, in the form set out below, and shall file with the Secretary of the Commission an acceptable agreement and undertaking in Docket No. RI67-50 to assure the refund of all amounts collected, together with interest at the rate of 7 percent per annum, in excess of the amount determined to be just and reasonable in said proceeding. Unless notified to the contrary by the Secretary of the Commission within 30 days from the date of submission, such agreement and undertaking shall be deemed to have been accepted for filing. The agreement and undertaking shall remain in full force and effect until discharged by the Commission.

(P) George A. Bernat (Operator) et al., is made a co-respondent in the proceedings pending in Dockets Nos. RI64-58 and RI64-492 and said proceedings are redesignated accordingly. George A. Bernat shall comply with the refunding procedure required by the Natural Gas Act and § 154.102 of the regulations thereunder.

(Q) John H. Hill is made a co-respondent in the proceeding pending in Docket No. RI70-1101 and said proceeding is redesignated accordingly. The rates, charges, and classifications set forth in Supplement No. 5 to Pan American Petroleum Corp., FPC Gas Rate Schedule No. 276 shall be effective subject to refund for sales made pursuant to John H. Hill, FPC Gas Rate Schedule No. 13 on the date of initial delivery under Hill's rate schedule. Hill shall charge and collect the total rate of 21.55556 cents per Mcf at 14.65 p.s.i.a., subject to refund in Docket No. RI70-1101 and shall comply with the refunding procedure required by the Natural Gas Act and § 154.102 of the regulations thereunder.

(R) Within 30 days from the date of this order, John H. Hill shall execute, in the form set out below, and shall file with the Secretary of the Commission an acceptable agreement and undertaking in Docket No. RI70-1101 to assure the refund of any amounts collected by him, together with interest at the rate of 7 percent per annum, in excess of the amount determined to be just and reasonable in said proceeding with respect to sales made pursuant to John H. Hill FPC Gas Rate Schedule No. 13. Unless notified to the contrary by the Secretary of the Commission within 30 days from the date of submission, such agreement and undertaking shall be deemed to have been accepted for filing. The agreement and undertaking shall remain in full force and effect until discharged by the Commission.

(S) Texas Oil & Gas Corp. is made a co-respondent in the proceeding pending in Docket No. RI69-224 and said proceeding is redesignated accordingly. Texas Oil & Gas Corp. shall comply with the refunding procedure required by the Natural Gas Act and § 154.102 of the regulations thereunder.

(T) J. M. Huber Corp. is made a co-respondent in the proceeding pending in Docket No. RI 67-257 and said proceeding is redesignated accordingly. Huber shall charge and collect for sales made pursuant to its FPC Gas Rate Schedule No. 88 the rate of 19.04 cents per Mcf at 14.65 p.s.i.a. for sales from October 1, 1966, through September 7, 1969, and the rate of 24.64 cents per Mcf at 14.65 p.s.i.a., subject to refund in Docket No. RI67-257, for sales from September 8, 1969. Huber shall comply with the refunding procedure required by the Natural Gas Act and § 154.102 of the regulations thereunder.

(U) The rate schedules and rate schedule supplements related to the authorizations granted herein are accepted for filing or are redesignated, all as described in the tabulation herein.

By the Commission.

[SEAL] GORDON M. GRANT, *Secretary.*

Docket No. and date filed	Applicant	Purchaser, field, and location	FPC rate schedule to be accepted		
			Description and date of document	No.	Supp.
G-7079 E 5-28-70	R. L. Wharton (successor to Cities Service Oil Co.).	Cumberland and Allegheny Gas Co., acreage in Lewis County, W. Va.	Cities Service Oil Co., FPC GRS No. 266.	6	
			Supplements Nos. 1-3	6	1-3
			Notice of succession (undated).		
			Assignment 7-1-69	6	4
			Effective date: 7-1-69		
G-10665 D 6-15-70	Champlin Petroleum Co. (Operator) et al.	Cities Service Gas Co., acreage in Alfalfa County, Okla.	Notice of partial cancellation 6-11-70.[1 2]	64	8
G-16367 D 6-12-70	Mobil Oil Corp. (Operator) et al.	Transwestern Pipeline Co., Feldman Field, Lipscomb County, Tex.	Notice of cancellation 6-10-70.[2 3]	230	16
CI63-356 C 4-27-70	Marathon Oil Co	Lone Star Gas Co., East Durant Field, Bryan County, Okla.	Amendatory agreement 12-4-69.	83	8
			Compliance 6-2-70 [4 5]	83	9
CI64-953 E 6-11-70 [6]	Jack W. Grigsby (Operator) et al. (successor to Brammer Engineering, Inc., Agent (Operator) et al.).	Florida Gas Transmission Co., North Veltin Field, St. Landry Parish, La.	Brammer Engineering, Inc., Agent (Operator) et al., FPC GRS No. 6.	13	
			Notice of succession 6-10-70		
			Letter agreement 3-31-70	13	1
			Effective date: 3-1-70		
CI65-770 E 3-23-70	Featherstone Farms, Ltd. (successor to Glen F. Featherstone, et al.).	El Paso Natural Gas Co., Custer Mountain Unit, Lea County, N. Mex.	Olen F. Featherstone, et al., FPC GRS No. 4.	2	
			Supplement No. 1	2	1
			Notice of succession (undated).		
			Assignment 3-10-70	2	2
			Effective date: 4-2-67		
CI66-112 E 4-9-70	George A. Bernat (Operator) et al. (successor to Sentinel Petroleum Corp.).	El Paso Natural Gas Co., Pictured Cliffs Field, Rio Arriba County, N. Mex.	Sentinel Petroleum Corp., FPC GRS No. 1.	1	
			Supplements Nos. 1-5	1	1-5
			Notice of succession 4-1-70		
			Judgment 5-20-69 [7]		
			Effective date: 9-23-69		
CI66-1258 D 5-7-70	Gulf Oil Corp. (Operator) et al.	Michigan Wisconsin Pipe Line Co., Northeast Cheyenne Valley Field, Major County, Okla.	Notice of partial cancellation 5-7-70.[28]	314	3
CI67-564 E 6-4-70	White Shield Oil & Gas Corp. (successor to Marvin E. Wilhite, et al.).	Cumberland & Allegheny Gas Co., Union District, Barbour County, W. Va.	Marvin E. Wilhite, et al., FPC GRS No. 5.	22	
			Supplement No. 1	22	1
			Notice of succession 5-26-70		
			Assignment 6-13-69	22	2
			Effective date: 6-13-69		
CI67-565 E 5-4-70	do	Cumberland & Allegheny Gas Co., Warren District, Upshur County, W. Va.	Marvin E. Wilhite, et al., FPC GRS No. 6.	23	
			Notice of succession 5-11-70		
			Assignment 6-13-69	23	1
			Effective date: 6-13-69		
CI67-566 E 6-4-70	do	do	Marvin E. Wilhite et al., FPC GRS No. 7.	24	
			Notice of succession 5-26-70		
			Assignment 6-13-69	24	1
			Effective date: 6-13-69		
CI67-567 E 6-4-70	do	Cumberland & Allegheny Gas Co., Union District, Barbour County, W. Va.	Marvin E. Wilhite et al., FPC GRS No. 8.	25	
			Notice of succession 5-26-70		
			Assignment 6-13-69	25	1
			Effective date: 6-13-69		
CI67-568 E 6-4-70	do	do	Marvin E. Wilhite et al., FPC GRS No. 9.	26	
			Notice of succession 5-26-70		
			Assignment 6-13-69	26	1
			Effective date: 6-13-69		
CI67-569 E 6-4-70	do	do	Marvin E. Wilhite et al., FPC GRS No. 10.	27	
			Notice of succession 5-11-70		
			Assignment 6-13-69	27	1
			Effective date: 6-13-69		
CI67-570 E 6-4-70	do	do	Marvin E. Wilhite et al., FPC GRS No. 11.	28	
			Notice of succession 5-26-70		
			Assignment 6-13-69	28	1
			Effective date: 6-13-69		

Filing code: A—Initial service.
B—Abandonment.
C—Amendment to add acreage.
D—Amendment to delete acreage.
E—Succession.
F—Partial succession.

See footnotes at end of table.

Docket No. and date filed	Applicant	Purchaser, field, and location	FPC rate schedule to be accepted: Description and date of document	No.	Supp.
CI69-197 C 6-12-70	Ashland Oil, Inc.	United Fuel Gas Co., Poca District, Kanawha County, W. Va.	Agreement 5-20-70 [5]	193	
CI69-197 C 6-12-70	do	do	Supplemental agreement 5-21-68.[5]	193	10
CI69-766 E 5-19-70 [6]	Sohio Petroleum Co. (Operator) et al. (successor to Inexco Oil Co. (Operator) et al. [9]).	Kansas-Nebraska Natural Gas Co., Inc., Lost Cabin Field, Fremont County, Wyo.	International Nuclear Corp. (Operator) et al., FPC GRS No. 1.	152	
			Supplements Nos. 1-5	152	1-5
			Assignment 4-1-70	152	6
			Effective date: 4-1-70		
CI69-849 E 5-19-70 [6]	do	Colorado Interstate Gas Co., a division of Colorado Interstate Corp., Madden Field, Fremont and Natrona Counties, Wyo.	International Nuclear Corp. (Operator) et al., FPC GRS No. 2.	153	
			Assignment 4-1-70	153	1
			Effective date: 4-1-70		
CI69-1179 C 6-15-70	MacDonald Spidel	Equitable Gas Co., Salt Lick District, Braxton County, W. Va.	Letter agreement 5-14-70 [5]	5	3
CI70-236 C 6-15-70	Leben Drilling, Inc. (Operator) et al.[10]	Arkansas Louisiana Gas Co., Arkoma Basin, LeFlore County, Okla.	Contract 5-7-70 [5 11]	3	10
CI70-431 A 10-31-69	Westrans Petroleum, Inc.	Cumberland & Allegheny Gas Co., Union and Washington Districts, Upshur County, W. Va.	Contract 10-6-69 (No. 405)	8	
			Supplemental agreement 1-28-70.[6]	8	1
CI70-431 C 6-22-70	do	do	Supplemental agreement 5-19-70.[5 12]	8	2
CI70-597 6-8-70 [13]	Inexco Oil Co. (formerly International Nuclear Corp.).	Transcontinental Gas Pipe Line Corp., Van Meter Field, Hardin County, Tex.	International Nuclear Corp., FPC GRS No. 3.	3	
CI70-716 6-8-70 [13]	do	Mountain Fuel Supply Co., Powder Wash Area, Sweetwater County, Wyo. and Moffat County, Colo.	International Nuclear Corp., FPC GRS No. 4.	4	
CI70-783 6-8-70 [13]	do	Natural Gas Pipeline Co. of America, Seven Oaks Area, Polk County, Tex.	International Nuclear Corp., FPC GRS No. 5.	5	
CI70-944 (CI60-722) F 4-14-70	John H. Hill (successor to Pan American Petroleum Corp.).	Panhandle Eastern Pipe Line Co., Northwest Six Mile Field, Beaver County, Okla.	Contract 3-25-60 [14]	13	
			Assignment 1-27-70.[5 15]	13	1
CI70-968 (CI66-942) F 4-20-70	Texas Oil & Gas Corp. (successor to Pan American Petroleum Corp. (Operator) et al.).	Northern Natural Gas Co., acreage in Ellis County, Okla.	Contract 3-8-66 [16]	59	
			Assignment 11-21-69 [5 17]	59	1
CI70-977 (CI60-466) F 4-23-70	J. M. Huber Corp. (successor to Cabot Corp. (SW)).	Northern Natural Gas Co., Laverne Field, Beaver County, Okla.	Contract 3-17-60 [18]	88	
			Letter agreement 3-17-60	88	1
			Supplemental agreement 10-25-63.	88	2
			Supplement 8-26-65	88	3
			Notice of change 11-30-66	88	4
			Assignment 1-6-67 [19]	88	5
			Effective date: 10-1-66		
CI70-1084 A 6-8-70	Geneva Smith, trustee for Ray Smith.	United Fuel Gas Co., acreage in Knott County, Ky.	Contract (No. 5622) 6-16-53.[20]	1	
CI70-1085 A 6-8-70	Geneva Smith, trustee for Charlie Young.	do	Contract (No. 5429) 11-15-49.[20]	2	
CI70-1086 A 6-8-70	Geneva Smith, trustee for Ray Smith.	do	Contract (No. 5310) 12-19-47.[20]	3	
CI70-1087 A 6-8-70	do	do	Contract (No. 5609) 12-29-52.[20]	4	
CI70-1088 A 6-8-70	do	do	Contract (No. 5299) 9-15-47.[20]	5	
CI70-1089 A 6-10-70	Union Drilling, Inc.	Consolidated Gas Supply Corp., Freemans Creek District, Lewis County, W. Va.	Contract 2-12-70 (No. 3484).[5]	63	
CI70-1092 A 6-9-70	Appalachian Petroleum, Inc.	Equitable Gas Co., Birch District, Braxton County, W. Va.	Contract 4-6-70 (No. 6353).[5]	1	
CI70-1093 (CI63-838) B 6-9-70	Genere Gas Industries, Inc.	Texas Gas Transmission Corp., Northeast Bethany Field, Panola County, Tex.	Notice of cancellation 6-5-70.[1 2]	1	2
CI70-1096 A 6-10-70	Champlin Petroleum Co.	Marathon Oil Co.,[21] Fleming Gas Unit, West Sidney Gas Pool No. 12, Cheyenne County, Nebr.	Contract 10-1-57	106	
			Letter agreement 4-1-69	106	1
CI70-1097 A 6-11-70	W. R. Smith, trustee for David Hall.	United Fuel Gas Co., acreage in Knott County, Ky.	Contract (No. 1610) 3-20-36.[20]	3	
			Letter agreement 10-21-52	3	1
			Letter agreement 12-15-52	3	2
CI70-1098 A 6-11-70	W. R. Smith	United Fuel Gas Co., acreage in Knott County, Ky.	Contract (No. 5590) 7-18-52.[20]	2	
			Letter agreement 10-26-53	2	1
CI70-1101 A 6-12-70	Liberty Oil and Gas Co.	Equitable Gas Co., Salt Lick District, Braxton County, W. Va.	Contract 5-13-70 (No. 6358).[5]	2	
CI70-1103 (CI66-894) B 6-15-70	Mobil Oil Corp.	Panhandle Eastern Pipe Line Co., Panhandle Field, Moore County, Tex.	Notice of cancellation 6-12-70.[1 2]	[22] 385	3
CI70-1105 A 6-16-70	Blue Creek Gas Co., et al.	Equitable Gas Co., Copen Run Field, Braxton County, W. Va.	Contract 5-18-70 (No. 6359).[5]	1	
CI70-1107 A 6-16-70	Texas Oil & Gas Corp. (Operator) et al.[23]	Natural Gas Pipeline Co. of America, Camrick Field, Beaver County, Okla.	Contract 5-15-70 [5]	61	

See footnotes at end of table.

[1] Source of gas depleted.
[2] Effective date: Date of this order.
[3] Releases nonproductive acreage from contract; release agreement attached, indicating cancellation of leases.
[4] Accepts conditioned temporary certificate issued May 28, 1970. Applicant states willingness to accept permanent authorization conditioned to the initial rate of 15 cents per Mcf.
[5] Effective date: Date of initial delivery (applicant shall advise the Commission as to such date).
[6] Amendment to the certificate to reflect the change in operator.
[7] Instrument of transfer whereby George A. Bernat acquired interest in acreage by court decree and foreclosure.
[8] Deletes casinghead gas production from the Hunton Formation of section 28-T22N-R14W. Said gas has not been delivered to buyer since it is uneconomical for Gulf to compress the low pressure gas.
[9] Formerly International Nuclear Corp.
[10] Contract rate is 16.015 cents including tax reimbursement subject to B.t.u. adjustment. Applicant is filing for a rate of 15 cents including tax reimbursement subject to B.t.u. adjustment.
[11] Dedicates interest of The Desana Corp. (co-owner) to original contract.
[12] Amendment adds 1,080.5 acres and changes initial rate to be charged for all acreage from 26.48 cents to 27.46 cents per Mcf.
[13] Amendment to the certificate to reflect a change in name.
[14] Between Pan American and purchaser; also on file as Pan American Petroleum Corp. FPC GRS No. 276.
[15] Conveys acreage from Pan American Petroleum Corp. to John H. Hill.
[16] On file as Pan American Petroleum Corp. (Operator) et al., FPC GRS No. 449.
[17] Assigns acreage from Pan American Petroleum Corp. to applicant.
[18] On file as Cabot Corp. (SW) (Operator) et al., FPC GRS No. 53.
[19] Conveys interest from Cabot Corp. (SW) to applicant.
[20] Sale being renedered on June 7, 1954.
[21] For resale to Kansas-Nebraska Natural Gas Co., Inc.
[22] Rate of 17.0638 cents effective subject to refund in Docket No. RI70-998. Applicant concurrently filed a motion to terminate the rate proceeding only with respect to this sale. No revenues collected effective subject to refund.
[23] Contract rate is 20 cents per Mcf; however, applicant has expressed willingness to accept a permanent certificate at the rate of 17 cents per Mcf.

Suggested agreement and undertaking:

BEFORE THE FEDERAL POWER COMMISSION

(Name of Respondent) _____
Docket No. _____

AGREEMENT AND UNDERTAKING OF (NAME OF RESPONDENT) TO COMPLY WITH REFUNDING AND REPORTING PROVISIONS OF SECTION 154.-102 OF THE COMMISSION'S REGULATIONS UNDER THE NATURAL GAS ACT

(Name of Respondent) hereby agrees and undertakes to comply with the refunding and reporting provisions of section 154.102 of the Commission's regulations under the Natural Gas Act insofar as they are applicable to the proceeding in Docket No. _____, and has caused this agreement and undertaking to be executed and sealed in its name by a duly authorized officer this _____ day of _____, 19__.

(Name of Respondent)
By _____

Attest:

_____

[F.R. Doc. 70-10887; Filed, Aug. 21, 1970; 8:45 a.m.]

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[C-2285]

COLORADO

Notice of Proposed Classification of Public Lands for Multiple-Use Management

1. Pursuant to the Act of September 19, 1964 (43 U.S.C. 1411-18), and to the regulations in 43 CFR Parts 2410 and 2411, it is proposed to classify for multiple-use management the public lands described below. Publication of this notice has the effect of segregating the described lands from appropriation only under the agricultural land laws (43 U.S.C. Parts 7 and 9, 25 U.S.C. 334) and from sale under section 2455 of the Revised Statutes (43 U.S.C. 1171), and the lands shall remain open to all other applicable forms of appropriation, including the mining and mineral leasing laws. As used herein, "public lands" means any lands withdrawn or reserved by Executive Order No. 6910 of November 26, 1934, as amended, or within a grazing district established pursuant to the Act of June 28, 1934 (48 Stat. 1269), as amended, which are not otherwise withdrawn or reserved for a Federal use or purpose.

2. The public lands proposed for classification are shown on maps on file in the Montrose District Office, Bureau of Land Management, Highway 550 South, Montrose, Colo., and Land Office, Bureau of Land Management, 15019 Federal Building, Denver, Colo. 80202.

SIXTH PRINCIPAL MERIDIAN

T. 15 S., R. 96 W.,
Sec. 3, lots 1 to 4, inclusive, S½NW¼, N½SW¼;
Sec. 4;
Sec. 5, lots 1 to 4, inclusive, S½N½, SW¼, N½SE¼, and SW¼SE¼;
Sec. 6, lots 1, 6, 7, SE¼NE¼, SE¼SW¼, NE¼SE¼, S½SE¼;
Sec. 7;
Sec. 8, NW¼NW¼, S½NW¼;
Sec. 9, NW¼NE¼.
T. 15 S., R. 97 W.,
Sec. 11, lots 1 to 5, inclusive;
Sec. 12, NE¼, E½NW¼, N½SE¼;
Sec. 18, lots 3, 4, E½SW¼, SE¼;
Sec. 20, NE¼, E½W½, SW¼SW¼, N½SE¼;
Sec. 21, N½;
Sec. 22, NE¼SW¼, S½SW¼, SE¼;
Sec. 25, S½SW¼;
Sec. 26, NW¼NW¼, S½N½, and S½.
T. 14 S., R. 98 W.,
Sec. 1;
Sec. 2, lots 2, 3, 4, SE¼NE¼, E½SE¼;
Sec. 11, lots 1 to 7, inclusive, E½NE¼;
Sec. 12, lots 1 to 4, inclusive, N½;
Sec. 28;
Sec. 29, NW¼SW¼, S½SW¼, E½SE¼;
Sec. 30;
Sec. 32, lots 1 to 4, inclusive, S½NE¼, E½W½, and SE¼;
Sec. 33;
Sec. 34, SW¼.
T. 15 S., R. 98 W.,
Sec. 2, lots 5, 6, and SW¼;
Secs. 11, 12, 13, and 14.

UTE PRINCIPAL MERIDIAN

T. 3 S., R. 2 E.,
Sec. 35;
Sec. 36, NE¼, NE¼NW¼, S½NW¼, and S½.
T. 4 S., R. 3 E.,
Secs. 5, 6, 7, and 8;
Sec. 15, NE¼, S½;
Secs. 16, 17, and 18;
Secs. 20, 21, 22, 23, 26, 27, and 28;
Sec. 29, NE¼;
Sec. 33, lots 1 to 8, inclusive;
Sec. 34, lots 1 to 8, inclusive;
Sec. 35, N½, N½SE¼;
Sec. 36, N½SW¼, SE¼SW¼, and SE¼.

The total area described aggregates approximately 23,322 acres of public land in Delta and Mesa Counties, Colo.

3. For a period of 60 days from the date of publication of this notice in the FEDERAL REGISTER, all persons who wish to submit comments, suggestions, or objections in connection with the proposed classification may present their views in writing to the District Manager, Bureau of Land Management, Highway 550 South, Post Office Box 1269, Montrose, Colo. 81401.

J. ELLIOTT HALL,
Acting State Director.

AUGUST 14, 1970.

[F.R. Doc. 70-11036; Filed, Aug. 21, 1970; 8:45 a.m.]

