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Title 5—ADMINISTRATIVE PERSONNEL

Chapter I—Civil Service Commission

PART 213—EXCEPTED SERVICE

Department of Commerce; Correction

F.R. Doc. 70-2811 in the issue for March 7, 1970, on page 4249 is corrected to show that the position shown to be excepted by that document is titled Special Assistant to the Secretary for Policy Development. The complete document is reprinted below showing the corrected new subparagraph (19) of paragraph (a) of § 213.3314.

§ 213.3314 **Department of Commerce.**

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

(15) [Revoked]

* * * * *

(19) Special Assistant to the Secretary for Policy Development.

* * * * *

(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. 70-3193; Filed, Mar. 16, 1970; 8:49 a.m.]

Title 7—AGRICULTURE

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

SUBCHAPTER K—GENERAL CONDITIONAL PAYMENTS PROVISIONS

[Amdt. 6]

PART 891—DOMESTIC BEET SUGAR AREA

Miscellaneous Amendments

Pursuant to the provisions of the Sugar Act of 1948, as amended, Part 891 (32 F.R. 7837, 8283; 33 F.R. 3737, 12657, 14378) is amended as follows:

1. Paragraph (s) of § 891.1 is amended to read as follows:

§ 891.1 **Regulations, as effective, and definitions.**

* * * * *

(s) "Accredited acreage" for any crop year means the acreage of sugar beets within farm proportionate shares, when applicable, but excluding any acreage for which credit may not be given pursuant to § 895.6 of this chapter which is determined by the county committee or a member of the county committee to have been (1) harvested for the extraction of sugar or liquid sugar, (2) bona fide abandonment to the extent of fulfilling at least the requirements for abandonment set forth in subparagraphs (1) through (5) of § 842.2(a) of this chapter as shown by the records of the ASCS county office, (3) any other acreage seeded to sugar beets for the production of sugar or liquid sugar on lands suitable for the production of the crop and which was cared for during the growing season in a workmanlike manner, (4) prevented acreage approved for the farm or recorded for the allotment area pursuant to Part 849 of this chapter and (5) for any year for which proportionate shares are determined, any proportionate share acreage released and approved for the farm pursuant to Part 895 of this chapter and which shall also be included as accredited acreage for the allotment area in which such farm is located. In a personal history area the conditions for crediting accredited acreage history to a farm and the amount thereof shall be as determined by the State committee by giving recognition to all or a portion of the operator's personal production record and all, part, or none of the production record of the farm in conformity with the rules determined by the State committee for establishing proportionate shares in the State subject to review and approval by DASCO and publication in the FEDERAL REGISTER.

2. Section 891.11 is amended as follows: Paragraph (b) is revised, subparagraph (3) of paragraph (c) is revoked, paragraph (d) is revised, the designation of the paragraph "(c) Dissolving of partnership" is corrected to read "(e) Dissolving of partnership", and a new paragraph (f) is added. As amended, § 891.11 reads as follows:

§ 891.11 **Credit for planted sugar beet acreage, prevented acreage and approved released acreage.**

* * * * *

(b) *Death, retirement, or incapacity.* (1) In case of death, retirement, or incapacity of an operator having a personal sugar beet production record, such record shall accrue to the legal representative of his estate or to a member of his immediate family if such legal representative or family member continues the customary sugar beet operations of the retired, deceased or incapacitated operator.

(c) *Corporations.* * * *

(3) [Revoked]

* * * * *

(d) *Initiation of joint operation.* Where a person having a personal accredited acreage record in a personal history area and another person or persons initiate a joint operation of a farm for the production of sugar beets by a partnership or other form of joint enterprise, the farm base shall be established on the basis of acreage not exceeding the landowner's share of the sugar beet crops included in the farm's accredited acreage records; but a farm base may be established on a basis of acreage not limited to the landlord's share of such sugar beet crops where the county committee determines, and a representative of the State committee concurs, that such joint enterprise is conducted exclusively by the members of an immediate family, or that under such joint enterprise the person or persons having a personal production record during the base period qualifies as an operator of the farm either as the sole operator or as a joint operator with another person of the joint enterprise regardless of whether such other person has a personal production record, and the committees are satisfied that the initiation of the joint operation was not made in an attempt to transfer a share or personal production history.

(e) *Dissolving of partnership.* * * *

(f) *Immediate family.* For the purpose of this section the term "immediate family" is limited to persons who have a relationship to an owner-operator or the persons credited with the personal sugar beet production records of spouse, father, mother, brother, sister, children, grandchildren, and spouses of a brother, sister or children regardless of whether such persons reside in the same household.

STATEMENT OF BASES AND CONSIDERATIONS

Section 891.1(s) defines the types of acreages for which credit may be given for program purposes, including that of establishing proportionate shares. It has been called to our attention that instances may arise wherein sugar beets are seeded on suitable land and cared for in a workmanlike manner throughout the growing season but may not be harvested and the producer may not undertake to qualify the land for abandonment or deficiency payments. The amendment provides that such acreage will qualify as accredited acreages for program purposes. Such acreage is considered to show an ability to produce sugar beets for the extraction of sugar.

This amendment also makes clear the fact that the personal sugar beet production record of an operator who dies, retires or becomes incapacitated may accrue only to the legal representative of his estate or to a member of his "immediate" family. "Immediate family" is broadened to include the spouses of brothers, sisters, and children and to apply to an owner-operator.

Each year some individuals who have previously operated separately initiate joint operations, such as partnerships, joint enterprises or other sharing arrangements with other persons. The provisions of the original regulation provided

that farm bases would be established on the basis of acreage not exceeding the landowner's share of the sugar beet crops where a person having a personal acreage record in a personal history area and another person or persons initiate a joint operation of a farm. Exceptions were made where the county committee determined and a representative of the State committee concurred that the joint enterprise was conducted exclusively by the member of the immediate family or that under the joint enterprise the person or persons having a personal production record are the operators of the farm. The purpose of the foregoing provisions was to avoid the use of one person's acreage history to establish a share and to effect a transfer of such share to a person not having a personal production record. This amendment makes it clear that the joint enterprise may be recognized if the person(s) having the personal production record during the base period is either the sole operator of the farm or a joint operator with other persons of the joint enterprise, and the county committee determines and the State committee concurs that the initiation of the joint operation was not made in an attempt to transfer a proportionate share or personal production history.

Accordingly, I hereby find and conclude that the foregoing amendment will effectuate the applicable provisions of the Act.

(Secs. 301, 302, 403, 61 Stat. 929, 930, as amended, 932; 7 U.S.C. 1131, 1153)

Effective date: Date of publication.

Signed at Washington, D.C., on March 11, 1970.

KENNETH E. FRICK,
Administrator, Agricultural Stabilization and Conservation Service.

[F.R. Doc. 70-3164; Filed, Mar. 16, 1970; 8:46 a.m.]

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

[Navel Orange Reg. 199, Amdt. 1]

PART 907—NAVEL ORANGES GROWN IN ARIZONA AND DESIGNATED PART OF CALIFORNIA

Limitation of Handling

Findings. (1) Pursuant to the marketing agreement, as amended, and Order No. 907, as amended (7 CFR Part 907, 33 F.R. 15471), regulating the handling of Navel oranges grown in Arizona and designated part of California, effective under the applicable provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674), and upon the basis of the recommendations and information submitted by the Navel Orange Administrative Committee, established under the said amended marketing agreement and order, and upon other available information, it is hereby found that the limitation of handling of such Navel oranges, 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 amendment until 30 days after publication thereof in the FEDERAL REGISTER (5 U.S.C. 553) because the time intervening between the date when information upon which this amendment is based became available and the time when this amendment must become effective in order to effectuate the declared policy of the act is insufficient, and this amendment relieves restriction on the handling of Navel oranges grown in Arizona and designated part of California.

Order, as amended. The provisions in paragraphs (b)(1)(i) and (ii) of § 907.499 (Navel Orange Regulation 199, 35 F.R. 4132) are hereby amended to read as follows:

§ 907.499 Navel Orange Regulation 199.

* * * * *

(b) *Order.* (1) * * *

(i) District 1: 1,174,000 cartons;

(ii) District 2: 276,000 cartons.

* * * * *

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

Dated: March 12, 1970.

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

[F.R. Doc. 70-3162; Filed, Mar. 16, 1970; 8:46 a.m.]

Chapter XVI—Food and Nutrition Service (Food Stamp Program), Department of Agriculture

PART 1602—PARTICIPATION OF RETAIL FOOD STORES, WHOLESALE FOOD CONCERNS AND BANKS

Participation of Retail Food Stores

The Department of Agriculture will make available food coupons to authorized retail food stores for use in conducting limited internal checks of the handling of food coupon transactions by store employees.

Section 1602.5 is, therefore, amended by addition of paragraph (e) to set forth procedures by which retail food stores may obtain food coupons for such purposes. As amended, § 1602.5 reads as follows:

§ 1602.5 Participation of banks.

* * * * *

(e) Under the authority contained in paragraph (d) of this section, FNS will sell coupons at face value to any authorized retail food store which wishes to use coupons to conduct internal checks of its employees' handling of coupon transactions, provided that such retail food store submits a written request to the Department of Agriculture which shall include a certification that the store recognizes that its use of coupons will in no way affect USDA action to enforce program regulations and that the requested coupons will be used only for internal checks of the store's employees and only to uncover sales of items other than eligible foods, as defined in § 1600.2 (i) of this chapter. The request shall further include the name of the city or county in which the stores to be checked through the use of the requested coupons are located and the name and address of any outside agency with which the retail food store has or will have a contract to conduct checks of the store's employees using coupons. The request shall be directed to the Food Stamp Division, FNS, U.S. Department of Agriculture, Washington, D.C. 20250, and shall be accompanied by a check or money order made payable to the Food and Nutrition Service to cover the face value cost of the coupons requested. Coupons purchased by retail food stores for use in internal checks may be subsequently redeemed for full value in accordance with § 1602.4, and in redeeming such coupons, retail food stores are authorized to make the certification required for redemption.

NOTE: The reporting and/or recordkeeping requirements contained herein have been approved by the Bureau of the Budget in accordance with the Federal Reports Act of 1942.

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

RICHARD E. LYNG,
Assistant Secretary.

MARCH 11, 1970.

[F.R. Doc. 70-3165; Filed, Mar. 16, 1970; 8:46 a.m.]

Title 12—BANKS AND BANKING

Chapter II—Federal Reserve System

SUBCHAPTER A—BOARD OF GOVERNORS OF THE FEDERAL RESERVE SYSTEM

PART 269—POLICY ON UNIONIZATION AND COLLECTIVE BARGAINING FOR THE FEDERAL RESERVE BANKS

Whereas the Labor Management Relations Act of 1947, as amended, expressly excludes Federal Reserve Banks from the definition of "employer" (29 U.S.C. 152(2)), and excludes employees of said Banks from coverage under the Act (29 U.S.C. 152(3)); and

Whereas Executive Order 10988 concerning employee-management relations in the Federal service is inapplicable to Federal Reserve Banks and employees of Federal Reserve Banks; and

Whereas Federal Reserve Banks are corporations duly organized, created and existing under and by virtue of the laws of the United States, viz., the Federal Reserve Act, approved December 23, 1913 (12 U.S.C. 221, et seq.); and

Whereas the Federal Reserve Banks are charged by law with responsibility for the performance of essential Government functions; and

Whereas a statement of the respective rights and obligations of employees, labor organizations and managements of Federal Reserve Banks, patterned after Executive Order 10988, but taking into account the unique status of Federal Reserve Banks, would contribute to continued effective employee-management relations at the Federal Reserve Banks;

Now, therefore, the Board of Governors of the Federal Reserve System has adopted, pursuant to 12 U.S.C. 248, the following policies to govern employee-management relations between and among Federal Reserve Banks, their employees, and organizations representing such employees.

Accordingly, Chapter II, Title 12 of the Code of Federal Regulations is amended by adding a new Part 269 as set forth below:

Sec.
269.1 Definition of a labor organization.
269.2 Membership in a labor organization.
269.3 Recognition of a labor organization and its relationship to a Federal Reserve Bank.
269.4 Determination of appropriate bargaining unit.
269.5 Elections.
269.6 Unfair labor practices.
269.7 Approval of agreement and required contents.
269.8 Grievance procedures.
269.9 Time for internal labor organization business, consultations, and negotiations.
269.10 Federal Reserve System Labor Relations Panel.
269.11 Amendment.

AUTHORITY: The provisions of this Part 269 issued under sec. 11, Federal Reserve Act, 12 U.S.C. 248.

§ 269.1 Definition of a labor organization.

When used in this part, the term "labor organization" means any lawful organization of any kind, or any employee representation group, which exists for the purpose, in whole or in part, of dealings with any Federal Reserve Bank concerning grievances, personnel policies and practices, or other matters affecting the working conditions of its employees, but the term shall not include any organization, (a) which asserts the right to strike against the Government of the United States, the Board of Governors of the Federal Reserve System, or any Federal Reserve Bank, or to assist or participate in any such strike, or which imposes a duty or obligation to conduct, assist or participate in any such strike, or (b) which fails to agree to refrain from seeking or accepting support from any organization which employs coercive tactics affecting any Reserve Bank's operations, or (c) which advocates the overthrow of the constitutional form of the Government in the United States, or (d) which discriminates with regard to the terms or conditions of membership because of race, color, sex, creed, or national origin.

§ 269.2 Membership in a labor organization.

(a) Any employee of any Federal Reserve Bank (hereinafter referred to as "Bank") is free to join and assist any existing labor organization or to participate in the formation of a new labor organization, or to refrain from any such activities, except however, executive and supervisory personnel, secretaries to executives, administrative or confidential assistants to executives, and employees engaged in personnel work shall not be represented in the bank by any labor organization.

(b) The rights described in paragraph (a) of this section do not extend to participation in the management of a labor organization, or acting as a representative of any such organization, where such participation or activity would be incompatible with law or the official duties of an employee.

(c) Notwithstanding anything stated in paragraph (a) of this section, professional employees of a Bank shall not be represented by a labor organization which represents other employees of the Bank unless a majority of the professional employees eligible to vote specifically elect to be represented by such labor organization. However, the professional employees of a Bank may, if they so choose, be represented by a separate labor organization of their own, or by no labor organization at all.

(d) Notwithstanding anything stated in paragraph (a) of this section, the guards of a Bank shall not be members of a labor organization which represents other employees of the Bank. However, the guards of a Bank may, if they so choose, be represented by a separate labor organization of their own, or by no labor organization at all.

§ 269.3 Recognition of a labor organization and its relationship to a Federal Reserve Bank.

(a) Any labor organization shall be recognized as the exclusive bargaining representative of the employees in an appropriate unit of a Bank when that organization has been selected by the employees in said unit pursuant to the procedure set forth in § 269.5. A unit may be established in a Bank on any basis which will insure a clear and identifiable community of interest among the employees concerned, and will promote effective dealings and the efficiency of the Bank's operations, but no unit shall be established solely on the basis of the extent to which employees in the proposed unit have organized.

(b) When a labor organization has been recognized as the exclusive representative of employees in an appropriate unit, it shall be entitled to act for and to negotiate agreements covering all employees in the unit and it shall be responsible for representing the interests of all such employees without discrimination and without regard to whether they are members of that labor organization or not. Such labor organization shall have the opportunity to be represented at discussions between management and employees or employee representatives concerning grievances, personnel policies and practices, or other matters affecting general working conditions of employees in the unit. A Bank, through appropriate officials, shall have the obligation to meet at reasonable times with representatives of a recognized labor organization to negotiate with respect to personnel policy and practices and matters affecting general working conditions, but not with respect to such areas of discretion and policy as the purposes and functions of the Bank, the compensation of and hours worked by employees of the Bank, its budget, its retirement system or any life, health or accident insurance, its organization and assignment of personnel and of work to a particular job, or the technology of performing its work. However, a Bank, through appropriate officials, may consult with representatives of a recognized labor organization on any personnel policy or practice, or any matter affecting general working conditions.

(c) Any labor organization seeking recognition shall submit to the Bank a roster of its officers and representatives, a copy of its constitution and bylaws, and a statement of its objectives.

(d) The exclusive recognition of a labor organization shall not preclude any employee, regardless of labor organization membership, from bringing matters of personal concern to the attention of appropriate officials in accordance with applicable law, rule, regulation, or established Bank policy, or from choosing his own representative in a grievance or appellate action.

§ 269.4 Determination of appropriate bargaining unit.

The Bank will be responsible for determining, in accordance with the guidelines previously set forth in § 269.3 whether a unit is appropriate for purposes of exclusive recognition. However, after a labor organization shows that it holds cards requesting a representation election signed by at least 30 percent of the employees in the unit which that organization considers to be an appropriate bargaining unit, either the labor organization or the Bank may request the American Arbitration Association (hereinafter refered to as "Association" or "AAA") to nominate from its National Panel of Labor Arbitrators a qualified Arbitrator who will investigate the facts and issue a decision as to the appropriateness of the unit for purposes of exclusive recognition and as to related issues submitted for consideration. The expenses for this proceeding, including the fees of the Association and of the Arbitrator, shall be borne equally by the parties. If either the Bank or the labor organization should disagree with the Arbitrator's decision, the party in disagreement may appeal his decision to the Federal Reserve System's Labor Relations Panel (the purposes and functions of which are discussed in § 269.10), and the decision of the Panel shall be final and binding on the parties.

§ 269.5 Elections.

(a) Once there has been a determination of an appropriate bargaining unit and a showing by a labor organization that it has cards signed by at least 30 percent of the employees in the unit requesting a representation election, such an election shall be held. A labor organization shall be recognized as the exclusive bargaining representative of the unit if

at least 60 percent of the employees eligible to vote do so, and the labor organization is selected by a majority of those who vote.

(b) If there is any dispute as to whether a labor organization holds cards signed by at least 30 percent of the employees in a unit, the dispute shall be resolved by an Arbitrator selected by the AAA and the expenses of such procedure, including the Arbitrator's fee, shall be borne equally by the parties. The decision of the Arbitrator shall be final and binding on the parties to the dispute.

(c) The election shall be held under the auspices of the AAA and shall be subject to its election rules and regulations. However, if there should be any conflict between such rules and regulations, and the provisions of this part, the terms and conditions of this part will control. The fees charged by the AAA for this service shall be paid by the Bank.

(d) An election to determine whether a labor organization should continue as the exclusive bargaining representative of a particular unit shall be held when requested by a petition or a showing in cards by at least 30 percent of the employees of that unit. Any dispute as to whether at least 30 percent of the employees requested such an election shall be resolved by the same procedure as that set forth in paragraph (b) of this section. The election shall be held under the auspices of the AAA in the same manner described in paragraph (c) of this section. The recognition of a labor organization as the exclusive bargaining representative of a unit shall be discontinued if at least 60 percent of the employees eligible to vote do so, and a majority of those vote for discontinuance.

(e) Regardless of anything previously stated, only one election may be held in any unit in a 12-month period to determine whether a labor organization should become, or continue to be recognized as, the exclusive representative of the employees in that unit.

§ 269.6 Unfair labor practices.

(a) It shall be an unfair labor practice for a Bank: (1) To interfere with, restrain, or coerce employees in the exercise of the rights guaranteed in § 269.2(a); (2) to dominate or interfere with the formation or administration of any labor organization, or to contribute financial or other support to it; (3) to encourage or discourage membership in any labor organization by discrimination in regard to hire or tenure of employment or any term or condition of employment; (4) to refuse to bargain collectively with the representatives of its employees subject to the provisions of § 269.3(b).

(b) It shall be an unfair labor practice for a labor organization, its agents or representatives: (1) To restrain or coerce employees in the exercise of the rights guaranteed in § 269.2(a); (2) to cause or attempt to cause the Bank to discriminate against an employee in violation of paragraph (a)(3) of this section; (3) to refuse to bargain collectively with the Bank, provided the labor organization is the representative of its employees.

(c) Nothwithstanding anything previously stated in this section, the expression of any view, argument, or opinion, or the dissemination thereof, whether in written, printed, graphic, or visual form, shall not constitute or be evidence of an unfair labor practice, if such expression contains no threat of reprisal or force, or promise of benefit.

(d) The Federal Reserve System Labor Relations Panel may promulgate rules and regulations, including penalties, to remedy or prevent the unfair labor practices listed herein.

§ 269.7 Approval of agreement and required contents.

(a) Any basic or initial agreement entered into with a labor organization as the exclusive representative of employees in a unit must be approved by the President of the Bank or by a duly authorized officer. All agreements with labor organizations shall also be subject to the following requirements, which shall be expressly stated in the initial or basic agreement and shall be applicable to all supplemental, implementing, subsidiary or informal agreements between the Bank and the organization:

(1) The administration of all matters covered by the agreement shall be governed by the provisions of applicable laws and Federal Reserve rules and regulations, and the agreement shall at all times be applied subject to such laws and regulations.

(2) The management of the Bank shall retain the right in accordance with applicable laws and regulations: to direct employees of the Bank; to hire, promote, transfer, assign, and retain employees in positions within the Bank, and to suspend, demote, discharge, or take other disciplinary action against employees; to relieve empolyees from duties because of lack of work or for other legitimate reasons; to maintain the efficiency of the operations entrusted to management; to determine the methods, means and personnel by which such operations are to be conducted; and to take whatever actions may be necessary to carry out the functions of the Bank in situations of emergency.

§ 269.8 Grievance procedures.

(a) An agreement entered into with a labor organization as the exclusive representative of employees in a unit may contain provisions, applicable only to employees in the unit, concerning grievance procedures. However, these procedures may not in any manner diminish or impair any rights which would otherwise be available to any employee in the absence of an agreement providing for such procedures.

(b) Procedures established by an agreement may include provisions for the arbitration of grievances. However, such arbitration (1) shall be advisory in nature, with any decisions or recommendations subject to the approval of the President or a duly authorized officer of the Bank; (2) shall extend only to the interpretation and application of agreements or the Bank's labor policy, and not to changes in or proposed changes in agreements or such policy; and (3) shall be invoked only with the approval of the individual employee or employees concerned.

§ 269.9 Time for internal labor organization business, consultations and negotiations.

Solicitation of memberships, dues or other internal employee organization business shall be conducted during the nonduty hours of the employees concerned. Officially requested or approved consultation between management executives and representatives of labor organizations shall, whenever practicable, be conducted on official time, but the President or a duly authorized officer of a Bank may require that negotiations with a labor organization be conducted during the nonduty hours of the Bank.

§ 269.10 Federal Reserve System Labor Relations Panel.

(a) There shall be established a Federal Reserve System Labor Relations Panel which shall consist of three members: Two members of the Board of Governors of the Federal Reserve System, and one public member, all of whom shall be selected by the Board.

(b) In addition to the duties set forth in this section, the Panel shall be responsible for the duties assigned to it in §§ 269.4 and 269.6(d). Upon the request of a party, the Panel may, in its discretion, issue decisions in any disputed matters, which shall be final and binding upon the parties. The Panel may advise the Board of Governors and the Banks regarding rules for financial reporting and disclosure, and bonding requirements for labor organizations recognized or seeking recognition under this part. The Panel may also undertake any other tasks in the area of labor relations which may be referred to it by the Board or a Bank.

§ 269.11 Amendment.

This part may be amended without notice provided all labor organizations recognized, or seeking recognition, under this part are immediately informed of each change. In no instance shall an amendment be applied retroactively.

The above policy was issued by the Board of Governors on May 9, 1969.

[SEAL] KENNETH A. KENYON,
Deputy Secretary.

[F.R. Doc. 70-3157; Filed, Mar. 12, 1970; 10:52 a.m.]

Title 14—AERONAUTICS AND SPACE

Chapter I—Federal Aviation Administration, Department of Transportation

[Airspace Docket No. 69-SO-166]

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

Alteration of Transition Area

On January 28, 1970, a notice of proposed rule making was published in the

FEDERAL REGISTER (35 F.R. 1111), stating that the Federal Aviation Administration was considering an amendment to Part 71 of the Federal Aviation Regulations that would alter the Shelbyville, Tenn., transition area.

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

In consideration of the foregoing, Part 71 of the Federal Aviation Regulations is amended, effective 0901 G.m.t., May 28, 1970, as hereinafter set forth.

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

SHELBYVILLE, TENN.

That airspace extending upward from 700 feet above the surface within an 11-mile radius of Bomar Field (lat. 35°33'44" N., long. 86°26'33" W.); within 4.5 miles north and 9.5 miles south of the Shelbyville VOR 272° radial, extending from the VOR to 18.5 miles west; within 4.5 miles east and 9.5 miles west of the Shelbyville VOR 195° radial, extending from the VOR to 18.5 miles south.

(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 March 6, 1970.

JAMES G. ROGERS,
Director, Southern Region.

[F.R. Doc. 70-3154; Filed, Mar. 16, 1970; 8:46 a.m.]

[Airspace Docket No. 70-SO-3]

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

Alteration of Control Zones and Transition Area

On January 28, 1970, a notice of proposed rule making was published in the FEDERAL REGISTER (35 F.R. 1111), stating that the Federal Aviation Administration was considering an amendment to Part 71 of the Federal Aviation Regulations that would alter the Myrtle Beach AFB, S.C., control zone and the Myrtle Beach, S.C., control zone and transition area.

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

In consideration of the foregoing, Part 71 of the Federal Aviation Regulations is amended, effective 0901 G.m.t., May 28, 1970, as hereinafter set forth.

In § 71.171 (35 F.R. 2054,) the following control zones are amended to read:

MYRTLE BEACH AFB, S.C.

Within a 5-mile radius of Myrtle Beach AFB (lat. 33°40'45" N., long. 78°55'45" W.); within 1.5 miles each side of Conway TACAN 160° radial, extending from the 5-mile radius zone to 6 miles south of the TACAN; within 2 miles each side of the 167° bearing from Conway RBN, extending from the 5-mile radius zone to the RBN.

MYRTLE BEACH, S.C.

Within a 5-mile radius of Myrtle Beach Airport (lat. 33°48'40" N., long. 78°43'30" W.); within 3 miles each side of Myrtle Beach VORTAC 054° radial, extending from the 5-mile radius zone to 8.5 miles northeast of the VORTAC; within 3 miles each side of the Myrtle Beach VORTAC 220° radial, extending from the 5-mile radius zone to 8.5 miles southwest of the VORTAC. This control zone is effective during the specific dates and times established in advance by a Notice to Airmen. The effective date and time will thereafter be continuously published in the Airman's Information Manual.

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

MYRTLE BEACH, S.C.

That airspace extending upward from 700 feet above the surface within an 8.5-mile radius of Myrtle Beach Airport (lat. 33°48'-40" N., long. 78°43'30" W.); within an 8.5-mile radius of Myrtle Beach AFB (lat. 33°40'-45" N., long. 78°55'45" W.).

(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 March 4, 1970.

GORDON A. WILLIAMS, Jr.,
Acting Director, Southern Region.

[F.R. Doc. 70-3155; Filed, Mar. 16, 1970; 8:46 a.m.]

Chapter II—Civil Aeronautics Board

SUBCHAPTER A—ECONOMIC REGULATIONS

[Reg. ER-606; Amdt. 28]

PART 241—UNIFORM SYSTEM OF ACCOUNTS AND REPORTS FOR CERTIFICATED AIR CARRIERS

Accounting for Traffic Liability

Adopted by the Civil Aeronautics Board at its office in Washington, D.C., on the 10th day of March 1970.

By circulation of EDR-170, dated September 29, 1969 (Docket 21475), and publication at 34 F.R. 15422, the Board gave notice that it had under consideration an amendment to Part 241 which would prescribe certain accounting practices relating to unearned and earned passenger and cargo revenues. The proposed amendment was designed to provide for a more consistent statement of traffic liability, and for the submission of factors used in the physical verification of passenger revenue accounting practices. Also, the amendment would correct a minor inconsistency in the current liability accounts.

Interested persons were afforded an opportunity to participate in the rule making proceeding, and due consideration was given to all relevant matters presented. Comments were filed by Allegheny Airlines, Inc.; American Airlines, Inc.; Continental Air Lines, Inc.; Northwest Airlines, Inc.; and Saturn Airways, Inc. Allegheny, American, and Northwest addressed their comments to the proposal to eliminate account 2030 Collections as Agent—Traffic and to separate present account 2160 Unearned Transportation Revenue into account 2160 Traffic Liability—Passenger and account 2170 Traffic Liability—Cargo. Each traffic liability account would include the value of transportation sold for service over the lines of other carriers as well as over the reporting carrier's own lines. Generally, the carriers indicated that consolidating accounts 2030 and 2160 would impair the integrity of the financial statement by clouding the composition of the traffic liability obligation.

American observed that investors and credit grantors do not always regard unearned transportation revenue as a current liability and, therefore, the amounts now reported in account 2160 would not be identifiable, thus creating a problem in the calculation of current ratios and other financial indicators. Allegheny noted that the proposed consolidation may cause serious tax problems because the Internal Revenue Service has often considered the balance in account 2160 as taxable income. Although amounts in account 2030 have not been taxed as income, if the balance in this account is combined with account 2160, IRS may consider the entire amount as taxable income. Northwest contended that to include the value of transportation sold over the lines of other carriers and over the reporting carrier's own lines in traffic liability accounts 2160 and 2170 would make it necessary to maintain separate control subaccounts in these accounts in order to differentiate the on-line deferred income portion from the payable portion for travel on other carriers' lines. Northwest also commented that SEC Regulation S-X requires separate disclosure of any liability item in excess of 10 percent of the total current liabilities and, therefore, separate control subaccounts would be necessary when and if on-line unearned transportation revenue reaches 10 percent.

In light of these comments, we have reconsidered the proposal and have decided that the Board's needs can be satisfied by minor changes in the present regulations together with the adoption of proposed section 2-17 to require the submission of a detailed analysis of the annual physical verification of the carrier's passenger revenue accounting practices. Disclosure of the factors considered in the physical verification will permit comparability of financial data on an industry-wide basis, which was previously lacking because of the unknown variables in the determination of the traffic liability accounts. No objections were raised to the various provisions of proposed section 2-17, but American requested confidential treatment because the detailed analysis would be misleading or confusing to the public. Since the detailed analysis is required in order to make accounting for earned and unearned transportation revenue more consistent among carriers, we do not find that disclosure would adversely affect the interests of the reporting carriers and we therefore deny the request for confidential treatment.

Since we have determined not to rescind account 2030 or establish account 2170, we shall provide for separation of

passenger and cargo revenue in subaccounts of account 2160. Also, for better accounting control, the subaccounts will be further separated for sales in scheduled and nonscheduled services. These requirements moot Continental's request that account 2170 be reserved for off-line cargo liability, and Saturn's suggestion that charter deposits be shown in subaccounts of accounts 2160 and 2170 and separately reported on Form 41. Charter revenues are reported on Form 41 by both scheduled and supplemental carriers, and we do not believe separate identification of charter deposits on Form 41 by the scheduled carriers is necessary. On the other hand, unearned transportation revenues reported by the supplemental carriers will generally consist of charter deposits.

No objections were raised to the proposed clarification of matured and unmatured obligations in accounts 2020 and 2190, so the amendment will be adopted. Finally, the notice had proposed that the rule be effective January 1, 1970; no objections were raised on this point. Accordingly, we find that the amendments adopted herein will not adversely affect any carrier and that 30 days' notice is unnecessary.

In consideration of the foregoing, the Board hereby amends Part 241 of the Economic Regulations (14 CFR Part 241), effective January 1, 1970, as follows:

1. Amend section 2—General Accounting Policies by adding a new section 2–17 to read:

Sec. 2–17 Revenue accounting practices.

(a) Revenue accounting practices shall conform to the provisions of account 2160 Unearned Transportation Revenue.

(b) Physical verification of the reliability of passenger revenue accounting practices shall be made at least once each accounting year, and an analysis showing the results of such verification shall be submitted to the Board within 30 days following its completion. The analysis supporting the verification shall include:

(1) The cutoff date for the liability to be verified;

(2) The number of months after the cutoff date during which documents were examined to verify the liability;

(3) The nature of the documents which were examined for purposes of the verification;

(4) The totals for each of the various types of documents examined, on actual or sampling basis;

(5) A description of the sampling technique and conversion to totals, if sampling was employed;

(6) The amount and basis for all estimates employed in the verification; and

(7) The amount of resulting adjustments and the quarter in which such adjustments were, or are to be, made in the accounts.