[C-3898]

COLORADO

Notice of Proposed Classification of Public Lands for Multiple-Use Management

1. Pursuant to the Act of September 19, 1964 (43 U.S.C. 1411-18), and to the regulations in 43 CFR Parts 2410 and 2411, it is proposed to classify for multiple-use management the public lands described below. Publication of this notice has the effect of segregating all the described public lands from appropriation only under the agricultural land laws (43 U.S.C., Parts 7 and 9; 25 U.S.C. sec. 334), the Small Tract Act of June 1, 1938, as amended (43 U.S.C. 682 (a) and (b); the Recreation and Public Purposes Act of June 14, 1926, as amended (43 U.S.C. 869, 869-1 to 869-4); from sale under the Public Land Sale Act of September 19, 1964 (43 U.S.C. 1421-27); and from sale under section 2455 of the Revised Statutes (43 U.S.C. 1171). The lands described shall remain open to all other forms of appropriation including the mining and mineral leasing laws; and exchanges under section 8 of the Taylor Grazing Act of June 28, 1934 (48 Stat. 1272; 43 U.S.C. 315g). As used herein, "public lands" means any lands withdrawn or reserved by Executive Order No. 6910 of November 26, 1934 (48 Stat. 1269), as amended, or within a grazing district established pursuant to the Act of June 28, 1934 (48 Stat. 1269), as amended which are not otherwise withdrawn or reserved for a Federal use or purpose.

2. The public lands proposed for classification are shown on maps on file in the Grand Junction District Office, Bureau of Land Management, 223 Federal Office Building, Grand Junction, Colo. 81501, and Land Office, Bureau of Land Management, 15019 Federal Building, Denver, Colo. 80202.

MESA COUNTY

SIXTH PRINCIPAL MERIDIAN, COLORADO

T. 13 S., R. 99 W.,
Sec. 23, lots 1 to 4, inclusive, and W½.

UTE PRINCIPAL MERIDIAN, COLORADO

T. 2 S., R. 1 E.,
Sec. 13, NE¼NE¼, NW¼SE¼.
T. 3 S., R. 2 E.,
Sec. 1, lot 1, SW¼NW¼, SW¼SW¼, and S½SE¼;
Sec. 2, SE¼NE¼, SW¼SW¼, NE¼SE¼, and S½SE¼;
Sec. 7, lots 1 to 4, inclusive, W½E½, E½W½, and SE¼SE¼;
Sec. 8, W½, NW¼SE¼, and S½SE¼;
Sec. 9, NE¼, E½SE¼;
Secs. 10, 11, 12, and 13;
Sec. 14, NE¼, E½NW¼, and S½;
Sec. 15, W½NE¼, NW¼, and S½;
Sec. 16, NW¼NW¼, S½NW¼, SW¼, and W½SE¼;
Secs. 17 and 18;
Sec. 19, lots 1, 2, 7, and 8;
Secs. 20 and 21;
Sec. 22, NE¼, SW¼, and NE¼SE¼;
Sec. 23, W½;
Sec. 24, E½, N½NW¼, and E½SW¼;
Sec. 25, NW¼NW¼, S½N½, N½SW¼, SE¼SW¼, and S½SE¼;
Sec. 26, N½N½, S½SW¼;
Sec. 27, NW¼NE¼, S½NE¼, NW¼, and S½;
Sec. 28, lots 1 to 10, inclusive, 15 and 16.

The area described aggregates approximately 11,761 acres.

3. For a period of 60 days from the date of publication of this notice in the FEDERAL REGISTER, all persons who wish to submit comments, suggestions, or objections in connection with the proposed classification may present their views in writing to the Grand Junction District Manager, Bureau of Land Management, 223 Federal Office Building, Post Office Box 1509, Grand Junction, Colo. 81501.

J. ELLIOTT HALL,
Acting State Director.

AUGUST 14, 1970.

[F.R. Doc. 70-11037; Filed, Aug. 21, 1970; 8:45 a.m.]

[C-3899]

COLORADO

Notice of Proposed Classification of Public Lands for Multiple-Use Management

1. Pursuant to the Act of September 19, 1964 (43 U.S.C. 1411-18), and to the regulations in 43 CFR Parts 2410 and 2411, it is proposed to classify for multiple-use management the public lands described below. Publication of this notice has the effect of segregating all the described public lands from appropriation only under the agricultural land laws (43 U.S.C., Parts 7 and 9; 25 U.S.C. sec. 334), the Small Tract Act of June 1, 1938, as amended (43 U.S.C. 682 (a) and (b); the Recreation and Public Purposes Act of June 14, 1926, as amended (43 U.S.C. 869; 869-1 to 869-4); from sale under the Public Land Sale Act of September 19, 1964 (43 U.S.C. 1421-27); and from sale under section 2455 of the Revised Statutes (43 U.S.C. 1171). The lands described shall remain open to all other forms of appropriation including the mining and mineral leasing laws; and exchanges under section 8 of the Taylor Grazing Act of June 28, 1934 (48 Stat. 1272; 43 U.S.C. 315g). As used herein "public lands" means any lands withdrawn or reserved under Executive Order No. 6910 of November 26, 1934, as amended, or within a grazing district established pursuant to the Act of June 28, 1934 (48 Stat. 1269), as amended, which are not otherwise withdrawn or reserved for Federal use or purpose.

2. The public lands proposed for classification are shown on maps on file in the Grand Junction District Office, Bureau of Land Management, Federal Building, Fourth and Rood, Grand Junction, Colo., and the Colorado Land Office, Bureau of Land Management, Federal Building, 19th and Stout Streets, Denver, Colo., 80202:

MESA COUNTY

SIXTH PRINCIPAL MERIDIAN, COLORADO

T. 13 S., R. 99 W.,
Sec. 28, S½;
Sec. 33.
T. 14 S., R. 99 W.,
Sec. 3, Lots 7, 8, S½NW¼, and S½;
Sec. 11;
Sec. 12, SW¼;
Sec. 13, NW¼ and S½.

The area described aggregates approximately 2,720 acres.

3. For a period of 60 days from the date of publication of this notice in the FEDERAL REGISTER, all persons who wish to submit comments, suggestions, or objections in connection with the proposed classification may present their views in writing to the Grand Junction District Manager, Bureau of Land Management, 223 Federal Office Building, Post Office Box 1509, Grand Junction, Colo. 81501.

J. ELLIOTT HALL,
Acting State Director.

AUGUST 14, 1970.

[F.R. Doc. 70-11038; Filed, Aug. 21, 1970; 8:45 a.m.]

[Wyoming 25420]

WYOMING

Order Providing for Opening of Public Land

AUGUST 17, 1970.

1. In accordance with the provisions of section 3 of the Act of June 14, 1926 (44 Stat. 741) as amended; (43 U.S.C. 869), the following described land has been reconveyed to the United States:

A parcel of land beginning at the SW1/16 section corner of Sec. 7, T. 17 N., R. 83 W., 6th P.M., Wyoming; thence northerly 990 feet on the W1/16 line to the C-N-N-SW1/256 section corner of Sec. 7; thence westerly 660 feet on the N-N-S1/256 line to the C-N-NW-SW1/256 section corner of Sec. 7; thence southerly 990 feet on the W-W1/64 line to the C-W-SW1/64 section corner of Sec. 7; thence easterly 660 feet on the S1/16 line to the point of beginning.

The area contains 15 acres, more or less.

2. The land is located in Carbon County.

3. The mineral rights in the land were not conveyed. Therefore, the mineral status of the land is not affected by this order.

4. Subject to valid existing rights, the provisions of existing withdrawals, and the requirements of applicable law, the above described land will at 10 a.m. on September 21, 1970, be open to application, petition, and selection under the public land laws. All valid applications received at or prior to 10 a.m. on September 21, 1970, shall be considered as simultaneously filed at that time. Those received thereafter shall be considered in the order of filing.

5. Inquiries concerning the lands should be addressed to the Bureau of Land Management, Post Office Box 1828, Cheyenne, Wyo. 82001.

JOHN T. WASSERBURGER,
Acting State Director.

[F.R. Doc. 70-11010; Filed, Aug. 21, 1970; 8:51 a.m.]

Fish and Wildlife Service

LAGUNA ATASCOSA NATIONAL WILDLIFE REFUGE, TEX.

Notice of Public Hearing Regarding Wilderness Study; Correction

The document giving notice of a public hearing regarding the results of a wilderness study on the Laguna Atascosa National Wildlife Refuge published in the FEDERAL REGISTER, Vol. 35, No. 156, Wednesday, August 12, 1970, on page 12785, is corrected by revising the second paragraph of the notice to read as follows:

A brochure summarizing the study may be obtained from the Refuge Manager, Laguna Atascosa National Wildlife Refuge, Post Office Box 739, San Benito, Tex. 78586, or the Regional Director, Bureau of Sport Fisheries and Wildlife, Federal Building, 500 Gold Avenue SW., Albuquerque, N. Mex. 87103.

JOHN S. GOTTSCHALK,
Director, Bureau of Sport Fisheries and Wildlife.

AUGUST 19, 1970.

[F.R. Doc. 70-11031; Filed, Aug. 21, 1970; 8:45 a.m.]

ATOMIC ENERGY COMMISSION

[Docket No. 50-157]

CORNELL UNIVERSITY

Notice of Issuance of Amendment to Facility License

The Atomic Energy Commission has issued Amendment No. 4 to License No. R-80. The license authorizes Cornell University to possess, use and operate the TRIGA nuclear reactor located on the University's campus in Ithaca, N.Y. The amendment requires semiannual preventive maintenance of the components of the transient (pulse) rod drive mechanism.

On March 27, 1969, the Commission informed the licensees of TRIGA pulsing reactors that there had been recurrent instances reported in which the transient (pulse) rods had failed to operate in a normal manner. In most of these instances the abnormal operation resulted from worn, corroded, or dirty components of the rod drive mechanism indicating surveillance and preventive maintenance of these components should be instituted. After consideration of the comments received in response to the letter, the licensees were notified on May 5, 1970, of a requirement to be added to their license unless an objection was filed pursuant to § 2.204 of 10 CFR Part 2 of the Commission's regulations. In the absence of an objection from Cornell University the license is being amended accordingly.

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 this proceeding 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 amendment, see the letters of March 27, 1969, and May 5, 1970, which are available for public inspection in the Commission's Public Document Room, 1717 H Street NW., Washington, D.C.

Dated at Bethesda, Md., this 12th day of August 1970.

For the Atomic Energy Commission.

DUDLEY THOMPSON,
Acting Assistant Director, for Reactor Operations, Division of Reactor Licensing.

[F.R. Doc. 70-11026; Filed, Aug. 21, 1970; 8:45 a.m.]

[Docket No. 50-89]

GULF GENERAL ATOMIC, INC.

Notice of Issuance of Amendment to Facility License

The Atomic Energy Commission has issued Amendment No. 18 to License No. R-38. The license authorizes Gulf General Atomic, Inc., to possess, use and operate the TRIGA nuclear reactor located at the Torrey Pines Mesa site in San Diego, Calif. The amendment requires semiannual preventive maintenance of the components of the transient (pulse) rod drive mechanism.

On March 27, 1969, the Commission informed the licensees of TRIGA pulsing reactors that there had been recurrent instances reported in which the transient (pulse) rods had failed to operate in a normal manner. In most of these instances the abnormal operation resulted from worn, corroded, or dirty components of the rod drive mechanism indicating surveillance and preventive maintenance of these components should be instituted. After consideration of the comments received in response to the letter, the licensees were notified on May 5, 1970, of a requirement to be added to their license unless an objection was filed pursuant to § 2.204 of 10 CFR Part 2 of the Commission's regulations. In the absence of an objection from Gulf General Atomic, Inc., the license is being amended accordingly.

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 this proceeding 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 amendment, see the letters of March 27, 1969, and May 5, 1970, which are available for public inspection in the Commission's Public Document Room, 1717 H Street NW., Washington, D.C.

Dated at Bethesda, Md., this 12th day of August 1970.

For the Atomic Energy Commission.

DUDLEY THOMPSON,
Acting Assistant Director for Reactor Operations, Division of Reactor Licensing.

[F.R. Doc. 70-11027; Filed, Aug. 21, 1970; 8:45 a.m.]

[Docket No. 50-365]

GULF GENERAL ATOMIC, INC.

Notice of Application for and Proposed Issuance of Facility Export License

Please take notice that Gulf General Atomic, Inc., San Diego, Calif., has submitted an application dated July 15, 1970, for a license to authorize the export of a 250 kilowatt thermal TRIGA Mark I nuclear research reactor to Imperial Chemical Industries, Ltd., London, England.

Upon finding that the reactor proposed for export is within the scope of and consistent with the terms of the Agreement for Cooperation between the Governments of the United States of America and the United Kingdom and, unless within 15 days after the publication of this notice in the FEDERAL REGISTER, a request for a hearing is filed with the U.S. Atomic Energy Commission by the applicant, or a petition for leave to intervene is filed by any person whose interest may be affected by the proceeding, the Director of Regulation will cause to be issued to Gulf General Atomic, Inc., a facility export license and cause to be published in the FEDERAL REGISTER a notice of issuance of the license. If a request for a hearing or a petition for leave to intervene is filed within the time prescribed in the notice, the Secretary will issue a notice of hearing or an appropriate order.

Pursuant to the Atomic Energy Act of 1954, as amended, and Title 10, Chapter I, Code of Federal Regulations, the Commission has found that:

(a) The application complies with the requirements of the Atomic Energy Act of 1954, as amended, and the Commission's regulations set forth in Title 10, Chapter I, Code of Federal Regulations, and

(b) The reactor proposed to be exported is a utilization facility as defined in said Act and regulations.

In its review of applications solely to authorize the export of production or utilization facilities, the Commission does not evaluate the health and safety characteristics of the facility to be exported.

A copy of the application, dated July 15, 1970, is on file in the Atomic Energy Commission's Public Document Room located at 1717 H Street NW., Washington, D.C.

Dated at Bethesda, Md., this 14th day of August 1970.

For the Atomic Energy Commission.

EBER R. PRICE,
Director, Division of State and Licensee Relations.

[F.R. Doc. 70-11028; Filed, Aug. 21, 1970; 8:45 a.m.]

[Docket No. 50-187]

NORTHROP CORP.

Notice of Issuance of Amendment to Facility License

The Atomic Energy Commission has issued Amendment No. 7 to License No. R-90. The license authorizes Northrop Corp. to possess, use, and operate the TRIGA nuclear reactor located on Northrop's plantsite in Hawthorne, Calif. The amendment requires semiannual preventive maintenance on the components of the transient (pulse) rod drive mechanism.

On March 27, 1969, the Commission informed the licensees of TRIGA pulsing reactors that there had been recurrent instances reported in which the transient (pulse) rods had failed to operate in a normal manner. In most of these instances the abnormal operation resulted from worn, corroded, or dirty components of the rod drive mechanism indicating surveillance and preventative maintenance of these components should be instituted. After consideration of the comments received in response to the letter, the licensees were notified on May 5, 1970, of a requirement to be added to their license unless an objection was filed pursuant to § 2.204 of 10 CFR Part 2 of the Commission's regulations. In the absence of an objection from Northrop Corp. the license is being amended accordingly.

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 this proceeding 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 amendment, see the letters of March 27, 1969, and May 5, 1970, which are available for public inspection in the Commission's Public Document Room, 1717 H Street NW., Washington, D.C.

Dated at Bethesda, Md. on this 12th day of August 1970.

For the Atomic Energy Commission.

DUDLEY THOMPSON,
Acting Assistant Director for Reactor Operations, Division of Reactor Licensing.

[F.R. Doc. 70-11029; Filed, Aug. 21, 1970; 8:45 a.m.]

DEPARTMENT OF COMMERCE

Maritime Administration

THE OCEANIC STEAMSHIP COMPANY

Notice of Application for Approval of Certain Cruises

Notice is hereby given that The Oceanic Steamship Co. has applied for approval, pursuant to section 613 of the Merchant Marine Act, 1936, as amended, of the following cruises:

Ship	Approximate cruise dates	Itinerary
Mariposa	Dec. 30, 1970-Jan. 10, 1971	San Francisco, Los Angeles, Acapulco, Puerto Vallarta, Mazatlan, Los Angeles.
Do	Jan. 10, 1971-Jan. 21, 1971	Los Angeles Acapulco, Puerto Vallarta, Mazatlan, Los Angeles, San Francisco.
Do	Apr. 13, 1971-Apr. 26, 1971	San Francisco, Los Angeles, Honolulu, San Francisco, Los Angeles.
Do	June 13, 1971-June 27, 1971	(Each cruise) San Francisco, Los Angeles, Vancouver, Juneau, Glacier Bay, Skagway, Sitka, Victoria, San Francisco, Los Angeles.
	June 27, 1971-July 10, 1971	
	July 10, 1971-July 24, 1971	
	July 24, 1971-Aug. 6, 1971	
	Aug. 6, 1971-Aug. 20, 1971	
	Aug. 20, 1971-Sept. 2, 1971	
	Sept. 2, 1971-Sept. 16, 1971	
Do	Jan. 16, 1972-Jan. 29, 1972	San Francisco, Los Angeles, Acapulco, Puerto Vallarta, Mazatlan, Los Angeles, San Francisco.
Monterey	Mar. 27, 1971-Apr. 10, 1971	Los Angeles, San Francisco, Honolulu, San Francisco.
Do	Apr. 15, 1971-June 12, 1971	San Francisco, Los Angeles, San Diego, Canal Zone, Willemstad, Funchal, Lisbon, Barcelona, Villefranche, Livorno, Civitavecchia, Naples, Iraklion, Delos, Mykonos, Athens (Piraeus), Malaga, Casablanca, Santa Cruz (Tenerife), Port of Spain, Canal Zone, Acapulco, Los Angeles, San Francisco.
Do	June 12, 1971-June 23, 1971	Los Angeles, San Francisco, Honolulu, Los Angeles.
Do	June 23, 1971-July 3, 1971	Los Angeles, Honolulu, San Francisco.
Do	July 3, 1971-July 13, 1971	San Francisco, Honolulu, Los Angeles.
Do	July 13, 1971-July 23, 1971	Los Angeles, Honolulu, San Francisco.
Do	July 24, 1971-Aug. 3, 1971	San Francisco, Honolulu, Los Angeles.
Do	Aug. 3, 1971-Aug. 13, 1971	Los Angeles, Honolulu, San Francisco.
Do	Aug. 13, 1971-Aug. 23, 1971	San Francisco, Honolulu, Los Angeles.
Do	Aug. 23, 1971-Sept. 3, 1971	Los Angeles, Honolulu, Los Angeles, San Francisco.
Do	Sept. 3, 1971-Sept. 25, 1971	(Each cruise) Los Angeles, San Francisco, Hawaiian Islands, Los Angeles, San Francisco.
	Sept. 25, 1971-Oct. 16, 1971	
	Oct. 16, 1971-Nov. 8, 1971	
	Dec. 17, 1971-Jan. 10, 1972	

Any person, firm, or corporation having any interest, within the meaning of section 613 of the Merchant Marine Act, 1936, as amended, in the foregoing who desires to offer data, views, or arguments should submit the same in writing, in triplicate, to the Secretary, Maritime Subsidy Board, Washington, D.C. 20235, by the close of business on August 31, 1970.

In the event an opportunity to present oral argument is also desired, specific reason for such request should be included. The Maritime Subsidy Board will consider these comments and views and take such action with respect thereto as in its discretion it deems warranted.

Dated: August 19, 1970.

By order of the Maritime Subsidy Board.

JAMES S. DAWSON, Jr.,
Secretary.

[F.R. Doc. 70-11117; Filed, Aug. 21, 1970; 8:51 a.m.]

[Docket No. S-251]

PRUDENTIAL-GRACE LINES, INC.

Notice of Application

Notice is hereby given that Prudential-Grace Lines, Inc., has filed an application dated August 18, 1970, requesting written permission under section 805(a) of the Merchant Marine Act, 1936, as amended to permit a subsidized ship operating on its Line C Service (Trade Route No. 4) to load on or about August 26, 1970, for the account of the Military Sealift Command approximately 1,100 measurement tons of general cargo and 514 measurement tons of vehicles at Davisville, R.I., for discharge at Roosevelt Roads, Puerto Rico, and to load such retrograde cargo as may be available at time of the southbound call for discharge at the U.S. Atlantic.

Interested parties may inspect this application in the Office of Subsidy Administration, Maritime Administration, Room 1023, General Accounting Office 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 comments or views concerning the application must, by close of business on August 31, 1970, 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 August 31, 1970, 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 September 2, 1970, at 10 a.m. in Room 4892, Department of Commerce Building, 14th and E Streets 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 coastwise or intercoastal service, or (b) would be prejudicial to the objects and policy of the Act relative to domestic trade operations.

Dated: August 20, 1970.

By order of the Maritime Subsidy Board/Maritime Administration.

JAMES S. DAWSON, Jr.,
Secretary.

[F.R. Doc. 70-11195; Filed, Aug. 21, 1970; 8:51 a.m.]

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Food and Drug Administration

[DESI 0036 NV]

DRUG PRODUCT CONTAINING CHLORTETRACYCLINE

Drugs for Veterinary Use; Drug Efficacy Study Implementation

The Food and Drug Administration has evaluated a report received from the National Academy of Sciences—National Research Council, Drug Efficacy Study Group, on the following preparation: Purina Chek-R-Mycin-2X; contains crude chlortetracycline equivalent in activity to 20 grams of chlortetracycline hydrochloride per pound; by Ralston Purina Co., 835 South Eighth Street, St. Louis, Mo. 63199.

The Academy classified this product as probably effective for treating hexamitiasis in turkeys and bacterial diseases in chickens, turkeys, calves, and pigs. The Academy stated:

1. Each disease claim should be properly qualified as "appropriate for use in (name of disease) caused by pathogens sensitive to (name of drug)," and if the disease claim cannot be so qualified the claim must be dropped.

2. Claims made regarding "for prevention of" or "to prevent" should be replaced with "as an aid in the control of" or "to aid in the control of".

3. The label should warn that treated animals must actually consume enough medicated water to provide a therapeutic dose under the conditions that prevail, and as a precaution the label should state the desired oral dose per unit of animal weight per day for each species as a guide to effective use of the preparation in drinking water.

The Food and Drug Administration concurs with the Academy's findings.

This evaluation is concerned only with the drug's effectiveness and safety to the animal to which administered. It does not take into account the safety for food use of food derived from drug-treated animals. Nothing herein will constitute a bar to further proceedings with respect to questions of safety of the drug or its metabolites as residues in food products derived from treated animals.

This announcement is published (1) to inform manufacturers of the subject drug of the findings of the Academy and

the Food and Drug Administration, and (2) to inform all interested persons that such articles to be marketed must be the subject of approved new animal drug applications and otherwise comply with all other requirements of the Federal Food, Drug, and Cosmetic Act.

Manufacturers of the subject drug are provided 6 months from the date of publication of this announcement in the FEDERAL REGISTER to submit adequate documentation in support of the labeling used.

Each holder of a new animal drug application which became effective prior to October 10, 1962, is requested to submit updating information as needed to make the application current with regard to manufacture of the drug, including information on drug components and composition, and also including information regarding manufacturing methods, facilities, and controls, in accordance with the requirements of section 512 of the act.

Written comments regarding this announcement, including requests for an informal conference, may be addressed to the Bureau of Veterinary Medicine, Food and Drug Administration, 5600 Fishers Lane, Rockville, Md. 20852.

The manufacturer of the listed drug has been mailed a copy of NAS-NRC report. Any other interested person may obtain a copy by writing to the Food and Drug Administration, Press Relations Staff, 200 C Street SW., Washington, D.C. 20204.

This notice is issued pursuant to provisions of the Federal Food, Drug, and Cosmetic Act (secs. 502, 512, 52 Stat. 1050-51, 82 Stat. 343-51; 21 U.S.C. 352, 360b) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 2.120).

Dated: August 6, 1970.

SAM D. FINE,
Acting Associate Commissioner for Compliance.

[F.R. Doc. 70-11044; Filed, Aug. 21, 1970; 8:46 a.m.]

[DESI 0037NV]

PENICILLIN-STREPTOMYCIN POWDER WITH VITAMINS, AND WITH OR WITHOUT ARSANILIC ACID

Drugs for Veterinary Use; Drug Efficacy Study Implementation

The Food and Drug Administration has evaluated reports received from the National Academy of Sciences-National Research Council, Drug Efficacy Study Group, on the following preparations:

1. VSP Concentrate Extra; each 6.8-ounce packet contains 5,000,000 units of procaine penicillin (micronized) (equivalent to 3 grams of G Master Standard) and 12,750 milligrams of streptomycin base (as sulfate), plus vitamins; by Anchor Serum Co., a division of Philips Roxane, Inc., 2621 North Belt Highway, St. Joseph, Mo. 64502.

2. Anchor (medicated) Swine Formula No. 2; each pound contains 9.375 grams of streptomycin, 1.875 grams of penicillin, and 2.5 percent arsanilic acid; by Anchor Serum Co.

3. Purina Strepto-Pen-Ad; each pound contains 18.75 grams of streptomycin (from streptomycin sulfate) and 3.75 grams of penicillin (from 6.25 grams procaine penicillin G); by Ralston Purina Co., 835 South Eighth Street, St. Louis, Mo. 63199.

The Academy evaluated these preparations for use in medicated feed or water, as probably not effective for the following claims: (1) Aid in prevention and for treatment of bacterial swine enteritis; (2) treatment of infectious sinusitis, blue comb (mud fever), and hexamitiasis in turkeys; and (3) in starter ration for prevention of early mortality caused by susceptible organisms and treatment of chronic respiratory disease (air sac infection) and blue comb (nonspecific infectious enteritis) in chickens.

The Academy stated: (1) The effectiveness of the recommended dosage schedule has not been adequately documented; (2) the disease claims for streptomycin must be restricted to diseases involving the gastrointestinal tract because of the chemical and pharmacological properties of streptomycin sulfate; (3) each disease claim should be properly qualified as "appropriate for use in (name of disease) caused by pathogens sensitive to (name of drug)," and if the disease claim cannot be so qualified, the claim must be dropped; (4) claims made regarding "for prevention of" or "to prevent" should be replaced with "as an aid in the control of" or "to aid in the control of"; (5) the oral administration of the drug in drinking water for severely ill animals is questioned—the labeling should warn that treated animals must actually consume enough medicated water or medicated feed to provide a therapeutic dose under the conditions that prevail, and as a precaution the label should state the desired oral dose per unit of animal weight per day for each species as a guide to effective use of the preparation in drinking water or feed; (6) information is needed to document the value of vitamins in these preparations; and (7) substantial evidence was not presented to establish that each ingredient designated as active makes a contribution to the total effect claimed for the drug combination. The Food and Drug Administration concurs with the Academy's findings.

This evaluation is concerned only with these drugs' effectiveness and safety to the animal to which administered. It does not take into account the safety for food use of food derived from drug-treated animals. Nothing herein will constitute a bar to further proceedings with respect to questions of safety of the drugs or their metabolities as residues in food products derived from treated animals.

This announcement is published (1) to inform manufacturers of the subject drugs of the findings of the Academy and the Food and Drug Administration and (2) to inform all interested persons that such articles to be marketed must be the subject of approved new animal drug applications and otherwise comply with all other requirements of the Federal Food, Drug, and Cosmetic Act.

Manufacturers of the subject drugs are provided 6 months from the date of publication of this announcement in the FEDERAL REGISTER to submit adequate documentation in support of the labeling used.

Each holder of a new animal drug application which became effective prior to October 10, 1962, is requested to submit updating information as needed to make the application current with regard to manufacture of the drug, including information on drug components and composition, and also including information regarding manufacturing methods, facilities, and controls, in accordance with the requirements of section 512 of the act.

Written comments regarding this announcement, including requests for an informal conference, may be addressed to the Bureau of Veterinary Medicine, Food and Drug Administration, 5600 Fishers Lane, Rockville, Md. 20852.

The manufacturers of the listed drugs have been mailed a copy of the NAS-NRC report. Any other interested person may obtain a copy by writing to the Food and Drug Administration, Press Relations Staff, 200 C Street SW., Washington, D.C. 20204.

This notice is issued pursuant to provisions of the Federal Food, Drug, and Cosmetic Act (secs. 502, 512, 52 Stat. 1050-51, 82 Stat. 343-51; 21 U.S.C. 352, 360b) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 2.120).

Dated: August 6, 1970.

SAM D. FINE,
Acting Associate Commissioner for Compliance.

[F.R. Doc. 70-11045; Filed, Aug. 21, 1970; 8:46 a.m.]

[DESI 0044 NV]

CERTAIN DRUG PRODUCTS INTENDED FOR USE IN TREATING DIARRHEA

Drugs for Veterinary Use; Drug Efficacy Study Implementation

The Food and Drug Administration has evaluated reports received from the National Academy of Sciences-National Research Council, Drug Efficacy Study Group, on the following preparations which are manufactured by Philips Roxane, Inc., 2621 North Belt Highway, St. Joseph, Mo. 64502, and distributed by various firms as indicated below:

1. Calf Scour Bolus; each bolus contains 150 milligrams of neomycin (as the sulfate), 1.62 grams of sulfamethazine, 1.50 grams of phthalysulfacetamide, 2 grams of activiated attapulgite, 50 milligrams of pectin, and 0.65 milligram of homatropine methylbromide; by Anchor Serum Co., a division of Philips Roxane, Inc., 2621 North Belt Highway, St. Joseph, Mo. 64502.

2. Neo-Scour Plus Bolus; each bolus contains 150 milligrams of neomycin (as the sulfate), 1.62 grams of sulfamethazine, 1.50 grams of phthalysulfacetamide,

2 grams of activated attapulgite, 50 milligrams of pectin, and 0.65 milligram of homatropine methylbromide; manufactured for Bio-Ceutic Laboratories, St. Joseph, Mo. 64502.

3. Skourstop, Calf Scour Bolus; each bolus contains 250 milligrams of dihydrostreptomycin (as dihydrostreptomycin sulfate), 1.5 grams of sulfathiazole, 1.5 grams of phthalysulfacetamide, 2 grams of activated attapulgite, and 50 milligrams of pectin; distributed by United Co-operatives, Inc., Alliance, Ohio 44601.

4. Calf Scour Extra; each fluid ounce contains 10 grains of sulfaguanidine, 10 grains of sulfathiazole, 44 milligrams of neomycin base (as the sulfate), 45.64 grains of activated attapulgite, 3.85 grains of pectin, and 1/27 grain of homatropine methylbromide; distributed by United Co-operatives, Inc.

5. Calf Scour Formula; each fluid ounce contains 10 grains of sulfaguanidine, 10 grains of sulfathiazole, 44 milligrams of neomycin base (as the sulfate), 45.64 grains of activated attapulgite, 3.85 grains of pectin, and 1/27 grain of homatropine methylbromide; by Anchor Serum Co., a division of Philips Roxane, Inc.

6. Homycin; each fluid ounce contains 10 grains of sulfaguanidine, 10 grains of sulfathiazole, 44 milligrams of neomycin base (as sulfate), 45.64 grains of activated attapulgite, 3.85 grains of pectin, and 1/27 grain of homatropine methylbromide; manufactured for Bio-Ceutic Laboratories.

7. Pets' Best, Neo-Sorb Tablets; each tablet contains 12 milligrams of neomycin base (as sulfate), 100 milligrams of phthalysulfacetamide, 100 milligrams of sulfathiazole, 37 milligrams of pectin, 1.25 milligrams of homatropine hydrobromide, and 250 milligrams of activated attapulgite; manufactured for Pets' Best, St. Joseph, Mo. 64502.

8. Temtabs with Pharmasorb; each tablet contains 12 milligrams of neomycin, 100 milligrams of phthalysulfacetamide, 100 milligrams of sulfathiazole, 250 milligrams of pharmasorb (as activated attapulgite), 37 milligrams of pectin, and 1.25 milligrams of homatropine hydrobromide; manufactured for Bio-Ceutic Laboratories.

9. Pets' Best, Neo-Sorb Liquid; each fluid ounce contains 10 grains of sulfaguanidine, 10 grains of sulfathiazole, 44 milligrams of neomycin base (as the sulfate), 45.64 grains of activated attapulgite, 3.85 grains of pectin, and 1/27 grain of homatropine methylbromide; manufactured for Pets' Best.

10. Litter-Mate with Neomycin; each 3-cubic-centimeter dose contains 65 milligrams of sulfaquanidine U.S.P., 65 milligrams of sulfathiazole U.S.P., 4.4 milligrams of neomycin base (as the sulfate), 0.25 milligram of homatropine methylbromide, 300 milligrams of activated attapulgite (colloidal), and 25 milligrams of pectin; by Anchor Serum Co., a division of Philips Roxane, Inc.

11. Master Mix, Litter-Mate with Neomycin; each 3-cubic-centimeter dose contains 65 milligrams of sulfaguanidine U.S.P., 65 milligrams of sulfathiazole U.S.P., 4.4 milligrams of neomycin base (as the sulfate), 0.25 milligram of homatropine methylbromide, 300 milligrams of activated attapulgite (colloidal), and 25 milligrams of pectin; manufactured for Central Soya, Feed Division, Fort Wayne, Ind. 46809.

12. Scour Aid with Neomycin; each 3-cubic-centimeter dose contains 65 milligrams of sulfaguanidine, 65 milligrams of sulfathiazole, 4.4 milligrams of neomycin base (as the sulfate), 0.25 milligram homatropine methylbromide, 300 milligrams of activated attapulgite (colloidal), and 25 milligrams of pectin; manufactured for Bio-Ceutic Laboratories.

The Academy classified these preparations as probably not effective for: (1) The prevention or treatment of baby pig scours; (2) treatment of pneumo-enteritis complex in swine; and (3) as an aid in the treatment of infectious and noninfectious diarrhea (scours) of calves, colts, cats, and dogs.

The Academy's report also stated: (1) Each disease claim should be properly qualified as "appropriate for use in (name of disease) caused by pathogens sensitive to (name of drug)," and if the disease claim cannot be so qualified the claim must be dropped; (2) substantial evidence was not presented to establish that each ingredient designated as active makes a contribution to the total effect claimed for the drug combination; (3) information is needed on the effectiveness of homatropine methylbromide when used at the recommended dosage levels; (4) evidence is needed to show that attapulgite does not interfere with antibacterial action of these drugs; (5) claims made regarding "for prevention of" or "to prevent" should be replaced with "as an aid in the control of" or "to aid in the control of"; and (6) the manufacturer of boluses and tablets must provide evidence that they disintegrate in the gastrointestinal tract of the medicated species to produce the desired therapeutic effect.

The Food and Drug Administration concurs with the Academy's findings.

This evaluation is concerned only with these drugs' effectiveness and safety to the animal to which administered. It does not take into account the safety for food use of food derived from drug-treated animals. Nothing herein will constitute a bar to further proceedings with respect to questions of safety of the drugs or their metabolites as residues in food products derived from treated animals.

This announcement is published (1) to inform the holders of new animal drug applications of the findings of the Academy and the Food and Drug Administration and (2) to inform all interested persons that such articles to be marketed must be the subject of approved new animal drug applications and otherwise comply with all other requirements of the Federal Food, Drug, and Cosmetic Act.

Holders of new animal drug applications are provided 6 months from the date of publication hereof in the FEDERAL REGISTER to submit adequate documentation in support of the labeling used.

Each holder of a new animal drug application which became effective prior to October 10, 1962, is requested to submit updating information as needed to make the application current with regard to manufacture of the drug, including information on drug components and composition, and also including information regarding manufacturing methods, facilities, and controls, in accordance with the requirements of section 512 of the act.

Written comments regarding this announcement, including requests for an informal conference, may be addressed to the Bureau of Veterinary Medicine, Food and Drug Administration, 5600 Fishers Lane, Rockville, Md. 20852.

The holder of the new animal drug applications for the listed drugs has been mailed a copy of the NAS–NRC report. Any other interested person may obtain a copy by writing to the Food and Drug Administration, Press Relations Staff, 200 C Street SW., Washington, D.C. 20204.

This notice is issued pursuant to provisions of the Federal Food, Drug, and Cosmetic Act (secs. 502, 512, 52 Stat. 1050–51, 82 Stat. 343–51; 21 U.S.C. 352, 360b) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 2.120).

Dated: August 6, 1970.

R. E. DUGGAN,
Acting Associate Commissioner for Compliance.

[F.R. Doc. 70-11046; Filed, Aug. 21, 1970; 8:46 a.m.]

[DESI 0048 NV]

CERTAIN DRUG PRODUCTS CONTAINING CHLORTETRACYCLINE

Drugs for Veterinary Use; Drug Efficacy Study Implementation

The Food and Drug Administration has evaluated reports received from the National Academy of Sciences—National Research Council, Drug Efficacy Study Group, on the following preparations:

1. Tetra-Plus, Vitamized Antibiotic Formula; each pound contains 16 grams of chlortetracycline as chlortetracycline hydrochloride, 4 milligrams of vitamin B_{12} supplement, 500,000 international units of vitamin A, 400,000 international units vitamin D_2, 128,000 international units vitamin C, 100 international units vitamin E, 1.8 grams of riboflavin, 5.6 grams of niacin, 2.4 grams *d*-calcium pantothenate, 900 milligrams of ferrous carbonate, and 520 milligrams of cobalt carbonate; marketed by Bio-Ceutic Laboratories, 2621 North Belt Highway, St. Joseph, Mo. 64502.

2. Vita-Treet, Vitamized Antibiotic Formula; each pound contains 16 grams of chlortetracycline as chlortetracycline hydrochloride, 4 milligrams of vitamin B_{12} supplement, 500,000 international units vitamin A, 400,000 international units vitamin D_2, 128,000 international units vitamin C, 100 international units vitamin E, 1.8 grams of riboflavin, 5.6

grams of niacin, 2.4 grams of *d*-calcium pantothenate, 900 milligrams of ferrous carbonate, and 520 milligrams of cobalt carbonate; by Anchor Serum Co., a division of Philips Roxane, Inc., 2621 North Belt Highway, St. Joseph, Mo. 64502.

3. Tetra-Plus Boluses; each bolus contains 0.25 gram chlortetracycline (as chlortetracycline hydrochloride), 10,000 units of crystalline vitamin A, 500 units of vitamin D_2, 700 units of vitamin D_3, 250 milligrams of ascorbic acid, 50 milligrams of niacin, 5 milligrams of riboflavin, and 12 micrograms of vitamin B_{12} activity; marketed by Bio-Ceutic Laboratories.

4. Vita-Treet Bolus; each bolus contains 0.25 gram chlortetracycline (as chlortetracycline hydrochloride), 10,000 units of crystalline vitamin A, 500 units of vitamin D_2, 700 units of vitamin D_3, 250 milligrams of ascorbic acid (vitamin C), 50 milligrams of niacin, 5 milligrams of riboflavin, and 12 micrograms of vitamin B_{12} activity; by Anchor Serum Co.

The Academy classified these preparations as probably not effective for the prevention and treatment of scours in calves and for the prevention and treatment of infections in cattle, chickens, swine, sheep, and turkeys. The Academy stated that additional label changes and more information are needed as follows:

1. Each disease claim should be properly qualified as "appropriate for use in (name of disease) caused by pathogens sensitive to (name of drug)," and if the disease claim cannot be so qualified the claim must be dropped.

2. Claims made regarding "for prevention of" or "to prevent" should be replaced with "as an aid in the control of" or "to aid in the control of".

3. Each active ingredient in a preparation containing more than one drug must be effective, or contribute to the effectiveness of the preparation, to warrant acceptance as an active ingredient. Tetra-Plus and Vita-Treet have not satisfied these conditions.

4. The label should warn that treated animals must actually consume enough medicated water or medicated feed to provide a therapeutic dose under the conditions that prevail, and as a precaution the label should state the desired oral dose per unit of animal weight per day for each species as a guide to effective use of the preparation in drinking water or feed.

5. The manufacturers of the boluses must provide evidence that the boluses disintegrate in the gastrointestinal tract of the medicated species to produce the desired therapeutic effect.

The Food and Drug Administration concurs with the Academy's findings.

This evaluation is concerned only with these drugs' effectiveness and safety to the animal to which administered. It does not take into account the safety for food use of food derived from drug-treated animals. Nothing herein will constitute a bar to further proceedings with respect to questions of safety of the drugs or their metabolities as residues in food products derived from treated animals.

This announcement is published (1) to inform manufacturers of the subject drugs of the findings of the Academy and the Food and Drug Administration, and (2) to inform all interested persons that such articles to be marketed must be the subject of approved new animal drug applications and otherwise comply with all other requirements of the Federal Food, Drug, and Cosmetic Act.

Manufacturers of the subject drugs are provided 6 months from the date of publication of this announcement in the FEDERAL REGISTER to submit adequate documentation in support of the labeling used.

Each holder of a new animal drug application which became effective prior to October 10, 1962, is requested to submit updating information as needed to make the application current with regard to manufacture of the drug, including information on drug components and composition, and also including information regarding manufacturing methods, facilities, and controls, in accordance with the requirements of section 512 of the act.

Written comments regarding this announcement, including requests for an informal conference, may be addressed to the Bureau of Veterinary Medicine, Food and Drug Administration, 5600 Fishers Lane, Rockville, Md. 20852.

The manufacturers of the listed drugs have been mailed a copy of the NAS–NRC reports. Any other interested person may also obtain a copy by writing to the Food and Drug Administration, Press Relations Staff, 200 C Street SW., Washington, D.C. 20204.

This notice is issued pursuant to provisions of the Federal Food, Drug, and Cosmetic Act (secs. 502, 512, 52 Stat. 1050–51, 82 Stat. 343–51; 21 U.S.C. 352, 360b) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 2.120).

Dated: August 6, 1970.

SAM D. FINE,
Acting Associate Commissioner for Compliance.

[F.R. Doc. 70-11047; Filed, Aug. 21, 1970; 8:46 a.m.]

[DESI 0066NV]

CERTAIN DRUG PRODUCTS CONTAINING STREPTOMYCIN AND OTHER DRUGS

Drugs for Veterinary Use; Drug Efficacy Study Implementation

The Food and Drug Administration has evaluated a report received from the National Academy of Sciences-National Research Council, Efficacy Study Group, on the following preparations:

1. Strekacin; each tablet contains streptomycin sulfate equivalent to 37.5 milligrams streptomycin base, 25 milligrams of bismuth subcarbonate, 450 milligrams of attapulgite, and 40 milligrams pectin; by E. R. Squibb & Sons, Inc., Division of Olin Mathieson Chemical Corp., Georges Road, New Brunswick, N.J. 08903.

2. Strekacin Oral Suspension Veterinary; each 5 cubic centimeters contains streptomycin sulfate equivalent to 75 milligrams of streptomycin base, 0.75 cubic centimeter of milk of bismuth, 1 gram of kaolin, and 84 milligrams of pectin; by E. R. Squibb & Sons, Inc.

The Academy classified these preparations as probably effective for use in the treatment of enteric infections in dogs, cats, calves, and young pigs.

The Academy stated: (1) Each disease claim should be properly qualified as "appropriate for use in (name of disease) caused by pathogens sensitive to (name of drug)," and if the disease claim cannot be so qualified, the claim must be dropped; (2) substantial evidence was not presented to establish that each ingredient designated as active makes a contribution to the total effect claimed for the drug combination; (3) the disease claims for these preparations must be restricted to diseases involving the gastrointestinal tract because of the chemical and pharmacological properties of the active ingredients; (4) evidence is needed to show that attapulgite does not interfere with antimicrobial drugs activity; and (5) the manufacturer of this tablet must provide evidence that the tablet disintegrates in the gastrointestinal tract of the medicated species to produce the desired therapeutic effect.

The Food and Drug Administration concurs with the Academy's findings.

This evaluation is concerned only with these drugs' effectiveness and safety to the animal to which administered. It does not take into account the safety for food use of food derived from drug-treated animals. Nothing herein will constitute a bar to further proceedings with respect to questions of safety of the drugs or their metabolites as residues in food products derived from treated animals.