(c) The amount of any adjustment shall be reported on schedule B–2 or B–2.1, as applicable, in the quarter booked in accordance with the instructions for these schedules contained in sections 23 and 33.

2. Amend section 6—Objective Classification of Balance Sheet Elements as follows:

A. Amend account 2020 to read:

2020 Accounts Payable—General.

Record here all accounts payable within 1 year which are not provided for in accounts 2030 to 2050, inclusive.

B. Amend account 2160 to read:

2160 Unearned Transportation Revenue.

(a) Record here balances representing the value of unused transportation sold and to be provided by the air carrier.

(b) Earned revenue and the value of transportation sold but not used or refunded shall be consistently and periodically cleared by debit to this account and credit to the appropriate profit and loss revenue account. Amounts receivable for transportation to be provided by the air carrier shall be debited to balance sheet account 1240 Accounts Receivable—General Traffic.

(c) Subaccounts to this account shall be established to record balances pertaining to passenger and cargo transportation sold, respectively, and separately to sales in scheduled and nonscheduled services.

(d) In accordance with the provisions of section 22(d) or section 32(d), as applicable, a statement shall be filed with the Board which fully explains the accounting methods and bases of clearing to income both earned and unredeemed transportation sales. The statement shall specify the date when the analysis supporting the verification required by section 2–17 will be made as a consistent practice.

2190 Other Current Liabilities.

Record here current and accrued liabilities not provided for in accounts 2110 to 2160, inclusive.

3. Amend section 22—General Reporting Instructions by revising item (9) in paragraph (d) to read:

(d) Statements of accounting or statistical procedures * * *

(9) Procedures for accrual of unearned transportation revenues, as prescribed by sections 2–17(b) and 6–2160(d).

* * * * *

4. Amend section 23—Certification and Balance Sheet Elements by adding a new paragraph (g) to the instructions for schedule B–2 to read:

Schedule B–2—Notes to Balance Sheet

* * * * *

(g) Amounts of adjustments resulting from the physical verification of passenger revenue accounting practices required by section 2–17 shall be reported herein for the quarter in which the adjustment takes place.

5. Amend paragraph (d) of section 32—General Reporting Instructions, by revising item (8) thereunder to read:

(d) Statements of accounting or statistical procedures * * *

(8) Procedures for accrual of unearned transportation revenues, as prescribed by sections 2–17(b) and 6–2160(d).

* * * * *

6. Amend section 33—Certification and Balance Sheet Elements by adding a new paragraph (j) to the instructions for schedule B–2.1 to read:

Schedule B–2.1—Notes to Balance Sheet; Corporate Paid-In Capital; Analysis of Sole Proprietorship Capital or Partnership Capital

* * * * *

(j) Amounts of adjustments resulting from the physical verification of passenger revenue accounting practices required by section 2–17 shall be reported herein for the quarter in which the adjustment takes place.

7. On schedule A–1 of Form 41, amend the "Applicable Section" citation for statement 9, as shown in the exhibit attached hereto [1] and incorporated herein by reference.

(Secs. 204(a), 407, Federal Aviation Act of 1958, as amended, 72 Stat. 743, 766; 49 U.S.C. 1324, 1377)

By the Civil Aeronautics Board.

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

[F.R. Doc. 70–3201; Filed, Mar. 16, 1970; 8:50 a.m.]

Title 16—COMMERCIAL PRACTICES

Chapter I—Federal Trade Commission

SUBCHAPTER D—TRADE REGULATION RULES

PART 421—UNSOLICITED MAILING OF CREDIT CARDS

Promulgation of Trade Regulation Rule and Statement of Basis and Purpose

The Federal Trade Commission, pursuant to the Federal Trade Commission Act, as amended, 15 U.S.C. 41 et seq., and the provisions of Subpart B, Part 1 of the Commission's procedures and rules of practice, 16 CFR 1.11 et seq., has conducted a proceeding for the promulgation of a Trade Regulation Rule regarding the mailing of unsolicited credit cards. Notice of this proceeding, including a proposed rule, was published in the FEDERAL REGISTER on May 14, 1969 (34 F.R. 7661). Interested parties were thereafter afforded opportunity to participate in the proceeding through the submission of written data, views, and arguments and to appear and orally express their views as to the proposed rule and to suggest amendments, revisions and additions thereto.

The Commission has now considered all matters of fact, law, policy and discretion, including the data, views, and arguments presented on the record by interested parties in response to the

[1] Filed as part of the original document.

notice, as prescribed by law, and has determined that the adoption of the Trade Regulation Rule and statement of basis and purpose set forth herein is in the public interest.

§ 421.1 The Rule.

(a) The Commission, on the basis of the findings made by it in this proceeding, as set forth in the acompanying Statement of Basis and Purpose, hereby promulgates as a Trade Regulation Rule its determination that: "The mailing by marketers of products or services or by others of unsolicited credit cards constitutes an unfair method of competition and an unfair trade practice in violation of section 5 of the Federal Trade Commission Act: *Provided, however,* That nothing in this rule should be construed to prohibit the mailing of credit cards which are renewals, substitutions, or replacements of cards expressly requested, expressly consented to, or accepted prior to the effective date of this rule through use by the holder."

(b) For the purpose of this Rule:

(1) "Credit card" shall mean any card, plate, coupon book, or other credit device existing for the purpose of establishing identity and credit in connection with the acquisition of money, property, labor or services or credit.

(2) "Unsolicited credit card" shall mean a credit card which is mailed to a party without prior expressed request or expressed consent to the mailing of such card by the recipient.

(38 Stat. 717, as amended; 15 U.S.C. 41–58)

Effective date: May 18, 1970.

Adopted: February 17, 1970.

By the Commission.

[SEAL] JOSEPH W. SHEA, *Secretary.*

STATEMENT OF BASIS AND PURPOSE OF TRADE REGULATION RULE

I. BACKGROUND

The Commission's affirmative interest in the unsolicited mailing of credit cards was first indicated when it announced on May 14, 1969 the initiation of a rulemaking proceeding. The public notice of the rulemaking proceeding was published in the FEDERAL REGISTER, vol. 34, No. 92, on Wednesday, May 14, 1969.

The information gathered in the public record [1] of the recent hearings concerning the unsolicited distribution of credit cards does indicate that the economic well-being of consumers is intimately related to the vast amount of credit outstanding through the use of the credit card. The credit card, like television, has proven both a blessing and a curse.

The Board of Governors of the Federal Reserve System has recently authored a report entitled "Bank Credit-Card and Check-Credit Plans" (July 1968) in which the economic impact of credit card negotiations in terms of dollars of credit extended is revealed.[2] For example, the report, page 48, Record 1914, points out that as of December 31, 1967, there were some 12 billion dollars of "Plastic Credit Outstanding." This $12 billion figure is broken down among the six major economic business groups utilizing credit cards:

Bank credit cards	800 million.
Oil companies	1 billion.
Department store revolving credit	3.5 billion.
Retail charge accounts	6.5 billion.
Travel and entertainment cards	100 million.
All other	100 million.
All types	12 billion.

In addition to the dollar volume involved, the credit card is utilized over a broad spectrum of the American economy. Credit card issuers fall into four broad categories: Oil companies, banks, department stores and travel and entertainment credit card issuers, such as Diner's Club, Carte Blanche and American Express. To a lesser extent airlines and auto rental companies also utilize the credit card. (See article carried in Good Housekeeping, June 1967, entitled "All About Credit Cards", Record 45 and FRB Report, pp. 11–18, Record 1877–1884.)

Credit card plans are now structured so that not only the more affluent members of society have access to them, but the middle range of income groups has access to credit cards and are actively solicited to use such cards. Originally, some credit cards were limited to higher income groups. The travel and entertainment cards charge annual dues of $12 to $15 and have minimum income requirements of $7,500 to $10,000. (See FRB Report, p. 15; Record 1881; Good Housekeeping article, Record 45.) "These plans [travel and entertainment cards] not only charge an annual fee but also apply certain credit standards more strictly than do the banks—a minimum of $10,000 in annual income is usually required." (FRB Report, p. 15, Record 1881.)

The credit card programs of the banks do not impose such high income eligibility requirements. The bank credit plans focus chiefly on smaller retail purchases rather than entertainment and travel. "Bank credit cards are used chiefly as a means of charging retail purchases." (FRB Report, p. 11, Record 1877.)

It becomes apparent that the credit card is not a toy of the wealthy but is used by both high and middle income groups. One study by the University of Michigan concluded that "Consumer credit is a middle income phenomenon." (FRB Report, p. 57, Record 1922.) With such a large portion of the consuming public using credit cards, to conclude that credit card practices have no impact on consumers is an understatement.

Under the United Air Travel Plan (UATP), a cooperative venture in the credit card field among airlines, 46 airlines presently issue UATP cards and 138 airlines honor them. (FRB Report, p. 16, Record 1882.)

The December 1968 edition of Credit World indicates a figure of 1,271 firms in the airlines, banking, petroleum, and travel and entertainment industries have some 94 million cards outstanding which are accepted in 1,300,000 locations. This figure evidently does not include other retail establishments such as department stores.

Professor Eric E. Bergsten, in an article entitled "Credit Cards—A Prelude to the Cashless Society" estimated that the number of credit card plans has grown to about 1,000. (Hearings before the Subcommittee on Financial Institutions of the Committee on Banking and Currency, United States Senate (90th) on Credit Cards, October 9 and 10, 1968; p. 96; see Record 196.)

What this means in terms of the actual amount of credit cards in circulation is staggering. An article published in the Nation, February 12, 1968, entitled "The Thief in the Mailbox" stated that, "In 1968 more credit cards will be issued than the country's total adult population—or some 150 million. Further, it is estimated that more than a million cards will be lost this year and another 300,000 stolen—many of them from mailboxes. There are no Federal laws governing the distribution of credit cards and no agency charged with policing them. * * *." (Record 29.) The Good Housekeeping article referred to previously quotes the National Better Business Bureau as saying that 1.2 million cards are lost and about 300,000 are stolen each year.

The banks have more than 14 million cards in circulation, airlines more than 1.5 million cards outstanding, oil companies are responsible for 70 million active oil credit cards in 1967, and such retailing giants as J. C. Penney and Montgomery Ward have 12 million and 6.5 million credit card accounts, respectively.
(FRB Report, pp. 12–18, Record 1878–1884).

There are, of course, obvious advantages arising from the use of credit cards: Convenience of payment; delay of payment; single billing; itemization of purchases; elimination of the need to carry a large amount of cash (statement of Eric E. Bergsten, Professor of Law, University of Iowa, Hearings before the Subcommittee on Financial Institutions of Committee on Banking and Currency, U.S. Senate, on Credit Cards, Record 175). Furthermore, single application for credit conveniently spares the customer the bother of multiple form-filling when his card can be used in a number of separate stores; one all-purpose credit card may conveniently replace a multitude of special purpose credit cards and payments of bills are simplified since card holders need write only one check to pay for many purchases. (See FRB Report, p. 57, Record 1922.)

But what are the problems arising out of credit card issuance and use?

Theft and fraudulent use of credit cards have received a great deal of attention recently, as well they should. A Yale Law Journal article, June 1968, observes that "* * * the ready acceptability of these instruments [credit cards] has created a new business risk—credit card fraud—which occurs when someone obtains a card and with it purchases goods or services by misrepresenting himself as the authorized holder. Since the current practice of honoring the card without requiring additional identification of the customer makes credit card fraud a relatively easy and safe form of larceny, credit card losses are high—perhaps as high as 50 to 100 million dollars a year. When so much is 'sold' without payment by the actual buyer, the situation becomes a matter of public concern." (p. 1418)

Professor Bergsten describes estimates of losses from lost or stolen cards: "The magnitude of the problem is unknown. Estimates of the yearly monetary loss have ranged from Time's $1,195,000 (1962) to the Better Business Bureau's $20,000,000 and Kiwanis Magazine's $30,000,000." (Senate Subcommittee Report, p. 97, Record 197.)

The Federal Reserve Board discusses loss from bank credit card operations in terms of percentage of amount of credit charge accounts outstanding. "Losses sustained under credit-card plans do not appear to be excessive. For the first 6 months of 1967 banks reported total charge-offs (including those attributable to fraud) equal to 1.97 percent of amounts outstanding in September 1967." (P. 4, see also pp. 30–32, Record 1871, 1896–1898.)

The Shell Oil Co. stated: "In 1968, we had sales of $222,358,000 with unsolicited credit

[1] As used herein "Record" refers to the 5 volumes of written comments and materials in the public record of this proceeding and "Tr" to the transcript of the public hearing of this proceeding.

[2] The Federal Reserve Board report hereinafter designated FRB Report.

cards. The percent of sales due to fraud loss was 0.082. During this same period we had sales of $22,358,000 with unsolicited credit cards. The percent of sales lost was 0.136." (Tr. 130) Shell believes that the overall loss from fraud is small in relation to total sales. (Tr. 130)

Shell also stated: "We have established a force of specially trained security officers who coordinate on fraud investigation efforts, obtain evidence, recover credit cards and initiate prosecution against defrauders. Last year, for example, 163 prosecutions were instituted for fraudulent use of Shell cards by these investigators that we have throughout the country.

"About 6 percent of the cases of credit card misuse handled by our security force are due to mail interceptions. The remainder are attributable to cards that have been lost, stolen or misused after the customer has obtained it from the company." (Tr. 132)

Mr. Robert Meade, Mrs. Knauer's representative at the recent unsolicited credit card proceeding, stated: "U.S. Postal authorities report to us that as of July 1, 1969, mail fraud credit card cases had soared over 700 percent in the past 4 years. This is among the fastest growing category of mail fraud complaints." (Tr. 46.)

Both the District Attorney of the Bronx and the District Attorney of Kings County (Brooklyn) have stated in connection with the recent credit card hearings that theft of credit cards in the mail is creating law enforcement problems. (See letter dated September 11, 1969 from Office of District Attorney, Bronx County, Record 1486; testimony of Eugene Gold, District Attorney, Kings County, Tr. 76, statement, Record 1711. See also statement of John R. Dunne, Member of the Senate of the State of New York, Record 1735, 1738.)

The above illustrates some problems that have arisen from the wide-scale adoption of credit cards in our economy. The losses in terms of our national economy are disturbing and certainly to those individuals who have suffered losses through loss of cards the problem must be more than disturbing. (See Professor Bergsten's statement before Senate Committee on Banking and Currency, p. 97, Record 197.)

The interest of the Commission in these proceedings is, of course, focused on only one aspect of the overall problems which have arisen from the distribution of credit cards. Nor is the Commission alone in its interest in unsolicited mailings of credit cards, a practice which is intimately related to the overall problems discussed above.

In the present 91st Congress legislation has been introduced which would require unsolicited credit cards to be sent by registered mail with the envelope clearly marked "credit card enclosed. Addressee may refuse" and a requirement that the sender pay for the return postage in event the card is refused: H.R. 1092—Rep. Eilberg; H.R. 4260—Rep. Dingle; H.R. 164—Rep. Daniels; H.R. 858—Rep. Ottinger; H.R. 6753—Rep. Esch; H.R. 240—Rep. Karth; H.R. 10539—Rep. Broomfield (Record 53-76). Also introduced is H.R. 13244 by Rep. Hanley which is similar to the above-cited bills. Senator Proxmire has introduced legislation, S. 721, which would limit the liability of holders of accepted credit cards to $50 and require the Federal Reserve Board to prescribe regulations governing the conditions under which card issuers may issue credit cards which the cardholder has not requested in writing, including minimum standards to be followed by all card issuers in checking credit worthiness of prospective card holders (Record 49). Legislation similar to Senator Proxmire's bill has been introduced in the House of Representatives by Conrgessman Tiernan (Record 76). Congressman Bingham has introduced two bills: H.R. 8920 would prohibit federally insured banks from issuing unsolicited credit cards, and H.R. 6945 would, like S. 721, authorize and direct the Federal Reserve Board to prescribe regulations for the issuance of credit cards by banks. (Tr. 35.) Representative Scott has introduced H.R. 12488 and H.R. 14346 which prohibit outright the mailing of unsolicited credit cards. This is not an all inclusive list of legislation introduced.

On October 29, 1969, a hearing was held by the Subcommittee on Postal Operations of the House Committee on Post Office and Civil Service, under the chairmanship of Representative Robert Nix to consider two bills, H.R. 13244 and H.R. 14346. Both bills would make unsolicited credit cards nonmailable matter. H.R. 13244 (Rep. Hanley) would require that to make the unsolicited cards mailable, they go by registered mail, etc. H.R. 14346 (Rep. Scott) simply would make any unsolicited cards nonmailable matter without exception. Further hearings are scheduled in the future.

Under the Chairmanship of Senator Proxmire the Subcommittee on Financial Institutions of the Committee on Banking and Currency, U.S. Senate recently held hearings to consider S. 721. This bill seeks to amend the Truth In Lending Act by adding provisions designed to limit the liability of credit card holders and intended recipients of unsolicited credit cards where there has been an unauthorized use of the credit cards. Further, the bill would require the Federal Reserve Board to prescribe regulations which set out minimum standards to be followed by all card issuers in checking the credit worthiness of prospective card holders in order to protect consumers against overextending themselves with credit obtained through the use of unsolicited credit cards.

A Resolution (H. Res. 541) has been introduced by Representative Kuykendall which would authorize the Committee on Interstate and Foreign Commerce to conduct an investigation of the billing and collection practices of credit card issuers with particular emphasis on computerized billing and unsolicited credit cards.

At the State level, legislation limiting the liability of recipients of unsolicited credit cards has been enacted in Illinois (Record 89) and Massachusetts (Record 12, 85, and 165). Legislation has been introduced in the Oregon Legislative Assembly and the Wisconsin Assembly which would prohibit outright the mailing of unsolicited credit cards. (Record 86–88.) For a more detailed discussion of state activity in mitigating the impact of credit card losses as they relate to individuals, see the Yale Law Journal, June 1968, pp. 1422–23, and statement of State Senator John R. Dunne. (Tr. 56, Record 1741.)

It seems apparent that the legislative activity of the States and the proposed Federal legislation is an attempt to shift the responsibility and liability for losses back to the card issuers. The credit card issuers have protected themselves to some considerable extent by the Liability Until Notice provisions and the above legislative activity, while not blunting it entirely, does restrict the efficacy of such shift of liability provisions contained on credit cards or in the terms of the contractual agreement between the issuer and the card holder.

This then briefly is the industry, the problems arising out of the tremendous growth of the number of cards in circulation and some of the questions that must be resolved. The added factor, the unsolicited mailing of credit cards, acts to exacerbate the problems of theft and misbilling and to point up with greater urgency such questions as who shall bear the ultimate burden of losses. The pouring of enormous amounts of credit cards, unsolicited, into the market does not sooth, it aggravates. "In the first several months of the Midwest Bank Card System, 4,000,000 unsolicited cards were distributed. One man was reported as having received eighteen cards personally, with others going to his sons age 11, 13, and 15. Another man reported that his 3-year-old boy had received two cards." (Subcommittee Report, footnote 68, p. 108; Record 208.)

The public notice published by the Commission on May 14, 1969, focused upon the question of unsolicited mailings of credit cards. The Commission stated that it has reason to believe:

(1) Marketers of products and services such as gasoline companies, department stores, and all purpose credit card issuers have attempted to increase the use of credit cards through distribution of credit cards through the mails to persons who have not requested such cards or agreed to accept the same.

(2) A credit card holder is more likely to purchase at a retail outlet honoring his credit card.

(3) Unsolicited credit cards are often lost in the mails and the intended recipient is unaware there is a card or that an account is established in his name.

(4) Such credit cards are often misappropriated and fraudulently used by unknown parties and the intended recipient of the credit card is put to the often considerable burden of demonstrating to the billing company that the goods or services were not ordered or purchased.

(5) Billings resulting from fraudulent use of cards or billing errors cause concern among consumer recipients that their credit reputations may be jeopardized.

(6) As the result of an unsolicited credit card being issued, recipients are put to the burden of returning the unwanted credit card to the sender if they wish to indicate that the card is not desired.

(7) Credit card issuers who resort to the use of unsolicited mailings of credit cards may be placed at a competitive advantage over their competitors who do not utilize the unsolicited mailings, and therefore that:

(8) Such practices constitute unfair acts or practices, and unfair methods of competition in violation of section 5 of the Federal Trade Commission Act.

Accordingly, the Commission therefore proposes the following Trade Regulation Rule:

"The mailing by marketers of products or services or by others of credit cards to any party without first receiving an expressed written request from such party for the cards or expressed written consent to the mailing of the cards constitutes an unfair act or practice, and an unfair method of competition in violation of section 5 of the Federal Trade Commission Act."

II. THE TRADE REGULATION RULE PROCEEDING

Interest in the Trade Regulation Rule proceeding was substantial and the response to the invitation for comments on the proposed rule resulted in a public record of written statements, letters and other material of five volumes and 1,998 pages.

Public hearings before a presiding officer appointed by the Commission, Mr. William D. Dixon, Acting Chief, Division of Trade Regulation Rules, began on September 10 and continued through September 11, 1969. All persons who sought to orally express their views on the proposed rules were able to do so. The 221-page stenographic transcript of the hearings has been made a part of the public record.

III. IN SUPPORT OF THE PROPOSED RULE

The public record contains adequate documentation to substantiate all eight of the

findings of the Commission set out in the public notice.

1. *Marketers of products and services such as gasoline companies, department stores, and all-purpose credit card issuers have attempted to increase the use of credit cards through distribution of credit cards through the mails to persons who have not requested such cards or agreed to accept the same.* The previous portion of this statement cited in some detail references to numerous magazine articles, the Federal Reserve Board Report, Senate Committee Reports and other periodicals which illustrate the fact that credit cards are mailed on an unsolicited basis and recounting of those citations would be redundant. In addition to the published material, the public record contains hundreds of letters from consumers complaining of receipt in the mail of unsolicited credit cards. The vast majority of the letters complain of the receipt of unsolicited credit cards from oil companies and banks. However, to a lesser extent there are complaints of receipt of cards from department stores, a shopping center which sent 17 cards to the same address, a mail order house, a car rental agency. (Record 278, 292, 323, 325, 339, 344, 361, 485, 573, 680, 803, 933, 1061, 1084, 1095, 1195, 1204, 1272, 1347, 1367, 1602, 1632, 1828.)

There is no denial of the fact that large quantities of credit cards are sent on an unsolicited basis by merchandisers and marketers (Shell Oil, Tr. 124–125; Kerr-McGee, Tr. 214; Midwest Bank Card System, Tr. 92; Continental Oil Co., Record 771–772; Phillips Petroleum, Record 784; Liberty House, Record 861; New England Bankcard Association, Inc., Record 865; Montgomery Ward, Record 868; National Car Rental System, Record 909; Mobil Oil Corporation, Record 1577.) The above-listed organizations concede that they engage in unsolicited mailings and some go into detail as to how the system operates and the safeguards utilized to protect against theft and fraud (see Shell Tr. 128; Montgomery Ward, Record 869.)

2. *A credit card holder is more likely to purchase at a retail outlet honoring his credit card.* The very fact that such monumental efforts are exerted to place credit cards in the wallets and purses of consumers would seem to be the proof of this proposition. A Shell Oil representatives states: "Behind our promotion of credit card usage is the underlying objective of causing new people to patronize Shell stations." (Tr. 126) He affirmed the probability of use of a card in commenting as to whether people objected to receipt of unsolicited credit cards: "I don't think this means that they violently object to having it, and I would suggest that in most cases they probably put the Shell credit card in their pocket, and someday will use it." (Tr. 141) In further comment he asserted: "Apparently many prospective customers are deterred by the effort of filling out applications, and this certainly indicates that they prefer to receive the cards like this, and when they do, will make use of it." (Tr. 124–125) Shell reveals that they have utilized two methods of credit card distribution. To one group they mailed applications only and received only a 14.4 percent application return. To the second group they mailed an unsolicited credit card and report that 38.3 percent of that group used the cards (Tr. 124). Obviously, Shell is convinced that a consumer having a credit card in his possession will be more likely to purchase at a Shell station than if he had no credit card. The Phillips Petroleum Corp. (Record 785) also believes that a card in hand makes purchase of Phillips' products more probable.

The asumption that a credit card holder is more likely to purchase at an establishment honoring that card is present in the justification for mass mailings presented by Governor Brimmer of the Federal Reserve Board.

"Banks have found that the most effective way of starting a new credit card plan is to mail a large number of unsolicited cards. This is necessary to resolve simultaneously the problem of having enough stores signed to the bank's plan to make the card useful to consumers and of having sufficient people using the card to make forming the plan attractive to merchants. Reliance on the alternative method of depending upon application returns entails considerable delays in reaching a profitable volume of business, delays which may be unacceptable when trying to compete with other banks' plans." (Report of Senate Subcommittee, p. 3; Record 97.)

3. *Unsolicited credit cards are often lost in the mails and the intended recipient is unaware there is a card or that an account is established in his name.* Of the hundreds of letters contained in the public record approximately 28 specifically complain of misbillings in their names where in many instances they were completely unaware of the fact that credit cards had been mailed to them. Until a person receives a billing of some sort he or she would be unaware that a card was mailed to them but had not arrived. Letters complaining of receipt of bills charged against credit cards which were intercepted or probably interrupted in the mails may be found in the public record at pp. 280, 402, 409, 1273, 432, 644, 825, 938, 955, 986, 1017, 1018, 1046, 1213, 1347, 1350 and 1352. Imagine the surprise of the parties who received such bills in the amount of $369.78 (Record 409), or $800 (Record 986), or $429 (Record 1352).

This is not to mention, of course, the individuals who receive unsolicited credit cards and after destroying them or simply not using the card are not aware that an active account in their name is set up on the books of the company that sent them the card. They overlook the fact that their destroying a card or failing to use a card does not remove that account from the books of the mailing company. Their error is brought home to them when they receive a bill from the company for charges that they never incurred but through error in the billing process the account set up in their name, without their request, is now being charged with someone else's purchases. For letters from consumers complaining of misbillings on accounts created by the unsolicited mailing of credit cards see Record 246, 273, 295, 577, 765, 950, 1092, 1095, 1198, 1248, 1348, and 1609.

4. *Such credit cards are often misappropriated and fraudulently used by unknown parties and the intended recipient of the credit card is put to the often considerable burden of demonstrating to the billing company that the goods or services were not ordered or purchased.* Letters contained in the public record concerning cards that were never received and apparently misappropriated are contained in the public record at pp. 280, 402, 409, 432, 644, 825, 938, 955, 986, 1017, 1018, 1046, 1213, 1273, 1347, 1350, and 1352.

Apart from the many letters contained in the public record which illustrate that mass mailings of unsolicited credit cards aggravate the potential for theft and fraud, there is other testimony and documentation which illustrates the gravity of the theft and misuse of credit cards, particularly when mass unsolicited mailings are employed.

Professor Bergsten in testimony before the Senate Subcommittee (p. 84, Record 177) stated:

"The second problem which was raised was that of the lost card. I would suggest to you first of all, that the lost and stolen card problem is much broader than the unsolicited card aspect of it, that the sending out of unsolicited cards only aggravates it. It aggravates it because the unsolicited cards tend to be sent out in large numbers at the time at which a program is begun. They are sent out at other times, too, but that is a major time at which they are sent, and for those who are systematically going to try to steal them and put them into whatever the market is for stolen cards, that it alerts them to the fact that there is something to be looked for in the same way one knows to look for social security checks at a particular time of the month."

The District Attorney of the Bronx, through his Executive Assistant, Mr. Seymour Rotker, has written to the Commission on two separate occasions expressing the concern of that office with the mailing of unsolicited credit cards. In their first communication Mr. Rotker wrote: "It is apparent that the unsolicited mailing of credit cards can lead to criminal violations of the law, especially where prospective recipients have moved and the cards are not returned to the mailer. Additionally, we have found that in certain cases alleged dishonest postal employees have been able to remove credit cards from bulk mailings and have sold them to dishonest persons, again perpetrating frauds and inconveniencing putative recipients. The illegal use of credit cards in Bronx County and perhaps nationwide is almost a full time law enforcement problem, requiring the services of police officers and an assistant district attorney to investigate and prosecute violators. If a damper can be put on this type of solicitation, it is my considered opinion, and the opinion of the District Attorney, that there would be less chance to steal or otherwise hypothecate these credit cards for such illegal use * * *." (Record 10.)

Although scheduled to appear as a witness at the credit card hearings, Mr. Burton Roberts, the District Attorney, was forced to cancel. Through Mr. Rotker, Mr. Roberts wrote in some detail his experiences and opinions concerning credit cards as they contribute to the problem of law enforcement.

"Since July of 1966, the District Attorney's office has been engaged in credit card fraud investigations. Undercover detectives from our District Attorney Squad were able to make purchases of stolen credit cards for various sums of money ranging from $10 to $50. These cards were from several of the major oil companies and leading department stores in the Metropolitan New York area * * *.

"In June of 1967, a second major credit card investigation started. The modus operandi utilized by our office in the first investigation was also used in the second investigation, and again the District Attorney's office was able to obtain indictments against 22 gas station owners, attendants and persons selling stolen credit cards * * *. It is to be noted that of the credit cards utilized, a portion of them were originally received unsolicited * * *.

"* * * it appeared that a number of participating people were persons known to the police department as having backgrounds for violations of the gambling laws of the State of New York, as well as criminal records. This leads our office to believe that organized crime had in some fashion infiltrated into this area of illegal activity.

"Additionally, two further arrests have recently been effected where the persons utilized over nineteen master charge cards, some of which were mailed unsolicited, and over $20,000 in charges were made against these cards. Again, the persons arrested appeared to be affiliated with elements of organized crime.

"It should be noted that the major oil companies and banks utilizing master charge cards have efficient and most times effective security personnel, and have assisted the District Attorney's office with regard to the investigations, but notwithstanding their assistance many man hours have been put in by members of law enforcement agencies, including Assistant District Attorneys and police personnel, in order to limit the use of illegal credit cards in Bronx County." (Record, 1486–1487.)

Equally concerned with the impact upon law enforcement of credit cards, both solicited and unsolicited, was Mr. Eugene Gold, District Attorney, Kings County (Brooklyn), New York, N.Y. Mr. Gold believes that organized crime is using the interception of the credit card as a source of revenue and as a means of covering its movements from city to city and state to state. (Tr. 78.)

"The helter-skelter distribution of unsolicted credit cards encourages crime and places an added burden on law enforcement. Money and manpower, which are crucial to the struggle against narcotics, violence and the like are unnecessarily employed in the effort to curb credit card abuses." (Tr. 78.)

Mr. Gold recommends that the unsolicited distribution of credit cards be prohibited (Tr. 82).

Unsolicted credit cards played a part in the Brooklyn indictments for fraudulent use of credit cards. (Tr. 86.)

The fact that organized crime was taking advantage of the large scale mailings of credit cards is noted by New York State Senator Dunne (Record 1738).

The surfacing of the problem of law enforcement involved in the distribution of unsolicited as well as solicited credit cards presents a greater illumination of the serious social problem that can accompany a marketing technique used on a large scale. The testimony and written submissions of the two district attorneys, the fact that some major distributors of credit cards must institute investigative staffs to prevent fraud (Shell Tr. 132; Bronx District Attorney's statement, Record 1487), the newspaper and periodicals which have discussed the problem of theft and fraud (Records 28, 29, 32, 34, 1651, 1653, 1655, 1658, 1659, 1664; Yale Law Review, p. 1418), testimony of Robert L. Meade reporting that the mail fraud credit card cases have skyrocketed (Tr. p. 46), and the potential tie-ins by organized crime such as the Mafia (Tr. 11; Record 1487) all represent grim testimony that the crime aspect is not an unsubstantial component of the problem of mass credit card circulations.

5. *Billings resulting from fraudulent use of cards or billing errors cause concern among consumer recipients that their credit reputations may be jeopardized.* Common to many, if not most, of the letters of complaint contained in the public record is the real fear that credit standings will be jeopardized as a result of collection efforts.

Witness the letter written by Mrs. Emma Robinson (Record 409) which concluded, "I never used the card or saw it and they threatened to sue me and my family. We were in a lot of trouble for a few months and I think they damaged my credit rating with other stores."