This announcement is published (1) to inform the holders of new animal drug applications of the findings of the Academy and the Food and Drug Administration, and (2) to inform all interested persons that such articles to be marketed must be the subject of approved new animal drug applications and otherwise comply with all other requirements of the Federal Food, Drug, and Cosmetic Act.

Holders of new animal drug applications are provided 6 months from the date of publication hereof in the FEDERAL REGISTER to submit adequate documentation in support of the labeling used.

Each holder of a new animal drug application which became effective prior to October 10, 1962, is requested to submit updating information as needed to make the application current with regard to manufacture of the drug, including information on drug components and composition, and also including information regarding manufacturing methods, facilities, and controls, in accordance with the requirements of section 512 of the act.

Written comments regarding this announcement, including requests for an informal conference, may be addressed to the Bureau of Veterinary Medicine, Food and Drug Administration, 5600 Fishers Lane, Rockville, Md. 20852.

The holder of the new animal drug application for the listed drugs has been mailed a copy of the NAS–NRC report. Any other interested person may obtain a copy by writing to the Food and Drug Administration, Press Relations Staff, 200 C Street SW., Washington, D.C. 20204.

This notice is issued pursuant to provisions of the Federal Food, Drug, and Cosmetic Act (secs. 502, 512, 52 Stat. 1050–51, 82 Stat. 343–51; 21 U.S.C. 352, 360b) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 2.120).

Dated: July 13, 1970.

SAM D. FINE,
Acting Associate Commissioner for Compliance.

[F.R. Doc. 70-11048; Filed, Aug. 21, 1970; 8:46 a.m.]

[DESI 0095 NV]

DIHYDROSTREPTOMYCIN FOR USE BY INHALATION

Drugs for Veterinary Use; Drug Efficacy Study Implementation

The Food and Drug Administration has evaluated reports received from the National Academy of Sciences-National Research Council, Drug Efficacy Study Group, on the following preparations:

1. Poul-Strep Dust; the contents of each package is equivalent to 47 grams of dihydrostreptomycin base (as dihydrostreptomycin sulfate); by Poultry Health Service, 1445 Miami Road, Jacksonville, Fla. 32207.

2. Dihydrostreptomycin Sulfate Veterinary Dust; potency not below 450 micrograms per milligram; bulk material for manufacturing, processing, or repacking; by Chas. Pfizer & Co. Inc., 235 East 42d Street, New York, N.Y. 10017.

3. Vetstrep Superdust; the contents of each bag is equivalent to 47 grams of dihydrostreptomycin base (as dihydrostreptomycin sulfate); by Animal Health Products, Merck Chemical Division, Merck & Co., Inc., Rahway, N.J. 07065.

The Academy evaluated these products as probably not effective for treatment of chronic respiratory disease or air sac infections in chickens. There is a lack of supporting documentation. The Food and Drug Administration concurs with the Academy's evaluation.

This evaluation is concerned only with these drugs' effectiveness and safety to the animal to which administered. It does not take into account the safety for food use of food derived from drug-treated animals. Nothing herein will constitute a bar to further proceedings with respect to questions of safety of the drugs or their metabolites as residues in food products derived from treated animals.

This announcement is published (1) to inform the holders of new animal drug applications of the findings of the Academy and the Food and Drug Administration and (2) to inform all interested persons that such articles to be marketed must be the subject of approved new animal drug applications and otherwise comply with all other requirements of the Federal Food, Drug, and Cosmetic Act.

Holders of new animal drug applications are provided 6 months from the date of publication hereof in the FEDERAL REGISTER to submit adequate documentation in support of the labeling used.

Each holder of a new animal drug application which became effective prior to October 10, 1962, is requested to submit updating information as needed to make the application current with regard to manufacture of the drug, including information on drug components and composition, and also including information regarding manufacturing methods, facilities, and controls, in accordance with the requirements of section 512 of the act.

Written comments regarding this announcement, including requests for an informal conference, may be addressed to the Bureau of Veterinary Medicine, Food and Drug Administration, 5600 Fishers Lane, Rockville, Md. 20852.

The holders of the new animal drug applications for the listed drugs have been mailed a copy of the NAS–NRC report. Any other interested person may obtain a copy by writing to the Food and Drug Administration, Press Relations Staff, 200 C Street SW., Washington, D.C. 20204.

This notice is issued pursuant to provisions of the Federal Food, Drug, and Cosmetic Act (secs. 502, 512, 52 Stat. 1050–51, 82 Stat. 343–51; 21 U.S.C. 352, 360b) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 2.120).

Dated: August 6, 1970.

SAM D. FINE,
Acting Associate Commissioner for Compliance.

[F.R. Doc. 70-11049; Filed, Aug. 21, 1970; 8:46 a.m.]

[DESI 0117 NV]

CERTAIN DRUG PRODUCTS CONTAINING NICARBAZIN AND OTHER DRUGS

Drugs for Veterinary Use; Drug Efficacy Study Implementation

The Food and Drug Administration has evaluated reports received from the National Academy of Sciences—National Research Council, Drug Efficacy Study Group, on the following preparations:

1. Nicarb (Nicarbazin) and 3-Nitro-4-Hydroxyphenylarsonic Acid with Antibiotics; contains .01–.02 percent (in feed) of nicarbazin, 0.005 percent 3-nitro-4-hydroxyphenylarsonic acid, and a maximum of 100 grams of penicillin, or 180 grams of penicillin and streptomycin, or 200 grams of chlortetracycline, or 100 grams of bacitracin per ton; by Merck & Co., Inc., Rahway, N.J. 07065.

2. Nicarb (Nicarbazin) and Arsanilic Acid with Antibiotics; contains .01–.02 percent (in feed) of nicarbazin, 0.01 percent of arsanilic acid, and a maximum of 100 grams penicillin, or 180 grams of penicillin and streptomycin, or 200 grams of chlortetracycline, or 100 grams bacitracin per ton; by Merck & Co., Inc.

The Academy evaluated these preparations as "more information is needed." Relevant information is requested to demonstrate lack of interference of antimicrobial agents and coccidiostats.

The Food and Drug Administration concurs in the findings of the Academy.

This evaluation is concerned only with these drugs' effectiveness and safety to the animal to which administered. It does not take into account the safety for food use of food derived from drug-treated animals. Nothing herein will constitute a bar to further proceedings with respect to questions of safety of the drugs or their metabolites as residues in food products derived from treated animals.

This announcement is published (1) to inform the holders of new animal drug applications of the findings of the Academy and the Food and Drug Administration and (2) to inform all interested persons that such articles to be marketed must be the subject of approved new animal drug applications and otherwise comply with all other requirements of the Federal Food, Drug, and Cosmetic Act.

Holders of new animal drug applications are provided 6 months from the date of publication hereof in the FEDERAL REGISTER to submit adequate documentation in support of the labeling used.

Each holder of a new animal drug application which became effective prior to October 10, 1962, is requested to submit updating information as needed to make the application current with regard to manufacture of the drug, including information on drug components and composition, and also including information regarding manufacturing methods, facilities, and controls, in accordance with the requirements of section 512 of the act.

Written comments regarding this announcement, including requests for an informal conference, may be addressed to the Bureau of Veterinary Medicine, Food and Drug Administration, 5600 Fishers Lane, Rockville, Md. 20852.

The holder of the new animal drug applications for the listed drugs has been mailed a copy of the NAS–NRC report. Any other interested person may obtain a copy by writing to the Food and Drug Administration, Press Relations Staff, 200 C Street SW., Washington, D.C. 20204.

This notice is issued pursuant to provisions of the Federal Food, Drug, and Cosmetic Act (secs. 502, 512, 52 Stat. 1050–51, 82 Stat. 343–51; 21 U.S.C. 352, 360b) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 2.120).

Dated: July 28, 1970.

SAM D. FINE,
Acting Associate Commissioner for Compliance.

[F.R. Doc. 70-11050; Filed, Aug. 21, 1970; 8:46 a.m.]

[DESI 0134NV]

DRUG PRODUCT CONTAINING NEOMYCIN

Drugs for Veterinary Use; Drug Efficacy Study Implementation

The Food and Drug Administration has evaluated a report received from the National Academy of Sciences—National Research Council, Drug Efficacy Study Group, on the following preparation: Nekasorb; each cubic centimeter contains 25 milligrams of neomycin (as neomycin sulfate) and aluminum gel with 10 percent activated attapulgite (quantity sufficient); by Fort Dodge Laboratories Inc., Fort Dodge, Iowa 50501.

The Academy classified this product as probably effective for the treatment of bacertial scours in baby pigs. The Academy report also stated: (1) Each disease claim must be properly qualified as "appropriate for use in (name of disease) caused by pathogens sensitive to the drug" and if the disease claim cannot be so qualified the claim must be dropped; (2) evidence is needed that attapulgite does not interfere with neomycin activity; and (3) each active ingredient in a preparation containing more than one drug must be effective or contribute to the effectiveness of the preparation, to warrant acceptance as an active ingredient.

The Food and Drug Administration concurs with the Academy's findings.

This evaluation is concerned only with the drug's effectiveness and safety to the animal to which administered. It does not take into account the safety for food use of food derived from drug-treated animals. Nothing herein will constitute a bar to further proceedings with respect to questions of safety of the drug or its metabolites as residues in food products derived from treated animals.

This announcement is published (1) to inform manufacturers of the subject drug of the findings of the Academy and the Food and Drug Administration and (2) to inform all interested persons that such articles to be marketed must be the subject of approved new animal drug applications and otherwise comply with all other requirements of the Federal Food, Drug, and Cosmetic Act.

Manufacturers of the subject drug are provided 6 months from the date of publication of this announcement in the FEDERAL REGISTER to submit adequate documentation in support of the labeling used.

Each holder of a new animal drug application which became effective prior to October 10, 1962, is requested to submit updating information as needed to make the application current with regard to manufacture of the drug, including information on drug components and composition, and also including information regarding manufacturing methods, facilities, and controls, in accordance with the requirements of section 512 of the act.

Written comments regarding this announcement, including requests for an informal conference, may be addressed to the Bureau of Veterinary Medicine, Food and Drug Administration, 5600 Fishers Lane, Rockville, Md. 20852.

The manufacturer of the listed drug has been mailed a copy of the NAS–NRC report. Any other interested person may obtain a copy by writing to the Food and Drug Administration, Press Relations Staff, 200 C Street SW., Washington, D.C. 20204.

This notice is issued pursuant to provisions of the Federal Food, Drug, and Cosmetic Act (secs. 502, 512, 52 Stat. 1050–51, 82 Stat. 343–51; 21 U.S.C. 352, 360b) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 2.120).

Dated: July 30, 1970.

SAM D. FINE,
Acting Associate Commissioner for Compliance.

[F.R. Doc. 70-11051; Filed, Aug. 21, 1970; 8:46 a.m.]

[DESI 0186N]

PENICILLIN, STREPTOMYCIN, ARSANILIC ACID PREMIX WITH VITAMINS AND MINERALS

Drugs for Veterinary Use; Drug Efficacy Study Implementation

The Food and Drug Administration has evaluated reports received from the National Academy of Sciences-National Research Council, Drug Efficacy Study Group, on the following preparations:

1. Proleen 200 Swine Dia-Ferm Brand; each pound contains 0.3 gram penicillin (from procaine penicillin), 1.5 grams streptomycin (from streptomycin sulfate), 2.0 percent arsanilic acid, with various vitamins and minerals; by Diamond Laboratories, Inc., Post Office Box 863, Des Moines, Iowa 50304.

2. Proleen 300 Swine Dia-Ferm Brand; each pound contains 0.75 gram penicillin (from procaine penicillin), 3.75 grams streptomycin (from streptomycin sulfate), 1.2 percent arsanilic acid, with various vitamins and minerals; by Diamond Laboratories, Inc.

The Academy classified Proleen 200 Swine Dia-Ferm Brand as probably effective for faster gains and/or improved feed efficiency under appropriate conditions in swine and they classified Proleen 300 Swine Dia-Ferm Brand as probably not effective for prevention of bacterial swine enteritis. The Academy stated:

1. Claims for growth promotion or stimulation are disallowed. Claims for faster gains and/or feed efficiency should be stated "may result in faster gains and/or improved feed efficiency under appropriate conditions."

2. Each active ingredient in a preparation containing more than one drug must be effective, or contribute to the effectiveness of the preparation, to warrant acceptance as a therapeutic ingredient. These drug preparations have not satisfied this condition.

3. Each disease claim should be properly qualified as "appropriate for use in (name of disease) caused by pathogens sensitive to (name of drug)." If the disease cannot be so qualified, the claim must be dropped.

4. Claims made regarding "for prevention of" or "to prevent" should be replaced with "as an aid in the control of" or "to aid in the control of."

5. The manufacturer's label should warn that treated animals must actually consume enough medicated water or medicated feed to provide a therapeutic dosage under the conditions that prevail, and as a precaution state the desired oral dose per unit of animal weight per day for each species as a guide to effective usage of the preparation in drinking water or feed.

The Food and Drug Administration concurs in the Academy's evaluation and further concludes the growth claim should be revised to state "For increased rate of weight gain and improved feed efficiency for (under appropriate conditions of use)."

This evaluation of the drugs is concerned only with their effectiveness and safety to the animal to which administered. It does not take into account the safety for food use of food derived from drug-treated animals. Nothing in this announcement will constitute a bar to further proceedings with respect to questions of safety of the drugs or their metabolites as residues in food products derived from treated animals.

This announcement is published (1) to inform drug manufacturers of the findings of the Academy and of the Food and Drug Administration and (2) to inform all interested persons that such articles to be marketed must be the subject of approved new animal drug applications and otherwise comply with all other requirements of the Federal Food, Drug, and Cosmetic Act.

Manufacturers are provided 6 months from the date of publication of this announcement in the FEDERAL REGISTER to submit adequate documentation in support of the labeling used.

Each holder of a "deemed approved" new animal drug application (i.e., an application which became effective on the basis of safety prior to October 10, 1962) for such drugs is requested to submit updating information as needed to make the application current with regard to manufacture of the drug, including information on drug components and composition, and also including information regarding manufacturing methods, facilities, and controls, in accordance with the requirements of section 512 of the Federal Food, Drug, and Cosmetic Act.

Written comments regarding this announcement, including requests for an informal conference, may be addressed to the Bureau of Veterinary Medicine, Food and Drug Administration, 5600 Fishers Lane, Rockville, Md. 20852.

The holder of the applications for the subject drugs has been mailed a copy of the NAS-NRC report. Any manufacturer, packer, or distributor of a drug of similar composition and labeling to the listed drugs or any other interested person may also obtain a copy by writing to the Food and Drug Administration, Press Relations Staff, 200 C Street SW., Washington, D.C. 20204.

This notice is issued pursuant to provisions of the Federal Food, Drug, and Cosmetic Act (secs. 502, 512, 52 Stat. 1050–51, 82 Stat. 343–51; 21 U.S.C. 352, 360b) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 2.120).

Dated: July 13, 1970.

SAM D. FINE,
Acting Associate Commissioner for Compliance.

[F.R. Doc. 70-11052; Filed, Aug. 21, 1970; 8:46 a.m.]

[DESI 5119V]

DRUG PRODUCT CONTAINING SULFATHIAZOLE

Drugs for Veterinary Use; Drug Efficacy Study Implementation

The Food and Drug Administration has evaluated a report received from the National Academy of Sciences-National Research Council, Drug Efficacy Study Group, on the following preparation: Sulfathiazole with Vitamins A and D Cream; each gram contains 50 milligrams of sulfathiazole, 1000 Int. units of vitamin A, and 100 Int. units of vitamin D; by Haver-Lockhart Laboratories, Post Office Box 676, Kansas City, Mo. 64141.

The Academy report stated that this product is probably not effective for treating abrasions and slow healing wounds in all animal species. The report also stated that no documentation to support efficacy claims was provided, and references reviewed showed poor effect and possible untoward results from several ingredients. The Food and Drug Administration concurs with the Academy's findings.

This announcement is published (1) to inform the holders of new animal drug applications of the findings of the Academy and the Food and Drug Administration and (2) to inform all interested persons that such articles to be marketed must be the subject of approved new animal drug applications and otherwise comply with all other requirements of the Federal Food, Drug, and Cosmetic Act.

Holders of new animal drug applications are provided 6 months from the date of publication hereof in the FEDERAL REGISTER to submit adequate documentation in support of the labeling used.

Each holder of a new animal drug application which became effective prior to October 10, 1962, is requested to submit updating information as needed to make the application current with regard to manufacture of the drug, including information on drug components and composition, and also including information regarding manufacturing methods, facilities, and controls, in accordance with the requirements of section 512 of the act.

Written comments regarding this announcement, including requests for an informal conference, may be addressed to the Bureau of Veterinary Medicine, Food and Drug Administration, 5600 Fishers Lane, Rockville, Md. 20852.

The holder of the new animal drug application for the listed drug has been mailed a copy of the NAS–NRC report. Any other interested person may obtain a copy by writing to the Food and Drug Administration, Press Relations Staff, 200 C Street SW., Washington, D.C. 20204.

This notice is issued pursuant to provisions of the Federal Food, Drug, and Cosmetic Act (secs. 502, 512, 52 Stat. 1050–51, 82 Stat. 343–51; 21 U.S.C. 352, 360b) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 2.120).

Dated: August 6, 1970.

SAM D. FINE,
Acting Associate Commissioner for Compliance.

[F.R. Doc. 70-11053; Filed, Aug. 21, 1970; 8:47 a.m.]

[DESI 9860V]

CERTAIN DRUG PRODUCTS CONTAINING OXYTETRACYCLINE

Drugs for Veterinary Use; Drug Efficacy Study Implementation

The Food and Drug Administration has evaluated a report received from the National Academy of Sciences–National Research Council, Drug Efficacy Study Group, on the following preparations:

1. Terramycin Pet Tablets; each tablet contains 50 milligrams of crystalline oxytetracycline; by Chas. Pfizer & Co., Inc., Department of Veterinary Medicine, 235 East 42d Street, New York, N.Y. 10017.

2. Terramycin Fortified Pet Tablets; each tablet contains 125 milligrams of oxytetracycline hydrochloride, 2,500 units of vitamin A (palmitate), 250 units of vitamin D, and 5 milligrams of niacinamide; by Chas. Pfizer & Co., Inc., Department of Veterinary Medicine.

The Academy evaluated these products as probably not effective for oral administration in the management of infections caused by or associated with oxytetracycline susceptible organisms in dogs, cats, pigs, lambs, calves, and colts. The Academy stated: (1) Each disease claim should be properly qualified as "appropriate for use in (name of disease) caused by pathogens sensitive to (name of drug)," and if the disease claim cannot be so qualified the claim must be dropped; (2) each active ingredient in a preparation containing more than one drug must be effective, or contribute to the effectiveness of the preparation, to warrant acceptance as a therapeutic ingredient; and (3) evidence must be provided that the tablets disintegrate in the gastrointestinal tract of the medicated species to produce the desired therapeutic effect.

The Food and Drug Administration concurs in the findings of the Academy.

This evaluation is concerned only with these drugs' effectiveness and safety to the animal to which administered. It does not take into account the safety for food use of food derived from drug-treated animals. Nothing herein will constitute a bar to further proceedings with respect to questions of safety of the drugs or their metabolities as residues in food products derived from treated animals.

This announcement is published (1) to inform the holders of new animal drug applications of the findings of the Academy and the Food and Drug Administration, and (2) to inform all interested persons that such articles to be marketed must be the subject of approved new animal drug applications and otherwise comply with all other requirements of the Federal Food, Drug, and Cosmetic Act.

Holders of new animal drug applications are provided 6 months from the date of publication hereof in the FEDERAL REGISTER to submit adequate documentation in support of the labeling used.

Each holder of a new animal drug application which became effective prior to October 10, 1962, is requested to submit updating information as needed to make the application current with regard to manufacture of the drug, including information on drug components and composition, and also including information regarding manufacturing methods, facilities, and controls, in accordance with the requirements of section 512 of the act.

Written comments regarding this announcement, including requests for an informal conference, may be addressed to the Bureau of Veterinary Medicine, Food and Drug Administration, 5600 Fishers Lane, Rockville, Md. 20852.

The holder of the new animal drug application for the listed drugs has been mailed a copy of the NAS–NRC report. Any other interested person may obtain a copy by writing to the Food and Drug Administration, Press Relations Staff, 200 C Street SW., Washington, D.C. 20204.

This notice is issued pursuant to provisions of the Federal Food, Drug, and Cosmetic Act (secs. 502, 512, 52 Stat. 1050–51, 82 Stat. 343–51; 21 U.S.C. 352, 360b) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 2.120).

Dated: July 28, 1970.

SAM D. FINE,
Acting Associate Commissioner for Compliance.

[F.R. Doc. 70-11054; Filed, Aug. 21, 1970; 8:47 a.m.]

[DESI 10285V]

p-UREIDOBENZENEARSONIC ACID

Drugs for Veterinary Use; Drug Efficacy Study Implementation

The Food and Drug Administration has evaluated reports received from the National Academy of Sciences—National Research Council, Drug Efficacy Study Group, on the following preparations by Whitmoyer Laboratories, Inc., Myerstown, Pa. 17067:

1. Carb-O-Sep; contains 37.5 percent *p*-ureidobenzenearsonic acid.

2. Histocarb Soluble; each cubic centimeter contains 55.6 milligrams of *p*-ureidobenzenearsonic acid sodium.

3. Histocarb; contains 20 percent *p*-ureidobenzenearsonic acid.

The Academy evaluated these drugs as effective for use as an aid in the prevention of blackhead (enterohepatitis) in turkeys. The Academy also evaluated these drugs as probably effective for prevention or treatment of this disease in chickens, but stated that more information is needed to support this claim. The Food and Drug Administration concurs with the Academy's findings.

This evaluation is concerned only with these drugs' effectiveness and safety to the animal to which administred. It does not take into account the safety for food use of food derived from drug-treated animals. Nothing herein will constitute a bar to further proceedings with respect to questions of safety of the drugs or their metabolites as residues in food products derived from treated animals.