A letter written by Mrs. James A. Taylor concluded, "But many telephone calls to California to the company, and many distressing hours gathering information and explaining to the local credit bureau why there was a large account left unpaid in our name * * *. As you can see this was a distressing experience and should it happen again I would like to think that there was some way I could file suit." (Record 1046.)

The great majority of letters written simply to protest unsolicited mailings pose the question of threat of collection efforts and threat to credit standings. Whether or not in the last analysis experience will show that such fears are unfounded, it is a very real fear on the part of individuals. It may well be that the timid would pay a bill that they believe not justified rather than risk doing battle with a large corporate creditor whom they believe may report their failure to pay to a credit bureau. Subtle threats on billing notices which refer to the value of a good credit rating, etc., may confirm such fears.

For a sampling of letters indicating the fear of jeopardy to credit standing see the public record, pp. 246, 260, 264, 274, 286, 294, 299, 324, 389, 391, 409, 422, 501, and 522. There are many more.

Many of the hundreds of letters of protest by individuals contained in the public record complain of what they consider a gross invasion of their personal privacy. The receipt of such a card in the mail conjures up immediate awareness that some corporation has looked into your credit reputation and habits without the recipient's even being aware that such inquiries were being made. The receipt of the card is a jarring reminder to the individuals that their economic activities are anything but private. For a sampling of letters complaining of this facet see the public record, pp. 294, 299, 304, 313, 324, 371, and 391. There are many more. See also Statement of Congressman Karth, Tr. 14; Miss Betty Furness, former Assistant to the President for Consumer Affairs, Record 24; and State Senator John R. Dunne, Tr. 56, Record 1739.

6. *As the result of an unsolicited credit card being issued, recipients are put to the burden of returning the unwanted credit card to the sender if they wish to indicate that the card is not desired.* Considered alone, such a requirement to return the card, or at least write the sender, may seem trivial. However, it is a burden that was imposed unilaterally upon the recipient and it does represent an invasion of privacy and requires the exertion of some effort to return the card. It should also be pointed out that a return of the card or letter is necessary in order to direct the sender to remove the recipient's name from the company's list of active accounts. Without this effort the account remains on the books. Mere nonuse does not remove the account and even though the card received is never used the recipient could be subject to the nuisance of billing due to error in billing procedures. This, of course, then requires efforts on the part of the individual to correct such a misbilling, all as a result of an unasked for, unwanted credit card sent through the mails. For complaints from consumers alleging billings on credit cards that they received but never utilized see Record 273, 295, 577, 765, 950, 1095, 1198, 1248, 1348, and 1609.

7. *Credit card issuers who resort to the use of unsolicited mailings of credit cards may be placed at a competitive advantage over their competitors who do not utilize the unsolicited mailings.* The Sun Oil Co. endorses the proposed trade regulation rule; it apparently does not send credit cards on an unsolicited basis. (Record 778.)

How many other business entities there are that do not utilize mass mailings of unsolicited credit cards is not clear, but of the thousands of businesses that could utilize such mailings there must be many (including banks) which do not engage in the practice and resort to such other methods as telephone solicitation (Record 1804) or premailer inquiries soliciting permission to mail a credit card. (See Atlantic Richfield premailer, p. 451 record and letter, p. 456 record.) In addition marketers and banks who distribute credit cards are in competition with organizations who solicit credit card accounts by telephone interviews where the proposed account holder is afforded an immediate opportunity to refuse such account offer. These organizations, in competition with gasoline companies, etc., for the establishment of credit accounts do not utilize unsolicited mailings. See statement of Gracious Lady (Record 1804), Social Call (Record 498), and Personalized Interviews (Record 848).

The industry and the Federal Reserve Board have demonstrated that, from a marketing standpoint, unsolicited mailing of credit cards on a large scale is more effective and economical than mailing applications for credit cards. As a matter of fact it has been argued eloquently by those standing in opposition to the proposed rule that to deny one segment of the marketing industry the right to send unsolicited credit cards would be to place them at a serious competitive disadvantage.

The Federal Reserve Board maintains in its report that the use of large scale unsolicited mailings is necessary to permit entry into the credit card field. (FRB Report, p. 4, Record 1871, see also letter of Honorable William McChesney Martin, Chairman, Board of Governors, Record 673.)

Shell Oil Co. testified as to the efficiency of mailing cards on an unsolicited basis rather than simply mailing out applications to consumers for them to fill out and return. They reported in their testimony at the hearings (Tr. 124) that in a test mailing of unsolicited credit cards 38.3 percent of those cards were ultimately used by the recipients. But in a mailing to another control group to whom applications (not cards) were mailed, only 14.4 percent of this group applied for and used Shell credit cards. Shell is convinced of the efficiency of unsolicited mailings of credit cards.

The record demonstrates that unsolicited mailings do afford a tremendous competitive advantage to those who utilize such mailings. This being the case then it is equally obvious that credit card distributors who "resort to the use of unsolicited mailings of credit cards may be placed at a competitive advantage over their competitors who do not utilize the unsolicited mailings * * *." (Public Notice, p. 2.)

The record demonstrates not only the unfairness but also the hazards which the mailing of unsolicited credit cards pose to the consumers. Therefore, it follows that, "(8) Such practices constitute unfair acts or practices and unfair methods of competition in violation of section 5 of the Federal Trade Commission Act." (Public Notice, p. 2.)

IV. IN OPPOSITION TO THE PROPOSED RULE

The two most frequently cited reasons for not promulgating a rule restricting the mailing of unsolicited credit cards are:

(1) Such a restriction would create an entry barrier for firms desiring to create a credit card program;

(2) To permit banks to be free of any encumbrances to unsolicited mailings while retailers such as department stores and gasoline companies are prohibited from using mass unsolicited mailings would be a gross discrimination by the Federal Trade Commission. (This argument is based on the assumption that the Federal Trade Commission, by virtue of section 5(a)(6) of the Federal Trade Commission Act, as amended, is precluded from acting against banks in the Commission's actions to prevent use of unfair methods of competition in commerce and unfair or deceptive acts or practices in commerce.)

1. *Entry barrier.* This argument was presented by the representative of the Midwest Bank Card System.

"It is against this background that we approach the subject of today's hearing. A prohibition against such mass distribution of unsolicited cards would have no direct

impact on the present members of the Midwest System. As the notice of this hearing recognizes, banks are, of course, beyond the jurisdiction of the Commission and also the purview of the proposed Rule. In addition, as our own experience illustrates, the mass distribution of unsolicited credit cards is a technique used primarily during the start-up of a credit card program. As a result, if that technique were ever outlawed, the prohibition might even redound to the benefit of our present members by making it considerably more difficult for would-be competitors to get into the business and compete with us." (Tr. 93.)

This position was also stated by the American Retail Federation (Tr. 178); the American Bankers Association (Record 781); Phillips Petroleum Co. noted that such a restriction would in effect present an entry barrier for a new gasoline station operator; without unsolicited mailings in the area of his new station it is extremely difficult for the owner to generate sufficient business (Record 785); New England Bankcard Association, Inc. (Record 865); Montgomery Ward (Record 873); Michael A. Duggan, Esq., Assistant Professor, the Whittmore School of Business & Economics, University of New Hampshire (Record 479); Interbank Card Association (Record 1847); Bankers Trust Co. (Record 1854); State Senator John R. Dunne (Record 1740).

As discussed earlier in this report, the Federal Reserve Board in its publication has come out strongly opposed to legislation which would restrict the unsolicited mailings of credit cards on the grounds that it would operate as a barrier to entry of new firms entering the credit card arena (FRB Report, p. 4, Record 672, 1871).

2. *Discriminates against nonbank credit card issuers.* "The point is that if retailers were required, as under this rule, to solicit requests for credit cards while banks and others were permitted to continue the mailing of unsolicited credit cards, retailers would be deprived of a legitimate competitive tool, banks would be given an unfail competitive advantage and the incidence of bank credit card use would increase and the dominance of these credit granters in the market would similarly rise.

"Such a rule as the Commission here proposes would, the Federation suggests, lead to further concentration in the credit card field and would subject the entire consumer credit industry to a double standard.

"Those left uncovered by the rule would have a distribution and resulting sales advantage not enjoyed by those retailers who would be subject to the rule. This competitive advantage would be created by the FTC itself, which has been charged with prohibiting unfair competition, not fostering it." (Statement of Edward J. McNeal, American Retail Federation, Tr. 186, Record 1753–54.)

Similarly, this theme was presented by Midwest Bank Card System (Tr. 101); Shell Oil Co. (Tr. 124); Continental Oil Co. (Record 771); American Express (Record 777); Phillips Petroleum (Record 785); Economy Finance Corporation (Record 801); American Petroleum Institute (Record 829); General Electric Credit Corp. (Record 831); National Retail Merchants Association (Record 835); Florida Retail Federation (Record 853); Credit Bureau of St. Paul (Tr. 207); Liberty House (Record 861); Montgomery Ward (Record 872); the Higbee Co. (Record 885); Sunland Refining Co. (Record 907); National Car Rental System (Record 909); Shoppers Charge Service (Record 405); Standard Oil of California (Record 524); and Mobil Oil Corp. (Record 1578).

3. The adversaries of the proposed rule point out that there is no legal liability incurred on the part of a person who was the intended recipient of a credit card that was intercepted en route and used by others (see statement of Midwest Bank Card System, Record 1692, Tr. 97; National Retail Merchants Association, Record 839) and most of the credit card issuers maintain that it is not their policy to attempt to collect on a bill when it is stoutly maintained that a card was never received nor used by the party being billed (Midwest Bank Card System, Record 1692; Phillips Petroleum Co., Record 784; Montgomery Ward, Record 870; Mobil Oil Corp., Record 1578).

Reassurances are presented by industry representatives that all a recipient need do if he does not want a credit card is to tear it up or return the card. If he should receive a bill which he has not incurred, he need only write a note or make a phone call. (Midwest Bank Card System, Tr. 95, 98; Shell Oil, Tr. 129; Continental Oil Co., Record 772; Phillips Petroleum, Record 784; Kerr McGee Corp., Record 847; Montgomery Ward, Record 870; and Mobil Oil Corp., Record 1578.)

4. The negative premailer devices have been adopted by some of the credit card distributors. This simply is a notification to a prospective credit card holder that he or she has been selected and that a credit card will be mailed in the near future. The notification states that if the card is not desired, the intended recipient should so notify the sender. If the intended recipient does not indicate the card is not wanted, the card is then mailed. Enclosed with the notification is a postage prepaid return mailer on which each recipient is given the opportunity to decline the offer of a card (Bankers Trust BankAmericard, original procedure, Record 1853). The Midwest Card System method of premailing is to notify the customer that a card is going to be sent, then notify the customer that the card has been sent out or to call the customer after the first use of the card to verify the use or to do both (Tr. 94–95). From the record, the banks seem to be the chief users of the premailer devices. Shell Oil Co. (Tr. 142–144) and Continental Oil Co. (Record 772) have indicated that they do not think premailers would be as effective as a straight unsolicited mailing of credit cards.

5. It is maintained that the unsolicited mailing of credit cards is the most efficacious method of getting consumers to use credit cards, and it is clearly superior to simply waiting for applicants or even mailing simple application forms to individuals (Shell Oil Tr. 124–125; Continental Oil Co., Record 772–773).

The experiences of a bank mail-out of both unsolicited credit cards and self-mailer applications are reported by the Federal Reserve Board on page 76 of their report (Record 1940). The results of two separate types of promotions—cards and self-mailer applications—force a conclusion that mailing of the cards brings superior results.

V. SUGGESTED MODIFICATIONS TO THE PROPOSED RULE

1. Many submissions have noted that the requirement of the proposed rule calling for "written" consent to mailing of the card would work a hardship on firms which solicit and obtain the expressed oral consent of credit card recipients through such methods as telephone solicitation. Their point is that once the oral consent is expressly obtained, the need for a further written consent is superfluous and indeed would work a hardship on businesses engaged in the business of soliciting credit accounts for marketers. (See statement of The Gracious Lady Service, Inc., Record 1807–1809; the statement of A. J. Wood Co., Record 614, pointing out that the rule as presently drafted would require persons soliciting a card from a company by telephone to follow up with a written request. See also statement of National Retail Merchants Association, Record 1561; Personalized Interviews, Record 848; The Higbee Co., Record 885; Crawford Department Stores, Record 489; Goldblatts, Record 502; Standard Oil of California, Record 524; and Social Call, Record 498–499.)

2. Another point raised is that the rule does not address itself to such exception as a credit card being renewed and mailed to the present card holder. In such situations the cardholder having previously consented to the card either through specific application or acceptance and use of an unsolicited credit card presumably consents to the annual renewal of such a card. Replacement of cards is another exception that is suggested to which the rule should not apply (Midwest Bank Card System, Tr. 104–105; American Express, Record 776; Economy Finance Corp., Record 801; Standard Oil of California, Record 524; National Retail Merchants Association, Record 1561); mailings to employees, stockholders, royalty owners and accounts created by virtue of one company honoring the card of another company at their station or retail establishment (Kerr McGee, Tr. 214–215); mailings resulting from the acquiring of new accounts by virtue of a merger or acquisition of companies; and by virtue of permitting a person to charge an item (Interstate United, Record 598).

VI. SUGGESTED ALTERNATIVES TO THE PROPOSED RULE

1. It is frequently pointed out that the goal should not be one of preventing the mailing of credit cards but rather limiting the liability of recipients or intended recipients of unsolicited credit cards so as to protect them against legal action taken for debts allegedly theirs but in reality incurred by someone who had misappropriated a credit card. As noted previously, some States have enacted legislation which limits the liability of cardholders, particularly in unsolicited card mailings.

This approach is included in legislation presently introduced in Congress. Senator Proxmire is sponsoring S. 721, which would amend the Truth in Lending Act so as to require, among other things, that no liability whatsoever be imposed upon anyone who had not "accepted" a credit card. The proposed legislation would place a ceiling of $50 on liability for unauthorized use of "accepted" credit cards. A companion bill to S. 721 has been introduced in the House of Representatives by Representative Jonathan Bingham, H.R. 6945.

The Federal Reserve Board favors the approach of legislation limiting the liability of cardholders for unauthorized use of their cards (Record 672). Another suggestion that limitation of liability is a better approach to the problem is put forth by Professor Michael A. Duggan, University of New Hampshire (Record 480).

2. The promulgation of a rule which would require negative premailer devices has been suggested as an alternative suggestion or amendment to the proposed rule. The premailer essentially informs the prospective card holder that the sender intends to mail a card, unless he notifies the sender of his desire not to receive the card. (See statement of Midwest Bank Card System, Record 1700; also statement of John R. Dunne, Member of the Senate, State of New York, Record 1742; Tr. 59; which would require that premailers be sent by first class mail and that a self-addressed postcard be enclosed enabling the party to indicate his rejection of the offered card with a minimum of effort.)

The Midwest Bank Card System also reports that their credit cards are sent by

registered mail with instructions not to forward the card to a new address if it is undeliverable at the address shown on the envelope. It is their contention that these increased security measures do decrease the dangers of thefts of the cards in transit (Record 1693–1694).

The use of premailers does present certain advantages over unsolicited mailing of credit cards. It does at least inform the prospective credit cardholder that a card is on its way in the mail. Additionally, where the cards are sent by registered or first class mail with instructions not to forward, the security is enhanced somewhat and should act to reduce the problem of thefts and misdirected cards to some extent. (For other descriptions of mailing security precautions see statement of Mobil Oil Corp., Record 1986–87; Montgomery Ward Co., Record 870, 877–878. For comments in opposition to premailers as an alternative suggestion to restricting the mailing of unsolicited credit cards see statement of Congressman Bingham, Tr. 40–41, and Robert L. Meade, Tr. 49.)

3. Continental Oil Co. has suggested that the proposed rule should be modified so as to state that it shall not apply where the sender has effected safeguards, "* * * provided that the foregoing shall not apply if such sender has utilized effective safeguards to protect the intended recipient from theft or other misappropriation or misuse of the card prior to the time the intended recipient has accepted the card and assumed dominion and control of it." (Record 770.)

4. The Mobil Oil Corp. has suggested that the appropriate action for the Commission to take regarding unsolicited credit cards is to issue Industry Guides incorporating the idea of disclosure that is present in the Commission's published Consumer Bulletin No. 2 entitled, "Unordered Merchandise—Shipper's Obligations and Consumer's Rights." The proposed guide envisions that in unsolicited mailings some sort of disclosure be made that the card recipient need not accept the card, and that the card is unsolicited (Record 1577, 1579).

VII. SUMMARY AND CONCLUSIONS

On the basis of the record of the Trade Regulation Rule proceeding, including those portions referred to in the preceding sections, the Commission has concluded that the issuance of a Trade Regulation Rule regulating the unsolicited mailing of credit cards is required by that record and is in the public interest.

The essential lack of fairness to consumers becomes apparent from the record of this proceeding. Because of the sending of such valuable plastic cards through the mails consumers are subjected to several hazards. The card may be stolen, lost or misdirected while in transit and the intended recipient would be unaware of such fact. Misappropriation of the card by unknown parties results in billings to individuals who were, up to that point, unaware of the existence of a credit card in their name. As a result, the intended receipient is put to the task of demonstrating to the billing company that the credit card was never requested nor received and that purchases were made by others.

Credit cards which arrive at their intended destination create an inconvenience of receiving unsolicited mail which requires some action to be taken, such as destruction of the card or return to the sender with instructions that the card is not desired, and that the account set up without the recipient's knowledge or consent should be removed.

Even though the card is not used, an account is established by virtue of the unsolicited mailing. Through errors in the automated billing procedures involving thousands of accounts, the recipients of the unsolicited credit card may be billed by mistake, again placing upon them the burden of demonstrating that no charges were incurred by them on the unsolicited account.

Mailings of credit cards on an unsolicited basis create a fear among consumers that the credit card may be lost, misdirected or stolen in transit and fraudulently used, thereby making the intended recipient subject to unjustified billing and collection efforts, and a concern that out of such collection efforts, if resisted or ignored, the recipient's credit reputation or standing will be jeopardized.

As a result of mass mailings of credit cards through the mail system, the law enforcement problem resulting from thefts of such cards has multiplied causing not only individual concern and anguish to the intended recipient whose card was stolen and used by others, but adding to the burden of law enforcement placed upon enforcement agencies.

On the basis of its accumulated knowledge and experience and the record in this proceeding, the Commission concludes that the practice of unsolicited mailings of credit cards constitutes an unfair method of competition and an unfair trade practice in violation of section 5 of the Federal Trade Commission Act.

It has been forcefully argued that a restriction on the mailing of unsolicited credit cards would act as an entry barrier to firms who have not yet entered the field of credit card distribution. The Commission rejects this argument. If the Commission concludes that the practices involved do constitute an unfair trade practice or an unfair method of competition, then such practices are in violation of the law and should be terminated. Merely because previous to Commission action certain groups were able to facilitate their entry into the market by such tactics does not warrant a continuation of the same practice by later entrants. If the practices are in violation of the Federal Trade Commission Act, they must be interdicted, no matter how many have previously utilized unsolicited mailings.

The argument that regulation of unsolicited credit card mailings will give banks an unfair advantage is based on the assumption that the Commission has no jurisdiction over the credit card activities of banks. However, the activity of issuing credit cards by banks appears to fall within the jurisdiction of the Commission under section 5(a)(6) of the Federal Trade Commission Act when it occurs in interstate commerce and when (a) the credit cards are issued by a subsidiary or credit card company acting for a bank, or (b) the credit cards are issued directly by a bank to be used for services or products which are unrelated to the character of the bank's uniquely regulated business. In view of the fact that banks are issuing unsolicited credit cards in direct competition with other businesses and credit card companies, it would clearly defeat the policy and provisions of the Federal Trade Commission Act to hold that the exemption accorded to banks under that statute must be construed to embrace even those activities which lie outside the sphere of a bank's essential functions and are not incidental to those functions. The legislative history of the Federal Trade Commission Act makes it clear that no such breadth to the exemption was intended. See, e.g., 51 Cong. Rec. 14919 et seq.; 51 Cong. Rec. 8995 et seq.; 51 Cong. Rec. 11456; cf. Crosse & Blackwell Company v. Federal Trade Commission, 262 F. 2d 600 (4th Cir. 1959). This basis for objecting to the Commission's proposed rule is, accordingly, not well taken.

However, the Commission is aware of the fact that its notice announcing this proceeding did, by its terms, indicate that banks, common carriers and air carriers were not within the purview of the proposed Rule. Consequently, the Commission is proceeding in accordance with its notice and has excluded from the applicability of the Rule banks, common carriers and air carriers which in their operations as such are not subject to the jurisdiction of the Federal Trade Commission. Nonetheless, to the extent that firms falling within these categories issue credit cards for use in connection with the sale of merchandise or services or for other purposes outside their principal function in commerce, as stated above, the Commission considers (Commissioner Dixon dissenting) that they are within its jurisdiction and will deal with violations on a case-by-case basis, not in reliance upon the Rule but in accordance with Commission procedures under the Federal Trade Commission Act.

Opponents of the proposed Trade Regulation Rule maintained that there is no legal liability incurred on the part of a person who was the intended recipient of a credit card intercepted en route and used by others. However, this argument really misses the point, that being whether or not credit card dispensers may through unsolicited mailings create a situation where the question of liability or potential liability should ever arise. Even granting that the intended recipient of an unrequested credit card may not be liable for debts incurred fraudulently by a third person, nor liable for billing errors charged to an account set up in his name without his request or knowledge, the actions of senders in mailing the unsolicited cards and the act of setting up accounts to which erroneous billings can be charged is unfair to persons who did not request the card or the account, but who must exert efforts, sometimes frustrating, to clear the accounts. This is the imposition that is totally unfair to the consumer.

Assurances were given by industry members that in the event of misbillings or receipt of an unsolicited credit card there is a minimum of effort required to correct the misbilling. However, the public record does contain, in addition to the hundreds of general letters of complaint, specific recitations of the efforts that individuals had to exert in order to clear up billings that were not incurred by them. It is irritating to have billing problems with a firm from whom one has solicited or otherwise accepted a credit card. To have such problems imposed upon a person who has not solicited an account or a card is unfair.

Premailers, a notification to a prospective card holder that a card will be sent unless the recipient notifies the sender that the card is not desired, do have the virtue of putting a person on notice that a card will be arriving and to be on the lookout for it. However, such a device is not satisfactory since it imposes the burden upon the intended recipient to take some affirmative action if he wishes the sender not to mail the card. The Commission is of the opinion that failure of the intended recipient to notify the sender that the card is not wanted does not constitute consent by silence to the mailing. Such a card remains essentially unsolicited if the intended recipient declines to notify the sender that the card should not be mailed.

An effective argument has been made that the unsolicited mailing of credit cards is the most efficacious method of putting credit cards in use. While there may be no real question as to the efficiency of unsolicited mailings of credit cards, this of course must be balanced against the harm, or potential for harm, that accompanies the mass mailings. The rejection of a marketing mode, however efficient, is clearly warranted when such a mode imposes intolerable burdens on

individuals, contributes significantly to the crime environment, and is most unpopular with those to whom it impacts, the individual consumer. To argue efficiency from a marketing standpoint and to ignore the abuses arising from the marketing technique, however efficient it may be, is to neglect the balancing of the equities, the right to promote vis-a-vis the right to be secure from solicitations which create personal problems, contribute to law enforcement difficulties, and generally are disliked by a significant portion of the public for the nuisance they become, and the fear of what problems could arise for them because of the mailing of unsolicited credit cards. If unsolicited mailings of credit cards constitute an unfair act or practice or an unfair method of competition, the equities involved must be resolved in favor of the consumer, the unsolicited card burdened public.

It is stated that there are relatively few actual instances of complaints and fewer still instances of harm being done to parties because of unsolicited mailings of credit cards. The public record contains approximately 983 letters and signatures of persons who have written to the FTC, their Congressmen, the newspapers, the President's Assistant for Consumer Affairs or the firm sending out credit cards. There are approximately 28 letters outlining experiences of misbilling. Many more letters complain of or discuss the fear of what might happen to a person's credit reputation if they resist payment of charges; the invasion of their privacy; and the invasion of their right to choose whom they shall do business with. The letters run the gamut from expressions of irritation to anger and fear of what might have happened had the cards been stolen in the mails, to actual complaints of misbillings and the necessity of writing one or more letters before the matter is adjusted.

Granted that specific instances in the record of misbillings and the attendant efforts necessary to clear the account are relatively few, it becomes a matter of conjecture how many other people have the same troubles but have not written to someone about them. The element that does become apparent out of the reading of the letters, periodicals, testimony, is the great potential for harm that exists. The Commission need not wait until the Gallup polls show that over 50 percent of the adult population has written expressing concern with a problem. The inherent danger is apparent even with the small samples present in the record of this proceeding. The potential for greater mischief is there. The potential for mischief, as well as the actual harm already done, is the genie to be restrained, such restraint to be bottomed, of course, upon section 5's mandate to prevent acts or practices which are unfair.

The Commission agrees that the deletion of the word "written" from the proposed rule, and the inclusion of a proviso that the rule does not apply to renewals, substitutions, or replacements of cards expressly requested, expressly consented to, or accepted through use by the holder, is advisable.

The Commission does not believe that a rule limiting the liability of intended recipients of credit cards would serve to alleviate the problems arising from unsolicited mailings. The suggestions that the Commission promulgate Industry Guides rather than a Trade Regulation Rule and that the proposed rule add a proviso that it does not apply if the sender utilizes effective safeguards, are not considered by the Commission to be sufficient remedies to the problem of unsolicited mailings.

VIII. THE COMMISSION'S RULEMAKING AUTHORITY

The argument was made during the course of this proceeding, as has been done in other Trade Regulation Rule proceedings, that the Commission has no authority to promulgate Trade Regulation Rules (see Tr. 155; Record pp. 1760, 1748, 769, 834, 523, 529 and 543).

In our Statement of Basis and Purpose accompanying the Cigarette Rule, we elaborated at length on our trade regulation rulemaking authority and concluded that Trade Regulation Rules are "* * * within the scope of the general grant of rule-making authority in section 6(g) [of the Federal Trade Commission Act], and authority to promulgate it is, in any event, implicit in section 5(a)(6) [of the Act] and in the purpose and design of the Trade Commission Act as a whole." (See Trade Regulation Rule for the Prevention of Unfair or Deceptive Advertising and Labeling of Cigarettes in Relation to the Health Hazards of Smoking and Accompanying Statement of Basis and Purpose of Rule, pp. 127–150 and 150.) The Commission continues to adhere to that view.

IX. THE EFFECTIVE DATE OF THE RULE

The effective date of the rule will be sixty (60) days after publication of the rule in the FEDERAL REGISTER.

[F.R. Doc. 70-3050; Filed, Mar. 16, 1970; 8:45 a.m.]

Title 22—FOREIGN RELATIONS

Chapter VI—United States Arms Control and Disarmament Agency

PART 601—CONDUCT OF EMPLOYEES

Financial Interests

Sections 601.735–15 and 601.735–73 are amended to provide by regulation that certain financial interests are exempted from the provisions of § 601.735–15(a)(1) and from 18 U.S.C. 208 (a) and (b)(1) as being too remote or too inconsequential to affect the integrity of the services of the Agency's officers or employees.

1. Paragraphs (b) and (c) of § 601.735–15 are redesignated paragraphs (c) and (d) respectively, and a new paragraph (b) is added as follows:

§ 601.735–15 Financial interests.

* * * * *

(b) Pursuant to the provisions of section 208(b)(2) of title 18, United States Code, the following financial interests of the Agency's employees are hereby exempted from the requirements of paragraph (a)(1) of this section and of 18 U.S.C. sec. 208(a) as being too remote or too inconsequential to affect the integrity of the services of the Agency's employees:

(1) Investments in State and local government bonds; and stocks, bonds, or policies in a mutual fund, investment company, bank, or insurance company, provided that in the case of a mutual fund, investment company, or bank, the fair value of such stock or bond holding does not exceed 1 percent of the value of the reported assets of the mutual fund, investment company, or bank. In the case of a mutual fund or investment company, this exemption applies only where the assets of the fund or company are diversified; it does not apply where the fund or company specializes in a particular industry or commodity.

(2) Interest in an investment club or other group organized for the purpose of investing in equity or debt securities, provided, that the fair value of the interest involved does not exceed $5,000, and that the interest does not exceed one-fourth of the total assets of the investment club or group.

(3)(i) Financial interests in an enterprise in the form of shares in the ownership thereof, including preferred and common stocks whether voting or nonvoting, and warrants to purchase such shares;

(ii) Financial interests in an enterprise in the form of bonds, notes, or other evidences of indebtedness;

Provided, That, in the case of subdivisions (i) and (ii) of this subparagraph: (*a*) The total market value of the financial interests described in said subdivisions with respect to any individual enterprise does not exceed $5,000; and (*b*) the holdings in any class of shares, or bonds, or other evidence of indebtedness, of the enterprise do not exceed 1 percent of the dollar value of the outstanding shares, or bonds or other evidences of indebtedness in said class.

(4) For purposes of this paragraph, computations of dollar-value of financial interests in enterprises shall be based on:

(i) Market value in the case of stocks listed on national exchanges; or

(ii) Over-the-counter market quotations as reported by the National Daily Quotation Service in the case of unlisted stocks; or

(iii) Net book value (assets less liabilities) in the case of stocks not covered by the preceding two categories.

(iv) Face value shall be used for valuation purposes in the case of debt securities.

* * * * *

2. Paragraph (d) of § 601.735–73 is redesignated paragraph (e) and a new paragarph (d) is added exempting certain financial interests from the disclosure requirements of the section.

§ 601.735–73 Contents of statements.

* * * * *

(d) *Information not required to be submitted.* An employee is not required to disclose those remote or inconsequential financial interests described in § 601.-735–15(b).

* * * * *

(76 Stat. 1119, 18 U.S.C. 208; sec. 41, 75 Stat. 631, 22 U.S.C. 2581; sec. 503, E.O. 11222 of May 8, 1965, 30 F.R. 6469, 3 CFR, 1965 Supp.; 5 CFR 735.104)

These amendments were approved by the Civil Service Commission on March 10, 1970, to be effective upon publication in the FEDERAL REGISTER.

Dated: March 13, 1970.

GERARD SMITH,
Director.

[F.R. Doc. 70-3210; Filed, Mar. 16, 1970; 8:51 a.m.]

Title 24—HOUSING AND HOUSING CREDIT

Subtitle A—Office of the Secretary, Department of Housing and Urban Development

PART 0—STANDARDS OF CONDUCT

Financial Interests

To reflect the delegation to the Department Counselor of authority to determine in specific cases, in accordance with 18 U.S.C. 208(b)(1), that the provisions of 18 U.S.C. 208(a) concerning conflicting financial interests would be inapplicable and to set forth, in accordance with 18 U.S.C. 208(b)(2), categories of financial interests exempted by regulation from the requirements for a specific determination, Part 0 of Subtitle A of Title 24 of the Code of Federal Regulations (32 F.R. 13921, Oct. 6, 1967, as amended at 33 F.R. 15114, Oct. 10, 1968, and 34 F.R. 2625, Aug. 2, 1969) is hereby amended by revising § 0.735–205 (b)(2) to read as follows:

§ 0.735–205 Financial interests.

* * * * *

(b) * * *

(2) Subparagraph (1) of this paragraph does not apply:

(i) If the officer or employee first advises the Department counselor in writing of the nature and circumstances of the matter, makes full disclosure of the financial interest, and receives in advance a written determination by such official or his designee that such interest is not so substantial as to be deemed likely to affect the integrity of the services which the Government may expect from such officer or employee; or

(ii) If the financial interest is within one of the following categories which are hereby exempted from the requirements of section 208(a) of title 18, United States Code as being too remote or too inconsequential to affect the integrity of a Government officer's or employee's services;

(*a*) Any holding in a widely held mutual fund, or regulated investment company, which does not specialize in any particular industry.

(*b*) Ownership of shares of stock and of corporate bonds or other corporate securities, if the current aggregate value of the stocks and other securities so owned in any single corporation is less than $7,500 and is less than 1 percent of the outstanding stock of the organization concerned, and if the employee, his spouse, or minor children are not active in the management of the organization and have no other connection with or interest in it.

(*c*) Continued participation in a bona fide pension, retirement, group life, health, or accident insurance plan or other employee welfare or benefit plan that is maintained by a business or nonprofit organization by which the employee was formerly employed, to the extent that the employee's rights in the plan are vested and require no additional services by him or further payments to the plan by the organization with respect to the services of the employee. To the extent that such plans are profit sharing or stock bonus plans, this exemption shall not apply.

(18 U.S.C. 201 through 209; E.O. 11222 of May 8, 1965, 30 F.R. 6469, 3 CFR 1965 Supp.; 5 CFR 735.104)

This amendment was approved by the Civil Service Commission on February 9, 1970, and shall become effective on the date of its publication in the FEDERAL REGISTER.

GEORGE ROMNEY,
Secretary of Housing and Urban Development.

[F.R. Doc. 70–3187; Filed, Mar. 16, 1970; 8:48 a.m.]

Title 26—INTERNAL REVENUE

Chapter I—Internal Revenue Service, Department of the Treasury

SUBCHAPTER A—INCOME TAX

[T.D. 7032]

PART 13—TEMPORARY INCOME TAX REGULATIONS UNDER THE TAX REFORM ACT OF 1969

Temporary Regulations Relating to Certain Elections

Correction

F.R. Doc. 70–3038 appearing in the FEDERAL REGISTER of March 11, 1970, at page 4330, is corrected as follows:

1. In paragraph (b), the phrase "in this part" should read "in this section" wherever it appears.

2. In paragraph (e), the phrase "under the sections in this part" should read "under these sections".

Title 32—NATIONAL DEFENSE

Chapter VII—Department of the Air Force

SUBCHAPTER I—MILITARY PERSONNEL

PART 882—DECORATIONS AND AWARDS

Miscellaneous Amendments

Part 882 of Title 32 of the Code of Federal Regulations is amended as follows:

§ 882.0 [Amended]

1. Section 882.0 is amended by changing the last sentence to read "This part applies to all Air Force units including the Air Reserve Forces."

§ 882.3 [Amended]

2. Section 882.3 is amended by deleting the last sentence of this section.

3. Section 882.5 is revised to read as follows:

§ 882.5 Definitions.

As used in this part:

(a) "Awarded" means the act of approving a recommendation and announcing the award of the decoration in special orders, or the act of confirming entitlement to a service award or device.

(b) "Presented" means the physical transfer (issuing, delivering, handing over, or pinning on) of a decoration, medal, or device from the Air Force to a person entitled to receive it.

(c) "Posthumous" means that the decoration was approved and announced in special orders subsequent to the death of the recipient. In those cases, the word "posthumous" will be added in the special order confirming the decoration and the citation, but it is not added on the certificate accompanying the decoration. (If the decoration was approved, but not presented before the death of the recipient, it will be posthumously presented but the word "posthumous" will not be added to any of the elements accompanying the decoration.)

(d) "Active duty" means full-time duty in the active military service of the United States. It includes duty on the active list, full-time training duty, annual training duty, and attendance, while in the active military service, at a school designated as a service school by law or by the Secretary of the military department concerned, see 10 U.S.C. 101 (22). (This includes service as a cadet or midshipman of the U.S. Air Force, Army, or Naval academies.)

(e) The term "major command" as used in this part does not include separate operating agencies, unless specifically indicated.

4. Section 882.8 is amended by changing the title and by revising paragraphs (b), (c), and (d) to read as follows:

§ 882.8 Use of decorations, awards, and devices (regular size) in exhibitions.

* * * * *

(b) *Use by U.S. military organizations and other U.S. Government agencies.* A major commander and commander of a separate operating agency may approve the samples mentioned in paragraph (a) of this section for display at his headquarters or by his subordinate units. DAF approval is required for samples mentioned in paragraph (a) of this section for display at other military departments or U.S. Government agencies not under military jurisdiction. The cost of the sample elements will be borne by the military organization department or U.S. Government agency displaying the medals. Because of the cost involved, major commands and separate operating agencies will review carefully each request for display of medals by their subordinate units to insure that the display is justified in terms of benefits to be derived by the Air Force. Display of the sample elements for the purpose of decorating an office or building will not be approved. To eliminate unnecessary costs, consideration will be given to displaying the Armed Forces Decorations and Awards

poster, Air Force Visual Aid (AFVA) 900–3. This poster contains a color reproduction of all the decorations, service medals, ribbons, and devices used by the U.S. Armed Forces, and prescribes briefly the eligibility criteria prescribed for each award. Copies of the poster may be requisitioned through normal publications distribution channels.

(c) *Where to send requests.* All requests for sample decorations, awards, ribbons, devices, and streamers for exhibit or display at other than Air Force organization will be submitted to USAFMPC (AFPMSAH), Randolph AFB, TX 78148, for approval. (Requests for display by Air Force organizations will be submitted through their normal command channels.)

(d) *Where to send requisitions.* Upon approval, requisitions for sample elements will be submitted by Air Force organizations according to AFM 67–1 (USAF Supply Manual). Upon approval for other than Air Force organizations, HQ USAF makes arrangements for issue of the sample elements by the Defense Personnel Support Center, 2600 South 20th Street, Philadelphia, PA 19101.

5. Section 882.9 is revised to read as follows:

§ 882.9 Procurement and supply.

(a) *Requisitioning procedure.* The decorations, service medals, ribbons, devices, and streamers described in this part (except as in paragarph (c) of this section) will be requisitioned through normal supply channels according to AFM 67–1. These items will not be locally procured or manufactured. Requisitions for streamers must indicate the authority for the award and the appropriate inscription to be embroidered on the streamer, if appropriate.

(b) *Items available.* The following Federal supply catalogs list items available through the supply system, with Federal stock numbers, index numbers, and unit prices:

(1) Decorations, service awards, related devices (regular size) and presentation hook attachments for medals or ribbon bars (for clutch and pin-type fastening devices)—Federal Supply Catalogs C8440/70–IL–AF and C8440/70–ML–AF. Metal, alligator type, presentation clips also are available for local purchase (AFM 67–1, Volume I, Part One).

(2) Miniature medals for all decorations (except the Medal of Honor) and service medals awarded by the Air Force—Federal Supply Catalogs C8440/-70–IL–AF and C8440/70–ML–AL. These items will not be stocked or sold through clothing sales stores.

(i) A miniature medal, except for the Medal of Honor, will be issued, in addition to the regular size medal, to military members on active duty and members of the Reserve components for all decorations awarded and/or presented by the Air Force on or after June 29, 1967, and for all service medals awarded by the Air Force and earned by the recipient on or after that date. (A miniature medal is not authorized for the Medal of Honor.) Since very few airmen have a requirement to wear miniature medals, they will be issued to them only upon request.

(ii) Miniature medals for the Air Force Cross and the Distinguished Service Medal (Air Force design) will be stocked and issued by USAFMPC (AFP MSAM), Randolph AFB, TX 78148.

NOTE: The other services do not issue miniature medals to accompany their awards. However, the Air Force will issue a miniature medal to an Air Force recipient of an award from other services, provided it is one that is commonly used by all the services. If it is an award not commonly used by all services, the Air Force recipient may purchase the miniature medal from commercial or other souces. For awards approved at Air Force level, HQ USAF includes a miniature medal in the award package presented to foreign nationals, except for the Legion of Merit in the degrees of Chief Commander and Commander, which do not have miniature medals. Where the authority to award the decoration has been delegated below Air Force level, the awarding authority is responsible for including the miniature medal in the award package.

(3) Streamers—Federal Supply Catalogs C8300–IL–AF and C8300–ML–AF.

(4) Individual emblems/ribbons denoting unit awards—Federal Supply Catalogs C8440–70–IL–AF and C8440/70–ML–AF.

(5) Standard AF decorations folder—this standardized folder, used to encase decorations certificates and citations, should be requisitioned following normal GSA procedures, using the following stock number and nomenclature:

FSN: 7510–115–3250

NOMENCLATURE: Binder, Awards Certificate

NOTE: This folder is an element of a military decoration. Use of this folder for any other purpose is not authorized.

(c) *Items not available.* Miniature devices, miniature ribbons, and the individual emblems for the Presidential Unit Citations of the Republic of Korea and the Philippine Republic are neither issued nor sold by the Department of the Air Force. Also, the individual emblems for referenced Presidential Citations are not issued by the respective governments of those countries. All items listed may be purchased from the base exchanges or from commercial dealers in military devices and appurtenances.

6. Section 882.10 is amended by revising paragraph (c) to read as follows:

§ 882.10 Replacement of decoration and service medals.

* * * * *

(c) *Where to send requests for replacement.* Requests for replacement decorations and service medals will be routed to the appropriate headquarters/center indicated in this paragraph, which will verify entitlement and issue the replacement.

NOTE: A copy of the orders announcing the award, if available, or the authority for the award, should accompany each request relating to other than active duty members. Miniature decorations and service medals will not be replaced by the Air Force. They may be purchased from the base exchanges or from commercial sources.

WHERE TO SEND SPECIAL REQUESTS

If request relates to—	Then it will be forwarded to and action taken by—[1]
Active duty personnel	Custodian of unit personnel records as indicated in AFMs 35–9 and 35–12.[2]
Air Force Reserve and Air National Guard personnel not on active duty.	
Air Force personnel in a paid retired status.	CBPO of the base from which retired.[3]
Air Force personnel of the Retired Reserve not in the paid retired status.	ARPC, 3800 York Street, Denver, CO 80205.
Former Air Force members	NPRC (MPR–AF), 9700 Page Boulevard, St. Louis, MO 63132.[4]
Deceased members and deceased former members of the Air Force.	

[1] A request received by the incorrect action headquarters/center will be rerouted to the correct one. Further referral to USAFMPC (AFPMSAM) is authorized for unusual cases.

[2] Custodian may request verification from awarding headquarters or request review of command and/or master personnel records.

[3] If base is no longer active, forward requests to NPRC (MPR–AF), 9700 Page Boulevard, St. Louis, MO 63132. Exception: Retired general officers and those carried on temporary disability retired lists will forward their requests to USAFMPC (AFPMSAM), Randolph AFB, TX 78148.

[4] Air Force Casualty Assistance Officers issue awards to some next of kin.

7. Section 882.11 is revised to read as follows:

§ 882.11 Replacement of decoration certificates.

Any service member or former service member, or the next of kin of such person, may have lost or destroyed decorations certificates replaced. The date a replacement certificate is issued will be entered on the certificate below the printed statement "given under my hand in the city of Washington." The use of a current date will serve to indicate that the certificate is a replacement. A specific notation indicating the certificate is a "replacement" will not be entered because this detracts from the esthetic value of the certificate.

(a) *Active duty and Air Reserve Forces members.* Active duty members, Air Force Reserve, and Air National Guard (ANG) personnel may apply for a replacement certificate to the custodian of their unit personnel records (§ 882.10c). If the headquarters which

originally awarded the decoration is not an active organization, the letter will be forwarded by the records custodian to USAFMPC (AFPMSAM), Randolph AFB, TX 78148, for replacement action.

(b) *Retired members, former members, and next of kin.* Former service members, and the next of kin of deceased members may request a replacement certificate by forwarding a letter directly to the appropriate headquarters or center indicated in the table of § 882.10c. All retired members, regardless of date of retirement, will forward their requests to USAFMPC (AFPMSAM), Randolph AFB TX 78148. A copy of the orders announcing the award, if available, or the authority for the award, should accompany each request.

8. Section 882.20 is amended by revising paragraphs (d)(2) and (e) to read as follows:

§ 882.20 Eligibility to receive a military decoration.

* * * * *

(d) *Character of service.* * * *

(2) Any award for a distinguished act, achievement, or service may be revoked before presentation if facts subsequently determined would have prevented original approval of the award. Commanders becoming aware of any such instances must immediately report the circumstances and make recommendations to the awarding authority for review and determination of appropriate action. Awarding authorities will seek legal advice from their judge advocates in all cases where there is doubt as to the appropriateness of the awards action.

(e) *Number of decorations awarded.* The number of decorations that may be awarded to a person is not limited; however, only one decoration may be awarded for the same act, achievement, or period of service.

9. Section 882.23 is revised to read as follows:

§ 882.23 Elements of decoration.

The elements of a decoration include a case containing the medal with suspension ribbon (see § 882.9 for information on availability of miniature medals), ribbon bar, clusters (if any), lapel button or rosette (as applicable); a certificate; a citation, except for the Purple Heart decoration; the special orders announcing the award; and the standard folder for encasing the citation and certificate. Except for decorations awarded to foreign military personnel, retired or separated personnel and posthumous decorations, special orders are not essential at the time of the presentation ceremony and may be furnished later.

10. Section 882.24 is revised to read as follows:

§ 882.24 Special entitlements.

(a) *Increased in retired pay.* Any Regular enlisted member of the Air Force retired under 10 U.S.C. 8914 credited with extraordinary heroism in line of duty, is entitled to 10 percent increase in retired pay, provided the total retired pay does not exceed 75 percent. A determination that extraordinary heroism was or was not involved will now be made by the Secretary of the Air Force at the time the award is processed.

(1) Since extraordinary heroism is the criteria for award of the Medal of Honor, Air Force Cross, or equivalent Army or Navy decorations, to enlisted members, they will be automatically entitled to the additional retirement pay subject to the 75 percent limitation. When award of the Medal of Honor and the Air Force Cross is approved, the special order confirming the award will include a statement authorizing the 10 percent additional retirement pay. The CBPO or unit personnel record custodian will file one copy of the special order in the recipient's unit personnel records. USAFMPC (AFPM SAM) will include a copy of the special order in the recipient's master personnel records.

(2) The following decorations will also be considered for the additional 10 percent retirement pay at the time the award is processed:

(i) The Silver Star.

(ii) The Distinguished Flying Cross, when awarded for heroism in a noncombat action.

(iii) The Airmen's Medal.

NOTE: The determination of the Secretary of the Air Force as to extraordinary heroism is conclusive for all purposes.

(3) If the final determination is made that the factor of extraordinary heroism was involved, a Department of the Air Force special order will be issued confirming entitlement to the additional retired pay. USAFMPC (AFPMSAM) will inform the appropriate command of the Secretary's determination and include sufficient copies of the orders to insure a copy for the recipient and a copy for his unit personnel records. USAFMPC (AFPMSAM) also will include a copy of the special order in the member's master personnel records.

(4) If it is determined that extraordinary heroism was not involved, the appropriate command will be requested to make the determination a matter of official record by filing a copy of the correspondence in the recipient's unit personnel records. A copy of the correspondence also will be included in the member's master personnel records by AFPM SAM.

(5) Air Force commanders having final awarding authority for the Silver Star and Airman's Medal will, when they approve the award, forward the approved recommendation, including a copy of the special orders announcing the award and the citation to USAFMPC (AFPMSAM), Randolph AFB, TX 78148, for processing to the Secretary of the Air Force for a determination. Each case will include the major commander's evaluation as to whether or not extraordinary heroism in line of duty was involved in the action which resulted in award of the decoration.

NOTE: This procedure will not preclude a member's requesting a determination on any decoration (Silver Star, Distinguished Flying Cross, for noncombat heroism, and the Airman's Medal) received before this procedure was in effect, where extraordinary heroism may have been involved. Persons who are already retired or who are submitting their request for determination at the time of their application for retirement, will process their request to USAFMPC (AFPMR), Randolph AFB, TX 78148. Personnel on active duty who are not processing for retirement will process their request to USAFMPC (AFPMSAM) Randolph AFB, TX 78148. The provisions of this section and AFM 35-7 (Service Retirements) apply.

(b) *Medal of Honor recipients*—(1) *Medal of Honor Roll.* Upon written application to the Secretary of the Air Force, each living recipient of the Medal of Honor, who has served on active duty in the Armed Forces of the United States, may have his name entered on the Medal of Honor Roll. Each person whose name is placed on the Roll is certified to the Veterans Administration as being entitled to receive a special pension of $100 per month for life, if he so desires, payable monthly by that agency. The payment of this special pension is in addition to, and does not deprive the pensioner of, any other pension, benefit, right, or privilege to which he is or may be thereafter entitled (38 U.S.C. 560-562). Hq USAF furnishes the necessary application to each Air Force recipient of the Medal of Honor.

(2) *Air transportation.* Living recipients of the Medal of Honor are entitled to free transportation on military aircraft within the continental limits of the United States on a "space available" basis. Identification cards for this purpose are furnished by USAFMPC (AFPMSAM). (See AFR 76-6 Responsibilities and Policies for Movement of Traffic on Other than MAC Scheduled Aircraft.)

(3) *Admission to U.S. Service Academies.* Sons of Medal of Honor recipients, otherwise qualified, are not subject to quota requirements for admission to any of the U.S. Service Academies. (See the U.S. Air Force Academy annual catalog.)

(4) *Wearing of Air Force uniform.* Persons awarded the Medal of Honor are authorized to wear the uniform at any time, except as prohibited in AF M 35-10 (Service and Dress Uniforms for Air Force Personnel).

11. Section 882.25 is amended by revising paragraphs (b)(2), (e)(4), and (g)(2), and a new paragraph (j) is added. This section reads as follows:

§ 882.25 Military decorations.

* * * * *

(b) *Air Force Cross (AFC).* * * *

(2) Established by: 10 U.S.C. 8742.

* * * * *

(e) *Legion of Merit (LM).* * * *

(4) Awarded by: (i) The Department of the Air Force to U.S. military personnel. This authority is delegated to major commanders during wartime.

(ii) The President of the United States to foreign military personnel receiving Degree of Chief Commander.

(iii) The Secretary of Defense to foreign military personnel receiving Degree of Commander, Officer, or Legionnaire.

* * * * *

(g) *Airman's Medal (Amn M).* * * *

(2) Established by: 10 U.S.C. 8750.

* * * * *

(j) *Meritorious Service Medal (MSM).* (1) Description of award: A bronze medal consisting of six rays issued from the upper three points of a five-pointed star with beveled edges and containing two smaller stars defined by incised outlines. In front of the lower part of the star appears an eagle with wings upraised standing upon two upward curving branches of laurel tied with a ribbon between the feet of the eagle. The ribbon is predominantly ruby, with white vertical stripes and ruby lines at each edge.

(2) Established by: Executive Order 11448, January 16, 1969.

(3) Awarded to: U.S. military personel.

(4) Awarded by: The Department of the Air Force.

(5) Awarded for: Outstanding noncombat meritorious achievement or servvice to the United States. Although the required achievement or service to warrant award of the MSM is less than required for award of the Legion of Merit, it must nevertheless be accomplished with distinction above and beyond that required for award of the Air Force Commendation Medal. The MSM will take precedence with, but after, the Bronze Star Medal. The MSM may be awarded on or after January 16, 1969, *Provided,* That some portion of the completed period of service or the achievement meriting the award is performed on or after January 16, 1969. The citation and special orders will be presented pending availability of the certificate and medal, which will be forwarded by the awarding authority to the recipient, when available.

* * * * *

12. Section 882.26 is amended by revis_ing paragraphs (b), (c)(1), and (d)(6). It reads as follows:

§ 882.26 Joint Service Commendation Medal (JSCM).

* * * * *

(b) Established by: DOD Directive 1348.14, June 25, 1963. Latest edition is May 17, 1967.

(c) Awarded to: * * *

(10) Jointly manned staffs within Allied Command Europe and Allied Command Atlantic; The NATO Military Committee and military agencies associated with the functions of the Military Committee; the Inter-American Defense Board; the U.S. Arms Control and Disarmament Agency; and the combined staffs of the North American Air Defense Command.

* * * * *

(d) Awarded by: * * *

(6) Commander, U.S. Military Assistance Command, Vietnam, and Commander, U.S. Forces, Korea, to military personnel assigned to their headquarters and to those joint agencies and activities reporting through their respective commands. (Authority to award the decoration may be further delegated to a flag or general officer of the Armed Forces of the United States who is occupying an established command or staff position authorized in the grade of O–8. This decoration is awarded in the name of the Secretary of Defense.)

* * * * *

13. Section 882.27 is revised to read as follows:

§ 882.27 Format for letter of recommendation—decorations.[1]

(Headquarters Designation)

Subject: Recommendation for Award of Decoration.

To: (Commander of next higher headquarters).

1. It is recommended that the following person be awarded the decoration indicated.

a. (Grade, first name, middle initial, last name, Social Security Account Number (SSAN), and date of birth.

b. (Name of decoration. Indicate numbered cluster, if applicable, and the date(s) of the act, achievement, or service.)

c. (Present organization and station, and present duty assignment, including organization or next duty assignment, if applicable.)

d. (Permanent home address.)

e. (Grade, duty assignment, and unit of assignment of the person at time of the act or service.)

f. (List of U.S. decorations previously awarded to the person, with complete authorities therefor and dates of service recognized. Do not include service medals, battle credits, unit citations, or foreign decorations.)

g. (Effective date of promotion to grade in which serving.)

h. (Date of reassignment, retirement, or separation, if applicable, and whether retirement or separation is voluntary or involuntary. Also include TAFCSD, TAFMSD, TFCSD, TMSD, PLSD, and the CDOS (Reserve officers), as appropriate, for persons being retired or separated, which must be provided and verified by the CBPO.)

2. (Describe the heroism, achievement, or service. The narrative should be specific and factual. Give concrete examples of exactly what the person did, how he did it, what benefits or results were realized and why or how such benefits or results significantly exceeded expected superior performance of duty. In addition, include supporting documentary evidence, if the person initiating the recommendation does not have firsthand knowledge of the act or service performed, and/or official supporting records if considered advisable by the recommending individual.

3. (State that the service in the Air Force of the person recommended has been honorable subsequent to the act for which recommended.)

4. (Furnish a statement if other persons are being recommended for the same act or service. If recommendations for these persons are being delayed, explain delay, indicate date recommendations will be forwarded, and identify the persons concerned by grade, name, SSAN, present organization, station, and decoration recommended.)

5. (State that an unclassified citation is attached.)

6. (State whether or not other recommendations for awards to the same person are pending.)

7. (Indicate that a previous award has not been made to the same person for the act or service described.)

8. (If applicable, indicate that the proposed award is posthumous, or that the person recommended is missing in action or a prisoner of war. In all such instances, state the name, address, and relationship of the next of kin.)

9. (Give the date on which presentation of the award is desired if the recommendation is approved. Also indicate the place to which the award elements should be forwarded for presentation.)

(Signature of recommending official, including typed name, grade, and title)

2 Atchs.
1. Citation.
2. Other records as applicable (list as additional attachments).

14. Section 882.40 is amended by revising paragraphs (a), (b)(4), and (d)(1) to read as follows:

§ 882.40 General policy concerning acceptance and wear of decorations awarded by foreign governments.

(a) *Congressional consent.* The 5 U.S.C. 7342, implemented by DOD Directive 1005.3, September 16, 1967, granted the consent of the Congress to accept and wear certain decorations awarded by foreign governments, subject to the rules prescribed in this section. See Part 826 of this chapter for policy and rules applicable to the acceptance of gifts from foreign governments.) No member of the Air Force, military or civilian, will request or otherwise encourage the tender of a decoration from a foreign government.

(b) *Applicability.* * * *

(4) All members of the immediate families of the military and civilian personnel designatd in subparagraphs (1) through (3) of this paragraph.

* * * * *

(d) *Definitions.* * * *

(1) Person: Every person who occupies an office or a position in the Government of the United States, its possessions, the Canal Zone Government, and the Government of the District of Columbia, or who is a member of the Armed Forces of the United States, or a member of the family and household of any such person. For the purpose of this explanation, "member of the family and household" means a relative by blood, marriage, or adoption who is a resident of the household.

* * * * *

§ 882.44 [Amended]

15. Section 882.44 (a)(4) and (b) is amended by deleting the words "Randolph AFB, TX 78148."

16. Section 882.45 is amended by revising paragraph (a) to read as follows:

§ 882.45 Requesting authorization to accept a foreign decoration.

(a) *Action by recipient.* When a person, as described in § 882.43 receives or makes token acceptance of a decoration, which is not covered by § 882.42 nor specifically prohibited by § 882.46, he will (1) immediately submit through military channels a letter addressed to the appropriate approval authority indicated in § 882.44 requesting authority to accept

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[1] Unclassified recommendations will be designated "For Official Use Only" until a final decision is announced by the awarding authority.

the decoration. In addition, the letter will include, but is not limited to:

(i) Full name, grade, and SSAN.

(ii) Title of decoration, country offering it; date and place of presentation, and name and title of person making presentation.

(iii) Organization and station, and a brief description of recipient's duty assignment during period recognized by the award.

(iv) A statement of the service for which decoration was awarded. Inclose a copy of the citation if one accompanied the decoration; if not, indicate in the letter that no citation accompanied the decoration.

(v) A statement of whether recipient was assigned in any capacity with the MAP.

(vi) A statement indicating whether service being recognized was in connection with MAP duties, if recipient was assigned duties in connection with MAP.

NOTE: The recipient will retain the medal and accompanying documents, except for a copy of the citation, until receipt of final decision on the official acceptance of the decoration.

17. Secton 882.46 is amended by revising paragraph (b) to read as follows:

§ 882.46 Members associated with the Military Assistance Program.

* * * * *

(b) *Exclusion.* The prohibiton in paragraph (a) of this section does not apply when:

(1) Such a decoration is tendered to certain Department of Defense officials—the Vice Chief of Staff of the Air Force, the commander in chief of a unified or specified command, the Under Secretary of the Air Force, a member of the JCS, or a higher ranking official. Due to the broad nature of their duties and responsibilities it will be assumed that a decoration has not been tendered for duties in connection with the MAP.

(2) Awards are tendered for service unrelated to the MAP, such as service medals approved by the Secretary of Defense for acceptance by members of the Armed Forces of the United States.

(3) Decorations are proffered to a member of the Air Force in recognition of actual combat services or heroism involving the saving of life.

(4) Badges are awarded by foreign governments in recognition of the attainment by the recipients of a prescribed degree of skill, proficiency, and excellence of performance, such as parachutist, aviator, etc., badges.

NOTE: Requests for acceptance of the awards mentioned in paragraph (b)(4) of this section, including those awarded in connection with the Vietnam hostilities, must be processed according to § 882.45.

18. Section 882.54a is revised to read as follows:

§ 882.54a Combat Readiness Medal.

(a) *Description.* This medal has a border of concentric rays encircling a ring of stylized cloud forms, its rim concave between 12 points, charged six arrowheads, alternating with the points of two triangular flight symbols, having centerlines ridged conversely. One is pointed south and overlapping, and the other pointing north whose apex extends beyond the rim, becoming the point of suspension of the medal. The ribbon is predominantly Old Glory red and banded in blue, with a narrow dark blue stripe separated by two wider stripes of light blue.

(b) *Requirements for award.* An awardee must have completed an aggregate of 4 years of sustained professional performance as an Air Force combat ready aircrew or missile launch crewmember assigned to an operational unit subject to the Combat Readiness Rating System under AFM 55–11 (Air Force Operational Reporting System); or as a weapons director, AFSC 17xx, aircraft control and warning operator, technician, or superintendent, or electronic warfare countermeasure technician, AFSC 273xx, an Aerospace Rescue and Recovery Service helicopter aircrew member, or as a member of a combat control team. During this period, the member must have been:

(1) Certified as combat or mission ready according to Air Force and major command qualification criteria by the appropriate wing commander or commander of a group not reporting to a wing; and

(2) Serving in a missile launch crew position or in a rated AFSC position as an aircrew member; or in an AFSC 17xx position as a weapons director or in an AFSC 273xx position as an aircraft control and warning operator, technician, or superintendent, or an electronic warfare countermeasure technician; or a member of a combat control team.

(c) *Method of award.* The wing/group director of operations will notify the custodian of the unit personnel records group by letter when a crewmember has fulfilled the requirements for award of the CRM. The letter will be filed in the unit personnel records group and will be authority for entries on personnel records according to AFM 35–9 (Official Military Personnel Records System), 35–12 (Airmen Military Personnel Records System), or 30–3 (Mechanized Personnel Procedures).

NOTE: Aircrew members on special duty with another U.S. Military Service may be credited with such service for award of the CRM provided they are designated and/or certified, while so serving, as combat ready according to that Service's criteria (if such criteria closely correlates to Air Force and parent command criteria) and provided that other requirements stated are met. A break in combat ready status of more than 120 days nullifies all previous accumulated service not already recognized by an award of the CRM. A new period must be started on the day the person returns to combat ready status. However, if the break in combat ready status exceeds 120 days due to reassignment that requires upgrading in or retraining to a new system, only the en route and retraining time will be deducted from qualifying service. In that case, previous qualifying service will not be nullified.

(d) *Initial award.* All qualifying service from August 1, 1960. Personnel may claim past entitlements from August 1, 1960. Officers must certify that they earned entitlement to the CRM, as explained in paragraph (b) of this section, giving the dates when they were combat ready aircrew members and their unit of assignment. Airmen claiming entitlement must execute a sworn statement providing the same information. The certificate or sworn statement will be filed in the unit personnel records. Entries on personnel records will be according to AFM 35–9, 35–12, or 30–3.

(e) *Subsequent awards.* A bronze oak leaf cluster is awarded for each additional 4 years of qualifying service. A silver oak leaf cluster is worn in lieu of five bronze oak leaf clusters.

19. Section 882.55 is revised to read as follows:

§ 882.55 Good Conduct Medal and Air Force Good Conduct Medal.

(a) *Description*—(1) *Good Conduct Medal.* A metal disk, 1¼ inches in diameter, bears in front an eagle standing on a book and a sword, encircled with the inscription "Efficiency-Honor-Fidelity." The ribbon is dark red silk, with three white stripes bordering each edge.

(2) *Air Force Good Conduct Medal.* The medal pendant is the same as described in subparagraph (1) of this paragraph. The ribbon is predominantly light blue, with narrow vertical stripes of red, white, and blue to the right and left of the center of the ribbon.

(b) *Requirements for award*—(1) *Quality of service.* The Good Conduct Medal or the Air Force Good Conduct Medal is awarded for exemplary behavior, efficiency, and fidelity in an enlisted status while in the active Federal military service of the United States. During the period considered for the award, there must be no conviction by a civil court (other than for a minor traffic violation), or by court martial or record of punishment under Article 15, Uniform Code of Military Justice (UCMJ). If such conviction or record of punishment exists creditable service toward the Good Conduct Medal or the Air Force Good Conduct Medal begins the day following any time lost under 10 U.S.C. 972 and/or the day following the completion of any punishment imposed by a court martial, including punishment under Article 15, UCMJ. Any period of service covered by a "referral" Airman Performance Report, as defined in AFM 39–62 (Noncommissioned Officer and Airman Performance Reports), is disqualifying for the award of the medal.

(2) *Length of service.* Provided the quality requirements, in subparagraph (1) of this paragraph are met, the basic Good Conduct Medal or Air Force Good Conduct Medal may be awarded for periods of continuous service.

(c) *Type of medal to be awarded.* (1) An airman who qualified for award of the basic Good Conduct Medal or a successive award of the Good Conduct Medal on or before May 31, 1963, will be awarded the Good Conduct Medal, or the appropriate clasp described in Subpart K of this part. An airman who completes the qualifying service on or after June 1,

1963, will be awarded the Air Force Good Conduct Medal. When both medals have been awarded, they must be worn with the Air Force Good Conduct Medal taking precedence over the Good Conduct Medal.

(2) After award of the first Air Force Good Conduct Medal, successive awards will be denoted by oak leaf clusters, which are identical to the clusters used to denote additional awards of military decorations. Oak leaf clusters are issued in two sizes—large and small—and in two colors—bronze and silver. The large size is worn on the suspension ribbon of the Air Force Good Conduct Medal, and the small size on the ribbon bar. A bronze oak leaf cluster is used for the second through fifth, seventh through 10th, etc., awards of the Air Force Good Conduct Medal. A silver oak leaf cluster is used for the sixth, 11th, etc., award, or in lieu of five bronze oak leaf clusters.

(d) *Computation of total service.* Periods of service as a commissioned officer or warrant officer, other than Regular Air Force, will not be considered as an interruption of continuous service, although such periods will not be included in computation of total service accumulated. A period of more than 24 hours between enlistments or between periods of commissioned and enlisted service will be considered a break in continuous active service. Time spent in either aviation cadet or officer candidate status is creditable provided it meets the requirements of paragraph (b) (1) of this section. However, service as a cadet or midshipman in one of the service academies is not creditable.