This announcement is published (1) to inform the holders of new animal drug applications of the findings of the Academy and the Food and Drug Administration, and (2) to inform all interested persons that such articles may be marketed provided they are the subject of approved new animal drug applications and otherwise comply with all other requirements of the Federal Food, Drug, and Cosmetic Act.

Holders of new animal drug applications are provided 6 months from the date of publication hereof in the FEDERAL REGISTER to submit adequate documentation in support of the labeling used.

Each holder of a new animal drug application which became effective prior to October 10, 1962, is requested to submit updating information as needed to make the application current with regard to manufacture of the drug, including information on drug components and composition, and also including information regarding manufacturing methods, facilities, and controls, in accordance with the requirements of section 512 of the act.

Written comments regarding this announcement, including requests for an informal conference, may be addressed to the Bureau of Veterinary Medicine, Food and Drug Administration, 5600 Fishers Lane, Rockville, Md. 20852.

The holder of the new animal drug applications for the listed drugs has been mailed a copy of the NAS–NRC reports. Any other interested person may also obtain a copy by writing to the Food and Drug Administration, Press Relations Staff, 200 C Street SW., Washington, D.C. 20204.

This notice is issued pursuant to provisions of the Federal Food, Drug, and Cosmetic Act (secs. 502, 512, 52 Stat. 1050–51, 82 Stat. 343–51; 21 U.S.C. 352, 360b) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 2.120).

Dated: August 6, 1970.

SAM D. FINE,
Acting Associate Commissioner for Compliance.

[F.R. Doc. 70-11055; Filed, Aug. 21, 1970; 8:47 a.m.]

[DESI 10524V]

NEOMYCIN SULFATE-HYDROCORTISONE ACETATE-TETRACAINE HYDROCHLORIDE OINTMENT

Drugs for Veterinary Use; Drug Efficacy Study Implementation

The Food and Drug Administration has evaluated a report received from the National Academy of Sciences-National Research Council, Drug Efficacy Study Group, on the following preparation: Neo-Cortef with Tetracaine; each gram contains 5 milligrams of neomycin sulfate (equivalent to 3.5 milligrams neomycin base), 5 milligrams of hydrocortisone acetate, and 5 milligrams of tetracaine hyrochloride; by The Upjohn Co., Kalamazoo, Mich. 49001.

The Academy evaluated this product as probably effective for the treatment of certain ear conditions and probably not effective for the treatment of eye conditions in domestic animals. The Academy stated: (1) There is no specific documentation of effectiveness of this product in naturally occurring animal diseases; (2) the ophthalmic indication for corneal ulceration is much too broad—tetracaine hydrochloride and hydrocortisone acetate may be specifically contraindicated in certain corneal ulcers; (3) the topical administration of hydrocortisone acetate to lesions caused by neomycin-resistant organisms could have adverse effects on the eye and neomycin sulfate is not effective against many of the bacterial which are found in animal eyes; (4) all topical ophthalmic preparations containing corticosteroids are contraindicated in the initial treatment of corneal ulcers—they should not be used until the infection is under control and corneal regeneration is well under way; (5) the treatment of uveitis would require additional adjunctive therapy; (6) tetracaine hydrochloride should be removed from this preparation; and (7) the prolonged anesthetic effect of tetracaine hydrochloride on ear canal skin is not adequately documented.

The Food and Drug Administration concurs with the Academy's findings.

This announcement is published (1) to inform the holders of new animal drug applications of the findings of the Academy and the Food and Drug Administration and (2) to inform all interested persons that such articles to be marketed must be the subject of approved new animal drug applications and otherwise comply with all other requirements of the Federal Food, Drug, and Cosmetic Act.

Holders of new animal drug applications are provided 6 months from the date of publication hereof in the FEDERAL REGISTER to submit adequate documentation in support of the labeling used.

Each holder of a new animal drug application which became effective prior to October 10, 1962, is requested to submit updating information as needed to make the application current with regard to manufacture of the drug, including information on drug components and composition, and also including information regarding manufacturing methods, facilities, and controls, in accordance with the requirements of section 512 of the act.

Written comments regarding this announcement, including requests for an informal conference, may be addressed to the Bureau of Veterinary Medicine, Food and Drug Administration, 5600 Fishers Lane, Rockville, Md. 20852.

The holder of the new animal drug application for the listed drug has been mailed a copy of the NAS–NRC report. Any other interested person may obtain a copy by writing to the Food and Drug Administration, Press Relations Staff, 200 C Street SW., Washington, D.C. 20204.

This notice is issued pursuant to provisions of the Federal Food, Drug, and Cosmetic Act (secs. 502, 512, 52 Stat. 1050–51, 82 Stat. 343–51; 21 U.S.C. 352, 360b) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 2.120).

Dated: July 28, 1970.

SAM D. FINE,
Acting Associate Commissioner for Compliance.

[F.R. Doc. 70-11056; Filed, Aug. 21, 1970; 8:47 a.m.]

[DESI 0164 NV]

NITHIAZIDE WITH ANTIBIOTICS

Drugs for Veterinary Use; Drug Efficacy Study Implementation

The Food and Drug Administration has evaluated a report received from the National Academy of Sciences—National Research Council, Drug Efficacy Study Group, on the following preparation: Hepzide with Antibiotics; contains nithiazide as the active drug ingredient; recommended level of use for turkeys 0.025–0.04 percent nithiazide in finished feed with a maximum of 50 grams of penicillin, or penicillin and streptomycin, or bacitracin (from zinc bacitracin, bacitracin methylene disalicylate, or feed grade bacitracin) per ton of finished feed; recommended level for chickens 0.015–0.02 percent nithiazide in finished feed with a maximum of 50 grams of penicillin, or penicillin and streptomycin, or bacitracin (from zinc bacitracin, bacitracin methylene disalicylate, or feed grade bacitracin) per ton of finished feed; by Merck & Co., Inc., Rahway, N.J. 07065.

The product is recommended for use as an aid in prevention of outbreaks of blackhead in chickens and turkeys, prevention of hexamitiasis in turkeys, and for growth promotion in chickens and turkeys.

The Academy concluded that more information is neded before the efficacy of the drug can be evaluated. Relevant information is requested to demonstrate lack of interference of the antimicrobial agents and nithiazide. The Academy stated:

1. Claims for growth promotion or stimulation are disallowed. Claims for faster gains and/or feed efficiency should

be stated as "may result in faster gains and/or improved feed efficiency under appropriate conditions."

2. Each ingredient designated as active in a preparation containing more than one drug must be effective, or contribute to the effectiveness of the preparation, to warrant acceptance as a therapeutic ingredient.

3. When using bacitracin alone, a minimum of 25 grams of bacitracin activity per ton of complete feed is necessary for improving rate of gain and/or feed efficiency for poultry.

The Food and Drug Administration concurs in the Academy's findings except the Administration concludes that the appropriate claim for faster weight gains and improved feed efficiency should be "For increased rate of weight gain and improved feed efficiency for (under appropriate conditions of use)."

This evaluation is concerned only with the drug's effectiveness and safety to the animal to which administered. It does not take into account the safety for food use of food derived from drug-treated animals. Nothing herein will constitute a bar to further proceedings with respect to questions of safety of the drug or its metabolites as residues in food products derived from treated animals.

This announcement is published (1) to inform the holders of new animal drug applications of the findings of the Academy and the Food and Drug Administration, and (2) to inform all interested persons that such articles to be marketed must be the subject of approved new animal drug applications and otherwise comply with all other requirements of the Federal Food, Drug, and Cosmetic Act.

Holders of the new animal drug applications are provided 6 months from the date of publication of this announcement in the FEDERAL REGISTER to submit adequate documentation in support of the labeling used.

Each holder of a new animal drug application which became effective prior to October 10, 1962, is requested to submit updating information as needed to make the application current with regard to manufacture of the drug, including information on drug components and composition, and also including information regarding manufacturing methods, facilities, and controls, in accordance with the requirements of section 512 of the act.

Written comments regarding this announcement, including requests for an informal conference, may be addressed to the Bureau of Veterinary Medicine, Food and Drug Administration, 5600 Fishers Lane, Rockville, Md. 20852.

The holder of the new animal drug application for the listed drug has been mailed a copy of the NAS-NRC report. Any other interested person may obtain a copy by writing to the Food and Drug Administration, Press Relations Staff, 200 C Street SW., Washington, D.C. 20204.

This notice is issued pursuant to provisions of the Federal Food, Drug, and Cosmetic Act (secs. 502, 512, 52 Stat. 1050-51, 82 Stat. 343-51; 21 U.S.C. 352, 360b) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 2.120).

Dated: July 30, 1970.

SAM D. FINE,
Acting Associate Commissioner for Compliance.

[F.R. Doc. 70-11057; Filed, Aug. 21, 1970; 8:47 a.m.]

[DESI 10661V]

CERTAIN OXYTETRACYCLINE AND VITAMIN MIXTURES FOR USE IN POULTRY DRINKING WATER

Drugs for Veterinary Use; Drug Efficacy Study Implementation

The Food and Drug Administration has evaluated reports received from the National Academy of Sciences—National Research Council, Drug Efficacy Study Group, on the following preparations by Chas. Pfizer & Co., Inc., 235 East 42d Street, New York, N.Y. 10017:

1. Terramycin Turkey Formula; each pound contains 25 grams of oxytetracycline hydrochloride, 1,200,000 units of vitamin A, 200,000 units of vitamin D_3, 750 milligrams of riboflavin, 12 grams of niacinamide, 2.5 grams of pantothenic acid, 120 milligrams of synethetic vitamin K (menadione), 1,250 units of vitamin E, and 500 micrograms of vitamin B_{12}.

2. Terramycin Egg Formula; each pound contains 25 grams of oxytetracycline hydrochloride activity, 360 milligrams of vitamin K, 300 units of vitamin E, 1,000,000 units of vitamin A, 1 milligram of vitamin B_{12}, 180,000 units of vitamin D_3, 1.3 grams of riboflavin, 6 grams of niacinamide, and 2.1 grams of pantothenic acid.

The Academy evaluated Terramycin Turkey Formula as probably not effective for nontherapeutic claims, probably not effective against bacterial infections, and effective for the control of hexamitiasis in turkeys. They evaluated Terramycin Egg Formula as probably not effective for nontherapeutic claims, probably not effective against bacterial infections, and probably effective for the control of hexamitiasis in laying chickens. The Academy stated: (1) Each disease claim should be properly qualified as "appropriate for use in (name of disease) caused by pathogens sensitive to (name of drug)," and if the disease claim cannot be so qualified, the claim must be dropped; (2) claims made regarding "for prevention of" or "to prevent" should be replaced with "as an aid in the control of" or "to aid in the control of"; (3) substantial evidence was not presented to establish that each ingredient designated as active makes a contribution to the total effect claimed for the drug combination; (4) the labeling claims for increased and/or maximum egg production and hatchability should be modified to read "may aid in maintaining egg production and hatchability, under appropriate conditions, by controlling pathogenic organisms"; (5) the labeling should warn that treated animals must actually consume enough medicated water to provide a therapeutic dose under the conditions that prevail, and, as a precaution, the label should state the desired oral dose per unit of animal weight per day for each species as a guide to effective use of the preparation in drinking water; and (6) the labeling for the egg formula must provide a dosage schedule that would effectively control hexamitiasis in laying chickens.

The Food and Drug Administration concurs with the Academy's findings.

This evaluation is concerned only with these drugs' effectiveness and safety to the animal to which administered. It does not take into account the safety for food use of food derived from drug-treated animals. Nothing herein will constitute a bar to further proceedings with respect to questions of safety of the drugs or their metabolites as residues in food products derived from treated animals.

This announcement is published (1) to inform the holders of new animal drug applications of the findings of the Academy and the Food and Drug Administration and (2) to inform all interested persons that such articles to be marketed must be the subject of approved new animal drug applications and otherwise comply with all other requirements of the Federal Food, Drug, and Cosmetic Act.

Holders of new animal drug applications are provided 6 months from the date of publication hereof in the FEDERAL REGISTER to submit adequate documentation in support of the labeling used.

Each holder of a new animal drug application which became effective prior to October 10, 1962, is requested to submit updating information as needed to make the application current with regard to manufacture of the drug, including information on drug components and composition, and also including information regarding manufacturing methods, facilities, and controls, in accordance with the requirements of section 512 of the act.

Written comments regarding this announcement, including requests for an informal conference, may be addressed to the Bureau of Veterinary Medicine, Food and Drug Administration, 5600 Fishers Lane, Rockville, Md. 20852.

The holder of the new animal drug applications for the listed drugs has been mailed a copy of the NAS-NRC report. Any other interested person may obtain a copy by writing to the Food and Drug Administration, Press Relations Staff, 200 C Street SW., Washington, D.C. 20204.

This notice is issued pursuant to provisions of the Federal Food, Drug, and Cosmetic Act (secs. 502, 512, 52 Stat. 1050-51, 82 Stat. 343-51; 21 U.S.C. 352, 360b) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 2.120).

Dated: July 13, 1970.

SAM D. FINE,
Acting Associate Commissioner for Compliance.

[F.R. Doc. 70-11058; Filed, Aug. 21, 1970; 8:47 a.m.]

[DESI 11060V]

OXYTETRACYCLINE VITAMIN TABLET

Drugs for Veterinary Use; Drug Efficacy Study Implementation

The Food and Drug Administration has evaluated a report received from the National Academy of Science—National Research Council, Drug Efficacy Study Group, on the following preparation: New Terramycin Scours Tablets; each tablet contains 250 milligrams of oxytetracycline hydrochloride, 62,500 units of vitamin A, 6,250 units of vitamin D, and 100 milligrams of niacinamide; by Agricultural Division, Chas. Pfizer & Co., Inc., New York, N.Y. 10017.

The Academy evaluated this product for oral administration as probably not effective for the prevention and treatment of scours, respiratory diseases, and navel ill in calves, cattle, pigs, hogs, lambs, sheep, and foals.

The Academy's report stated that the following are the basis for the rating:

1. Substantial evidence was not presented to establish that each ingredient designated as active makes a contribution to the total effect claimed for the drug combination.

2. Each disease claim should be properly qualified as "appropriate for use in (name of disease) caused by pathogens sensitive to (name of drug)," and if the disease claim cannot be so qualified the claim must be dropped.

3. Claims made regarding "for prevention of" or "to prevent" should be replaced with "as an aid in the control of" or "to aid in the control of".

4. The manufacturer of the above tablets must provide evidence that they disintegrate in the gastrointestinal tract of the medicated species to produce the desired therapeutic effect.

5. The statement "Vitamins most needed" should be deleted from the labeling.

6. The comparison between simple and severe scours is illogical and should be dropped.

7. Recommended dosage levels which are less than recognized therapeutic levels must be documented or deleted.

The Food and Drug Administration concurs with the Academy's findings.

This evaluation is concerned only with the drug's effectiveness and safety to the animal to which administered. It does not take into account the safety for food use of food derived from drug-treated animals. Nothing herein will constitute a bar to further proceedings with respect to questions of safety of the drug or its metabolites as residues in food products derived from treated animals.

This announcement is published (1) to inform the holders of new animal drug applications of the findings of the Academy and the Food and Drug Administration, and (2) to inform all interested persons that such articles to be marketed must be the subject of approved new animal drug applications and otherwise comply with all other requirements of the Federal Food, Drug, and Cosmetic Act.

Holders of new animal drug applications are provided 6 months from the date of publication hereof in the FEDERAL REGISTER to submit adequate documentation in support of the labeling used.

Each holder of a new animal drug application which became effective prior to October 10, 1962, is requested to submit updating information as needed to make the application current with regard to manufacture of the drug, including information on drug components and composition, and also including information regarding manufacturing methods, facilities, and controls, in accordance with the requirements of section 512 of the act.

Written comments regarding this announcement, including requests for an informal conference, may be addressed to the Bureau of Veterinary Medicine, Food and Drug Administration, 5600 Fishers Lane, Rockville, Md. 20852.

The holder of the new animal drug application for the listed drug has been mailed a copy of the NAS–NRC report. Any other interested person may obtain a copy by writing to the Food and Drug Administration, Press Relations Staff, 200 C Street SW., Washington, D.C. 20204.

This notice is issued pursuant to provisions of the Federal Food, Drug, and Cosmetic Act (secs. 502, 512, 52 Stat. 1050–51, 82 Stat. 343–51; 21 U.S.C. 352, 360b) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 2.120).

Dated: August 6, 1970.

SAM D. FINE,
Acting Associate Commissioner for Compliance.

[F.R. Doc. 70–11059; Filed, Aug. 21, 1970; 8:47 a.m.]

[Docket No. FDC–D–217; NDA No. 0–663, etc.]

GLUTAMIC ACID HYDROCHLORIDE

Notice of Withdrawal of Approval of New-Drug Applications

In an announcement (DESI 1002) published in the FEDERAL REGISTER of September 12, 1969 (34 F.R. 14339–40), the Food and Drug Administration implemented findings of the National Academy of Sciences-National Research Council, Drug Efficacy Study Group, for drugs containing glutamic acid hydrochloride, concluding there is a lack of substantial evidence that the drugs are effective for all the uses recommended or suggested in their labeling for the treatment of achlorhydria and gastric hypoacidity.

The holders of the new-drug applications listed in the above announcement and any interested person who may be adversely affected were invited to submit data, within 30 days, bearing on the proposal to withdraw approval of the new-drug applications. No such data were submitted, although Lederle Laboratories, not the holder of a new-drug application for a drug containing glutamic acid hydrochloride, filed a letter contending that the drug should not be withdrawn because physicians in practice had found it useful.

The holders of the following new-drug applications have requested withdrawal of approval of the new-drug applications and have waived their opportunity for hearing:

1. Aclor Capsules containing 5 grains glutamic acid hydrochloride per capsule; marketed by Cole Pharmacal Co., Inc., 3721 Laclede Avenue, St. Louis, Mo. 63108 (NDA 4–484).

2. Flanithin Capsules containing 325 milligrams glutamic acid hydrochloride per capsule; marketed by Table Rock Laboratories, Inc., 812 Hampton Avenue, Greenville, S.C. 29601 (NDA 1–002).

3. Glutamic Acid Hydrochloride Capsules containing 5 grains glutamic acid hydrochloride marketed by McNeil Laboratories, Inc., Camp Hill Road, Fort Washington, Pa. 19034 (NDA 0–633).

4. Glutamic Acid Hydrochloride Capsules containing 5 grains glutamic acid hydrochloride marketed by Dorsey Laboratories, Division Wander Co., Lincoln, Nebr. 68501 (NDA 4–330).

The Commissioner of Food and Drugs, pursuant to provisions of the Federal Food, Drug, and Cosmetic Act (sec. 505(e), 52 Stat. 1053, as amended; 21 U.S.C. 355(e)) and under authority delegated to him (21 CFR 2.120), finds on the basis of new information evaluated together with the evidence available when the applications were approved that there is a lack of substantial evidence that the above-listed drugs will have the effects they purport or are represented to have under the conditions of use prescribed, recommended, or suggested in their labeling.

Therefore, pursuant to the foregoing finding, approval of the listed new-drug applications, and all amendments and supplements applying thereto, is withdrawn effective on the date of signature of this document. Outstanding stocks of the affected drugs should be recalled.

Dated: July 28, 1970.

SAM D. FINE,
Acting Associate Commissioner for Compliance.

[F.R. Doc. 70–11041; Filed, Aug. 21, 1970; 8:46 a.m.]

[Docket No. FDC–D–178; NADA No. 10–986V]

SCHERING CORP.

Trilafon Injection; Notice of Withdrawal of Approval of New Animal Drug Application

A notice of opportunity for a hearing on the matter of withdrawing approval of the new animal drug application for Trilafon (perphenazine) Injection and Tablets was published in the FEDERAL REGISTER of June 3, 1970 (35 F.R. 8610).

Schering Corp., Bloomfield, N.J. 07003, holder of new animal drug application No. 10–986V covering said drug, has responded indicating that they do not wish to avail themselves of the opportunity for a hearing regarding the withdrawal

of approval for the injectable form of the drug. (Use of the drug in oral tablet form, as provided for in said application, has not been determined to be unsafe.)

Based on the grounds set forth in said notice and the response to said notice, the Commissioner of Food and Drugs concludes that approval of new animal drug application No. 10-986V, only insofar as it concerns use of the drug in its injectable formulation, should be withdrawn. Therefore, pursuant to provisions of the Federal Food, Drug, and Cosmetic Act (sec. 512(e), 82 Stat. 345-47; 21 U.S.C. 360b(e)) and under authority delegated to the Commissioner (21 CFR 2.120), approval of new animal drug application No. 10-986V including all amendments and supplements thereto, only insofar as they relate to the use of Trilafon Injection, is hereby withdrawn effective on the date of signature of this document.

Dated: August 3, 1970.

SAM D. FINE,
Acting Associate Commissioner for Compliance.

[F.R. Doc. 70-11040; Filed, Aug. 21, 1970; 8:46 a.m.]

CIVIL AERONAUTICS BOARD

[Docket No. 20291; Order 70-8-68]

INTERNATIONAL AIR TRANSPORT ASSOCIATION

Order Regarding Practices

Issued under delegated authority August 18, 1970.

An agreement has been filed with the Board, pursuant to section 412(a) of the Federal Aviation Act of 1958 (the Act) and Part 261 of the Board's Economic Regulations, embodied in the resolutions of Traffic Conference 3 of the International Air Transport Association (IATA), and adopted by mail vote. The agreement has been assigned the above-designated C.A.B. Agreement number.

The agreement would establish procedures whereby carriers operating wholly within the area comprised of Asia/Australasia/South Pacific Islands may modify an agreed-upon IATA practice so as to meet non-IATA carrier competitive situations. The proposed procedures are similar to those previously adopted for application in other geographic areas, except that the provisions do not extend to modification of fares.

The Board's interest in the agreement extends primarily to practices affecting transportation to/from Guam/Okinawa/American Samoa. Therefore, our proposal to approve the subject resolution is conditioned so as to require that all notices sent or received under this resolution which are applicable in air transportation be filed with the Board at the time of circulation among members.