(e) *Service in the Navy, Marine Corps, or Coast Guard.* Service performed in the U.S. Navy, Marine Corps, or Coast Guard may not be credited for award of the Good Conduct Medal or Air Force Good Conduct Medal under this part.

(f) *Time period required after basic award.* After the basic award of the Good Conduct Medal or Air Force Good Conduct Medal, a 3-year period of continuous active service is always required for additional awards of these medals. Service must always meet the requirements of paragraph (b) (1) of this section.

20. A new § 882.55a is added to read as follows:

§ 882.55a Outstanding Airman of the Year ribbon.

(a) *Description.* The ribbon is oriental blue with a white center bordered by equal stripes of ultramarine blue and flaming red.

(b) *Requirements for award.* The ribbon is awarded to airmen selected as:

(1) Outstanding airmen of the year by the major command or separate operating agency to which assigned; or

(2) Distinguished First Term Reenlistees of the Air Force (one selected annually).

(c) *Retroactive awards.* Only one ribbon is awarded. A bronze oak leaf cluster is worn on the ribbon to denote each past or subsequent award.

NOTE: Criteria, policies, and procedures for selecting Outstanding Airman of the Year, and the Distinguished First Team Reenlistees of the Air Force are provided each year by HQ USAF. Inquiries concerning Outstanding Airmen of the Year selections will be made to SAFOI (SAFOIIB), Washington, D.C. 20330; those concerning the Distinguished First Term Reenlistees of the Air Force will be made to USAFMPC (AFPMMB), Randolph AFB, TX 78148. Ribbons for award to eligible airmen are procured from USAF MPC (AFPMSAU), Randolph AFB, TX 78148, which is the sole source of supply for these ribbons.

§ 882.58 [Amended]

21. Section 882.58(c) is amended by changing the last sentence from "See AFP 900–1–2 (Korean Battle Honors—Consolidated List of Units Cited) for unit credits" to "See AFP 900–2 (Unit Decorations Award and Campaign Participation Credits) for unit credits."

§ 882.60 [Amended]

22. Section 882.60(b) is amended by deleting the words "And AFP 900–1–2." from the last sentence.

§ 882.63 [Amended]

23. Section 882.63(b) is amended by deleting reference "AFP 900–1–2" from this paragraph.

§ 882.65 [Amended]

24. In § 882.65, the note immediately following paragraph (e) is amended by changing the reference used in the first sentence from "AFP 900–1–2" to "AFP 900–2."

25. Section 882.67(g) is revised to read as follows:

§ 882.67 Armed Forces Expeditionary Medal.

* * * * *

(g) *Operations for the Armed Forces Expeditionary Medal.*

Type of operation	Operations	Inclusive dates
	Berlin	Aug. 14, 1961 to June 1, 1963.
	Lebanon	July 1, 1958 to Nov. 1, 1958.
	Quemoy and Matsu Islands.	Aug. 23, 1958 to June 1, 1963.
U.S. military operations.	Taiwan Straits	Aug. 23, 1958 to Jan. 1, 1959.
	Cuba	Oct. 24, 1962 to June 1, 1963.
	Congo	Nov. 23, 1964 to Nov. 27, 1964.
	Dominican Republic.	Apr. 28, 1965 to Sept. 21, 1966.
	Korea	Oct. 1, 1966 to a date to be announced.
U.S. operations in direct support of of the United Nations.	Congo	July 14, 1960 to Sept. 1, 1962.
U.S. operations of assistance for friendly foreign nations.	Laos	Apr. 19, 1961 to Oct. 7, 1962.
	Vietnam (including service in Thailand in support of the Vietnam operations).	July 1, 1958 to July 3, 1965.

26. Section 882.68(e) is revised to read as follows:

§ 882.68 Vietnam Service Medal.

* * * * *

(e) *Award of bronze service stars—*(1) *Campaigns.* The designated campaigns and their inclusive dates are listed in AFP 900–2. Future campaigns will be listed in that pamphlet as they are designated.

(2) *Individual entitlement.* Persons entitled to the VSM are eligible for appropriate campaign credit. Custodians of unit personnel records will determine individual eligibility for campaign credit, based on service during any part of the campaign periods. Determination will be made without regard to unit of assignment. A person must be entitled to the VSM in order to accrue entitlement to campaign credit.

(3) *Wear.* Eligible persons will wear a bronze service star on the VSM and ribbon bar for each authorized campaign credit. Campaign stars are not authorized for wear on the AFEM. The first campaign, and part of the second, predate the VSM (effective July 4, 1965). The AFEM awarded for such service must be exchanged for the VSM according to paragraph (b) of § 882.67, to enable the individual to wear the bronze service star.

§ 882.71 [Amended]

27. Section 882.71 is amended by adding "(AFM 35–3)" to the the end of paragraph (b) (3).

28. Section 882.73 is amended by revising paragraph (b) to read as follows:

§ 882.73 Small Arms Expert Marksmanship Ribbon.

* * * * *

(b) *Requirement for award.* The ribbon is awarded to Air Force personnel, including members of the Reserve components whether or not on active duty who, after January 1, 1963, qualify as "expert" in small arms marksmanship on weapons specified, according to AFM 50–15 (General Military Training), AF Form 522, "Qualification Score Card," is used to make appropriate entries on AF Form 572, "General Military Training Record," the source document for the award. After completion of entries on AF Form 572, AF Form 522 is destroyed according to AFM 50–15. AF Form 572 is maintained in the unit. The ribbon is awarded only once regardless of the number of times a person may qualify.

§ 882.77 [Amended]

29. Section 882.77 is amended by changing the first entry in the "Established by" column from "Secretary of the Air Force, March 9, 1964, with qualifying service retroactive to August 1, 1960, as amended on August 28, 1967" to "Secretary of the Air Force, March 9, 1964, as amended August 28, 1967;" and inserting a new entry after the "Good Conduct Medal (GCM)" entry to read "Outstanding Airman of the Year Ribbon (OAYR)" in the first column under "Award" and "Secretary of the Air Force, February 21, 1968" in the second column entitled "Established by."

30. Section 882.90 is revised to read as follows:

§ 882.90 Authorized awards.

The non-U.S. service awards described in this subpart have been accorded Presidential acceptance and are authorized for wear by eligible personnel. Only one of each non-U.S. service award described here will be awarded to the same person. There is no device to denote additional awards. Eligibility for award of the United Nations Service Medal will be determined by the custodian of unit personnel records groups. Individual eligibility for the United Nations Medal is determined by the United Nations (UN) as described in § 882.92.

31. In § 882.92 the introductory text is amended to read as follows:

§ 882.92 United Nations Medal (UNM).

The medal was established by the Secretary General of the UN by Dispatch 109, July 30, 1959. Presidential acceptance for the U.S. Armed Forces was announced in DOD Directive 1348.10, March 11, 1964.

* * * * *

32. Section 882.101 is amended by revising paragraph (c)(1) to read as follows:

§ 882.101 Eligibility (general criteria) for unit award.

* * * * *

(c) * * *

(1) *Military personnel.* A device such as a ribbon or oak leaf cluster (depending on the type of award) is worn on the uniform to denote the member's contribution to a cited unit's performance.

* * * * *

33. Section 882.105 is revised to read as follows:

§ 882.105 Presidential Unit Citation (PUC) and Distinguished Unit Citation (DUC).

Within the Air Force, this unit award was known as the DUC before 1965 and as the PUC during and after 1965. It was established by Executive Order 9075, February 26, 1942, which was superseded by Executive Order 10694, January 10, 1957. The PUC is awarded by the President of the United States or, when delegated, by the Secretary of the Air Force.

(a) *Description of award elements*—(1) *Streamer.* A dark blue swallow-tailed streamer with the name of the action or date(s) of service embroidered in white. Authorized abbreviations may be used for lengthy names of actions. Each award of the PUC/DUC is represented by a separate streamer.

(2) *Citation.* A brief unclassified description of the act for which the unit was cited. Citations are frequently published in news, media, they must be in good taste, and of a quality that will give the cited unit a high degree of lasting prestige.

(3) *Special order.* This is an order announcing the award. It is not essential at the time of the presentation ceremony and may be furnished later.

(4) *Individual emblem.* A dark blue ribbon of the same color as the streamer in subparagraph (1) of this paragraph mounted within a rectangular gold wreath metal frame.

(b) *Recipients of award.* The citation is awarded to units of the Armed Forces of the United States and of Friendly foreign nations serving with the U.S. Forces.

(c) *Qualification for award.* The citation is awarded for extraordinary heroism in actions occurring on or after December 7, 1941. The unit must have displayed such gallantry, determination, and esprit de corps in accomplishing its mission under extremely difficult and hazardous conditions as to set it apart and above other units participating in the same campaign. The degree of heroism required is the same as would warrant the award of an Air Force Cross to an individual. An extended period of combat duty or the participation in a large number of operational missions is not sufficient. Only on rare occasions will a unit higher than a wing qualify for this award.

(d) *Display and wear*—(1) *Streamer.* The streamer is displayed immediately below the staff ornament of the flagstaff which carries the unit's flagstaff which carries the unit's flag or guidon.

(2) *Individual ribbon.* The individual ribbon and oak leaf clusters for additional awards (entitlements) are worn as indicated in subdivisions (i) and (ii) of this subparagraph.

(i) The ribbon is worn as a permanent part of the uniform by each person who was asssigned or attached to the unit at any time during the period of action cited and was present and participated in any of the action for which the unit was cited. Entitlement of attached personnel, whether attached by verbal or written order, to wear the individual ribbon will be verified by the commander of the cited unit who will issue a letter confirming such entitlement. This letter will state the name of the person, certify his entitlement, specify the designation of the cited unit to which he was attached, state the authority for the award (order number, date, and headquarters of issue), and indicate the inclusive dates of the award. The original of this letter will be filed in the member's unit personnel records and a copy provided the member.

(ii) The ribbon is worn as a temporary part of the uniform by each person who is not entitled to permanently wear the ribbon because he was not present with the unit in the action cited, but is subsequently assigned to the unit. The temporary wear of the ribbon is optional, and it may be worn only for the duration of the person's assignment to the unit.

NOTE: A person entitled to permanently wear a ribbon representing a PUC/DUC awarded by the Air Force or Army may temporarily add an oak leaf cluster to the ribbon when he is subsequently assigned to another cited unit. This temporary cluster may be worn only for the duration of his assignment to the cited unit.

(3) *Wear of Air Force and Navy PUC ribbons.* Persons entitled to the Navy PUC ribbon, which is different in design from the ribbon used by the Air Force and Army, may continue to wear the ribbon, although they also may be entitled to wear the individual ribbon (blue ribbon with gold wreath metal frame) representing award of the PUC to an Air Force unit during or after 1965. Persons entitled to the individual blue ribbon based on award of the DUC before 1965 will wear an oak leaf cluster thereon to denote any individual, additional entitlement to the ribbon based on award of a PUC to an Air Force unit during or after 1965.

34. Section 882.106 is revised to read as follows:

§ 882.106 Air Force Outstanding Unit Award (AFOUA).

The AFOUA was established by the Secretary of the Air Force, as announced in DAF General Orders 1, January 6, 1954; it is awarded by the Secretary of the Air Force. Except for ANG units that are not on EAD, authority to disapprove recommendations for award of the AFOUA is delegated to major commanders. Commanders will forward to the awarding authority only recommendations of which they recommend approval; they will return all others to the recommending officials. Effective November 15, 1961, AFOUAs awarded for combat or direct combat support actions will entitle the cited unit to have a letter V embroidered on the streamer, and a bronze letter V to be worn on the individual ribbon. HQ USAF will review past awards of the AFOUA and amend special orders, where appropriate, to reflect entitlement to the letter V device. AFP 900–2 also will be amended to reflect this information. No changes will be required in the citation and certificate for AFOUA awards, since the letter V device is not reflected on these documents.

(a) *Description*—(1) *Streamer.* This is a blue swallow-tailed streamer with a narrow red band center bordered by white lines, and red bands at each edge separated from the blue by white lines. The name of the action, achievement, or the inclusive dates of the period of service are embroidered in white. When the AFOUA is awarded for combat or direct combat support actions, a letter V, in white, is embroidered on the streamer preceding the name of the action or period of service for which the award was made. Authorized abbreviations may be used for lengthy names of the action or achievement. Each award of the AFOUA is represented by a separate streamer.

(2) *Individual ribbon.* A ribbon of the same color as the streamer described in subparagraph (1) of this paragraph, without the gold frame. When awarded for combat or direct combat support actions, a bronze letter V is worn on the ribbon. Only one such V is authorized for wear on the ribbon. When oak leaf clusters are worn on the ribbon, the letter V will be placed to the right of the cluster(s).

(3) *Certificate.* The engraved certificate bears a replica of the ribbon and is embossed with the DAF Seal. It identifies the unit decorated, indicates the date(s) of the act or achievement, or the inclusive period of service for which the award was made, and is signed by the Secretary of the Air Force. The certificate is suitable for framing and display by the unit

receiving the award. The awarding authority issues the certificate. (The awarding of individual certificates to each person entitled to wear the ribbon was discontinued on May 8, 1964.)

(4) *Citation.* This is a short narrative description of the act, achievement, or service for which award was made. It is read during the presentation ceremony and may be framed for display with the certificate.

(b) *AFOUA lapel button.* The AFO UA lapel button is a civilian award exclusively for use in recognizing Air Force civilians who are assigned or attached to units awarded the AFOUA, and who contribute to the achievements of a cited unit on or after January 6, 1954 (when the AFOUA was established).

(c) *Types of units to receive award.* The AFOUA is awarded only to units of the Armed Forces of the United States, including provisional units established in connection with emergency requirements of joint exercise and units of the Reserve components, which meet the requirements for the award as prescribed in paragraph (d) of this section. Only under most unusual circumstances will an organization above wing level receive this award. It will not be awarded to an organization above division level.

(d) *Qualification for award.* The AFOUA is awarded for exceptionally meritorious service or exceptionally meritorious service or exceptionally outstanding achievement that clearly sets the unit above and apart from similar units. Heroism may be involved, but it is not essential. The service or achievement may be in:

(1) Performance of exceptionally meritorious service of national or international significance;

(2) Accomplishment of a specific outstanding achievement of national or international significance. An outstanding achievement award is intended to recognize a single specific act or accomplishment that is separate and distinct from the normal mission or regular function of the unit. The period of an outstanding achievement is normally short and characterized by definite beginning and ending dates. The specific achievement must be sufficiently outstanding to be readily distinguishable from meritorious service and must clearly warrant immediate recognition. The award of a unit decoration in recognition of a single act of heroism or a single outstanding achievement does not necessarily preclude an award for meritorious service according to subparagraph (1) of this paragraph. In such instances, and to avoid duplication, the previously recognized act or outstanding achievement cannot be included in the justification for the subsequent award;

(3) Combat operations against an armed enemy of the United States; or

(4) Military operations involving conflict with or exposure to hostile actions by an opposing foreign force.

35. Section 882.107 is revised to read as follows:

§ 882.107 Other U.S. unit awards.

(a) *Army and Navy unit decorations.* These generally are similar to Air Force unit awards and may be accepted by Air Force units if advanced DAF approval is obtained.

(1) *Army unit decorations.* The Army currently awards the Presidential Unit Citation (formerly designated the Distinguished Unit Citation), the Valorous Unit Award, and the Meritorious Unit Commendation. The Army and Air Force jointly use the same streamer for the DUC and PUC. Both services also jointly use the same individual ribbon, except that the gold wreath frame on the Air Force emblem is smaller than the frame used on the Army emblem.

(2) *Navy unit decorations.* The Navy currently awards the PUC, the Navy Unit Commendation, and the Meritorious Unit Commendation. The Navy unit decorations consist of distinctive ribbons without the gold wreath frames.

(b) *Personnel entitled to wear decorations.* These include members of cited Air Force units and those who, while Army or Navy members, received a unit decoration which they were entitled to wear permanently. They may wear the appropriate award device on the Air Force uniform (AFM 35–10 (Service and Dress Uniforms for AF Personnel)).

36. Section 882.108 is revised to read as follows:

§ 882.108 War service streamers.

(a) *Description.* The streamers are unembroidered swallowtailed ribbons of the same design as the service ribbons awarded to members for service in designated campaign areas or theaters of operation. Examples: The American Theater, European-African-Middle Eastern Theater, and Asiatic-Pacific Theater during World War II, and the military operations in Korea and Southeast Asia.

(b) *Eligibility.* A unit's eligibility for a war service streamer is the same as prescribed for the award of the corresponding service medal (American Campaign Medal; European-African-Middle Eastern Campaign Medal; Asiatic-Pacific Campaign Medal; Korean and Vietnam Service Medals) to an individual.

(c) *Display.* War service streamers are carried on the organizational flag staff or guidon by units that have served in a theater or area of operations but that have not received campaign participation credit.

37. Section 882.109 is amended by revising paragraph (c) to read as follows:

§ 882.109 Campaign and expeditionary streamers.

* * * * *

(c) *Award authority.* The DAF or a designated subordinate command may award campaign and expeditionary streamers. When a unit is cited in orders or AFP 900–2 for its participation in a campaign or operation, it automatically is entitled to have the appropriate embroidery placed on the streamer.

§ 882.111 [Amended]

38. In § 882.111 the reference used in paragraphs (a), (b), and (c) is changed from "(See AFP 900–1–2)" to "(See AFP 900–2)"

39. Section 882.121 is revised to read as follows:

§ 882.121 Combat Crew Member Badge.

This award was established by the Department of the Air Force, effective September 1, 1964.

(a) *Description.* A rectangular metal badge of oxidized sterling silver, measuring 3 x ¾ inches, bears the Air Force Coat of Arms (with the shield's background in ultramarine blue enamel) and the words "Combat Crew."

(b) *Criteria for wear.* The Combat Crew Member Badge is worn only by aircraft, missile launch, or Aerospace Rescue and Recovery Service helicopter crewmembers who either:

(1) Are assigned to an Air Force operational unit subject to the Combat Rating System under AFM 55–11 (Air Force Operational Reporting System), or the mission-ready system; and

(i) Have been certified as combat or mission-ready (according to Air Force and command qualification criteria); and

(ii) Are currently serving in an aircraft/helicopter or missile launch crew position as a combat crewmember; or who

(2) Are assigned to an Air Force operational unit participating in flying operations in Southeast Asia, and are currently serving as combat-ready aircrew members in the unit, participating in operations over an area where armed opposition is expected.

40. Section 882.131 is revised to read as follows:

§ 882.131 Ribbon bar.

The ribbon bar is a metallic strip which is covered with ribbon. The design and color of the ribbon is identical with the suspension ribbon of the medal (decoration or service), or the unit award streamer it represents. The ribbon bar is one and three-eighths inches long by three-eighths inch wide and is equipped with or without an attaching device.

41. In § 882.133, paragraph (b) is revised and a new paragraph (e) is added to read as follows:

§ 882.133 Service stars.

* * * * *

(b) On the service and suspension ribbons of the American Campaign, Asiatic-Pacific Campaign, European-African-Middle Eastern Campaign, Korean and Vietnam Service Medals to denote campaign participation credit (AFP 900–2).

* * * * *

(e) On the service and suspension ribbon of the National Defense Service Medal to denote an additional award of this medal.

§ 882.134 [Amended]

42. Section 882.134 is amended by changing the last reference in paragraph (a) from "AFP 900–1–2" to "AFP 900–2."

§ 882.136 [Amended]

43. Section 882.136 is amended by changing the reference in the last sentence from "(AFP 900–1–2)" to "(AFP 900–2)."

44. Section 882.140 is revised to read as follows:

§ 882.140 Gold Star Lapel Button.

This lapel button is made up of a gold star one-fourth inch in diameter mounted on a purple disk three-fourths inch in diameter. The star is surrounded by gold laurel leaves in a wreath five-eighths inch in diameter. The opposite side bears the inscription, "United States of America, Act of Congress, August 1947," and has space for engraving the recipient's initials. It has either a pin or clutch-type fastening device. A reproduction of the Gold Star Lapel Button is identical, except that the year on the reverse is 1966. The initial supply of the button will be used until exhausted.

(a) *Eligibility.* The Gold Star Lapel Button is distributed to widows, widowers (remarried or not), each parent (mother, father, stepmother, stepfather, mother through adoption, father through adoption, and foster parents who stood in loco parentis), each child, brother, sister, half-brother, half-sister, stepchild, and adopted child, of members of the U.S. Armed Forces who lost their lives in the Armed Services of the United States during World War I (Apr. 6, 1917 to Mar. 3, 1921); World War II (Sept. 8, 1939 to July 25, 1947 at 12 o'clock noon); or during any subsequent period of armed hostilities in which the United States was engaged before July 1, 1958 (Korean Conflict, June 27, 1950 to July 27, 1954); or who lose or lost lives after June 30, 1958, while engaged in an action against an enemy of the United States while engaged in military operations involving conflict with an opposing foreign force; or while serving with friendly foreign forces engaged in an armed conflict in which the United States is not a belligerent party against an opposing armed force. These buttons are furnished without cost.

(b) *Initial issue or replacements.* Gold Star Lapel Buttons, either initial issue or replacements, may be obtained by writing to NPRC, 9700 Page Boulevard, St. Louis, MO 63132. Gold Star Lapel Buttons, lost, destroyed, or made unfit for use through no fault or neglect of the persons to whom they were furnished, will be replaced at cost.

(c) *Penalty for fraudulent use.* The law specifies that "Whoever shall (1) wear, display on his person, or otherwise use as an insignia, any Gold Star Lapel Button issued to another person under the provisions of the law; (2) falsely make, forge, or counterfeit or cause or procure to be falsely made, forged, or counterfeited or aid in falsely making, forging, or counterfeiting any lapel button authorized by law; or (3) sell or bring into the United States, or any place subject to the jurisdiction thereof, from any foreign place, or have in his possession any such false, forged, or counterfeited lapel buttons, shall be fined not more than $1,000 or imprisoned not more than 2 years, or both."

(Sec. 8012, 70A Stat. 488; 10 U.S.C. 8012, except as otherwise noted)

By order of the Secretary of the Air Force.

ALEXANDER J. PALENSCAR, Jr.,
Colonel, U.S. Air Force, Chief, Special Activities Group, Office of The Judge Advocate General.

[F.R. Doc. 70–3144; Filed, Mar. 16, 1970; 8:45 a.m.]

Title 49—TRANSPORTATION

Chapter III—Federal Highway Administration, Department of Transportation

SUBCHAPTER A—MOTOR VEHICLE SAFETY REGULATIONS

[Docket No. 70–9; Notice No. 11]

PART 371—FEDERAL MOTOR VEHICLE SAFETY STANDARDS

Motor Vehicle Safety Standards No. 109, New Pneumatic Tires—Passenger Cars, and No. 110, Tire Selection and Rims—Passenger Cars

Correction

In F.R. Doc. 70–2704 appearing at page 4213 in the issue of Friday, March 6, 1970, the following changes are made on page 4214:

1. In table I–J the minimum size factor for tire size designation F78–14 reading "34.95" should read "34.04".

2. In table I of Appendix A, under the designation FMVSS No. 110, the tire size 160 R 13 lists a rim designated as "4½–JJJ". It should read "4½–JJ".

Title 47—TELECOMMUNICATION

Chapter I—Federal Communications Commission

[Docket No. 18509; FCC 70–256]

PART 63—EXTENSION OF LINES AND DISCONTINUANCE OF SERVICE BY CARRIERS

PART 64—MISCELLANEOUS RULES RELATING TO COMMON CARRIERS

Order Staying Effective Date of Final Report and Order

In the matter of applications of telephone companies for section 214 certificates for channel facilities furnished to affiliated community antenna television systems.

1. Before the Commission for consideration are a petition for stay of its final report and order, released February 4, 1970 (FCC 70–115, 21 FCC 2d 307; 35 F.R. 2776) in the above-captioned proceeding, filed on February 25, 1970, by the General System Cos.; a petition for stay of final report and order by United Utilities, Inc., and its subsidiary United Telephone Operating Cos., filed on March 3, 1970; a response to petition for stay by the United States Independent Telephone Association, filed on March 3, 1970; a petition for reconsideration by Tele-Cable Corp., filed on March 4, 1970; and an opposition to petition for stay by the National Cable Television Association, Inc., filed on March 6, 1970.

2. The first three pleadings request that the effective date of the Commission's said order be stayed pendente lite, while it is on appeal before the U.S. Circuit Court of Appeals for the Fifth Circuit. Unless stayed, the Commission's subject order would be effective on March 16, 1970.

3. In the interest of orderly procedure: *It is hereby ordered,* Pursuant to section 403 of the Communications Act, that the effective date of the Commission's order, released February 4, 1970, is temporarily stayed pending Commission action on the various pleadings listed in paragraph 1, above.

(Sec. 403, 48 Stat., as amended, 1094; 47 U.S.C. 403)

Adopted: March 11, 1970.

Released: March 12, 1970.

FEDERAL COMMUNICATIONS COMMISSION,
[SEAL] BEN F. WAPLE,
Secretary.

[F.R. Doc. 70–3185; Filed, Mar. 16, 1970; 8:48 a.m.]

Title 50—WILDLIFE AND FISHERIES

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

PART 33—SPORT FISHING

Charles Sheldon Antelope Range, Nev., etc.

The following special regulations are revised to read as follows and are effective on date of publication in the FEDERAL REGISTER.

§ 33.5 Special regulations; sport fishing; for individual wildlife refuge areas.

General conditions. Fishing shall be in accordance with applicable State regulations. Portions of refuges which are open to fishing are designated by signs and/or delineated on maps, which are available at the respective refuge headquarters and from the office of the Regional Director, Bureau of Sport Fisheries and Wildlife, 730 Northeast Pacific Street, Portland, Oreg. 97208.

NEVADA

Charles Sheldon Antelope Range (Headquarters: Post Office Box 111, Lakeview, Oreg. 97630).

Ruby Lake National Wildlife Refuge, Ruby Valley, Nev. 89833.

Stillwater National Wildlife Refuge, Fallon, Nev. 89406. Special conditions: refuge closed to fishing during the migratory waterfowl hunting season.

The provisions of these special regulations supplement the regulations which govern fishing on wildlife refuge areas generally which are set forth in Title 50, Code of Federal Regulations, Part 33, and are effective through December 31, 1970.

TRAVIS S. ROBERTS,
Acting Regional Director, Bureau of Sport Fisheries and Wildlife.

MARCH 6, 1970.

[F.R. Doc. 70-3148; Filed, Mar. 16, 1970; 8:45 a.m.]

PART 33—SPORT FISHING

Columbia National Wildlife Refuge, Wash.

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

§ 33.5 Special regulations; sport fishing; for individual wildlife refuge areas.

WASHINGTON

COLUMBIA NATIONAL WILDLIFE REFUGE

General conditions. Sport fishing shall be in accordance with applicable State regulations. Portions of the refuge which are open to sport fishing are designated by signs and/or delineated on maps available at the refuge headquarters, Post Office Drawer B, Othello, Wash. 99344, and from the office of the Regional Director, Bureau of Sport Fisheries and Wildlife, 730 Northeast Pacific Street, Portland, Oreg. 97208.

Special conditions. (1) Sport fishing shall be permitted on the refuge as follows: Waters open April 18 through August 15, 1970—Mallard Lake, Migraine Lake, and Scabrock Lakes. Waters open July 10 through September 30, 1970—Lower Crab Creek within Management Units I and II as posted. Waters open April 19 through September 30, 1970—Lower Crab Creek within Management Units II, IV, and V.

(2) The use of boats and outboard motors are prohibited on lakes so posted.

(3) Fishing on Juvenile Lake permitted only to persons under 17 years of age as posted.

The provisions of this special regulation supplement the regulations which govern fishing on wildlife refuge areas generally and which are set forth in Title 50, Code of Federal Regulations, Part 33, and are effective through March 15, 1971.

TRAVIS S. ROBERTS,
Acting Regional Director, Bureau of Sport Fisheries and Wildlife.

MARCH 5, 1970.

[F.R. Doc. 70-3149; Filed, Mar. 16, 1970; 8:45 a.m.]

Proposed Rule Making

DEPARTMENT OF THE TREASURY

Bureau of Customs

[19 CFR Parts 10, 18, 21, 25, 33]

[013.1]

TIR CONVENTION

Implementation of TIR Convention and Simplified In-Bond Procedure

The United States on December 3, 1968, deposited instruments of accession to the following Conventions, which went into force on March 3, 1969:

Customs Convention on the Temporary Importation of Professional Equipment (TIAS 6630);
Customs Convention on the A.T.A. Carnet for the Temporary Admission of Goods (TIAS 6631);
Customs Convention on the E.C.S. Carnets for Commercial Samples (TIAS 6632);
Customs Convention on the International Transport of Goods under Cover of TIR Carnets (TIR Convention) (TIAS 6633); and
Customs Convention on Containers (TIAS 6634).

Amendments to the Customs Regulations necessary to implement each of the Convention except the TIR Convention were adopted by T.D. 69-146 (34 F.R. 9798). Amendments to the regulations proposed in this Notice are designed to implement the TIR Convention, subject to the approval by the Commissioner of Customs of an issuing and guaranteeing association for the TIR carnets.

It is also proposed to further amend the Customs Regulations to incorporate procedural changes relating to the transportation of merchandise in bond instituted provisionally on September 9, 1968, which have been found to expedite the movement of in-bond merchandise, and to delete §§ 18.29, 18.30, and 18.31, relating to an obsolete procedure concerning merchandise arriving from a contiguous country in sealed vessels or vehicles.

Notice is hereby given that under authority of section 251 of the Revised Statutes (19 U.S.C. 66), sections 463, 552, 553, 623, and 624 of the Tariff Act of 1930, as amended (19 U.S.C. 1463, 1552, 1553, 1623, 1624), and General Headnote 11, Tariff Schedules of the United States (19 U.S.C. 1202 (General Headnote 11)), to implement the TIR Convention and the in-bond procedures referred to above, and to delete obsolete material, it is proposed to amend the Customs Regulations as set forth in tentative form below.

PART 10—ARTICLES CONDITIONALLY FREE, SUBJECT TO A REDUCED RATE, ETC.

The first sentence of paragraph (a) of § 10.31 is amended to read:

§ 10.31 Entry; bond.

(a) Entry of articles brought into the United States temporarily and claimed to be exempt from duty under Schedule 8, Part 5C, Tariff Schedules of the United States,[34] shall, unless covered by an A.T.A. or E.C.S. carnet provided for in Part 33 of this chapter, be made on customs Form 7501, except that, when § 10.36 or § 10.36a is applicable, or the aggregate value of the article is not over $250, the form prescribed for the informal entry of importations by mail, in baggage, or other, as the case may be, may be used. * * *

* * * * *

§ 10.41a [Amended]

Paragraph (c) of § 10.41a is amended by substituting the following for the second sentence: "The required application may be filed at the port of arrival or at a subsequent port to which an instrument shall have been transported in bond or to which a container shall have been moved under cover of a TIR carnet (see Part 33 of this chapter) showing the characteristics and value of the container on the Goods Manifest of the carnet. If the container is listed on the Goods Manifest of the carnet, the application may be filed at the port of arrival or at the subsequent port. If the container is not listed on the Goods Manifest, the application shall be filed at the port of arrival. The fact of approval and discontinuance of bonds on customs Form 7587 will be published in the weekly Customs Bulletin, as provided for in § 25.4(a)(34) of this chapter."

Paragraph (g) of § 10.41b is amended to read:

§ 10.41b Clearance of serially numbered substantial holders or outer containers.

* * * * *

(g) If the holder or container and its contents are to move in bond or under cover of a TIR carnet (see Part 33 of this chapter) from the port of arrival intact, the holder or container shall appear on the inward foreign manifest so as to be related to the cargo contained therein and will be released under this procedure at a subsequent port. If the holder or container is to move in bond or under cover of a TIR carnet from the port of arrival not intact with its contents, the holder or container may appear on the inward foreign manifest separate from and not related to the cargo contained therein and will be released under this procedure at the port of arrival before it moves forward and will not appear on the in-bond document.

* * * * *

Section 10.41c is amended as follows: Paragraphs (a) and (d) are amended to read:

§ 10.41c Containers accepted for transport under customs seal; requirements.

(a) (1) Containers covered by the Customs Convention on Containers shall be accepted for transport under customs seal (see § 18.4 of this chapter) if (i) durably marked with the name and address of the owner, particulars of tare, and identification marks and numbers, and (ii) constructed and equipped as outlined in Annex 1 to the Customs Convention on Containers, as evidenced by an unexpired certificate of approval in the form prescribed by Annex 2 to that Convention or by a metal plate showing design type approval by the competent authority in the country of manufacture.

(2) Containers covered by a TIR carnet shall be accepted for transport under customs seal (see § 18.4 of this chapter) if (i) durably marked with the name and address of the owner, particulars of tare, and identification marks and numbers, (ii) constructed and equipped as outlined in Annex 3 to the TIR Convention, as evidenced by an accompanying unexpired certificate of approval in the form prescribed by Annex 8 to the Convention or by a metal plate showing design type approval by the competent authority in the country of manufacture, and (iii) if the container or road vehicle hauling the container has affixed to it a rectangular plate bearing the letters "TIR" in accordance with Article 31 of the TIR Convention.

(3) The district director of customs may refuse to accept for transport under customs seal a container bearing evidence of approval if, in his opinion, the container no longer meets the requirements of the applicable Convention.

* * * * *

(d) Containers which are not approved under the provisions of a Customs Convention may be accepted for transport under customs seal only if the district director at the port of origin is satisfied that (1) the container can be effectively sealed and (2) no goods can be removed from or introduced into the container without obvious damage to it or without breaking the seal.

(77A Stat. 14, sec. 14, 67 Stat. 516, secs. 623, 624, 46 Stat. 759, as amended; 19 U.S.C. 1202 (Gen. Hdnote. 11), 1332, 1623, 1624)

PART 18—TRANSPORTATION IN BOND AND MERCHANDISE IN TRANSIT

Section 18.1(a) is amended to read:

§ 18.1 Carriers; application to bond.

(a) (1) Merchandise to be transported from one port to another in the United States in bond, except as provided for in paragraph (b) of this section, shall be delivered to a common carrier, contract

carrier, freight forwarder, or private carrier bonded for that purpose, but such merchandise delivered to a common carrier, contract carrier, or freight forwarder may be transported with the use of facilities of other bonded or nonbonded carriers.[1] For the purposes of this section, the term "common carrier" means a common carrier of merchandise owning or operating a railroad, steamship, or other transportation line or route. Only vessels entitled to engage in the coastwise trade (see § 4.80 of this chapter) shall be entitled to transport mercandise under this section.

(2) Merchandise to be transported from one port to another in the United States under cover of a TIR carnet (see Part 33 of this chapter) shall be transported in accordance with the provisions of subparagraph (1) of this paragraph, except that it may be transported only with the use of facilities of bonded common or contract carriers. The TIR carnet shall be responsible for liability incurred in the carriage of merchandise under such carnet, and the Carrier's Bond shall be responsible only as provided in § 33.22(c)(2) of this chapter.

* * * * *

Section 18.2 is amended as follows: Paragraphs (a), (b), and (c) are amended to read:

§ 18.2 Receipt by carrier; manifest.

(a) When the merchandise is delivered to a bonded carrier for transportation in bond, the merchandise shall be laden on the conveyance under the supervision of a customs officer unless the transporting conveyance is not to be sealed with customs seals or the lading inspector accepts the check of the carrier as to the merchandise laden thereon. The carrier's receipt shall be given immediately to the lading inspector on the customs in-bond document. As used in this part, "customs in-bond document" means customs Form 7512, customs Form 7520, or the TIR carnet. In the case of a TIR carnet, the receipt shall be given on the appropriate vouchers in the following form:

Received the cargo listed herein for delivery to Customs at the indicated port of destination or exportation, or for direct exportation.

Name of Carrier (or Exporter)

Attorney or Agent of Carrier (or Exporter)

Date

(b) After the merchandise has been laden and the carrier has receipted the in-bond document (as provided in paragraph (a) of this section), either customs Form 7512, in duplicate, or the TIR carnet, and the related customs Form 7512–C (duplicate) shall be delivered as a manifest to the conductor, master, or person in charge to accompany the merchandise to destination. If more than one conveyance is used to transport merchandise, the customs Form 7512–C (duplicate) shall accompany the first conveyance, and two copies of customs Form 7512 shall accompany each conveyance as a manifest of the merchandise transported by that conveyance. A TIR carnet (see § 18.3(b)) shall not be used if more than one conveyance is required.

(c) Upon arrival of the merchandise at the port of destination, the delivering carrier shall promptly surrender the in-bond document and related customs Form 7512–C (duplicate) to the district director of customs as a notice of arrival of the merchandise. If the in-bond document is lost in transit, the carrier will be responsible for obtaining copies of the original.

Section 18.3 is amended to read:

§ 18.3 Transshipment;[3] transfer by bonded cartmen.

(a) When bonded merchandise in one conveyance is to be transshipped under customs supervision to another single conveyance while en route to the port of destination or exportation, the in-bond document which accompanied the merchandise shall be presented to the district director of customs at the place of transshipment for execution of a certificate of transfer thereon. The in-bond document shall be returned to the carrier to accompany the merchandise to the port of destination or exportation. Merchandise covered by a TIR carnet may not be transshipped except as provided in paragraph (c) of this section.

(b) When bonded merchandise, other than merchandise covered by a TIR carnet, is to be transshipped into more than one conveyance, the carrier, agent of the shipper, or forwarder shall prepare, for each such conveyance, two additional copies of the customs Form 7512 which accompanied the merchandise to the place of transshipment. The Form 7512 and customs Form 7512–C (duplicate) which accompanied the shipment to the place of transshipment shall be presented to the district director there. The customs officer supervising the transshipment shall execute a certificate of transfer on all copies of the Form 7512. The original copies of the Form 7512 and related Form 7512–C (duplicate) shall be delivered to the conductor, master, or person in charge of the first conveyance. Two additional copies of the Form 7512 shall be similarly delivered to the person in charge of each additional conveyance in which the merchandise is forwarded for delivery to the district director at the port of destination or exportation.

(c) Merchandise covered by a TIR carnet may be transshipped only when the transshipment is necessitated by casualty en route. In the event of transshipment, TIR approved containers shall be used if available. If the transshipment takes place under customs supervision, the customs officer shall execute a certificate of transfer on the appropriate TIR carnet voucher.

(d) If it becomes necessary at any point in transit to remove the customs seals from a conveyance or container containing bonded merchandise for the purpose of transferring its contents to another conveyance or container, or to gain access to the shipment because of casualty or for other good reason, and it cannot be done under customs supervision because of the element of time involved or because there is no customs officer stationed at such point, a responsible agent of the carrier may remove the seals, supervise the transfer or handling of the merchandise, seal the conveyance or container in which the shipment goes forward, and make appropriate notation of his action on the conductor's or master's copy of the manifest, or the outside back cover of the TIR carnet, including the date, serial numbers of the new seals applied, and the reason therefor. This authorization shall not apply in any case not involving a real emergency.

(e) All transfers to or from the conveyance or warehouse of merchandise undergoing transportation in bond shall be made under the provisions of Part 21 of these regulations and at the expense of the parties in interest, unless the Carrier's Bond or a TIR carnet is liable for the safekeeping and delivery of the merchandise while it is being transferred.

(Secs. 551, 565, 46 Stat. 742, as amended, 747; 19 U.S.C. 1551, 1565)

Section 18.4 is amended as follows: Paragraph (a) is amended by designating the present text as subparagraph (1) and adding a new subparagraph (2) and paragraph (c) is amended to read as follows:

§ 18.4 Sealing conveyances and compartments; labeling packages; warning cards.

(a) * * *

(2) The district director of customs shall cause a customs seal to be affixed to a container which is being used to transport merchandise pursuant to the TIR Convention unless such container bears a valid customs seal (domestic or foreign). The district director shall likewise cause a customs seal or label to be affixed to heavy or bulky goods being so transported. If, however, he has reason to believe that there is a discrepancy between the merchandise listed on the Goods Manifest of the carnet and the merchandise which is to be transported, he shall cause a customs seal or label to be affixed only when the listing of the merchandise in the carnet and a physical inventory agree.

* * * * *

(c) (1) Merchandise not under bond may be transported in sealed conveyances or compartments containing bonded goods when destined for the same place or places beyond, but not when intended for intermediate places.

(2) Merchandise moving under cover of a TIR carnet may not be consolidated with other merchandise.

* * * * *

Section 18.5 is amended to read:

§ 18.5 Diversion.

(a) Merchandise forwarded under any class of transportation entry may be diverted to any port other than the port named in the entry at the option of the consignee or agent. Except as provided for in paragraphs (c), (d), and (e), of this section, prior application or approval of such diversion is not required.

(b) The district director of customs at the port to which merchandise is diverted may permit merchandise in transit under bond under any class of transportation entry to be entered at his port for consumption, warehouse, exportation, further transportation in bond, or under any provisions of the tariff laws.

(c) When merchandise which has been delivered to the district director at the port of original destination or port of diversion under any class of transportation entry is to be forwarded to another port or returned to the port of origin, a new transportation entry shall be required. If the merchandise is moving under cover of a TIR carnet, the carnet may be accepted as a transportation entry.

(d) If it is desired to split a shipment at a port of destination and to enter a portion for consumption or warehouse and forward the balance in bond, or to divert the entire shipment or a part thereof to more than one port, the district director at the port where diversion takes place shall complete the original transaction and shall require the filing of a new transportation entry or entries for the portion or portions forwarded.

(e) The diversion of shipments in bond which are subject on importation to restriction or prohibition under quarantines and regulations of the Agricultural Research Service of the Department of Agriculture shall be allowed only upon written permission or under regulations issued by the agency concerned.

(Secs. 551–553, 46 Stat. 742, as amended, 19 U.S.C. 1551–1553)

Section 18.6 is amended as follows: Paragraphs (a), (b), and (c) are amended to read:

§ 18.6 Short shipments; shortages; entry and allowance.

(a) When there has been a short shipment and the short-shipped packages are subsequently received, they may be forwarded only under a new transportation entry referenced to the original entry.

(b) (1) When there is a shortage of one or more packages, or any part thereof, not noted by the district director of customs at the port of origin, or an irregular delivery, the district director at the port of destination shall immediately issue a notice on customs Form 3861, Notice of Irregular (or Short) Delivery of Bonded Merchandise, to the initial bonded carrier. When the district director at the port of origin is notified of nondelivery of an entire shipment, he shall immediately issue a similar notice on customs Form 3861. If a report is not forthcoming within 90 days of the issuance of such notice, or if the failure to properly deliver the merchandise is not satisfactorily explained, the district director shall immediately make demand on the initial bonded carrier for liquidated damages as prescribed in § 18.8(a).

(2) In the event of a shortage, irregular delivery, or nondelivery of merchandise covered by a TIR carnet, the appropriate district director shall immediately issue a notice on customs Form 3861 to the initial bonded carrier with a copy to the domestic guaranteeing association. If a report is not forthcoming within 90 days of the issuance of such notice, or if the failure to properly deliver the merchandise is not satisfactorily explained, the district director shall immediately make demand in writing on the carrier and the guaranteeing association for pecuniary penalties, liquidated damages, duties, and taxes as prescribed in § 18.8(e).

(c) When there is a shortage of one or more packages, or any part thereof, or nondelivery of an entire shipment, and the merchandise was delivered directly to the consignee, entry therefor may be accepted only if the merchandise can be recovered intact without any of the packages having been opened. In such cases, any shortage from the invoice quantity shall be presumed to have occurred while the merchandise was in the possession of the bonded carrier.

* * * * *

Section 18.7(a) is amended to read:

§ 18.7 Lading for exportation, verification of.

(a) When merchandise covered by an in-bond entry is delivered to the exporting carrier at the port of exportation, the in-bond document and the related customs Form 7512–C (duplicate) shall be promptly delivered to the customs lading officer.

* * * * *

Section 18.8 is amended as follows: The heading is amended and a new paragraph (e) is added as follows:

§ 18.8 Liability for shortage, irregular delivery, or nondelivery, penalties.

* * * * *

(e) (1) The domestic guaranteeing association shall be jointly and severally liable with the initial bonded carrier for pecuniary penalties, liquidated damages, duties, and taxes accruing to the United States, and any other charges imposed as the result of any shortage, irregular delivery, or nondelivery at the port of destination or port of exit of merchandise covered by a TIR carnet. Penalties imposed as liquidated damages for any shortage, irregular delivery, or nondelivery shall be computed in accordance with subparagraphs (1), (2), and (3) of paragraph (b) of this section. No claim for payment under a TIR carnet shall be made against a guaranteeing association more than 3 years after the date when the association was informed that the carnet had not been discharged, or had been discharged subject to a reservation, or that the certificate of discharge had been obtained improperly or fraudulently. However, in cases which become the subject of legal proceedings during the above-mentioned 3-year period, no claim for payment shall be made more than 1 year after the date when the decision of the court becomes enforceable.

(2) Within 90 days of the date demand for payment is made by the district director as provided by § 18.6(b)(2), the guaranteeing association shall pay the amount claimed, except that if the amount claimed exceeds the liability of the guaranteeing association under the carnet (see § 33.22(c) (1) and (3) of this chapter), the carrier shall pay the excess. The amount paid shall be refunded if, within a period of 1 year from the date on which the claim for payment was made, it is established to the satisfaction of the Commissioner of Customs that no irregularity occurred. The district director may cancel liquidated damages assessed against the guaranteeing association to the extent authorized by paragraph (d) of this section.

Section 18.11 is amended as follows: Paragraphs (a), (b), (c), (f), (g), and (h) are amended and a new paragraph (i) is added to read as follows:

§ 18.11 Entry; classes of goods for which entry is authorized; form used.

(a) Entry for immediate transportation without appraisement may be made under section 552, Tariff Act of 1930,[5] (1) for any merchandise, except explosives and prohibited merchandise, upon its arrival at a port of entry, or (2) for merchandise in general-order warehouse at any time within 1 year from the date of importation.

(b) Entry for immediate transportation without appraisement may be made by (1) the carrier bringing the merchandise to the port of arrival, (2) the carrier who is to accept the merchandise under its bond or a TIR carnet for transportation to the port of destination, or (3) any person shown by the bill of lading or manifest, a certificate of the importing carrier, or by any other document satisfactory to the district director of customs, to have a sufficient interest in the merchandise for that purpose.

(c) Before a shipment covered by an entry for immediate transportation, including a TIR carnet, or a manifest of baggage shipped in bond (other than baggage to be forwarded in bond to a customs station—see § 18.13(a)), shall be allowed to be transported directly to a place of deposit outside a port of entry for examination and release as contemplated by section 484(f), Tariff Act of 1930, as amended,[6] the consent of the district director of customs for the port of entry designated in the transportation entry or baggage manifest must first be secured. Before consent may be given, the importer must furnish such district director with a stipulation that, promptly upon the arrival of any part of the merchandise or baggage at the place of deposit, he will file an entry for the shipment at the port of entry designated in the transportation entry or baggage manifest and will comply with the provisions of § 14.2(f) of this chapter.

* * * * *

(f) One or more entire packages of merchandise covered by an invoice from one consignor to one consignee may be entered for consumption or warehouse at the port of first arrival, and the remainder entered for immediate transportation without appraisement, provided all the merchandise covered by the invoice is entered simultaneously and any TIR carnet which may cover such merchandise is discharged.

(g) Several importations may be consolidated in one immediate transportation without appraisement entry when bills of lading or carrier's certificates name only one consignee at the port of first arrival. However, merchandise moving under cover of a TIR carnet may not be consolidated with other merchandise.

(h) Either customs Form 7512 or a TIR carnet shall be used as a combined transportation entry, invoice, and manifest. If customs Form 7512 is used, a minimum of three copies shall be required at the port of origin. The district director, however, may require additional copies of customs Form 7512 or the Goods Manifest of the carnet for use in connection with the delivery of the merchandise to the bonded carrier. In lieu of additional copies of the Goods Manifest, the district director may accept copies of a bill of lading covering the merchandise. The merchandise shall be described in such detail as to enable the district director to estimate the duties and taxes, if any, due. The district director may require evidence to satisfy him of the approximate correctness of the value or quantity stated in the entry. If a TIR carnet is used, and the duties and taxes estimated to be due exceed the maximum liability of the guaranteeing association under the carnet, the provisions of § 33.22(c)(3) of this chapter shall apply.

(i) The value stated on the entry at the port of first arrival is not binding on the ultimate consignee making entry at the port of destination and does not relieve the importer of the obligation to show the correct value on entry.

Section 18.12 is amended as follows: Paragraphs (d) and (e) are amended to read:

§ 18.12 Entry at port of destination.

* * * * *

(d) (1) All importations of noncontainerized cargo, or importations of containerized cargo for multiple consignees, forwarded under immediate transportation without appraisement entries (including TIR carnets) shall be held by the bonded carrier at the port of destination until released by the district director of customs.

(2) Containerized cargo destined to one consignee may, upon approval by the district director at the port of destination of a written request by the importer, be transferred for the purpose of breaking bulk and delivering cargo to (i) the premises of the importer, (ii) a carrier who will subsequently transport the merchandise to another city, (iii) a bonded warehouse, or (iv) any other place approved for outside examination.

(e) All merchandise included in an immediate transportation without appraisement entry (including a TIR carnet) not entered within 5 days, exclusive of Sundays and holidays, after delivery of the manifest to the district director at the port of destination shall be treated as unclaimed unless the district director, with the concurrence of the carrier, authorizes in writing a longer time.

(Secs. 484, 552, 46 Stat. 722, as amended, 742; 19 U.S.C. 1484, 1552)

Paragraph (b) of § 18.13 is amended to read:

§ 18.13 Procedure; manifest.

* * * * *

(b) A customs manifest for baggage shipped in bond, customs Form 7520, shall be prepared in triplicate for each shipment. Two copies of Form 7520 and the related customs Form 7512–C (duplicate) shall be delivered to the carrier to accompany the baggage and shall be delivered by the carrier to the district director of customs at the port of destination as a notice of arrival.

* * * * *

Section 18.16(a) is amended to read:

§ 18.16 Form of withdrawal; time.

(a) Merchandise may be withdrawn from warehouse for transportation to another port of entry if withdrawal for consumption or exportation can be accomplished at the port of destination before the expiration of the warehousing period, including any lawful extension thereof. The withdrawal document shall be customs Form 7512, five copies of which shall be required at the port of origin. However, the district director at the port of origin may require an extra copy or copies to be furnished for use in connection with the delivery of the merchandise to the bonded carrier named in the withdrawal document. In the case of alcoholic beverages, two extra copies shall be required for use in furnishing the duty statement to the district director at destination. A person in whom the right to withdraw the merchandise to be so transported has not previously been vested in accordance with § 8.39 of this chapter may make such withdrawal by (1) depositing a withdrawal for transportation on which is endorsed an assent to the withdrawal by the person in whom the right of withdrawal is then vested and (2) filing with such endorsed withdrawal the bond provided for in § 8.39(a) of this chapter.

* * * * *

Section 18.19 is amended to read:

§ 18.19 Procedure.

(a) *Direct exportation.* When merchandise is withdrawn from warehouse for exportation without transportation in bond to another port, five copies of customs Form 7512, or three copies of customs Form 7506 as to merchandise being exported under cover of a TIR carnet, shall be filed. However, the district director of customs may require an extra copy or copies of Form 7512 or 7506 to be furnished for use in connection with the delivery of the merchandise to the exporting carrier named in the withdrawal document.

(b) *Indirect exportation.* (1) When merchandise is withdrawn from warehouse for transportation and exportation, five copies of customs Form 7512, or three copies of customs Form 7506 as to merchandise to be exported under cover of a TIR carnet, shall be required at the port of withdrawal. However, the district director may require an extra copy or copies to be furnished for use in connection with the delivery of the merchandise to the bonded carrier named in the withdrawal document.

(2) The merchandise shall be forwarded in accordance with the general provisions for transportation in bond, §§ 18.1–18.8.

(3) If any part of a shipment is not exported, or if a shipment is divided at the port of exportation, extracts in duplicate from the manifest on file in the customhouse shall be made on customs Form 7512 for each part, one copy to be sent to the discharging inspector and the other to the lading inspector to be used as a report of exportation. The splitting up for exportation of shipments arriving under warehouse withdrawals for transportation and exportation shall be permitted only when various portions of a shipment are destined to different destinations, when the export vessel cannot properly accommodate the entire quantity, or in other similar circumstances. In the case of merchandise moving under cover of a TIR carnet, if the merchandise is not to be exported or if the shipment is to be divided, appropriate entry shall be required and the carnet discharged. The provisions of §§ 18.23 and 18.24 shall also be followed in applicable cases.

(c) *Withdrawal statement required.* Each withdrawal for exportation or withdrawal for transportation and exportation shall contain the summary statement prescribed for withdrawals in § 8.37(b) of this chapter.

(Sec. 557, 46 Stat. 744, as amended; 19 U.S.C. 1557)

Section 18.20 is amended as follows: Paragraphs (a) and (b) are amended to read:

§ 18.20 Entry procedure; forwarding.

(a) When an importation is entered for transportation and exportation,[8] except as provided for in § 5.11 of this chapter (relating to merchandise in transit through the United States between two points in contiguous foreign territory), a TIR carnet or four copies of customs Form 7512 shall be required. The district director of customs, however, may require additional copies of customs Form 7512 or the Goods Manifest of the carnet for use in connection with the delivery of the merchandise to the bonded carrier. In lieu of additional copies of a Goods Manifest, the district director may accept copies of a bill of lading covering the merchandise. Acceptance of transportation and exportation entries shall be subject to the requirements prescribed in § 18.11(b) for entry of merchandise for immediate transportation without appraisement.

(b) Except in respect to merchandise covered by a TIR carnet (see § 18.1(a)(2)), in places where no bonded common carrier facilities are reasonably available and merchandise is permitted to be transported otherwise than by a bonded common carrier, the district director may permit entry in accordance with the procedure outlined in paragraph (a) of this section if he is satisfied that the revenue will not be endangered. A bond on customs Form 7557 in an amount

equal to double the estimated duties shall be required when the district director deems such action necessary. (See § 25.15 of this chapter for cancellation of export bonds.)

* * * * *

Section 18.24 is amended to read:

§ 18.24 Retention of goods on dock; splitting of shipments.

(a) Upon written application of a party in interest and the written consent of the owner of the dock, the district director of customs, in his discretion, may allow in-transit merchandise, including merchandise covered by a TIR carnet, to remain on the dock under the supervision of a customs officer without extra expense to the Government for a period not exceeding 90 days. Upon further application, additional extensions of 90 days or less, but not to exceed 1 year from the date of importation, may likewise be granted by the district director.[3] The district director may take possession of the merchandise at any time.

(b) The splitting up of a shipment for exportation shall be permitted when exportation in its entirety is not possible by reason of the different destinations to which portions of the shipment are destined, when the exporting vessel cannot properly accommodate the entire quantity, or in similar circumstances. In the case, however, of merchandise being transported under cover of a TIR carnet, splitting up of a shipment shall not be permitted.

(Sec. 553, 46 Stat. 742, as amended; 19 U.S.C. 1553)

Section 18.25 is amended as follows: Paragraphs (a) and (d) are amended to read:

§ 18.25 Direct exportation.

(a) Except as otherwise provided for in § 9.11(a) of this chapter, relating to exportations by mail, when no entry has been made or completed for merchandise in customs custody, or when the merchandise is covered by an unliquidated consumption entry, or when merchandise which has been entered in good faith is found to be prohibited under any law of the United States, and such merchandise is to be exported directly without transportation to another port, four copies of customs Form 7512 shall be filed. If a TIR carnet covers the merchandise which is to be exported directly without transportation, the carnet shall be discharged or canceled, as appropriate (see Part 33 of this chapter), and four copies of Form 7512 shall be filed. The district director may require an extra copy or copies of Form 7512 to be furnished for use in connection with delivery of the merchandise to the carrier named in the entry.

* * * * *

(d) If the merchandise is exported in the importing vessel without landing, a representative of the exporting carrier who has knowledge of the facts shall certify that the merchandise entered for exportation was not discharged during the vessel's stay in port. A charge shall be made against the vessel term bond, customs Form 7569, if on file, or a vessel bond on customs Form 7567 shall be given as in the case of residue cargo for foreign ports. If the merchandise is covered by a TIR carnet, the carnet shall not be taken on charge (see § 33.22(c)(2) of this chapter).

* * * * *

Paragraph (a) of § 18.26 is amended to read:

§ 18.26 Indirect exportation.

(a) When merchandise of the character enumerated in § 18.25(a) is to be transported in bond to another port for exportation, it may be entered for transportation and exportation in accordance with the procedure in § 18.20. No bond on customs Form 7557 or 7559 shall be required as the bond of the importing carrier is sufficient to insure the safekeeping of the merchandise pending its exportation. In the case of merchandise prohibited entry by any Government agency, that fact shall be prominently noted on customs Form 7512 for the information of the district director of customs at the port of exportation. If the merchandise was imported under cover of a TIR carnet, the carnet shall be discharged or canceled at the port of importation and the merchandise transported under an entry on customs Form 7512 (see § 18.25).

* * * * *

§§ 18.29, 18.30, 18.31 [Deleted]

The center head "Merchandise Arriving from a Contiguous Country in Sealed Vessels or Vehicles" and §§ 18.29, 18.30, and 18.31 are obsolete and are, therefore, deleted.

Part 18 is amended by adding a new center head and §§ 18.41 through 18.45 reading as follows:

MERCHANDISE NOT OTHERWISE SUBJECT TO CUSTOMS CONTROL EXPORTED UNDER COVER OF A TIR CARNET

§ 18.41 Applicability.

The provisions of §§ 18.41 through 18.45 apply only to merchandise exported under cover of a TIR carnet for the convenience of the U.S. exporter or other party in interest and do not apply to any merchandise otherwise required to be transported in bond under the provisions of this chapter.

§ 18.42 Direct exportation.

At the port of exportation, the container, the merchandise, and the TIR carnet shall be made available to the district director of customs. Any required export declarations shall be filed in accordance with the applicable regulations of the Bureau of the Census (15 CFR Part 30) and the Office of Export Control (15 CFR Part 386). The district director shall examine the merchandise to the extent he believes necessary to determine that the carnet has been properly completed and shall verify that the container has the necessary certificate of approval or approval plate intact and is in satisfactory condition. After completion of any required examination and supervision of loading, the district director shall cause the container to be sealed with customs seals and ascertain that the TIR plates are properly affixed and sealed. (See § 10.41c of this chapter.) In the case of heavy or bulky goods moving under cover of a TIR carnet, the district director shall cause a customs seal or label, as appropriate, to be affixed. He shall also remove two vouchers from the carnet, execute the appropriate counterfoils, and return the carnet to the carrier or agent to accompany the container.

§ 18.43 Indirect exportation.

(a) When merchandise is to move from one U.S. port to another for actual exportation at the second port, any required export declarations shall be filed in accordance with the port of origin procedure described in the applicable regulations of the Bureau of the Census and of the Office of Export Control.

(b) The district director shall follow the procedure provided in § 18.42 in respect to examination of the merchandise, supervision of loading, sealing or labeling, and affixing of TIR plates. He shall remove one voucher from the carnet, execute the appropriate counterfoil, and return the carnet to the carrier or agent to accompany the container to the port of actual exportation.

(c) At the port of actual exportation, the carnet and the container (or heavy or bulky goods) shall be presented to the district director who shall verify that seals or labels are intact and that there is no evidence of tampering. After verification, the district director shall remove the appropriate voucher from the carnet, execute the counterfoil, and return the carnet to the carrier or agent.

§ 18.44 Abandonment of exportation.

In the event that exportation is abandoned at any time after merchandise has been placed under cover of a TIR carnet, the carrier or agent shall deliver the carnet to the nearest customs office or to the customs office at the port of origin for cancellation (see § 33.26(c) of this chapter). When the carnet has been canceled, the carrier or agent may remove customs seals or labels and unload the container (or heavy or bulky goods) without customs supervision.

§ 18.45 Supervision of exportation.

The provisions of §§ 18.41 through 18.44 do not require the district director at the port of actual exportation to verify that a container (or heavy or bulky goods) moving under cover of a TIR carnet is loaded on board the exporting carrier.

PART 21—CARTAGE AND LIGHTERAGE

Section 21.8(a) is amended to read:

§ 21.8 Liability; reports of loss or damage.

(a) The cartman or lighterman conveying the merchandise, including merchandise covered by a TIR carnet which has not been "taken on charge" (see

§ 33.22(c)(2) of this chapter), shall be liable under his bond for its prompt delivery in sound condition, or in no worse than the damaged condition noted on the delivery ticket, customs Form 6043, Elliott Fisher ticket, or customs Form 7502–A, 7506, or 7512, if damage is so noted. Any negligence, dishonest or deceptive practice, or carelessness shall be cause for revocation of the license.

* * * * *

PART 25—CUSTOMS BONDS

Section 25.19 is amended to read:

§ 25.19 Cancellation of erroneous charges.

(a) When it is determined that liquidated damages assessed or paid under a bond did not in fact accrue, the charge against the bond shall be canceled by the district director of customs without regard to the amount thereof, the liquidated damages, if paid, shall be refunded by the regional commissioner of customs, and an appropriate notation shall be made on customs Form 5955 or 5955–A, if the transaction has already been recorded thereon.

(b) When it is determined that liquidated damages assessed or paid for any shortage, irregular delivery, or nondelivery of merchandise covered by a TIR carnet did not in fact accrue, the liquidated damages shall be canceled and, if paid, refunded, as provided by § 18.8 of this chapter.

(c) When it is determined that liquidated damages assessed or paid for failure to properly reexport or destroy merchandise temporarily imported under cover of an A.T.A. or E.C.S. carnet did not in fact accrue, the liquidated damages shall be canceled and, if paid, refunded, as provided by § 10.39 of this chapter.

(d) When the determination of whether or not the charge was erroneously made depends upon a construction of law, the charge shall not be canceled without Bureau approval, unless there is in force a Bureau ruling decisive of the issue. Bureau instructions shall be requested in all doubtful cases.

(Sec. 623, 46 Stat. 759, as amended; 19 U.S.C. 1623)

PART 33—CARNETS

§ 33.0 [Amended]

Section 33.0 is amended by adding the following sentence at the end thereof: "Carnets are valid in the customs territory of the United States which includes only the States, the District of Columbia, and Puerto Rico."

Section 33.1 is amended as follows: Paragraphs (d) and (e) are amended and a new paragraph (f) is added to read:

§ 33.1 Definitions.

* * * * *

(d) *A.T.A. carnet.* "A.T.A. carnet" (Admission Temporaire—Temporary Admission) means the document reproduced as the Annex to the Customs Convention on the A.T.A. Carnet for the Temporary Admission of Goods (TIAS 6631).

(e) *E.C.S. carnet.* "E.C.S. carnet" (Echantillons Commerciaux—Commercial Samples) means the document reproduced as the Annex to the Customs Convention on the E.C.S. Carnets for Commercial Samples (TIAS 6632).

(f) *TIR carnet.* "TIR carnet" (Transport International Routier) means the document reproduced as Annex 1 to the Customs Convention on the International Transport of Goods under Cover of TIR Carnets (TIAS 6633).

Section 33.2 is amended by adding paragraph (c) reading:

§ 33.2 Customs conventions.

* * * * *

(c) Customs Convention on the International Transport of Goods under Cover of TIR Carnets (hereinafter referred to as TIR Convention).

§ 33.11 [Amended]

Paragraph (a) of § 33.11 is amended by changing the caption to read "*Documents to be furnished.*" and by adding the following sentence at the end thereof: "Evidence of affiliation with an appropriate" international organization shall also be required if affiliation with such an organization is required by the Convention under which carnets are to be issued or guaranteed.

Section 33.12 is amended as follows: Paragraphs (a) and (c) are amended to read:

§ 33.12 Termination of approval.

(a) *For cause.* The Commissioner may suspend or revoke the approval previously given to any issuing association or guaranteeing association for failure or refusal to comply with the duties, obligations, or requirements set forth in its written undertaking on which the approval was based; in the applicable Customs Convention; or in the customs regulations; or upon termination of the affiliation with an appropriate international organization required by § 33.11 (a). Before such suspension or revocation, the Commissioner shall give the association a reasonable opportunity to refute the alleged failure of compliance.