Pursuant to authority duly delegated by the Board in the Board's regulations, 14 CFR 385.14, it is not found, on a tentative basis, that Resolution 300 (Mail 305) 115f, which is incorporated in Agreement C.A.B. 21881, is adverse to the public interest or in violation of the Act, provided that approval shall be subject to the condition hereinafter ordered.

Accordingly, it is ordered, That:

Action on Agreement C.A.B. 21881 be and hereby is deferred with a view toward eventual approval, subject to the condition that copies of all notices received or sent pursuant to said resolution which are applicable in air transportation as defined by the Act shall be submitted to the Board at the time of circulation among Members.

Persons entitled to petition the Board for review of this order, pursuant to the Board's regulations, 14 CFR 385.50, may, within 10 days after the date of service of this order, file such petitions in support of or in opposition to our proposed action herein.

This order will be published in the FEDERAL REGISTER.

[SEAL] HARRY J. ZINK,
Secretary.

[F.R. Doc. 70-11108; Filed, Aug. 21, 1970; 8:50 a.m.]

[Docket No. 20291; Order 70-8-72]

INTERNATIONAL AIR TRANSPORT ASSOCIATION

Order Regarding Fare Matters

Issued under delegated authority August 18, 1970.

Agreements have been filed with the Board, pursuant to section 412(a) of the Federal Aviation Act of 1958 (the Act) and Part 261 of the Board's Economic Regulations, between various air carriers, foreign air carriers, and other carriers, embodied in the resolutions of Traffic Conference 1 of the International Air Transport Association (IATA), and adopted by mail votes. The agreements have been assigned the above-designated C.A.B. Agreement numbers.

The agreements would (1) increase by $7 the 21-day round-trip excursion fares currently applicable between Mexico City and Montreal/Ottawa, and (2) establish new specified economy-class fares to be applicable on routes operated by Cia. Mexicana de Aviacion, S.A., between the United States and Mexico, as well as new excursion fares to apply between Cozumel-Miami and between Kingston-Merida/Mexico City.

Pursuant to authority duly delegated by the Board in the Board's regulations, 14 CFR 385.14:

1. It is not found that Resolution 100(Mail 853)070, which is incorporated in Agreement C.A.B. 21947 and which does not directly affect air transportation, is adverse to the public interest or in violation of the Act; and

2. It is not found, on a tentative basis, that the following resolutions, incorporated in Agreement C.A.B. 21918, are adverse to the public interest or in violation of the Act:

Agreement C.A.B. 21918	*IATA Resolutions*
R-1	100(Mail 855)061
R-2	100(Mail 855)070

Accordingly, it is ordered, That:

1. Agreement C.A.B. 21947 be and hereby is approved; and

2. Action on Agreement C.A.B. 21918, R-1 and R-2, is deferred with a view toward eventual approval.

Persons entitled to petition the Board for review of this order pursuant to the Board's regulations, 14 CFR 385.50, may, within 10 days after the date of service of this order, file such petitions in support of or in opposition to our proposed action herein.

This order will be published in the FEDERAL REGISTER.

[SEAL] HARRY J. ZINK,
Secretary.

[F.R. Doc. 70-11109; Filed, Aug. 21, 1970; 8:50 a.m.]

[Docket No. 20993; Order 70-8-74]

INTERNATIONAL AIR TRANSPORT ASSOCIATION

Order Regarding Specific Commodity Rates

Issued under delegated authority August 18, 1970.

By Order 70-8-21, dated August 6, 1970, action was deferred, with a view toward eventual approval, on an agreement adopted by the International Air Transport Association (IATA), relating to specific commodity rates. In deferring action on the agreement, 10 days were granted in which interested persons might file petitions in support of or in opposition to the proposed action.

No petitions have been received within the filing period, and the tentative conclusions in Order 70-8-21 will herein be made final.

Accordingly, it is ordered, That:

Agreement C.A.B. 21753, R-20 through R-22, be and it hereby is approved, provided that approval shall not constitute approval of the specific commodity descriptions contained therein for purposes of tariff publication.

This order will be published in the FEDERAL REGISTER.

[SEAL] HARRY J. ZINK,
Secretary.

[F.R. Doc. 70-11110; Filed, Aug. 21, 1970; 8:50 a.m.]

[Docket No. 22329]

MARTIN'S LUCHTVERVOER MAATSCHAPPIJ N.V. (MARTIN'S AIR CHARTER)

Notice of Hearing

Notice is hereby given, pursuant to the provisions of the Federal Aviation Act of 1958, as amended, that a hearing in the above-entitled proceeding will be held on September 29, 1970, at 10 a.m., d.s.t., in

Room 503, Universal Building, 1825 Connecticut Avenue NW., Washington, D.C., before the undersigned examiner.

For information concerning the issues involved and other details of this proceeding, interested persons are referred to the prehearing conference report served on August 17, 1970, and other documents which are in the docket of this proceeding on file in the Docket Section of the Civil Aeronautics Board.

Dated at Washington, D.C., August 19, 1970.

[SEAL] EDWARD T. STODOLA,
Hearing Examiner.

[F.R. Doc. 70-11106; Filed, Aug. 21, 1970; 8:50 a.m.]

[Docket No. 22162]

SULLIVAN COUNTY, N.Y., ET AL.

Notice of Hearing

The County of Sullivan, State of New York, and the Sullivan County Airport Commission.

Notice is hereby given pursuant to the Federal Aviation Act of 1958, as amended, that a hearing in the above-entitled proceeding is assigned to be held on September 1, 1970, at 10 a.m., e.d.s.t., in Sullivan County Courthouse, Monticello, N.Y., before the undersigned examiner.

Dated at Washington, D.C., August 18, 1970.

[SEAL] JOSEPH L. FITZMAURICE,
Hearing Examiner.

[F.R. Doc. 70-11107; Filed, Aug. 21, 1970; 8:50 a.m.]

CIVIL SERVICE COMMISSION

CLERK-TYPIST AND CLERK-STENOGRAPHER

Manpower Shortage; Notice of Listing

Under the provisions of 5 U.S.C. 5723, the Civil Service Commission found a manpower shortage on July 23, 1970, for positions of clerk-typist, GS-322-4 and clerk-stenographer, GS-312-5 in the Washington, D.C., standard metropolitan statistical area.

Assuming other legal requirements are met, appointees to these positions may be paid for the expense 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. 70-11062; Filed, Aug. 21, 1970; 8:47 a.m.]

DEPARTMENT OF AGRICULTURE

Notice of Revocation of Authority To Make Noncarrier Executive Assignment

Under authority of § 9.20 of Civil Service Rule IX (5 CFR 9.20), the Civil Service Commission revokes the authority of the Department of Agriculture to fill by noncareer executive assignment in the excepted service the position of Assistant to the Administrator, Consumer and Marketing Service.

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

[F.R. Doc. 70-11064; Filed, Aug. 21, 1970; 8:47 a.m.]

DEPARTMENT OF AGRICULTURE

Notice of Revocation of Authority To Make Noncareer Executive Assignment

Under authority of § 9.20 of Civil Service Rule IX (5 CFR 9.20), the Civil Service Commission revokes the authority of the Department of Agriculture to fill by noncareer executive assignment in the excepted service the position of Assistant Administrator (Operating Loans), Farmers Home Administration.

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

[F.R. Doc. 70-11065; Filed, Aug. 21, 1970; 8:47 a.m.]

DEPARTMENT OF AGRICULTURE

Notice of Grant of Authority To Make Noncareer Executive Assignment

Under authority of § 9.20 of Civil Service Rule IX (5 CFR 9.20), the Civil Service Commission authorizes the Department of Agriculture to fill by noncareer executive assignment in the excepted service the position of Deputy Administrator, Food and Nutrition Service.

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

[F.R. Doc. 70-11066; Filed, Aug. 21, 1970; 8:47 a.m.]

DEPARTMENT OF AGRICULTURE

Notice of Grant of Authority To Make Noncareer Executive Assignment

Under authority of § 9.20 of Civil Service Rule IX (5 CFR 9.20), the Civil Service Commission authorizes the Department of Agriculture to fill by noncareer executive assignment in the excepted service the position of Assistant Administrator (Farmer Programs), Farmers Home Administration.

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

[F.R. Doc. 70-11067; Filed, Aug. 21, 1970; 8:47 a.m.]

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Notice of Grant of Authority To Make Noncareer Executive Assignment

Under authority of § 9.20 of Civil Service Rule IX (5 CFR 9.20), the Civil Service Commission authorizes the Department of Health, Education, and Welfare to fill by noncareer executive assignment in the excepted service the position of Associate Administrator for Planning, Research and Training, Social and Rehabilitation Service.

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

[F.R. Doc. 70-11068; Filed, Aug. 21, 1970; 8:47 a.m.]

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Notice of Grant of Authority To Make Noncareer Executive Assignment

Under authority of § 9.20 of Civil Service Rule IX (5 CFR 9.20), the Civil Service Commission authorizes the Department of Housing and Urban Development to fill by noncareer executive assignment in the excepted service the position of Assistant Commissioner for Rehabilitation, Federal Housing Administration.

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

[F.R. Doc. 70-11069; Filed, Aug. 21, 1970; 8:48 a.m.]

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Notice of Grant of Authority To Make Noncareer Executive Assignment

Under authority of § 9.20 of Civil Service Rule IX (5 CFR 9.20), the Civil Service Commission authorizes the Department of Housing and Urban Development to fill by noncareer executive assignment in the excepted service the position of Special Assistant to the Secretary.

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

[F.R. Doc. 70-11070; Filed, Aug. 21, 1970; 8:48 a.m.]

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Notice of Grant of Authority To Make Noncareer Executive Assignment

Under authority of § 9.20 of Civil Service Rule IX (5 CFR 9.20), the Civil Service Commission authorizes the Department of Housing and Urban Development to fill by noncareer executive

assignment in the excepted service the position of Director, Project Financing Division, Renewal and Housing Management.

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

[F.R. Doc. 70-11071; Filed, Aug. 21, 1970; 8:48 a.m.]

DEPARTMENT OF THE INTERIOR

Notice of Title Change in Noncareer Executive Assignment

By notice of November 17, 1967, F.R. Doc. 67-13608, the Civil Service Commission authorized the departments and agencies to fill by noncareer executive assignment, certain positions removed from Schedule C of Civil Service Rule VI by 5 CFR 213.3301a on November 17, 1967. This is notice that the title of one such position so authorized to be filled by noncareer executive assignment has been changed from Associate Director, Health and Safety, Bureau of Mines to Deputy Director—Health and Safety, Bureau of Mines.

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

[F.R. Doc. 70-11072; Filed, Aug. 21, 1970; 8:48 a.m.]

DEPARTMENT OF JUSTICE

Notice of Grant of Authority To Make Noncareer Executive Assignment

Under authority of § 9.20 of Civil Service Rule IX (5 CFR 9.20), the Civil Service Commission authorizes the Department of Justice to fill by noncareer executive assignment in the excepted service a second position of Deputy Assistant Attorney General, Civil Rights Division.

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

[F.R. Doc. 70-11073; Filed, Aug. 21, 1970; 8:48 a.m.]

FEDERAL COMMUNICATIONS COMMISSION

[Docket No. 18294; FCC 70-879]

WORLD ADMINISTRATIVE RADIO CONFERENCE FOR SPACE TELECOMMUNICATIONS

Seventh Notice of Inquiry

In the matter of an inquiry relating to preparation for a World Administrative Radio Conference of the International Telecommunication Union on matters pertaining to the radio astronomy and space services.

1. On March 23, 1970, the Commission adopted its Sixth Notice of Inquiry and Notice of Oral Presentation (FCC 70-308) in the above-captioned proceeding (35 F.R. 5431) calling for comments and reply comments on or before April 29 and May 13, 1970, respectively, and inviting interested parties to indicate to the Commission, on or before April 14, 1970, if they wished to make an oral presentation of their views before the Commission en banc, with respect to the forthcoming Space Conference.

2. On May 11, 1970, in response to the interest shown, the Commission released an Order for Oral Presentation (FCC 70-468) designating the time, date and place for the presentation, as well as a list of the parties and their allotted times. The presentation was held at the Commission's Offices in Washington, D.C., on May 19, 1970, beginning at 9 a.m.

3. The Commission's fifth notice of inquiry in this proceeding (released Aug. 27, 1969) was accompanied by the "Preliminary Views of the United States of America for the World Administrative Radio Conference for Space Telecommunications—Geneva, 1971". The sixth notice proposed certain changes to the latter document and the appendices to the sixth notice were in the form of replacement and additional pages for insertion in the preliminary views. It is the purpose of this seventh notice of inquiry to deal with comments filed in response to the sixth notice and testimony taken at the oral presentation; to propose still further changes to the preliminary views; and to present a new, recapitulative, superseding document entitled "Draft Proposals of the United States of America for the World Administrative Radio Conference for Space Telecommunications—Geneva, 1971".[1]

4. Like the earlier document, the "Draft Proposals" were developed in continued consultation with the Office of Telecommunications Management (OTM). Additionally, they have been transmitted to the Department of State by the Commission and by the OTM with recommendations that they too be distributed abroad to other administrations to elicit their reactions and comments.

5. Comments in response to the Commission's sixth notice of inquiry were filed by the following:

Project Oscar, Inc. (OSCAR).
Corporation for Public Broadcasting (CPB).
*Joint Council on Educational Telecommunications (JCET).
*Lister Hill National Center for Biomedical Communications, HEW (Lister Hill).
*National Association of Educational Broadcasters (NAEB).
*National Educational Association of the U.S. (NEA).
State Education Department of the University of the State of New York (UNY).
Communications Workers of America (CWA).
*United States Office of Education, HEW (USOE).
*CBS Television Network Affiliates Association (CBS/TNAA).
Lloyd P. Morris.
American Broadcasting Companies, Inc. (ABC).
Columbia Broadcasting System, Inc. (CBS).
National Broadcasting Company, Inc. (NBC).
The American Radio Relay League and Radio Amateur Satellite Corporation (ARRL/AMSAT).
*Aeronautical Radio, Inc. and Air Transport Association of America (ARINC/ATA).
General Electric Company (GE).
National Academy of Sciences (NAS).
Satellite Telecommunications Subdivision, Industrial Electronics Division, Electronic Industries Association (EIA/SAT).
*American Telephone and Telegraph Company (A.T. & T.).
*Communications Satellite Corporation (COMSAT).
Telemetering Standards Coordination Committee (TSCC).
*Aerospace & Flight Test Radio Coordinating Council (AFTRCC).
*Association of Maximum Service Telecasters (AMST).

6. Reply comments were filed by A.T. & T., COMSAT, and JCET.

7. Those indicated above by an asterisk and the Alaska Association of Educational Broadcasters (AAEB) were represented at the Oral Presentation before the Commission, en banc, on May 19, 1970.

8. Despite the large number of parties filing comments and/or participating in the oral Presentation, the subjects treated are relatively few in number and we shall deal with them on a subject-by-subject basis.

9. Education-oriented proposals: CPB, JCET, Lister Hill, NAEB, NEA, UNY, AAEB, CWA, and USOE (collectively referred to hereinafter as educational interests or educators) stressed generally common themes:

(1) Allocate 108 MHz for direct or semi-direct FM aural broadcasting from space for educational, instructional or public service use; and

(2) Reserve the frequency band 2500-2690 MHz for educational TV, public TV services, and other educational and noncommercial communications, coequally for space and terrestrial transmissions.

Both proposals stem from the "two-summer" studies financed by NASA and conducted by the National Academy of Sciences and the National Research Council (NAS-NRC). The educational interests, supported by EIA/SAT, urge that the recommendations growing out of the studies, and particularly those of Panel 10 on Broadcasting, be heeded. That panel recommended:

> * * * immediate action by the FCC and the ITU in order to secure frequency assignments within the following bands for space broadcasting use:
>
> 108 MHz for FM direct broadcast.
> 470-890 MHz for direct-to-home broadcast (possibly restricted to the upper end of the band).
> 2500 MHz for ETV and other public TV services.
> 12,000 MHz for distribution service.
>
> Allocations in the 18 GHz and 35 GHz bands which may have important future uses.

[1] "Draft Proposals" filed as part of the original document.

10. It is important to note that the EIA/SAT endorsement of the above is qualified somewhat in that their comments state the following: "* * * although not all of our members agree with all its points, the NAS study is by far the most searching investigation of the potential of space broadcasting and its allied modes yet made. In view of the comprehensive nature of the NAS study, we feel that the recommendations which are in line with those of the NAS deserve more weight than those which appear to be based on a less comprehensive analyses."

11. We find the first of the above recommendations to be impracticable and make no provision for it in the accompaying Draft Proposals. JCET, for example, makes the argument that: "* * * [1] minimal relocation problems would be incurred by the assignment of 108 MHz to aural space transmissions, and [2] the advantages of frequency assignment within the capability of conventional receivers would be preserved * * *". Further: "* * * [3] National Public Radio, the newest Constituent Member of the JCET, is particularly concerned with the expanded potentials for national service which are offered by spaceborne FM radio * * * Aural FM broadcasting by satellite appears to offer a means both of [4] increasing the service to existing ground based FM stations and [5] of reaching new audiences in presently unserved areas * * *".

12. Taking the above points collectively, it is clear that the proponents are not aware of the impact that their proposal could have on the world community. Although they are contemplating a "national service" the signal from the satellite would represent a potential interference source over roughly one-third of the world. At 108 MHz, the foreseeable state-of-the-art does not anticipate antenna directivity that would permit signals from a satellite in geostationary orbit to illuminate less than about one-third of the earth's surface. To serve "new audiences in presently unserved areas" or, for "FM direct broadcast" as stated in the NAS/NRC recommendation, implies signal levels from space which would be comparable to those provided by terrestrial stations.[2] As to the "minimal relocation problems" it should be noted that such a service could result, within the United States alone, in interference: (a) Within the areas presently served by 23 FM broadcasting stations on 107.9 MHz; (b) to approximately 1,000 Government and non-Government aeronautical radionavigation VOR test stations on 108.0 MHz; and (c) to approximately 1,000 Government and non-Government aeronautical radionavigation localizer test stations on 108.1 MHz. The degree to which additional interference might be experienced on frequencies such as 107.7 and 108.3 MHz has not been evaluated. Additionally, in Region 1 (essentially Europe and Africa), the band 104–108 MHz is allocated not to the broadcasting service but to the "Mobile except aeronautical mobile (R) service". The international radio regulations provide, in No. 117, that "Where, in adjacent Regions or sub-Regions, a band of frequencies is allocated to different services of the same category (see section II of Article 5), the basic principle is the equality of right to operate. Accordingly, the stations of each service in one Region or sub-Region must operate so as not to cause harmful interference to services in the other Region or sub-Regions."

13. By way of contrast, the current U.S. proposal covers a multiplicity of channels in a band (88–100 MHz) which enjoys almost exclusive worldwide allocation to the broadcasting service, as opposed to a single channel to meet the educational requirements of roughly one-third of the world. It should be noted that, to date, international opposition has been widespread with respect to space broadcasting in any portion of the FM band.

14. In support of their proposal, educational interests cite the case of a broadcast from KUAC–FM, University of Alaska, relayed via the NASA satellite, ATS–I, received at Stanford University and relayed via common carrier facilities to KQED–FM, San Francisco for simultaneous broadcast; or, using the same satellite, the exchange of medical information between parties at widely separated points. These cases, however, bear little or no relationship to the use of the frequency 108 MHz. The ATS–I satellite is an experimental operation using 149.22 MHz as an uplink and 135.6 MHz as a downlink, the higher of which is in a Government band and the lower of which is in a relatively lightly used portion of an aeronautical mobile (R) service band. This same pair of frequencies has been used extensively in experiments involving both the aeronautical and maritime mobile services. Being experimental, the operation must accept any interference experienced and, in turn, must not cause harmful interference to regularly authorized services.

15. Turning to the second recommendation stemming from the NAS-NRC studies, it will be noted that it is consistent with our proposed footnote accommodation of television broadcasting from space in the frequency band 614–890 MHz. This proposal has been opposed by AMST and CBS/TNAA in the recent oral presentation; universally throughout Europe among the administrations making any comment; and by a number of countries in the Pacific area. It has received very little active support by anyone outside the United States.

16. Before commenting on the third recommendation, i.e., 2500 MHz for ETV and other public TV services, it is emphasized that neither the Commission nor the OTM denies that a future requirement might develop for interconnection between and among the various educational outlets to the public. The important issue for resolution is to ensure that allocation provisions are made wherein such interconnection can be accommodated at the time such need arises. However, neither the Commission nor the OTM is persuaded on the basis of information now available, and in light of the needs of other services which are more apparent and more immediate, that the band 2500–2690 MHz should be reserved in the space domain, exclusively for educational TV, public TV services and other educational and non-commercial communications. Further, we can only conclude, after having examined the Hughes proposal upon which the educational interests have based many of their arguments, that the educators have misinterpreted the implications of that proposal. For example, while the power flux density provided at the surface of the earth would permit the use of relatively small (4'–8' diameter) earth station antennas, it would not permit, simultaneously, the use of the ITFS within the area served by the satellite. With the satellite antenna contemplated, this would mean a roughly circular area about 500 miles in diameter. One could assume then, that whether the space station transmissions occurred during or after the normal schoolday in the area served, video tape recorders would be required by the schools or school systems wishing to take advantage of the material distributed. If, instead, distribution were made by general distribution space systems in other bands (e.g., 11.7–12.2 GHz), those same tape recorders could be used and the disruption of conventional ITFS use of the band 2500–2690 MHz could be avoided. Comments are invited particularly with respect to this overall conclusion. Comments designed to modify this conclusion with respect to all or some part of the 2500–2690 MHz band would be expected to contain sufficient information to permit an informed engineering judgment with respect to the overall bandwidth requirements of any system contemplated and with respect to the feasibility of frequency sharing with other existing or proposed systems in the band. In the interim, we will indicate internationally that studies are continuing. Since the operations suggested by the educators would be encompassed by the communication-satellite service, as defined, we have footnoted the proposed allocation to that service on page 70 of the draft proposals, in the band 2500–2550 MHz. Depending upon the educational provisions made in this regard, the uplink would be provided in appropriate communication-satellite service bands.