* * * * *

(c) *Notice.* Notice of the suspension or revocation of the approval of an issuing association or a guaranteeing association, or of the withdrawal of an approved guaranteeing association, with respect to a Customs Convention to which the United States has acceded will be published in the FEDERAL REGISTER by the Commissioner.

Section 33.22 is amended by adding paragraph (c) reading:

§ 33.22 Coverage of carnets.

* * * * *

(c) *TIR carnet.* (1) The TIR carnet may be accepted for the transport of merchandise in road vehicles or in containers, even if the containers, without being loaded on road vehicles, are carried by other means of transport for part of the journey between the customs offices of departure and destination. The TIR carnet may also be accepted for the transport of "heavy or bulky goods" as defined in Article 1 of the TIR Convention.

(2) A TIR carnet is "taken on charge" by U.S. Customs when it is accepted as a transportation entry and when the shipment covered thereby is receipted for by the bonded carrier (see §§ 18.1, 18.2, and 18.10(a) of this chapter). Until the carnet is "taken on charge," the guaranteeing association shall have no liability to the United States under the carnet.

(3) If upon presentation of a TIR carnet, the district director of customs determines that the liability of the guaranteeing association under the carnet is less than the estimated duties and taxes due, he shall require the bonded carrier to sign for the excess under his Carrier's Bond before the carnet is "taken on charge."

Section 33.23 is amended to read:

§ 33.23 Maximum period.

(a) *A.T.A. and E.C.S. carnet.* No. A.T.A. or E.C.S. carnet with a period of validity exceeding 1 year from date of issue shall be accepted.

(b) *TIR carnet.* A TIR carnet may be accepted without limitation as to time provided it is initially "taken on charge" by a customs administration (United States or foreign) within the period of validity shown on its front cover.

Section 33.26 is amended to read:

§ 33.26 Discharge, nonacceptance, or cancellation of carnets.

(a) *Unconditional discharge.* An A.T.A. or E.C.S. carnet shall be discharged unconditionally by the district director of customs when he is satisfied that all merchandise covered thereby is reexported or destroyed. A TIR carnet shall be discharged unconditionally when all merchandise covered thereby has been properly entered, placed in general order, or exported under customs supervision. In all other cases, any discrepancy shall be noted on the appropriate counterfoil, and action shall be taken in accordance with § 10.39 or § 18.6 of this chapter.

(b) *Effect of discharge.* When a district director has discharged a carnet unconditionally by completion of the appropriate counterfoil, no claim may be brought against the guaranteeing association for payment under the carnet unless it can be established that the discharge was obtained improperly or fraudulently or, in the case of an A.T.A. or E.C.S. carnet, that there has been a breach of the conditions of temporary importation.

(c) *Nonacceptance or cancellation of TIR carnets.* If a TIR carnet presented to customs is not accepted, it shall be stamped "Not Taken on Charge" (see § 33.22(c)(2)). If merchandise not required to be transported inbond moving under cover of a TIR carnet is not exported, the carnet shall be stamped "Cancelled."

Prior to the issuance of the proposed amendment, consideration will be given

to any relevant data, views, or arguments which are submitted in writing to the Commissioner of Customs, Washington, D.C. 20226, and received not later than 30 days from the date of publication of this notice in the FEDERAL REGISTER. No hearing will be held.

[SEAL] MYLES J. AMBROSE,
Commissioner of Customs.

Approved: March 6, 1970.

EUGENE T. ROSSIDES,
Assistant Secretary of the Treasury.

[F.R. Doc. 70-3207; Filed, Mar. 16, 1970; 8:50 a.m.]

DEPARTMENT OF AGRICULTURE

Consumer and Marketing Service

[7 CFR Part 965]

TOMATOES GROWN IN LOWER RIO GRANDE VALLEY IN TEXAS

Notice of Proposed Expenses and Rate of Assessment

Consideration is being given to the approval of the expenses and rate of assessment hereinafter set forth which were recommended by the Texas Valley Tomato Committee, established pursuant to Marketing Order No. 965. Said marketing order regulates the handling of tomatoes grown in the counties of Cameron, Hidalgo, Starr, and Willacy in Texas (Lower Rio Grande Valley), 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 four copies with the Hearing Clerk, U.S. Department of Agriculture, Room 112-A, Washington, D.C. 20250, not later than March 26, 1970. 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 proposals are as follows:

§ 965.211 Expenses and rate of assessment.

(a) The reasonable expenses that are likely to be incurred by the Texas Valley Tomato Committee, established pursuant to Marketing Order No. 965, for its maintenance and functioning, and for such other purposes as the Secretary determines to be appropriate, during the fiscal period ending July 31, 1970, will amount to $400.

(b) There shall be no assessments charged during said fiscal period.

(c) The terms used in this section shall have the same meaning as when used in Marketing Order No. 965 (this Part 965).

Dated: March 12, 1970.

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

[F.R. Doc. 70-3205; Filed, Mar. 16, 1970; 8:50 a.m.]

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Food and Drug Administration

[21 CFR Part 191]

[Docket No. FDC-HS-1]

CARBON TETRACHLORIDE

Proposed Findings of Fact and Conclusions and Tentative Order Regarding Classification as Banned Hazardous Substance

Correction

In F.R. Doc. 70-2538 appearing at page 4001 in the issue of Tuesday, March 3, 1970, the following changes should be made:

1. On page 4002:

a. The first word in the 12th line of the first column reading "extinguishment" should read "extinguishant".

b. The last word in the 14th line of the second complete paragraph in the first column reading "man" should read "men".

c. In the fifth line of the second column the word "or" should read "of".

2. On page 4005 in the third column the first word of the third line from the bottom reading "member" should read "number".

3. On page 4006 the figure "51" in the penultimate line of the third complete paragraph in the first column should read "5".

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

[14 CFR Part 39]

[Docket No. 10184]

AIRWORTHINESS DIRECTIVE

British Aircraft Corporation Model BAC 1-11 200 and 400 Series Airplanes

The Federal Aviation Administration is considering amending Part 39 of the Federal Aviation Regulations by adding an airworthiness directive (AD) applicable to British Aircraft Corp. Model BAC 1-11 200 and 400 series airplanes. Cases have been reported of intermittent spurious signals from the rudder feel unit warning system. Since this condition is likely to exist or develop in other airplanes of the same type design, the proposed airworthiness directive would require modification of the warning system to introduce a time delay unit on these 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 April 16, 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 CORP. Applies to Model BAC 1-11 200 and 400 series airplanes.

To prevent intermittent spurious signals from the rudder feel unit warning system, within the next 1500 hours' time in service after the effective date of this AD, unless already accomplished, modify the rudder feel warning circuit by introducing a time delay unit in accordance with British Aircraft Corp. Model BAC 1-11 Service Bulletin No. 27-PM3917, Revision 2, dated June 30, 1969, or later ARB-approved issue, or an FAA-approved equivalent. (British Aircraft Corp. Model BAC 1-11 Alert Service Bulletin No. 27-A-PM3917 covers this subject.)

Issued in Washington, D.C., on March 10, 1970.

R. S. SLIFF,
Acting Director, Flight Standards Service.

[F.R. Doc. 70-3153; Filed, Mar. 16, 1970; 8:45 a.m.]

[14 CFR Part 71]

[Airspace Docket No. 70-SW-11]

TRANSITION AREA

Proposed Alteration

The Federal Aviation Administration is considering amending Part 71 of the Federal Aviation Regulations to alter controlled airspace in the Wichita Falls, Tex., terminal area.

Interested persons may submit such written data, views or arguments as they may desire. Communications should be submitted to triplicate to the Chief, Air Traffic Division, Southwest Region, Federal Aviation Administration, Post Office Box 1689, Forth Worth, Tex. 76101. 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 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 Chief, Air Traffic Division. 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.

The official docket will be available for examination by interested persons at the Office of the Regional Counsel, Southwest Region, Federal Aviation Administration, Fort Worth, Tex. An informal docket will also be available for examination at the Office of the Chief, Air Traffic Division.

It is proposed to amend Part 71 of the Federal Aviation Regulations as hereinafter set forth.

In § 71.181 (35 F.R. 2134), the 700-foot portion of the Wichita Falls, Tex., transition area is amended to read as follows:

WICHITA FALLS, TEX.

That airspace extending upward from 700 feet above the surface within a 20-mile radius of lat. 33°59'56" N., long. 98°30'-25" W.

The present transition area was designed for use by conventional approach control utilizing instrument approach procedures other than radar. The transition area requires enlargement to accommodate radar procedures. The proposed action will provide sufficient controlled airspace for the radar approach control facility to radar vector aircraft in the Wichita Falls terminal area.

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 Fort Worth, Tex., on March 6, 1970.

HENRY L. NEWMAN,
Director, Southwest Region.

[F.R. Doc. 70-3156; Filed, Mar. 16, 1970; 8:46 a.m.]

[14 CFR Part 71]

[Airspace Docket No. 69-WA-32]

ATLANTA, GA., TERMINAL CONTROL AREA

Supplemental Notice of Proposed Designation

On March 13, 1970, F.R. Doc. 70-3144 was published in the FEDERAL REGISTER (35 F.R. 4521) as a supplemental notice of proposed rule making setting forth a proposed terminal control area for Atlanta, Ga.

Area D described in the above notice contains no altitude information. Accordingly, the following sentence is added to the end of the description of Area D: "The floor of Area D is 6,000 feet MSL."

This amendment is proposed under the authority of sections 307(a) and 313 of the Federal Aviation Act of 1958 (49 U.S.C. 1348(a) and 1354(a)) and section 6(c) of the Department of Transportation Act (49 U.S.C. 1655(c)).

Issued in Washington, D.C., on March 13, 1970.

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

[F.R. Doc. 70-3221; Filed, Mar. 16, 1970; 8:51 a.m.]

Federal Highway Administration

[49 CFR Parts 367, 368]

[Docket No. 70-6; Notice 1]

MOTOR VEHICLE SAFETY REGULATIONS

Vehicles Manufactured in Two or More Stages

Rulemaking proceedings concerning vehicles manufactured in two or more stages by different manufacturers were initiated by a proposal published on December 2, 1967 (32 F.R. 16534), which opened Docket No. 21, Incomplete Vehicles. These proceedings culminated in an amendment to Subpart A of Part 371 and a related ruling published January 3, 1968 (33 F.R. 18, 29), that dealt only with chassis cabs. The purpose of this notice is to propose a new Part 368 to be added to title 49, which would establish requirements for furnishing and utilizing information and certification by the various manufacturers who may be involved in the assembly of multistage vehicles of various types.

A large number of heavy vehicles of all types, of recreational vehicles, and of special-purpose vehicles are manufactured in two or more stages, of which the first is an incomplete vehicle such as a stripped chassis, chassis cowl, or chassis cab to which one or more subsequent manufacturers add components to produce a complete vehicle. These vehicles present special problems in applying and enforcing motor vehicle safety standards. The vehicle standards by their nature relate to the performance of completed motor vehicles. The original manufacturer of the incomplete vehicle, generally a large scale producer with substantial automotive engineering capability, determines by his design many of the primary operating characteristics of the vehicle as it finally appears on the road. Such a manufacturer could not, however, make conclusive statements as to the performance of the final vehicle in areas such as braking, since the performance depends in part upon weight and weight distribution, about which the final manufacturer, usually a body assembler, has the last word. Final manufacturers typically are companies without extensive automotive engineering capability, many of them quite small, who cannot reasonably be expected to retest the completed vehicle for conformity to all the standards.

The present chassis-cab regulation and ruling deal with the problem where these vehicles are concerned by requiring the chassis-cab to conform to all standards, except the lighting standard, applicable to the end use for which it is intended and in effect at the time the chassis cab is completed. This approach, however, is only a partial and temporary solution—partial in that it would not work in the case of vehicles less complete than a chassis-cab, and temporary in that it will not work in respect to future standards conformity to which depends on the size, weight or body configuration of the completed vehicle. Simple allocation of responsibility for conformity to various standards between the manufacturers is unsatisfactory where conformity depends on the contribution of both, and where the extent of work performed at the different stages varies greatly from one product line to another.

A satisfactory solution should therefore place no restrictions on, and make no assumptions concerning, the contribution made at various stages of manufacture. Nor would it appear satisfactory, as some commenters have suggested, to relieve the final-stage manufacturer of all responsibility for certification. The final-stage manufacturer is free to alter the vehicle in any way, and could adversely affect its conformity to any of the standards, although he might not do so willfully or knowledgeably.

The proposed regulation would deal with these problems by placing the manufacturers after the incomplete vehicle manufacturer on notice as to the status of the vehicle's conformity to each of the standards. It would require the incomplete vehicle manufacturer to list, in a document furnished with the vehicle, each of the standards that applies to the types of final vehicle for which the incomplete vehicle is intended. Then for each standard this manufacturer would make one of the following kinds of statements: (1) That the vehicle will conform to the standard when completed if no alterations are made in specified components, (2) that the vehicle will conform under a specified set of conditions of final manufacture, or (3) that conformity with the standard is not substantially determined by the design of the incomplete vehicle and no representation is made as to conformity.

In addition, the incomplete vehicle manufacturer would provide in the document the gross vehicle weight rating and the gross combination weight rating of the vehicle, and the gross axle weight rating for each axle of the vehicle. These three values are newly defined in the proposed regulation. They are of major importance not only to the final-stage manufacturer but also to ultimate users of the vehicle, and it is expected that they will be used in other areas of the motor vehicle safety standards and regulations.

Any "intermediate manufacturer", defined as one who is neither the original manufacturer of the incomplete vehicle nor the final-stage manufacturer, would be required to note in an addendum to the document any changes needed to reflect work performed by him on the vehicle, and to pass the document along with the vehicle.

The final-stage manufacturer would be required to complete the vehicle in conformity with the standards in effect on the date of manufacture of the incomplete vehicle, or at a later date up to that of completion, at his discretion. He would also be required, as at present, to certify the conformity of the vehicle to the applicable standards. The information provided in the document would presumably enable him to do both these things knowledgeably, by observing the conditions specified as to each standard. It would be relevant to the question whether he had satisfied the statutory

standard of "due care" in respect to standards conformity to which is not his total responsibility, and could be retained by him as evidence of due care.

The label affixed by the final-stage manufacturer would contain the manufacturer's name and date of manufacture for both the incomplete vehicle and the final vehicle. It would also contain the gross vehicle weight rating, gross combination weight rating, and gross axle weight ratings of the completed vehicle, since this information is important both to users of the vehicle and to Government agencies for enforcement purposes. A new § 367.5, setting forth the labeling requirements, would replace the existing section in the Certification Regulations.

Further provisions are also proposed to deal with the situation where an incomplete vehicle manufacturer or intermediate manufacturer maintains control of the subsequent manufacturing process, and is willing to assume the legal responsibilities imposed on manufacturers by the National Traffic and Motor Vehicle Safety Act for the completed vehicle. These responsibilities include conformity of the vehicle with the safety standards, defect notification, furnishing of performance and technical data, and certification. Where the assuming manufacturer is an intermediate manufacturer, he would still be able to rely on the required document furnished by the incomplete vehicle manufacturer. Where the incomplete vehicle manufacturer assumes legal responsibility, the requirement for furnishing the document would be eliminated.

Since the primary responsibility for providing the conformity information would fall on the incomplete vehicle manufacturer, it is necessary to define this person carefully. It would not be appropriate to fix this responsibility on a person whose product as delivered did not contain, assembled, the major mechanical operating systems of the motor vehicle. The incomplete vehicle is therefore defined as containing at least the frame, power train, and steering, suspension and braking systems, and the incomplete vehicle manufacturer is, in effect, the first person to bring the vehicle to that degree of completion.

In view of the above, it is proposed that the definition of "chassis cab" in §§ 371.3, 371.7(b), 371.13, and the Ruling Regarding Chassis-Cabs appearing at 33 F.R. 29 (Jan. 3, 1968) be repealed, that a new Part 368, Vehicles Manufactured In Two or More Stages, be added to Title 49 of the Code of Federal Regulations, and that § 367.5 be revised, as set forth below. Interested persons are invited to submit comments on this proposed motor vehicle safety regulation. Comments should identify the docket and notice number and be submitted to Docket Section, Federal Highway Administration, 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 June 16, 1970, will be considered. All comments will be available in the docket at the above address for examination both before and after the closing date.

Effective date. The proposed effective date of this regulation is January 1, 1971.

This notice of proposed rulemaking is issued under the authority of sections 103, 112, 114, and 119 of the National Traffic and Motor Vehicle Safety Act (15 U.S.C. 1392, 1401, 1403, 1407), and the delegation of authority from the Secretary of Transportation to the Federal Highway Administrator, 49 CFR 1.4(c).

Issued on March 13, 1970.

F. C. TURNER,
Federal Highway Administrator.

PART 368—VEHICLES MANUFACTURED IN TWO OR MORE STAGES

§ 368.1 Purpose and scope.

The purpose of this part is to prescribe the method by which manufacturers of vehicles manufactured in two or more stages shall ensure conformity of those vehicles with the Federal motor vehicle safety standards ("standards") and other regulations issued under the National Traffic and Motor Vehicle Safety Act.

§ 368.2 Application.

This part applies to incomplete vehicle manufacturers, intermediate manufacturers, and final-stage manufacturers of vehicles manufactured in two or more stages.

§ 368.3 Definitions.

"Completed vehicle" means a vehicle that requires no further manufacturing operations to perform its intended function, other than the addition of readily attachable components, such as mirrors or wheels, or minor finishing operations such as painting.

"Final stage manufacturer" means a person who performs such manufacturing operations on an incomplete vehicle that it becomes a completed vehicle.

"Gross axle weight rating" (GAWR) means the value specified by the vehicle manufacturer as the loaded weight on a single axle measured at the tire-ground interfaces.

"Gross combination weight rating" (GCWR) means the value specified by the manufacturer as the loaded weight of a combination vehicle.

"Gross vehicle weight rating" (GVWR) means the value specified by the manufacturer as the loaded weight of a single vehicle.

"Incomplete vehicle" means an assemblage consisting, as a minimum, of frame and chassis structure, power train, steering system, suspension system, and braking system, to the extent that those systems are to be part of the completed vehicle, that requires further manufacturing operations, other than the addition of readily attachable components, such as mirrors or wheels, or minor finishing operations such as painting, to become a completed vehicle.

"Intermediate manufacturer" means a person, other than the incomplete vehicle manufacturer or the final-stage manufacturer, who performs manufacturing operations on an incomplete vehicle.

"Incomplete vehicle manufacturer" means a person who manufactures an incomplete vehicle by assembling components none of which, taken separately, constitute an incomplete vehicle.

§ 368.4 Requirements for incomplete vehicle manufacturers.

(a) The incomplete vehicle manufacturer shall furnish with the incomplete vehicle, at or before the time of delivery, a document that contains the following statements, in the order shown, and any other information required by this chapter to be included therein.

(1) Name and mailing address of the incomplete vehicle manufacturer.

(2) Month and year during which the incomplete vehicle manufacturer performed his last manufacturing operation on the incomplete vehicle.

(3) Identification of the incomplete vehicle(s) to which the document applies. The identification may be by serial number, groups of serial numbers, or otherwise, but it must be sufficient to ascertain positively that a document applies to a particular incomplete vehicle after the document has been removed from the vehicle.

(4) Gross vehicle weight rating of the completed vehicle for which the incomplete vehicle is intended.

(5) For powered vehicles, the gross combination weight rating of the completed vehicle for which the incomplete vehicle is intended. Alternatively, the following statement may be made: "This vehicle is not designed for towing a trailer."

(6) Gross axle weight rating for each axle of the completed vehicle, listed and identified in order from front to rear.

(7) Listing of the vehicle types as defined in § 371.3 of this chapter (e.g., truck, multipurpose passenger vehicle, bus, trailer) into which the incomplete vehicle may appropriately be manufactured.

(8) Listing by number of each standard, in effect at the time of manufacture of the incomplete vehicle, that applies to any of the vehicle types listed in subparagraph (7) of this paragraph, followed in each case by one of the following three types of statement, as applicable:

(i) A statement that the vehicle when completed will conform to the standard if no alterations are made in identified components of the incomplete vehicle.

Example. 107—This vehicle when completed will conform to Standard 107, Reflecting Surfaces, if no alterations are made in the windshield wiper components or in the reflecting surfaces in the interior of the cab.

(ii) A statement of specific conditions of final manufacture under which the manufacturer specifies that the completed vehicle will conform to the standard.

Example. 110—This vehicle when completed will conform to Standard 110, Tire Selection and Rims, if it does not exceed any

of the gross axle weight ratings stated above, and the tires are not replaced.

(iii) A statement that conformity with the standard is not substantially determined by the design of the incomplete vehicle, and that the incomplete vehicle manufacturer makes no representation as to conformity with the standard.

(b) The document shall be placed in or attached to the incomplete vehicle in such a manner that it will not be inadvertently detached or destroyed under normal conditions, or alternatively, it may be sent directly to a final-stage manufacturer, intermediate manufacturer or purchaser for purposes other than resale to whom the incomplete vehicle is delivered.

§ 368.5 Requirements for intermediate manufacturers.

Each intermediate manufacturer of an incomplete vehicle shall furnish the document required by § 368.4, in the manner specified in that section. If any of the changes in the vehicle made by the intermediate manufacturer affect the validity of the statements in the document as provided to him he shall furnish an addendum to the document that contains his name and mailing address and an indication of all changes that should be made in the document to reflect changes that he made in the vehicle.

§ 368.6 Requirements for final-stage manufacturers.

(a) Each final-stage manufacturer shall complete the vehicle in such a manner that it conforms to the standards in effect on the date of manufacture of the incomplete vehicle, the date of final completion, or a date between those two dates. This requirement shall, however, be superseded by any conflicting provisions of a standard that applies by its terms to vehicles manufactured in two or more stages.

(b) Each final-stage manufacturer shall certify that the entire vehicle conforms to all applicable standards, in accordance with § 367.5 of this chapter, *Requirements for manufacturers of vehicles manufactured in two or more stages.*

§ 368.7 Requirements for manufacturers who assume legal responsibility for the vehicle.

(a) If an incomplete vehicle manufacturer assumes legal responsibility for all duties and liabilities imposed on manufacturers by the National Traffic and Motor Vehicle Safety Act (15 U.S.C. 1381 1425) (hereafter referred to as "the Act"), with respect to the vehicle as finally manufactured, the requirements of §§ 368.4, 368.5, and 368.6(b) do not apply to that vehicle. In such a case, the incomplete vehicle manufacturer shall insure that a label is affixed to the final vehicle in conformity with § 367.5 (b) of this chapter.

(b) If an intermediate manufacturer of a vehicle assumes legal responsibility for all duties and liabilities imposed on manufacturers by the Act, with respect to the vehicle as finally manufactured, §§ 368.5 and 368.6(b) do not apply to that vehicle. In such a case, the manufacturer assuming responsibility shall insure that a label is affixed to the final vehicle in conformity with § 367.5(c) of this chapter. The assumption of responsibility by an intermediate manufacturer does not, however, change the requirements for incomplete vehicle manufacturers in § 368.4.

Amendment to certification regulations:

§ 367.5 Requirements for manufacturers of vehicles manufactured in two or more stages.

(a) Except as provided in paragraphs (b) and (c) of this section, each final-stage manufacturer, as defined in § 368.3 of this chapter, of a vehicle manufactured in two or more stages shall affix to each vehicle a label, of the type and in the manner and form described in § 367.4, containing the following statements:

(1) Name of final-stage manufacturer, preceded by the words "manufactured by" or "MFD BY".

(2) Month and year in which final-stage manufacture is completed. This may be spelled out, as "June 1970", or expressed in numerals, as "6/70". No preface is required.

(3) Name of original manufacturer of the incomplete vehicle, preceded by the words "Incomplete vehicle manufactured by" or "INC VEH MFD BY".

(4) Month and year in which the original manufacturer of the incomplete vehicle performed his last manufacturing operation on the incomplete vehicle, in the same form as subparagraph (2) of this paragraph.

(5) "Gross vehicle weight rating" or "GVWR", followed by the appropriate value in pounds.

(6) For powered vehicles, "Gross combination weight rating" or "GCWR", followed by the appropriate value in pounds. Alternatively, the label may state: "Not for towing trailers".

(7) "Gross axle weight rating" or "GAWR", followed by the appropriate value in pounds for each axle, identified in order from front to rear (e.g., front, first intermediate, second intermediate, rear).

(8) The statement: "This vehicle conforms to all applicable Federal motor vehicle safety standards in effect in [month, year]." The date shown shall be no earlier than the manufacturing date of the incomplete vehicle, and no later than the date of completion of final-stage manufacture.

(9) The type classification of the vehicle as defined in § 371.3 of this chapter (e.g., truck, multipurpose passenger vehicle, bus, trailer).

(b) If an incomplete vehicle manufacturer assumes legal responsibility for all duties and liabilities imposed by the Act, with respect to the vehicle as finally manufactured, the incomplete vehicle manufacturer shall insure that a label is affixed to the final vehicle in conformity with paragraph (a) of this section, except that the name of the incomplete vehicle manufacturer shall appear instead of the name of the final-stage manufacturer after the words "Manufactured by" or "MFD BY" required by paragraph (a)(1) of this section, the additional manufacturer's name required by paragraph (a)(3) of this section shall be omitted, and the date required by paragraph (a)(4) of this section shall be preceded by the words "Incomplete vehicle manufactured" or "INC VEH MFD".

(c) If an intermediate manufacturer of a vehicle assumes legal responsibility for all duties and liabilities imposed on manufacturers by the Act, with respect to the vehicle as finally manufactured, the intermediate manufacturer shall insure that a label is affixed to the final vehicle in conformity with paragraph (a) of this section, except that the name of the intermediate manufacturer shall appear instead of the name of the final-stage manufacturer after the words "Manufactured by" or "MFD BY" required by paragraph (a)(1) of this section.

[F.R. Doc. 70—3266; Filed, Mar. 16, 1970; 8:51 a.m.]

[49 CFR Part 371]

[Docket No. 69-23; Notice 1]

SEATBELT ASSEMBLIES

Motor Vehicle Safety Standard

The Administrator is considering rule making which would amend Motor Vehicle Safety Standard No. 209 in § 371.21 of Title 49, CFR, to upgrade requirements for seatbelt assemblies for use in passenger cars, multipurpose passenger vehicles, trucks, and buses.

Motor Vehicle Safety Standard No. 209 specifies requirements for seatbelt assemblies for use in passenger cars, multipurpose passenger vehicles, trucks, and buses. During the period since the issuance of the standard, laboratory tests and experience with actual seatbelt usage have disclosed areas where improvements in performance requirements can be made. The interests of motor vehicle safety would seem to require that occupants of passenger cars, multipurpose passenger vehicles, trucks, and buses to whom seatbelts are available should be able to take advantage of the added protection offered by improved seatbelts.

The proposed amendments would be effective on April 1, 1971.

On March 1, 1967, Standard No. 209 was amended to permit seatbelt assemblies to include approved hardware equivalent to the hardware specified in the original standard, which had been issued a month earlier. A purpose of the amendment was to allow inclusion of approved equivalent attachment bolts. When the standard was reissued on January 4, 1969, however, paragraph S4.1(f) exempted attachment bolts from the hardware items that could be approved equivalents (34 F.R. 115). It is now proposed to revise paragraph S4.1(f) to make it clear that approved equivalent attachment bolts may be included in conforming seatbelt assemblies.

The proposed rule would delete the requirement that attachment bolts be supplied as part of a seatbelt assembly if the assembly is designed only to replace another seatbelt assembly that conforms to Standard No. 209 and that is installed in anchorages conforming to Motor Vehicle Safety Standard No. 210. It would also allow attachment bolts to be omitted from seatbelt assemblies designed for installation only in the center position of bench seats which are equipped with outboard seatbelt assemblies that conform to Standard No. 209 and that are installed in anchorages conforming to Standard No. 210.

Under the proposal, each Type 1 or Type 2 seatbelt assembly would have to be adjustable to fit occupants whose dimensions and weight range from those of a fifth percentile adult female to those of a 95th percentile adult male.

The Administrator also proposes to issue upgraded preformance requirements in the following areas:

1. Under the proposal, paragraph S4.1(b) of the standard would be amended to require that hardware located on the pelvic restraint must be designed, constructed, and located on the seatbelt assembly to minimize the possibility of injury to the occupant. Some new designs of seatbelts incorporate attachment of the upper torso restraint into a hardware item located on the lap belt. The Administrator wants to ensure that this piece of hardware, when worn, is not located on the bony structure of the wearer's hip or at any other vulnerable location where it could cause an unnecessary bruise or laceration.

2. The standard would be amended to reduce the buckle release force from 30 to 22.5 pounds and to require that, when pushbutton buckles are tested, the release force is to be applied at a minimum of 0.125 inch from the edge of the pushbutton access opening. The purpose of the proposed reduction of the buckle release force is to make it easier to extricate an occupant in an emergency when he is suspended by the belt. Under the present procedure for testing the buckle release force of a pushbutton type of buckle, there is no restriction against applying the force at the extreme edge of the access opening. The proposed change seeks to eliminate this unrealistic locus for application of the release force.

3. The Administrator proposes to amend the test procedure relating to the crush forces buckles must withstand without releasing by (a) requiring application of the test load to areas of the buckle other than the area directly over the pushbutton; and (b) extending the standard's crush release requirements to all Type 1 and Type 2 seatbelt buckles. In tests conducted by the National Bureau of Standards on pushbutton-type buckles, buckle release or malfunction occurred when a compressive force as low as 275 pounds was applied to a surface area other than the area directly over the pushbutton. The proposed new test is intended to eliminate buckle designs that are prone to accidental damage which reduces their load-carrying capability or interferes with the buckle release. The test is also designed to reduce the possibility that the buckle will release during the initial phase of an accident.

4. The proposal would add a new buckle latch test procedure, requiring application of a tensile load at a 30° angle to the belt direction in the plane of the belt tongue. Tests have shown that the strength of some buckle latch arrangements was reduced by as much as 50 percent when the tensile force was applied in the manner specified in the proposed new test procedure. This is a serious deficiency that could result in premature belt failure during a critical crash situation.

5. The proposed amendments would change the requirements for emergency-locking retractors by (a) increasing the maximum acceleration level at which a retractor must lock from 0.5 to 2.0 gravity; (b) establishing a lower acceleration level of 1.0 gravity at which the retractor must not lock; and (c) specifying that both the upper and lower levels apply only to webbing extensions that are encountered when the seatbelt assembly is being worn. While the present 0.5 gravity acceleration level at which retractors must lock may provide some protection against minor bruises in a "panic" braking stop, it also tends to cause annoyance and inconvenience to an occupant when he attempts to don the seatbelt assembly. It also restricts freedom of normal movement. As a result, many people may be discouraged from using safety belts equipped with emergency-locking retractors. To make seatbelts so equipped more comfortable and convenient to use, the Administrator is considering increasing the acceleration level at which locking is mandatory and establishing a lower level at which the retractor must not lock. In addition, the Administrator wishes to permit a salutary recent design innovation which permits withdrawal of the first few feet of webbing before the retractor locks.

6. The Administrator is proposing to amend the standard by revising the static strength test procedure for Type 2 seatbelt assemblies. Under the revised procedure, the prescribed tensile forces would be applied simultaneously to both the pelvic and upper torso components of the assembly. Since Type 2 seatbelt assemblies perform their function as a unit, it seems reasonable to test both components simultaneously by subjecting the pelvic and upper torso restraints to the prescribed loads, particularly in the case of Type 2 assemblies having components that are common to both the pelvic and upper torso restraints.

7. The Administrator is proposing to add a new test procedure for webbing. Under the new procedure the webbing would be abraded by passing it through the buckle or other manual adjusting device. Experience has indicated that the present hex-bar test may not adequately simulate the rather severe webbing abrasion caused by some buckles.

8. Minor editorial changes are also proposed.

The Administrator proposes to make the amendments effective on April 1, 1971. On that date and thereafter, the requirement of the amended standard would apply to both seatbelt assemblies and motor vehicles equipped with seatbelt assemblies. In other words, (1) a seatbelt assembly manufactured on or after April 1, 1971, would have to conform to the standard as amended, and (2) original equipment seatbelts in a motor vehicle manufactured on or after April 1, 1971, would also have to conform to the amended standard, regardless of when those seatbelts were manufactured.