17. JCET comments include reference to "* * * This nation's first domestic broadcast television satellite relay between two points within the continental United States was the coverage of an address by the President of the Corporation for Public Broadcasting. That pioneering TV broadcast was one part of an experiment in transcontinental TV relay via Applications Technology Satellite III, and that transcontinental experiment is, in turn, the first of a series

[2] A secondary grade of service for community reception using relatively sophisticated receiving antennas might be possible with less interference potential.

of experiments and demonstrations proposed to NASA by the Satellite Task Force of which * * *" the CPR, the Ford Foundation, the JCET, the NAEB and National Educational Television are members. In the interest of clarification, it should be noted that the frequencies and equipment used for this experiment bear no relationship to the proposed use of the ITFS band. The experiment was conducted using the same 4 and 6 GHz bands that are employed by the communication-satellite service using 30', 40', and 85' diameter antennas.

18. The current U.S. proposal for the use of the band 2500–2690 MHz for space purposes contemplates: (1) Space-to-earth transmissions in the earth sciences satellite service (see footnote 363A) wherein there would be but one or two sophisticated earth stations, remotely located, using extremely sensitive receiving systems capable of using power flux densities well below the sensitivity of ITFS receivers; and (2) in the portion of the band 2500–2550 MHz, communication satellite operations in Alaska (earth-to-space). The earth sciences satellite service proposal has been well received internationally but it could not tolerate the level of interference that would be generated by the Hughes proposal in the same band. The second proposal has encountered appreciable opposition internationally and has been modified to indicate (space-to-earth) transmissions. Neither, however, if implemented, would result in harmful interference to terrestrial ITFS use of the band.

19. Properly qualified, there is merit to the fourth NAS–NRC recommendation with respect to the allocation of a band of frequencies at 12 GHz for a distribution service. It is our intention to modify earlier proposals for this band, and in our view, this is the band to which educators must look for the future accommodation of any interconnection requirements that develop.

20. The last NAS–NRC recommendation for "allocations in the 18 GHz and 35 GHz bands which may have important future uses" is too general to warrant an attempt at evaluation. No provisions for space broadcasting in these parts of the spectrum have been made in the attached draft proposals.

21. Comments of broadcasting interests: ABC, CBS and NBC expressed continued interest in the development of U.S. international proposals that will affect the domestic situation with respect to terrestrial broadcasting and the distribution of program material to such stations. They expressed general agreement with the U.S. tentative proposals to date but reported that collectively they had engaged an engineering consultant to explore alternative domestic satellite and terrestrial program distribution systems and may wish to comment later with respect to frequency needs. CBS expressed some concern with the proposal in the Sixth Notice to delete the mobile service (i.e., mobile TV pickup) from the band 11.7–12.2 GHz. AT&T expressed similar concern in that regard and proposed that the mobile service be retained on a secondary basis. Comsat concurred in the AT&T suggestion. We find merit in the suggestion and have modified the Draft Proposals accordingly.

22. AMST expressed opposition to space broadcasting in the band 614–890 MHz on the grounds that sharing was not feasible and space stations would force terrestrial stations off the air. AMST further expressed the view that since it was proposed to allocate the band 11.7–12.2 GHz to the broadcasting-satellite service, it was unnecessary to make similar arrangements in the UHF–TV band. CBS/TNAA, on the other hand, expressed opposition to direct-to-the-home satellite broadcasting, per se, insofar as domestic use is concerned. They recognize that the allocation proposed for 11.7–12.2 GHz might prove useful in those countries not having a well developed terrestrial broadcasting service. Also, they favor the use of satellites for program material distribution purposes, if local stations are permitted to own their "receive only" earth stations.

23. Our proposal in the sixth notice with respect to the band 11.7–12.2 GHz contemplated co-equal sharing between the broadcasting-satellite and communication-satellite services, with the latter service limited solely to the distribution of television program material. Comsat views this traffic limitation as being wasteful of spectrum space in light of the uncertain stature of the broadcasting-satellite service. AT&T, on the other hand argued that since special provisions were suggested for program distribution at 11.7–12.2 GHz, such distribution should be prohibited in the 4 and 6 GHz bands. Having reviewed both sides of the question, we are persuaded that Comsat is correct on this point and have modified our proposal accordingly to remove any traffic limitation.

24. Another related issued unresolved thus far is the matter of the uplink for program material to the satellite for broadcasting in another band allocated to the broadcasting-satellite service. Earlier Notices in this proceeding solicited comments with respect to two possible solutions: (1) Specifying by footnote, one or more earth-to-space bands in the communication-satellite service where the service could be performed; or (2) amending the definition of the communication-satellite service to make it clear that any communication-satellite service "up" band could be used. The comments were few and two diverse to permit developing a consensus. AT&T, for example, viewed the up-link as an elongated STL—which should be accommodated in bands allocated to the broadcast auxiliary services. This view was opposed by Comsat and supported by none and, since there is no international standardization of bands allocated to broadcast auxiliary services, we are rejecting AT&T's proposal. Communication-satellite bands are generally standardized and since broadcasting is normally a Commission-licensed function we have designated non-Government communication-satellite service bands for this uplink function in the draft proposals attached.

25. Still another related matter is that of definitions pertinent to the broadcasting-satellite service. Our sixth notice proposed to modify the existing definition by adding a footnote along the following lines:

84AP.1 In the broadcasting-satellite service, the term "direct reception" encompasses both individual reception by members of the general public and by those engaged in community reception, i.e., group viewing and/or listening.

This proposal was criticized by JCET and COMSAT directly and by EIA/SAT implicitly. EIA/SAT stated that steps should be taken to correct the lack of definitions in matters related to the broadcast service, the educational service and the instructional service. They consider the existing international definitions inadequate for proper discussion of these "problems". However, the international radio regulations define only the terms used therein and since we propose no allocations for educational or instructional services, per se, EIA/SAT's comments on this point are not accommodated in the draft proposals. JCET's objections are based upon a misunderstanding. In JCET's view: "An educational communications satellite operating in the 2500–2690 mHz band could provide a wide variety of services, including the transmission of instructional television programing to: (a) Public television stations for rebroadcast; (b) the ITFS systems of urban school systems for retransmission to classrooms; (c) university campuses for distribution to campus buildings (including the Campus Laboratory School); and (d) in remote rural areas where neither public TV station, ITFS system, nor university campus exist—directly to inexpensive ground terminals on the roofs of the school houses * * *. To label such a satellite service as 'direct reception', as Note 84 AP.1 would do, is to place upon it the heavy burden of argument against the authorization of commercial direct TV broadcast satellites * * *" JCET's comment, however, does not take into account that "direct reception" in the context used would have applicability only in bands allocated to the broadcasting-satellite service.

26. COMSAT's comment on this matter was directed to the proposal with respect to the frequency band 11.7–12.2 GHz wherein the broadcasting-satellite and communication-satellite services would have shared coequally. There, as noted by COMSAT, the CATV-type system which COMSAT would hope to serve through its communication-satellite service could conceivably take advantage of the "direct reception" aspect of the broadcasting-satellite service and get its program material from a different source. Although this is a matter which could be controlled as a regulatory function of the Commission if the need arises, the ambiguity in the original proposal was deliberate. The proposal visualized an evolutionary process which

would start initially as a communication-satellite service to conventional earth stations for program distribution, would progress to one wherein service could be rendered to smaller earth stations for local distribution systems, and finally to a direct-to-the-home service. In our view, there continues to be merit in the concept and, since we have administrative control over the manner in which the respective services would be conducted, we have retained the proposed footnote 84AP.1.

27. Space techniques in the amateur service: EIA/SAT endorsed the Commission's continuing efforts to expand explicitly the areas in which the amateur service could employ space techniques. ARRL/AMSAT recite the successes of the amateur community to date with amateur satellites, the lack of interference complaints, and their plans for future satellites. They urge that power flux density limitations not be imposed against the service, even in bands that are shared with other services on a secondary basis, or in bands available to them only on a regional basis. They propose instead that they be governed by the normal constraints inherent to secondary status and regional allocations under which they have conducted terrestrial operations over the years—with the added stipulation that space techniques be permitted in shared bands only if a reliable means of telecommand is provided to control emissions so as to prevent interference to stations of a primary service in the band. They suggest a footnote wording such that, through telecommand of the satellite, interference could be resolved by a shift in carrier frequency, a reduction in power, a change in emission, or, if needs be, the complete cessation of emissions. They argue also for the authority to use exclusive worldwide bands in the high frequency spectrum for space applications. In view of the fact that individual amateurs cannot be expected to launch and control satellites but that their control will be in the hands of a relatively few responsible organizations such as ARRL and AMSAT, we find the arguments persuasive and have again modified our proposals to align with their suggestions. Additionally, they have introduced into the U.S.-CCIR mechanism a report on past and proposed activities dealing with criteria for controlling interference when employing space techniques. Much of that material is incorporated in the draft proposals as supporting rationale for our new proposals with respect to the amateur service.

28. Space techniques in the mobile service: ARINC/ATA expressed the view that the sixth notice was not responsive to the desires of the aviation community, and particularly so with respect to the VHF band 117.975–136 mHz. Further, they restated their opposition to any interservice sharing between the aeronautical mobile (R) and maritime mobile services in the band 1535–1660 mHz, except insofar as it might relate to a common safety channel.

29. They reported that they have been working toward early implementation of a VHF aeronautical satellite and that FAA, who is responsible for air traffic control in the Pacific area, was pursuing the same objective. Accordingly, they expressed concern that " * * * for reasons unexpressed, the Commission appears unwilling to lend its support to a VHF aeronautical communications satellite. It seems incredible that the Commission, instead of pressing for the only means for early aeronautical satellite communications, should place itself in the position of being an obstacle to such a program."

30. In response to the above quotation, we repeat what we have said in previous notices in this proceeding. All proposals accompanying the notices of inquiry in this proceeding have been, and will continue to be, the joint views of the Commission and the Office of Telecommunications Management (OTM) or its successor. In each case, the concurrence of the OTM followed the unanimous recommendation for such action by the Interdepartment Radio Advisory Committee (IRAC), the membership of which includes the FAA and the Department of State.

31. ARINC/ATA began a concerted effort to initiate the use of space techniques in the band 117.975–136 mHz some years ago, on the strength of footnote No. 273A, as adopted by the Space Conference, Geneva, 1963. Later, when the preparatory work began for the forthcoming Space Conference, ARINC/ATA, still pressing for a VHF-only system, proposed modification of No. 273A to remove what they considered ambiguous wording that might be interpreted in too restrictive a manner. That proposal was not deemed advisable since it would tend to give impetus to a VHF system, to the detriment of UHF system developments in a less crowded and possibly more appropriate band in the UHF, i.e., 1535–1660 mHz. Now, however, ARINC/ATA report that they, along with FAA, NASA, and COMSAT, are considering a combined VHF/UHF design which would permit "operational" use at VHF and a feasibility study with respect to UHF. Such a system would permit the use of the VHF for "operational" purposes during the life of the system (5–7 years) and, simultaneously, the gathering of comparative VHF/UHF data upon which to base future judgments. We are pleased to note this increased interest in UHF but we are not yet disposed to recommend the modification of No. 273A.[3] Further, with respect to the frequency band 117.975–136 mHz, ARINC/ATA and COMSAT took exception to the proposal in the sixth notice to impose a power flux density limit of −149 dBW/m²/4kHz at the surface of the earth from satellites. They argued that if any limit is set, it should be one developed in the CCIR mechanism. It is true that criteria developed by the CCIR enjoy a high degree of acceptability internationally and since the matter is now being studied by that group, our draft proposals will be silent on this subject, pending the results of the CCIR study.

32. Initially, we proposed a primary/secondary sharing arrangement in the band 1535–1660 mHz wherein the lowest and highest 2.5 mHz would be primarily maritime mobile and secondarily aeronautical mobile (R); the next lowest and highest 20 mHz would be primarily aeronautical and secondarily maritime; and there would be no common translation frequency between the primary services. Over the past several months we have heard a variety of national and international arguments suggesting: more primary space for the maritime mobile service; exclusive rather than shared space for each of the services; common translation frequency arrangements; status quo—meaning no special space technique arrangements for either service; commonality only to the degree necessary to permit a common safety channel; "the aeronautical mobile service will develop first"; "the maritime mobile service will develop first"; etc. Now, having weighed all of the several arguments, we propose the following for the use of space techniques in the band 1535–1660 mHz:

1535–1537.5 mHz—Maritime Mobile (down).
1537.5–1542.5 mHz—Aeronautical Mobile (R) and Maritime Mobile (down).
1542.5–1557.5 mHz—Aeronautical Mobile (R) (down).

* * * * *

1637.5–1640 mHz—Maritime Mobile (up).
1640–1645 mHz—Aeronautical Mobile (R) and Maritime Mobile (up).
1645–1660 mHz—Aeronautical Mobile (R) (up).

This provides a common translation frequency; exclusive space for each service; and, in the two 5-mHz shared bands, expansion room for the first developed which overflows its exclusive allocation. Full details will be found in the draft proposals attached.

33. The sixth notice proposed a number of frequency bands above 40 GHz to be shared coequally by the aeronautical mobile (R), aeronautical radionavigation, maritime mobile and maritime radionavigation services for the use of space techniques. ARINC/ATA proposed that each of these bands be divided into four equal parts, with the first and third segments being allocated for aeronautical use and the second and fourth for maritime use. However, we and a number of other administrations with whom the matter has been discussed are not persuaded that there is enough known about future requirements in these bands to warrant such splintering at this time, and the proposal is not adopted. It will be noted, however, in the draft proposals that some of the overall bands earlier designated for joint aeronautical/maritime use have been shifted slightly to meet requests of the radio astronomers.

[3] Recommendations developed by the ICAO Secretariat with respect to the preliminary views of the United States of America and other countries, were circulated to member states for comment. On the basis of comments received, ICAO, whose membership closely parallels that of the ITU, concluded it would be undesirable to recommend changes to No. 273A in any way pending further comments from member states. The ICAO Secretariat recommends no change.

34. Turning now to the matter of the use of space techniques by the maritime mobile service in the VHF portion of the spectrum, we find it necessary to make a significant change in our earlier proposal. The preliminary views suggested that 156.4–157.4 and 173–174 MHz be used, respectively, as up and down links for this purpose. While many administrations support the intent of the proposal, they are opposed to the use of the band 173–174 MHz as a down link because of the impact such use would have on existing terrestrial services. Generally, insofar as those administrations are concerned, they could support the system in this general part of the spectrum only if it were confined to the frequencies available to the maritime mobile by virtue of appendix 18 to the radio regulations. We too are persuaded on the basis of recent studies that sharing would be extremely difficult in the band 173–174 MHz and no longer propose to use it for this purpose. It is now proposed that a new, broadly worded footnote 287A provide for the accommodation of space techniques in the maritime mobile service within the band segments encompassed by appendix 18, i.e., 156.0125–157.4375, 160.6125–160.9625 and 161.4875–162.0375 MHz. The note would call for coordination among the administrations concerned and affected, prior to the use of space techniques to ensure protection for the extensive terrestrial use of frequencies in these bands. The note would also afford maximum flexibility for participants at the next maritime mobile conference of the ITU, now tentatively scheduled for early 1974, in designating specific channels, emissions, etc., for the use of space techniques.

35. Additional changes relating to the use of space techniques will be found in the Draft Proposals in footnote No. 308A within the frequency band 225–400 MHz. This is now, and will continue to be, an exclusive Government band.

36. Comments relating to radio astronomy: NAS comments include a report that spectral lines of formaldehyde have been detected throughout the Milky Way, the one most studied to date being 4829.649 MHz. This is said to be the first indication of the presence of organic material outside the solar system. U.S. observatories have also detected formaldehyde at 14.488 GHz. NAS views the availability of the two widely separated spectral lines as a powerful tool for studying the physics of this interstellar gas. They are aware that the lower frequency is in a band which is heavily committed to tropospheric scatter systems throughout the world and, in lieu of an outright reallocation to the radio astronomy service, suggest a footnote to the table of frequency allocations requesting administrations to forego the use of such scatter systems in the band 4825–4835 MHz (to permit observation of doppler shifts in the basic spectral line frequency). In the case of the higher frequency, they propose a footnote urging administrations to give all practicable protection to the band 14.485–14.515 GHz. Another recently detected spectral line is that of water at 22.235 GHz, for which NAS proposes a similar footnote covering the band 22.21–22.26 GHz. Unfortunately, however, because of equipment in being or well along in development, the United States itself could not offer the degree of protection requested in any of the three cases except water at 22 GHz. Nonetheless, footnotes are proposed for each of the three bands (see Nos. 383B, 405BA, and 409E), calling attention to these spectral lines.

37. NAS states that many of the objects observed to date by radio astronomers show peculiar spectra and that the extension of these toward higher frequencies is of great importance in revealing the nature of these sources. Water, ammonia and formaldehyde, all relatively complicated molecules, have been detected in outer space and more molecular lines have been predicted, particularly in the frequency region above 40 GHz. They argue that radio astronomy has been in the forefront of technological development in the higher reaches of the spectrum and that sensitive receivers have been built and used for successful observations throughout the frequency range 30–300 GHz. They foresee this portion of the spectrum being heavily used in the future for communications and urge that radio astronomy be allocated a reasonable portion of it for exploration of the physical phenomena of the universe.

38. At frequencies above 40 GHz, the earth's atmosphere is characterized by alternate high attenuation peaks and valleys (or windows) through which the attenuation is relatively much lower. Successful radio astronomy observations requiring the greatest sensitivity must be confined to low attenuation windows both for spectral line and continuum observations. Taking into account the predicted frequencies of various spectral lines, plus the need to operate within the windows, NAS recommends that the bands 86–92 GHz, 130–140 GHz and 230–240 GHz be considered as the minimum allocation which will meet the requirements of the radio astronomy service. These requests have been met in the Draft Proposals. The net result, as compared to the Preliminary Views, is expanded radio astronomy bands in the vicinity of 90 and 230 GHz and an upward shift, by 4 GHz, of all allocations previously proposed between 136 and 152 GHz.

39. Also proposed by NAS is the special accommodation of radio astronomy above the earth's ionosphere, and on the far side of the moon. In their words:

> It is not generally possible to undertake radio astronomy observations from the earth's surface at frequencies below 10 MHz due to the opacity and inhomogeneity of the ionosphere, and a frequencies above 50 GHz due to atmospheric absorption, except in isolated narrow windows. However, at these low and high frequencies it is possible above the ionosphere and atmosphere, either from satellites, space platforms and probes, or from the lunar surface, to observe radio sources and the background continuum radiation in an environment that is shielded from radiation from the earth below the ionospheric critical frequencies and atmosphere absorption bands.
>
> The moon has a period of rotation about its axis equal to its period of revolution around the earth and as a consequence always presents the same side or face to the earth. However, because of ellipticity and inclination of the moon's orbit and other factors, we on the earth see at one time or another somewhat more than half of the surface of the moon. In addition, if our observing platform were raised to the height of the geostationary satellite another small fraction of the far side would be seen. For the purpose of this proposal "far side" of the moon is to be interpreted as that part of the far side which never is seen from a sphere of radius 100,000 km concentric with the earth. A fringe area to take care of diffraction around the edge is included. It is anticipated that the CIR will prepare a report defining the "far side" of the moon, perhaps suggesting a more definitive name.

They view the side of the moon shielded from the earth as the last accessible place where passive scientific receivers, including radio telescopes, could be free from terrestrial radio interference over the whole radio spectrum. They anticipate, however, that there will also be a need for scientific experiments on the far side of the moon, during the life of the regulations adopted by the forthcoming conference, requiring transmissions in various parts of the spectrum. As a consequence, they request that the United States propose adoption of an allocation table for both active and passive operations, applicable on the far side of the moon and based on the following criteria:

(1) Frequency bands presently proposed or allocated for communications from or between vehicles in deep space would be designated for active use;

(2) Frequency bands presently proposed or allocated for space research (active), which may be used on the far side of the moon would be designated for active use. Active use would be confined to 13 percent or less of the spectrum in each octave; and

(3) Frequency bands presently proposed or allocated for passive astronomical research from ITU Regions 1–3 on the earth and frequency bands containing the most important atomic and molecular spectral lines would be designated for passive use.

40. NAS requests also that the United States propose that frequency bands below 12.8 MHz and above 52.4288 GHz that are not presently proposed for allocation for active use from transmitters above the ionosphere be allocated for passive use in the region above the terrestrial ionosphere including the far side of the moon in accordance with a table accompanying their comments.

41. While in complete sympathy with the objectives of the radio astronomy community, we do not agree that the probability of interference in the regions of concern is of sufficient magnitude to warrant an extra-terrestrial allocation table. We do agree, however, that some positive action is desirable to minimize the probability of such interference occurring. Accordingly, included in the draft proposals is a resolution for adoption by the conference, urging administrations to refrain from transmitting from spacecraft in the listed bands of

interest in the region above the earth's ionosphere or from locations which could cause interference on the far side of the moon.

42. An additional item of interest with respect to the radio astronomy service, though not referred to in comments filed in response to the sixth notice, is the 20 kHz of spectrum space to be reallocated to that service from the present aeronautical band at 21,850–22,000 kHz. The preliminary views proposed that 20 kHz be taken from the high end of the aeronautical band. Internationally, all administrations contacted are in agreement with the proposal, in principle. However, the band immediately above 22,000 kHz is allocated to the maritime mobile service where increased requirements are foreseen. Many administrations foresee the expansion downward of that maritime mobile allocation at some future radio conference and would prefer not to disrupt the radio astronomy service by that action. Accordingly, in view of the light usage of the overall band 21,850–22,000 kHz by the aeronautical services and the improbability of any increased usage of the band, those administrations favor taking 20 kHz from the low end and we support that proposal. Accordingly, the draft proposals recommend that the band 21,850–21,870 kHz, in lieu of 21,980–22,000 kHz, be allocated exclusively to the radio astronomy service.

43. Comments relating to the Communication-Satellite Service: The Preliminary Views proposed that 2150–2200 MHz (down) and 2500–2550 MHz (up) be allocated, coequally with existing terrestrial services, to the communication-satellite service for demand-assignment-multiple-access (DAMA) systems for use in remote areas. That proposal has found no international support thus far in ITU Region 2 (the Americas) and has been opposed strongly in Europe where administrations foresee no need for such a service. The latter administrations, in other words, see it as a possible requirement only in ITU Region 2 and 3. As an alternative to the U.S. proposal, another administration proposed accommodation of DAMA systems in the U.S. aeronautical telemetering band, 1435–1535 MHz, with power flux density limitations higher than those permitted in the communication-satellite service generally. Paragraphs 32–34 of the sixth notice rejected that alternative proposal; an action supported by comments filed by TSCC and by AFTRCC. Comsat supported the U.S. proposal as it stood and AT&T has indicated its support if the directions of transmission can be reversed. The draft proposals have modified the earlier proposal to reflect such a reversal.

44. The U.S. proposal to allocate the frequency band 6625–7125 MHz to the communication-satellite service is equally devoid of international support and, in fact, is vigorously opposed by all administrations with whom the proposal has been discussed. In view of this reaction, and our belief that alternatives can be found which will be generally acceptable we are abandoning this particular proposal. We are aware that there is general agreement in the United Kingdom and throughout Western Europe with respect to the following arrangement:

10.95–11.2 GHz—Fixed, Mobile Communication-Satellite (up—to broadcasting satellites only).
11.45–11.7 GHz—Communication - Satellite (down—for international use).
11.7–11.95—Communication - Satellite (down—for domestic use).
11.95–12.75—Broadcasting - Satellite, Communication-Satellite, Distribution-Satellite, Fixed, Mobile.
12.75–13.25—Communication-Satellite (up), Fixed, Mobile.

45. The allocation structure shown above—which admittedly is tailored to European requirements—is predicated on the belief that antennas on satellites in the band 11.95–12.75 GHz, for example, can be sufficiently directive to permit individual country coverage within Europe with one service while in an adjacent or at least nearby country, different services could use the same band of frequencies without mutual interference being caused. The 800 MHz proposed between 11.95 and 12.75 GHz for the broadcasting-satellite service is considered necessary by European planners to provide the multiplicity of program channels required to serve the large number of countries throughout Europe. The overall needs expressed above differ widely from ours and a parallel allocation would be inappropriate for Region 2. For example, since the band 10.7–11.7 GHz is used to feed traffic to and from U.S. earth stations generally, there is no merit in proposing that all or part of the band be allocated also for use by the communication-satellite service in Region 2. Where the needs of the different Regions tend to coincide, however, there is obvious advantage to coincident allocations. We had proposed that the band 11.7–12.2 GHz be allocated coequally to the broadcasting-satellite service and the communication-satellite service with the latter limited to the distribution of TV program material. We are persuaded by the comments of Comsat and AT&T and by those of other administrations that it would be in order to modify our earlier proposal.

46. Accordingly, as set forth in detail in the draft proposals attached, we propose the following allocation for the band 11.7–12.2 GHz:

Broadcasting-Satellite (with the definition expanded by No. 84AP.1)
Communication-Satellite (down—no specific limitations as to traffic)
Mobile (secondary with respect to the space services named)

Since there are presently no fixed operations in this band within the United States, it should be possible in the future to have access to this service in urban areas. The disadvantage in using this band as a replacement for 6625–7125 MHz lies in the fact that we must now find an up band which is not immediately adjacent to 11.7–12.2 GHz and as a consequence we must abandon our earlier proposal to use 12.2–12.7 GHz for that purpose. In lieu thereof we now propose to allocate the frequency band 12.75–13.25 GHz as follows:

Communication-Satellite (up), Fixed, Mobile.

This band has fewer stations presently authorized than in the lower band 12.2–12.7 GHz but they would, nonetheless, prevent the same general access to urban areas afforded by the matching down band at 11.7–12.2 GHz. It should be noted also that though our proposed use of 12.75–13.25 GHz coincides with the European thinking frequencywise, they plan at this point to use 11.45–11.95 GHz as a down band, which would overlap only half of our proposed down band, 11.7–12.2 GHz.

47. The bands discussed thus far in this document for the communication-satellite service have been intended only for non-Government use, insofar as the United States is concerned and we propose to designate by footnote, the bands 5925–6425 MHz and 12.75–13.25 GHz as those bands in which program material may be transmitted upward to satellites for transmission in the broadcasting-satellite service. It is purely coincidental that the higher band is used domestically by the broadcast auxiliary service. The upward transmissions referred to are expected to be conducted in the communication-satellite service.

48. In the frequency bands between 17.7 and 40 GHz proposed earlier for the communication-satellite service, there is a good measure of agreement internationally and we are not disposed to modify those proposals nor the division of spectrum space to be allocated exclusively to the communication-satellite service as opposed to that to be shared between that service and the fixed and mobile services, except in one minor aspect. In order to preserve the existing space research band at 31–31.3 GHz, we propose to shift downward by 0.3 GHz our earlier proposals for the overall band 27.8–31.3 GHz to show the same distribution within the band 27.5–31.0 GHz. In response to questions by both AT&T and COMSAT, the division of spectrum space between Government and non-Government in this portion of the spectrum is expected to be as follows:

17.7–19.7 GHz—non-Government Communication-Satellite (down), Fixed, Mobile.
19.7–20.2 GHz—non-Government Communication-Satellite (down).
20.2–21.2 GHz—Government Communication-Satellite (down).

* * * * *

25.25–27.5—Government Fixed, Mobile.
27.5–29.5—non-Government Communication-Satellite (up), Fixed, Mobile.
29.5–30.0—non-Government Communication-Satellite (up).
30.0–31.0—Government Communication-Satellite (up).

49. In the bands above 40 GHz we have concluded that, while it is appropriate to propose specific bands for use by the communication-satellite service, and for use by mobile services employing space techniques, it would be inappropriate to make specific allocation proposals with respect to terrestrial fixed and mobile services—even though it is quite clear that those services would be most compatible in a sharing arrangement with, for example, space-to-space operations above 40 GHz. Accordingly, the draft proposals suggest accommodation of the

fixed and mobile services in such bands by some future Conference of the ITU, the agenda of which empowers it to deal with such matters.

50. Comments relating to data relay or data collection systems: NAS suggested that bands near 400 MHz be allocated for both the collection of oceanographic or other earth-condition data by satellites and for the transmission of such data to earth stations from satellites. Comsat expressed concern with the Commission's failure to discuss the possible premature determination of the roles of Government versus non-Government in this area on the one hand and stated, on the other hand, that "* * * Although precise definition is not now possible of the various types of data collection services that might depend on these service bands during the next 10 years, we are confident that the demand will far exceed the limited services accommodated by the Commission's proposals * * *. Before final action is taken on these matters the Commission ought to solicit detailed studies on the matter, either on a contract basis or directly from interested parties." These arguments, or statements of generalities, are not particularly helpful. The Commission and the OTM have been attempting for the past several years to determine what, if any, are our national needs for allocations to accommodate the collection of data from remote platforms and their associated sensors. We are continuing to study the matter but offer no specific proposals at this time.

51. Miscellaneous matters: In the attached draft proposals will be found a number of changes of an editorial nature or in which the subject is one of basic interest to Federal Government users. Included in this overall area are matters such as those pertaining to the notification and registration of frequency assignments in accordance with Articles 9 and 9A of the Radio Regulations. For example, Comsat requested that No. 639ACA, as proposed, be modified to make international coordination mandatory rather than permissive. This has been done in the attached draft proposals.

52. Almost without exception, those filing comments in response to the sixth notice expressed a desire to participate in the Government/Industry preparatory group referred to in paragraph 66 of that Notice. This matter is one beyond the direct responsibilities of the Commission. It is a subject coming within the cognizance of the Department of State, as evidenced by the following quotation from that Department's press release No. 137, dated May 4, 1970, quoted in part as follows:

> The Department of State announces that the U.S. CCIR National Committee, a Government/Industry advisory committee under the aegis of the Department, will be convened as an ad hoc coordinating group to assist and advise the Department on matters concerning United States proposals, positions and participation for the 1971 World Administrative Radio Conference for Space Telecommunications (WARC-ST) * * * It is anticipated that the Committee will be convened in late summer to commence its tasks * * * Agencies, companies or organizations not represented on the U.S. CCIR National Committee, but having a substantive interest in the preparations for the WARC-ST, may signify their interests to the Office of Telecommunications, Bureau of Economic Affairs, Department of State.

53. This notice is issued pursuant to section 403 of the Communications Act of 1934, as amended. Interested parties responding to this Inquiry shall furnish comments on or before September 23, 1970, and reply comments on or before October 5, 1970. All comments directed to this seventh notice of inquiry as well as any other pertinent information available will be taken into account as the preparatory work progresses. It is anticipated that the formal proposals of the United States of America will be transmitted to the Secretary General of the ITU on or about January 1, 1971. In light of the preparatory work yet to be done, the time element is becoming extremely important. Accordingly, the Commission would not expect to give favorable consideration to requests for extension of the above comment periods.

54. In accordance with § 1.419 of the Commission's rules and regulations, an original and 14 copies of all comments filed shall be furnished the Commission.

Adopted: August 12, 1970.

Released: August 17, 1970.

FEDERAL COMMUNICATIONS COMMISSION,[4]
[SEAL] BEN F. WAPLE,
Secretary.

[F.R. Doc. 70-11100; Filed, Aug. 21, 1970; 8:50 a.m.]

[4] Commissioners Bartley, Cox, and Johnson absent; concurring statement of Commissioner H. Rex Lee filed as part of the original document.

FEDERAL MARITIME COMMISSION

AUSTRALIA, NEW ZEALAND, AND SOUTH SEA ISLANDS-PACIFIC COAST CONFERENCE

Notice of Agreement Filed

Notice is hereby given that the following agreement has been filed with the Commission for approval pursuant to section 15 of the Shipping Act, 1916, as amended (39 Stat. 733, 75 Stat. 763, 46 U.S.C. 814).

Interested parties may inspect and obtain a copy of the agreement at the Washington office of the Federal Maritime Commission, 1405 I Street NW., room 1202; or may inspect the agreement at the Field Offices located at New York, N.Y., New Orleans, La., and San Francisco, Calif. Comments on such agreements, including requests for hearing, may be submitted to the Secretary, Federal Maritime Commission, Washington, D.C. 20573, within 20 days after publication of this notice in the FEDERAL REGISTER. Any person desiring a hearing on the proposed agreement shall provide a clear and concise statement of the matters upon which they desire to adduce evidence. An allegation of discrimination or unfairness shall be accompanied by a statement describing the discrimination or unfairness with particularity. If a violation of the Act or detriment to the commerce of the United States is alleged, the statement shall set forth with particularity the acts and circumstances said to constitute such violation or detriment to commerce.

A copy of any such statement should also be forwarded to the party filing the agreement (as indicated hereinafter) and the statement should indicate that this has been done.

Notice of agreement filed by:

Mr. Joseph R. Harper, Secretary, Australia, New Zealand and South Sea Islands-Pacific Coast Conference, 635 Sacramento Street, Room 330, San Francisco, Calif. 94111.

Agreement No. 7580-10, filed on behalf of the member lines of the Australia, New Zealand and South Sea Islands-Pacific Coast Conference, would permit the addition of a new article 1-C to the conference's basic agreement covering the conference's practices with respect to absorptions. Under this provision, the absorption of wharfage, storage, or other charges against cargo and the absorption of expenses of transshipment between ports via any means are prohibited except as may be agreed between the conference lines and shown in the conference tariff. Presently, a two-thirds affirmative vote is necessary to effect tariff changes.

Dated: August 18, 1970.

By order of the Federal Maritime Commission.

FRANCIS C. HURNEY,
Secretary.

[F.R. Doc. 70-11104; Filed, Aug. 21, 1970; 8:50 a.m.]

SECURITIES AND EXCHANGE COMMISSION

[70-4904]

JERSEY CENTRAL POWER & LIGHT CO. ET AL.

Notice of Proposed Intrasystem Sale and Acquisition of Utility Assets

AUGUST 18, 1970.

In the matter of Jersey Central Power & Light Co., Madison Avenue at Punch Bowl Road, Morristown, N.J. 07690; Metropolitan Edison Co., 2800 Pottsville Pike, Muhlenberg Township, Berks County, Pa.; Pennsylvania Electric Co., 1001 Broad Street, Johnstown, Pa. 15907.

Notice is hereby given that Jersey Central Power & Light Co. ("Jersey Central"), Metropolitan Edison Co. ("Met-Ed"), and Pennsylvania Electric Co. ("Penelec"), public-utility subsidiary companies of General Public Utilities Corp., a registered holding company, have filed an application-declaration

with this Commission pursuant to the Public Utility Holding Company Act of 1935 ("Act"), designating sections 9(a), 10, 12(d), and 12(f) of the Act and rule 43 promulgated thereunder as applicable to the proposed transactions. All interested persons are referred to the application-declaration, which is summarized below, for a complete statement of the proposed transactions.

Met-Ed and Jersey Central are in the process of constructing the Three Mile Island nuclear generating station consisting of one unit ("TMI No. 1"), with an expected capability of approximately 840 MW, scheduled for service in 1972 and a second unit ("TMI No. 2"), with an expected capability of approximately 930 MW, scheduled for service in 1974. The estimated cost of TMI No. 1 is approximately $200 million and of TMI No. 2 is approximately $220 million. The generating station is to be located on Three Mile Island in the Susquehanna River about 17 miles below Harrisburg, Pa.; the site of the station is owned by Met-Ed, which has been financing all of the costs to this date of TMI No. 1 and the on-site costs of TMI No. 2. Jersey Central has been financing the off-site costs of TMI No. 2. At June 30, 1970, Met-Ed had invested approximately $83,616,000 in TMI No. 1 and $9,701,000 in TMI No. 2, and Jersey Central had invested approximately $16,834,000 in TMI No. 2.

It is proposed that Penelec join Met-Ed and Jersey Central in financing the project. This will require Met-Ed and Jersey Central to make the requisite conveyance and transfers, and Met-Ed, Jersey Central, and Penelec to make the requisite purchases and undertake the necessary obligations to the end that the Three Mile Island station will be owned by them as tenants in common, with Met-Ed having an undivided 50-percent interest and Jersey Central and Penelec each having an undivided 25-percent interest. Penelec and Jersey Central propose to make appropriate payments on account to Met-Ed and/or the suppliers and constructors for the station so as to achieve the respective ownership interests and the sharing of past and future expenditures in like proportion. The companies anticipate that the necessary transactions can be completed within 9 months, but they request that the authorization herein sought be such as to afford a period of a year in order to make provision for the possibility of unforeseen delays.

Fees and expenses to be incurred in connection with the proposed transactions are to be filed by amendment. It is stated that the proposed dispositions and transfers will not require the authorization of any State or Federal commission other than the Board of Public Utility Commissioners of the State of New Jersey. It is further stated that the proposed acquisitions, purchases, and assumptions will not require the approval of any State or Federal commission, other than this Commission; however (i) Penelec will be required to obtain authorization from the Pennsylvania Public Utility Commission to extend its charter powers to include ownership of an interest in the Three Mile Island station, (ii) Penelec and Jersey Central will have to obtain certificates of public convenience from the Pennsylvania Public Utility Commission granting limited service rights for the site of the Three Mile Island station, (iii) Jersey Central may have to obtain authorization from the Board of Public Utility Commissions of the State of New Jersey for any contract between it and Met-Ed and Penelec relating to such acquisitions, purchases, and assumptions, and (iv) the construction permits granted by the AEC for TMI No. 1 and TMI No. 2 will have to be amended to conform to the ownership herein indicated. Copies of the above authorizations are to be filed by amendment.

Notice is further given that any interested person may, not later than September 8, 1970, request in writing that a hearing be held on such matter, stating the nature of his interest, the reasons for such request, and the issues of fact or law raised by said application-declaration which he desires to controvert; or he may request that he be notified if the Commission should order a hearing thereon. Any such request should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request should be served personally or by mail (airmail if the person being served is located more than 500 miles from the point of mailing) upon the applicants-declarants at the above-stated addresses, and proof of service (by affidavit or, in case of an attorney at law, by certificate) should be filed with the request. At any time after said date, the application-declaration, as filed or as it may be amended, may be granted and permitted to become effective as provided in rule 23 of the general rules and regulations promulgated under the Act, or the Commission may grant exemption from such rules as provided in rules 20(a) and 100 thereof or take such other action as it may deem appropriate. Persons who request a hearing or advice as to whether a hearing is ordered will receive notice of further developments in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Corporate Regulation, pursuant to delegated authority.

[SEAL] ORVAL L. DUBOIS, *Secretary.*

[F.R. Doc. 70-11076; Filed, Aug. 21, 1970; 8:48 a.m.]

[File No. 500-1]

LEASING CONSULTANTS, INC.

Order Suspending Trading

AUGUST 14, 1970.

It appearing to the Securities and Exchange Commission that the summary suspension of trading in the common stock of Leasing Consultants, Inc., a New York corporation, and all other securities of Leasing Consultants, Inc., being traded otherwise than on a national securities exchange is required in the public interest and for the protection of investors:

It is ordered, Pursuant to section 15(c)(5) of the Securities Exchange Act of 1934, that trading in such securities otherwise than on a national securities exchange be summarily suspended, this order to be effective for the period August 17, 1970, through August 26, 1970, both dates inclusive.

By the Commission.

[SEAL] ORVAL L. DUBOIS, *Secretary.*

[F.R. Doc. 70-11077; Filed, Aug. 21, 1970; 8:48 a.m.]

DEPARTMENT OF LABOR

Office of the Secretary

BENSON SHOE CO. ET AL.

Notice of Certifications of Eligibility of Workers To Apply for Adjustment Assistance

Under date of June 1, 1970, the U.S. Tariff Commission made a report of the results of a consolidated investigation (TEA-W-15, TEA-W-16, TEA-W-17, and TEA-W-18) under section 301(c)(2) of the Trade Expansion Act of 1962 (76 Stat. 884) in response to petitions for determination of eligibility to apply for adjustment assistance submitted on behalf of workers of the Benson Shoe Co., Lynn, Mass.; the Dartmouth Shoe Manufacturing Co., Brockton, Mass.; Hartman Shoe Manufacturing Co., Haverill, Mass.; and Lemar Shoes, Inc., Haverhill, Mass. In this report, the Commission, being equally divided, made no affirmative finding with respect to whether articles like or directly competitive with women's and misses dress shoes with leather, vinyl, or fabric uppers are, as a result in major part of concessions granted under trade agreements, being imported into the United States in such increased quantities as to cause, or threaten to cause, the unemployment or underemployment of a significant number or proportion of the workers of these companies. The President subsequently decided, under the authority of section 330(d)(1) of the Tariff Act of 1930 as amended, to consider the finding of those Commissioners who found in the affirmative as the finding of the Commission.

Upon receipt of the President's authorization, the Department, through the Director of the Office of Foreign Economic Policy, Bureau of International Labor Affairs, instituted investigations following which the Director made recommendations to me relating to the matter of certifications (Notice of Delegation of Authority and Notice of Investigation, 34 F.R. 18342; 35 F.R. 12502; 29 CFR Part 90). After due consideration, I make the following certifications:

1. Those workers of the Benson Shoe Co., located at Lynn, Mass., who became or will become unemployed or underemployed after January 1, 1969, are eligible to apply for adjustment assistance

under Title III, Chapter 3, of the Trade Expansion Act of 1962.

2. Those workers of the Dartmouth Shoe Manufacturing Co., located at Brockton, Mass., who became or will become unemployed or underemployed after September 27, 1968, are eligible to apply for adjustment assistance under Title III, Chapter 3, of the Trade Expansion Act of 1962.

3. Those workers of the Hartman Shoe Manufacturing Co., located at Haverhill, Mass., who became or will become unemployed or underemployed after August 1, 1969, are eligible to apply for adjustment assistance under Title III, Chapter 3, of the Trade Expansion Act of 1962.

4. Those workers of the Lemar Shoes, Inc., located at Haverhill, Mass., who became or will become unemployed or underemployed after August 1, 1968, are eligible to apply for adjustment assistance under Title III, Chapter 3, of the Trade Expansion Act of 1962.

Signed at Washington, D.C., this 19th day of August 1970.

GEORGE H. HILDEBRAND,
Deputy Under Secretary,
International Affairs.

[F.R. Doc. 70-11091; Filed, Aug. 21, 1970; 8:49 a.m.]

EAGLE SHOE MANUFACTURING CO.

Notice of Certification of Eligibility of Workers To Apply for Adjustment Assistance

Under date of June 1, 1970, the U.S. Tariff Commission made a report of the results of an investigation (TEA-W-19) under section 301(c)(2) of the Trade Expansion Act of 1962 (76 Stat. 884) in response to a petition for determination of eligibility to apply for adjustment assistance submitted on behalf of workers of the Eagle Shoe Manufacturing Co., Everett, Mass. In this report, the Commission, being equally divided, made no affirmative finding with respect to whether articles like or directly competitive with men's, youths', and boys' cement-process footwear of leather produced by the Eagle Shoe Manufacturing Co. are, as a result in major part of concessions granted under trade agreements, being imported into the United States in such increased quantities as to cause, or threaten to cause, the unemployment or underemployment of a significant number or proportion of the workers of that company. The President subsequently decided, under the authority of section 330(d)(1) of the Tariff Act of 1930 as amended, to consider the finding of those Commissioners who found in the affirmative as the finding of the Commission.

Upon receipt of the President's authorization, the Department, through the Director of the Office of Foreign Economic Policy, Bureau of International Labor Affairs, instituted an investigation following which the Director made a recommendation to me relating to the matter of certification (Notice of Delegation of Authority and Notice of Investigation, 34 F.R. 18342; 35 F.R. 12502; 29 CFR Part 90). After due consideration, I make the following certification:

Those workers of the Eagle Shoe Manufacturing Co., located at Everett, Mass., who became or will become unemployed or underemployed after January 1, 1969, are eligible to apply for adjustment assistance under Title III, Chapter 3, of the Trade Expansion Act of 1962.

Signed at Washington, D.C., this 19th day of August 1970.

GEORGE H. HILDEBRAND,
Deputy Under Secretary,
International Affairs.

[F.R. Doc. 70-11092; Filed, Aug. 21, 1970; 8:49 a.m.]

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