Interested persons are invited to submit written data, views, or arguments pertaining to the proposed rule. Comments on the cost of, and lead time required for, compliance are particularly invited. Comments must identify the docket (No. 69–23) and must be submitted in 10 copies to:

Docket Section, Federal Highway Administration, Room 4223, 400 Seventh Street SW., Washington, D.C. 20591.

All comments received before the close of business on June 1, 1970, will be considered by the Administrator. All comments will be available for examination in the Rules Docket at the above address before and after the closing date for comments.

In consideration of the foregoing, the Administrator proposes to amend Motor Vehicle Safety Standard No. 209 as set forth below, effective April 1, 1971.

This notice of proposed rule making is issued under the authority of sections 103, 112, and 119 of the National Traffic and Motor Vehicle Safety Act of 1966, 15 U.S.C. 1392, 1401, 1407, and the delegation of authority at 49 CFR 1.4(c).

Issued on March 10, 1970.

F. C. TURNER,
Federal Highway Administrator.

I. Subparagraphs (b), (f), and (g) of paragraph S4.1 would be revised as follows:

(b) *Pelvic restraint.* A seatbelt assembly shall provide pelvic restraint whether or not upper torso restraint is provided, and the pelvic restraint shall be designed to remain on the pelvis under all conditions, including collision or rollover of the motor vehicle. Hardware located on the pelvic restraint shall be designed, constructed, and located on the seatbelt assembly to minimize the possibility of injury to the occupant. Pelvic restraint of a Type 2 seatbelt assembly that can be used without upper torso restraint shall comply with the requirements for a Type 1 seatbelt assembly in section S4.

* * * * *

(f) *Attachment hardware.* A seatbelt assembly shall include all hardware necessary for instalation in a motor vehicle in accordance with SAE Recommended Practice, Motor Vehicle Seat Belt Installations—SAE J800b, September 1965, published by the Society of Automotive Engineers, 2 Pennsylvania Plaza, New York, N.Y. 10001, except that: (1) seatbelt assemblies designed for installation in motor vehicles

equipped with seatbelt asesmbly anchorages that conform to Federal Motor Vehicle Safety Standard No. 210 need not have anchorage hardware but must have 7/16–20 UNF–2A, 1/2–13 UNC–2A, or approved equivalent, hardware; (2) attachment bolts may be omitted from seatbelt assemblies that are designed solely as replacements for assemblies conforming to this Standard and installed in seatbelt assembly anchorages conforming to Motor Vehicle Safety Standard No. 210, if those replacement seatbelt assemblies are designed to use existing attachment bolts and are labeled as being for replacement use only; and (3) attachment bolts may be omitted from seatbelt assemblies that are designed solely for installation in the center position of bench seats, using the inside attachment bolt of each of two outboard seatbelt assemblies that conform to this Standard and that are installed in seatbelt assembly anchorages conforming to Motor Vehicle Safety Standard No. 210, if those center position seatbelt assemblies are labeled to indicate the use for which they are designed. The hardware shall be designed to prevent attachment bolts and other parts from becoming disengaged from the vehicle in service. Reinforcing plates or washers furnished for universal floor installations shall be of steel, free from burrs and sharp edges on the peripheral edges adjacent to the vehicle, not less than 0.06 inch or 1.5 millimeters in thickness or less than 4 square inches or 25 square centimeters in projected area. The distance between any edge of the plate and the edge of the bolt hole shall be at least 0.06 inch or 15 millimeters, and any corner shall be rounded to a radius of not less than 0.25 inch or 6 millimeters, or cut at a 45° angle along a hypotenuse not less than 0.25 inch or 6 millimeters in length.

(g) *Adjustment.* (1) A Type 1 or Type 2 seatbelt assembly shall be capable of snug adjustment to fit an occupant with the dimensions and weight of a fifth percentile adult female and to fit an occupant with the dimensions and weight of a 95th percentile adult male. The seatbelt assembly shall have either an adjusting device which is within the reach of the occupant and is easily operable without appreciable interference with the driving process or an automatic-locking or emergency-locking retractor. A Type 3 seatbelt assembly shall be capable of snug adjustment to fit any child capable of sitting upright and weighing not more than 50 pounds or 23 kilograms, unless it is specifically labeled for use on a child in a smaller weight range.

(2) A Type 1 or Type 2 seatbelt assembly for use in a vehicle having seats that are adjustable shall conform to the requirements of S4.1(g)(1) regardless of seat position, except that if a seat has a back that is adjustable for occupant comfort only, the test for demonstrating compliance with S4.1(g)(1) shall be conducted with the seat back in its full upright design position.

II. Subparagraphs (d), (g), and (j) of paragraph S4.3 would be revised as follows:

(d) *Buckle release.* (1) The buckle of a Type 1 or Type 2 seatbelt assembly shall release when a force of not more than 22.5 pounds or 10.2 kilograms is applied as prescribed in paragraph S5.2(d), and the buckle of a Type 3 seatbelt assembly shall release when a force of not more than 20 pounds or 9 kilograms is applied as prescribed in paragraph S5.2(d).

* * * * *

(3) The buckle of a Type 1 or Type 2 seatbelt assembly shall not release under a compressive force of 400 pounds or 180 kilograms applied as prescribed in paragraph S5.2(d)(3). The buckle shall be operable and shall meet the applicable requirements of paragraph S4.4 after the compressive force has been removed.

* * * * *

(g) *Buckle latch.* (1) When tested in accordance with the procedure specified in paragraph S5.2(g)(1), the buckle latch of a seatbelt assembly shall not fail, gall, or wear to an extent that normal latching and unlatching is impaired, and a metal-to-metal buckle shall separate by a force of not more than 5 pounds or 2.2 kilograms when it is in any position of partial engagement.

(2) When tested in accordance with the procedure specified in paragraph S5.2(g)(2)—

(i) the buckle of a Type 1 seatbelt assembly shall not fail and shall meet the applicable requirements of paragraph S4.3(d)(1) after removal of a tensile force of 2,000 pounds or 910 kilograms upon the seatbelt assembly; and

(ii) the buckle of a Type 2 seatbelt assembly shall not fail and shall meet the applicable requirements of paragraph S4.3(d)(1) after removal of a tensile force of 1,250 pounds or 570 kilograms upon the seatbelt assembly.

* * * * *

(j) *Emergency-locking retractor.* (1) Except as provided in subparagraph (2), an emergency-locking retractor of a Type 1 or Type 2 seatbelt assembly, when tested in accordance with the procedures specified in paragraph S5.2(j)—

(i) Shall lock before the webbing extends 1 inch or 2.5 centimeters when the retractor is subjected to an acceleration of 2.0 gravity or 20 meters per second per second;

(ii) Shall exert a retractive force of at least 1.5 pounds or 0.7 kilogram under zero acceleration when attached to a pelvic restraint;

(iii) Shall exert a retractive force of not less than 0.45 pound or 0.2 kilogram and not more than 1.1 pounds or 0.5 kilogram under zero acceleration upon any strap or webbing that contacts the shoulder when the retractor is attached to an upper torso restraint; and

(iv) Shall not lock when the retractor is subjected to an acceleration of 1.0 gravity or 10 meters per second per second or less.

(2) The requirements of subdivisions (i) through (iii) of subparagraph (1) must be met when the webbing or strap to which the retractor is attached is extended at or beyond the amount necessary to fit a fifth percentile adult female.

III. Paragraph 4.4 would be amended by adding the following new subparagraph:

(d) *Resistance to buckle abrasion.* After being subjected to abrasion as specified in paragraph S5.3(d), the webbing of a seatbelt assembly shall have a breaking strength not less than 75 percent of its strength before the abrasion. Breaking strength, both before and after abrasion, shall be determined in accordance with the procedure specified in paragraph S5.1(b). After the abrasion cycling is completed, the seatbelt assembly must meet the requirements of paragraphs S4.3(e) and S4.3(f).

IV. Subsections (1) and (3) of subparagraph (d) and subparagraphs (g) and (j) of paragraph S5.2 would be revised as follows:

(d) *Buckle release.* (1) Three seatbelt assemblies shall be tested to determine compliance with the maximum buckle release force requirements, following the assembly test in S5.3. After subjection to the force applicable for the assembly being tested, the force shall be reduced and maintained at 150±10 pounds or 68 ±4 kilograms on the assembly loop of a Type 1 seatbelt assembly, 75±5 pounds or 34±2 kilograms on the components of a Type 2 seatbelt assembly, or 45±5 pounds or 20±2 kilograms on a Type 3 seatbelt assembly. The buckle release force shall be measured by applying a force on the buckle in a manner and direction typical of those which would be employed by a seatbelt occupant. For pushbutton release buckles, the force shall be applied at least 0.125 inch or 3.2 millimeters from the edge of the pushbutton access opening of the buckle in a direction that produces maximum releasing effect. For lever release buckles, the force shall be applied on the centerline of the buckle lever or finger tab in a direction that produces maximum releasing effect. A hole 0.1 inch or 2.5 millimeters in diameter may be drilled through the buckle tab or lever on the centerline of the lever between 0.12 and 0.13 inch or 3.0 and 3.3 millimeters from its edge, and a small loop of soft wire may be used as the connecting link between the buckle tab or lever and the force measuring device.

* * * * *

(3) The buckle of a Type 1 or Type 2 seatbelt assembly shall be subjected to a compressive force of 400 pounds or 180 kilograms applied anywhere on a line which is coincident with the centerline of the belt extended through the buckle or on any line which extends over the center of the release mechanism and intersects the extended centerline of the belt at an angle of 60°±5°. The load shall be applied by using a cylindrical bar having a diameter of 0.75 inch or 2 centimeters and a radius of curvature of 6 inches or 15 centimeters placed with its longitudinal centerline along the test line and its center directly above the point on the buckle to which the load will be applied. The buckle shall be latched, and a tensile force of 75 pounds or 34 kilograms shall be applied to the webbing which is connected to it while the compressive force is applied. The buckles of three seatbelt assemblies shall be tested

to determine whether the assembly complies with paragraph S4.3(d)(3).

* * * * *

(g) *Buckle latch.* (1) The buckles of three seatbelt assemblies shall be opened fully and closed at least 10 times. Then the buckles shall be clamped or firmly held against a flat surface so as to permit normal movement of buckle parts, but with the metal mating plate (metal-to-metal buckles) or webbing (metal-to-webbing buckles) withdrawn from the buckle. The release mechanism shall be moved 200 times through the maximum possible travel against its stop with a force of 30±3 pounds or 14±1 kilograms at a rate which does not exceed 30 cycles per minute. The buckle shall be examined to determine compliance with the performance requirements of paragraph S4.3(g). A metal-to-metal buckle shall be examined to determine whether partial engagement is possible by means of any technique representative of actual use. If partial engagement is possible, the maximum force of separation when in such partial engagement shall comply with the requirements of paragraph S4.3(g)(1).

(2) The buckles and webbing of three seatbelt assemblies shall be tested, using a testing machine that conforms to the requirements of paragraph S5.1(b), as follows:

(i) Grip the webbing of the buckle with a split drum grip (illustrated in Figure 1) in one head of the machine.

(ii) Hold the tongue of the seatbelt assembly to the other head of the machine, using a gripping device (illustrated in Figure 9) so that the buckle is loaded at 30° to the direction of the belt and in the same plane as the belt tongue when it is latched in the buckle.

(iii) At a rate of grip separation not less than 2 inches or 5 centimeters per minute and not more than 4 inches or 10 centimeters per minute, load the seatbelt assembly until the values specified in paragraph S4.3(g)(2) are applied to it.

* * * * *

(j) *Emergency-locking retractor.* Three retractors shall be tested in a manner which permits the retractive force to be determined exclusive of the gravitational forces on hardware of webbing being retracted. The webbing shall be fully extended from the retractor, passing over or through any hardware or other material specified in the installation instructions. While the webbing is being retracted, the lowest force of retraction within plus or minus 2 inches or 5 centimeters of 75 percent extension (25 percent retraction) shall be determined. The retractor shall be subjected to an acceleration of 1.0 gravity or 10 meters per second per second while the webbing is at 25 percent extension (75 percent retraction) to determine compliance with S4.3(j)(iv). The retractor shall be subjected to an acceleration of 2.0 gravity or 20 meters per second per second within a period of 50 milliseconds, while the webbing is at 75 percent extension, and the webbing movement before locking shall be measured under the following conditions: For a retractor sensitive to webbing withdrawal, the retractor shall be accelerated in the direction of webbing withdrawal while oriented horizontally and at angles of 45°, 90°, 135°, and 180° to the horizontal plane; for a retractor sensitive to vehicle acceleration, the retractor shall be accelerated in three directions normal to each other while oriented horizontally and at angles of 45°, 90°, 135°, and 180° to the horizontal plane, unless the retractor locks by gravitational force when tilted in any direction to an angle of 45° or more.

V. The introductory clause and subsection (2) of paragraph S5.3(b) would be revised as follows:

(b) *Type 2 seatbelt assembly.* Components of three seatbelt assemblies shall be tested by applying loads simultaneously to the pelvic and upper torso restraints in the following manner:

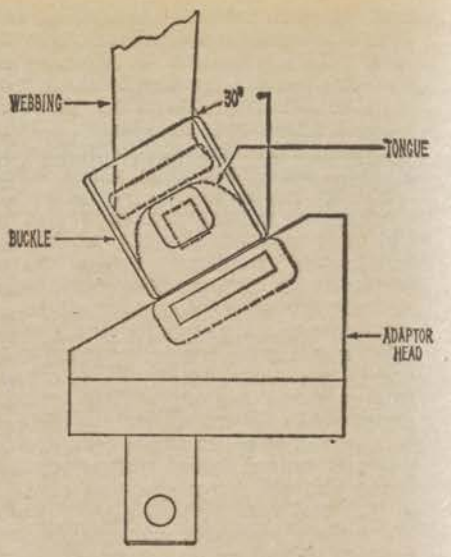
* * * * *

(2) The components of the upper torso restraint shall be subjected to a tensile force of 1,500±15 pounds or 680±5 kilograms, following the procedure prescribed above for testing pelvic restraints, and the extension between anchorages under this force shall be measured. The force shall be reduced to 75±5 pounds or 34±2 kilograms, and the buckle release force shall be measured as prescribed in S5.2(d).

VI. Paragraph S5.3 would be amended by adding the following new subparagraph:

(d) *Resistance to buckle abrasion.* Three seatbelt assemblies shall be tested for resistance to abrasion at each buckle or manual adjusting device normally used to adjust the size of the assembly. The webbing of the assembly to be used in this test shall be exposed, for at least 4 hours, to an atmosphere having relative humidity of 65±2 percent and temperature of 21°±2° Celsius or 70°±3° Fahrenheit. The webbing shall be cycled through the buckle or manual adjusting device as shown schematically in Figure 10. The anchor end of the webbing (A) shall be attached to a weight (B) of 3.0±0.1 pounds or 1.4±0.05 kilograms. The webbing shall pass through the buckle (C), and the other end (D) shall be attached to a reciprocating device so that the webbing forms an angle of 8°±2° with the hinge stop (E). The reciprocating device shall be operated for 2,500 cycles at a rate of 18±2 cycles per minute with a minimum stroke length of 6 inches and a maximum stroke length of 8 inches. The abraded webbing shall be tested for breaking strength by the procedure described in paragraph S5.1(b). Each value shall be not less than 75 percent of the breaking strength specified in S4.2(b) for the applicable belt being tested, but the median value shall be used to calculate the percentage of breaking strength retained.

VII. The following new Figures 9 and 10 would be added at the end of the standard:



BUCKLE TEST FIXTURE

FIGURE 9

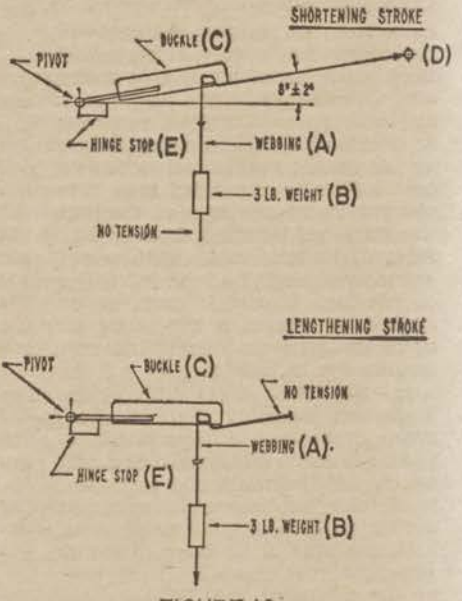


FIGURE 10

[F.R. Doc. 70-3113; Filed, Mar. 16, 1970; 8:45 a.m.]

FEDERAL RESERVE SYSTEM

[12 CFR Parts 290, 292]

FEDERAL RESERVE SYSTEM LABOR RELATIONS PANEL

Charges of Unfair Labor Practices

Notice is hereby given that the Federal Reserve System Labor Relations Panel, pursuant to the authority conferred by § 269.6(d) of the Board of Governors' Policy on Unionization and Collective Bargaining for the Federal Reserve

Banks, is considering the addition to Title 12 of the Code of Federal Regulations of a new Subchapter C, entitled "Federal Reserve System Labor Relations Panel," consisting of Part 290, entitled "Definitions," and Part 292, entitled "Rules and Regulations Pertaining to Charges of Unfair Labor Practices."

The proposed Part 292 would establish (1) procedures by which the 12 Federal Reserve Banks and their 24 branches, their employees, and labor organizations representing such employees may attempt to prevent or to remedy unfair labor practices within the meaning of the aforesaid policy; (2) conditions and time limits with which parties must comply in order to invoke or utilize these procedures; (3) procedures for the panel to expedite processing of allegations and appeals in order to afford prompt relief if warranted; (4) conditions under which the panel may contract for the services of individuals and institutions to perform investigations and conduct hearings; and (5) procedures by which the panel may provide affirmative relief or may impose administrative sanctions if violations are found and may take action to enforce compliance with its orders.

A three-level procedure is proposed. It would commence with a charge that an unfair labor practice has occurred and an investigation to determine whether formal proceedings are necessary. If so determined, a hearing on the charges would be conducted before a hearing officer who prepares and forwards to the panel a report of findings and a recommendation for disposition by the panel. The proposed rules would allow parties to request or the panel, on its own motion, to direct that one or more steps in the procedure be omitted. The use of the National Center for Dispute Settlement, a new division of the American Arbitration Association, to engage in investigations and to conduct hearings is proposed with a view to assuring all parties that proceedings will be conducted fairly and impartially and that such services will be performed with the high degree of expertise needed in this unique area of nonprivate sector labor relations.

This notice is published pursuant to section 553 of title 5, United States Code.

To aid in the consideration of this matter by the panel, interested persons are invited to submit relevant data, views, or arguments. Any such comments or material should be submitted in writing to the Federal Reserve System Labor Relations Panel, 20th Street and Constitution Avenue NW., Washington, D.C. 20551, to be received not later than 30 days from the date of publication of this notice in the FEDERAL REGISTER, after which time the panel may use any other procedures appropriate for the consideration of this matter.

Dated at Washington, D.C., this 11th day of March 1970.

By order of the Federal Reserve System Labor Relations Panel.

[SEAL] PAUL M. METZGER,
Secretary.

In accordance with § 269.6 of the "Policy on Unionization and Collective Bargaining for the Federal Reserve Banks" (hereinafter referred to as the policy) (Part 269 of this chapter) issued May 9, 1969, by the Board of Governors of the Federal Reserve System, the Federal Reserve System Labor Relations Panel (hereinafter referred to as the panel) adopts these rules to assist the Federal Reserve Banks, their employees, and representatives to understand their responsibilities and rights under the policy, to effectuate the proper administration and enforcement of the provisions of the policy, and to carry out the purposes of the policy, including the removal of recognized sources of strife and unrest by protecting the right of employees to unionize and bargain collectively.

PART 290—DEFINITIONS AS USED IN RULES AND REGULATIONS OF THE PANEL

Sec.
290.1 Party.
290.2 Party in interest.
290.3 Intervenor
290.4 Investigator.
290.5 Hearing officer.

AUTHORITY: The provisions of this Part 290 issued under sec. F(4), Policy on Unionization and Collective Bargaining for the Federal Reserve Banks, 12 CFR 269.6(d).

§ 290.1 Party.

The term "Party" means any person, employee, group of employees, organization, or bank (a) filing a charge, petition, application, or request pursuant to the rules and regulations in this part, (b) named as a party in a charge, complaint, petition, application, or request, or (c) whose intervention has been permitted or directed by the investigator, the hearing officer, or the panel, as the case may be, but nothing shall be construed to prevent the panel, or any officer designated by it, from limiting any party's participation in the proceedings to the extent of his interest as determined by the investigator, hearing officer, or panel.

§ 290.2 Party in interest.

The term "party in interest" means any person, employee, group of employees, organization, or bank that will be or is directly affected by the resolution of any charge, complaint, petition, application, or request presented to or being considered by the panel or its designated officers. Any (a) labor organization (not a charging party nor a charged party) attempting to organize the employees of a bank or that is or was recently a party to a collective bargaining agreement with a bank named as a party in a charge, complaint, petition, application, or a request, and (b) bank (not a charging party nor a charged party) that acts as the employer of any person named in a charge, complaint, petition, or request shall be deemed to be also a party in interest and shall be entitled to notification and service of all relevant procedures and documents.

§ 290.3 Intervenor.

The term "intervenor" means the party in a proceeding whose intervention has been permitted or directed by the panel or its designated officer.

§ 290.4 Investigator.

The term "investigator" means the officer designated by the panel to investigate and determine whether a complainant has established a prima facie case, pursuant to § 292.610 of this chapter.

§ 290.5 Hearing officer.

The term "hearing officer" means the officer designated by the panel to conduct hearings pursuant to § 292.420 et seq. of this chapter and whose duties and powers are enumerated in § 292.442 of this chapter.

Charges of violations of section F (of the policy):

PART 292—RULES AND REGULATIONS PERTAINING TO CHARGES OF UNFAIR LABOR PRACTICES

Sec.
292.110 Charges.
292.111 Filing of charges.
292.112 Contents of the charge.
292.113 Withdrawal or settlement.
292.120 Answer to a charge.
292.121 Contents of answer.

PRELIMINARY INVESTIGATION

292.210 Referral to National Center for Dispute Settlement.
292.220 Acceleration of proceedings; priority.
292.230 Assessment of costs; posting of bond.
292.240 The investigation.

APPEAL FROM THE CENTER'S DETERMINATION

292.310 Appeal rights.
292.320 Proceedings before the Panel.

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292.410 Notice of hearing.
292.420 Designation of hearing officer.
292.430 Contents of notice of hearing.
292.440 Conduct of hearing.
292.441 Rights of parties.
292.442 Duties and powers of the hearing officer.
292.443 Motions before or after a hearing.
292.444 Objection to conduct of hearing; other motions during hearing.
292.450 Submission of hearing officer's report to the Panel.

PANEL REVIEW OF HEARING OFFICER'S REPORT AND RECOMMENDED DECISION

292.510 Review by Panel.
292.520 Exceptions to hearing officer's report.
292.530 Briefs in support of the hearing officer's report.
292.540 Action by the Panel.

COMPLIANCE

292.610 Procedures.
292.620 Action by Panel.

GENERAL RULES

292.710 Rules to be liberally construed.
292.720 Computation of time for filing papers.
292.730 Number of copies; form.
292.731 Signature.
292.740 Service of pleading and other paper; statement of service.
292.750 Requests for appearance of witnesses and production of documents.

AUTHORITY: The provisions of this Part 292 issued under sec. F(4), Policy on Unionization and Collective Bargaining for the Federal Reserve Banks, 12 CFR 269.6(d).

§ 292.110 Charges.

A charge that any bank or labor organization, or agents or representatives of a bank or labor organization, has engaged in or is engaging in any act prohibited under § 269.6 of this chapter or has failed to take any action required required by § 269.6 of this chapter may be filed by any person, bank, bank employee, labor organization, or their representative within 60 days after the alleged violations or within 60 days after the complainant has become or should have become aware of the alleged violation.

§ 292.111 Filing of charges.

Any charge permitted by § 292.110 shall be in writing and signed. An original and three copies of such charge, together with one copy for each charged party named, shall be transmitted to the Secretary of the Federal Reserve System Labor Relations Panel, 20th Street and Constitution Avenue, NW., Washington, D.C. 20551. Within 5 days after receipt, the Secretary will cause a copy of such charge to be served on each party against whom the charge is made and upon all other potential parties in interest.

§ 292.112 Contents of the charge.

A charge shall contain the following:

(a) The full name, address, and telephone number of the person, bank, or labor organization making the charge (hereinafter referred to as the complainant) and of the person signing the charge who should state also his relation to or his capacity with the complainant. Where discrimination is alleged, all known known discriminatees should be named;

(b) The name, address, and telephone number of the bank or labor organization against whom the charge is made (hereinafter referred to as the respondent) and of any parties in interest;

(c) A clear and concise statement of the facts constituting the alleged unfair labor practice, including the time and place of occurrence of the particular acts, and a statement of the portion or portions of the policy alleged to have been violated. A charge shall not incorporate by reference affidavits or other documents submitted in support of the charge;

(d) A statement of the relief sought;

(e) A statement of any other remedies invoked for the redress of the alleged violations of the policy and the results, if any, of their invocation. If the issue in such charge is subject to an established grievance procedure, the complainant must irrevocably elect, prior to the completion of the first applicable step of the grievance procedure, whether he will invoke the grievance procedure or whether he will invoke the unfair labor practice procedures of the panel;

(f) A declaration by the person signing the charge, that its contents are true and correct to the best of his knowledge and belief, such declaration to be subject to applicable provisions of the Federal Criminal Code (18 U.S.C. 1001).

§ 292.113 Withdrawal or settlement.

(a) A charge may be withdrawn or settlement of the matter may be reached without consent of the panel at any time prior to the submission of the investigator's report to the panel made pursuant to § 292.450. Such settlement shall stipulate the occurrences which constituted the unfair labor practices and the relief accorded and shall contain the signatures of all parties that the settlement is mutually satisfactory.

(b) Once the investigator's report has been submitted to the panel the charge may not be withdrawn nor may settlement be agreed to without the written consent of the panel specifying which issues have been disposed of and whether prejudice has been ascribed.

§ 292.120 Answer to a charge.

The respondent shall have the right to file an answer to the charge with the secretary of the panel within 10 days after service of the charge. Upon application, the panel may extend the time, for good cause shown, within which the answer shall be filed. One copy of the answer shall be served on each party with proof of service furnished to the secretary, and the original, which shall be signed, and four copies shall be filed with the secretary.

§ 292.121 Contents of answer.

The answer shall contain:

(a) A specific admission, denial, and explanation of each allegation in the charge, or if the respondent is without knowledge thereof, he shall so state and such statement operates as a denial. Admission of denials may be to all or part of an allegation but shall be responsive to the substance of the allegation;

(b) A specified, detailed statement of any affirmative defense;

(c) A clear and concise statement of the facts and matters of law relied upon constituting the grounds of defense.

Any allegation of the charge not denied in the answer shall be deemed admitted and may be so found by the panel.

PRELIMINARY INVESTIGATION

§ 292.210 Referral to National Center for Dispute Settlement.

(a) Within 5 days after the answer to the charge has been or should have been filed, the panel may refer the matter, accompanied by a general or particularized request, to the National Center for Dispute Settlement of the American Arbitration Association (hereinafter referred to as the Center) to make an investigation and to determine whether the complainant has established a prima facie case warranting formal proceedings.

(b) For the purposes of this part, a "prima facie case" means a case where allegations that have been presented given reasonable cause to believe that an unfair labor practice may have occurred, but where formal proceedings are necessary to determine whether the allegations would still warrant the same conclusion upon full development of the facts and full opportunity for rebuttal and explanation. The Center may use its own personnel or may hire individuals on a contract basis to conduct such investigations. The panel may consolidate or sever proceedings conducted pursuant to this part.

§ 292.220 Acceleration of proceedings; priority.

Charges involving a "refusal to bargain" allegation and charges that would require, if sustained, the setting aside of an election or the conducting of a new election shall be given priority. The parties, individually or jointly, may petition the panel at any time to invoke immediately the formal hearing procedures set forth in § 292.410. They may also petition the panel to entertain the matter itself without prior investigation and/or without the formal hearing procedure set forth in § 292.410. The panel is empowered also on its own motion to so accelerate disposition of the case.

§ 292.230 Assessment of costs; posting of bond.

(a) The panel shall normally bear the costs of an investigation conducted pursuant to § 292.200, but the panel may require that the complainant, the respondent, and/or other parties or intervenors, or several of them, shall bear a portion or all of the costs therefor. With respect to each complaint where an investigation is directed by the panel, the complainant may, in the discretion of the panel, be required to file a cost bond, or equivalent security, of $500, unless the panel fixes a different amount.

(b) Among the circumstances that may be the basis for payment of costs by other than the panel are cases where a clearly spurious charge has been filed or where the filing of a charge was necessary to redress the respondent's flagrant misconduct.

(c) The bond or equivalent security shall be to secure the payment of the costs of the investigation as may be assessed by the panel. In those cases where the panel does not assess such costs, the bond posted and the cost thereof shall be reimbursed to the complainant. The panel may require also the positing of a cost bond by the respondent or other party to the proceeding, who shall be entitled to reimbursement of the cost of the bond in the event that no costs of investigation are assessed upon such party by the panel.

(d) Notification of the panel's decision that a bond shall be required shall be effected by registered mail, such notice to advise of the amount of the bond required and the period by which it shall be posted.

(e) Absent good cause shown, failure of a party to file timely such cost bond or equivalent security may be ground for dismissal or other administrative sanctions deemed appropriate by the panel.

§ 292.240 The investigation.

(a) The purpose of the investigation is to ascertain, analyze, and apply the

relevant facts in order to determine whether formal proceedings are warranted. In so doing, the investigator is not limited to the allegations set forth in the charge and may advise the complainant to amend his charge. In addition, he should adduce facts pertaining to the remedy as well as to the alleged violation. Investigation should also adduce facts pertaining to the jurisdiction of the panel and the timeliness of the charge. If the charge is untimely on its face, no investigation shall be required except to determine whether attending circumstances warrant waiving the time requirements, set forth in § 292.110. The investigator may require the appearance of parties and witnesses, may cause the production of relevant documents, and may take or cause depositions to be taken.

(b) When the investigation has been completed, The Center shall issue a written determination whether the complainant has established a prima facie case, whether the charge was timely filed, and whether the charge is within the jurisdiction of the panel, and reasons therefor. This determination shall be served upon the panel and all parties. The panel shall receive also the complete report of the investigator.

APPEAL FROM THE CENTER'S DETERMINATION

§ 292.310 Appeal rights.

Where the investigator has found that a prima facie case does not exist, a party, including an intervenor but excluding the respondent or other parties having the same interest as the respondent, within five days after receiving The Center's determination may petition the panel to set aside the determination and to cause formal proceedings, set forth in § 292.410, to be invoked. The panel may grant such petition only on grounds that The Center or its agents were arbitrary, capricious, or acted contrary to law or the policy, or that the investigator's determination is clearly erroneous. The filing requirements for such a petition shall be the same as that for the filing of a charge, as set forth in § 292.111.

§ 292.320 Proceedings before the panel.

The panel shall issue its decision within 15 days after the receipt of such petition or by the end of that period shall announce that it will require briefs by the parties. Such announcement shall specify the requirements as to contents of the briefs, and the time for submission, which shall vary to meet the circumstances of the matter appealed. The panel, at such time, may also require oral argument or the production of evidence or may so order oral argument and/or the production of evidence after examination of the briefs. The panel shall issue its final decision within 20 days after briefs have been filed, evidence has been produced, or oral argument has been conducted.

FORMAL PROCEEDINGS

§ 292.410 Notice of hearing.

If formal proceedings are found to be needed under the above procedures, and if no satisfactory settlement has been reached within 5 days after finding that a prima facie case exists, the secretary of the panel, unless there is cause for granting an extension of time, shall issue and cause to be served upon the parties a notice of hearing. The panel shall appoint, pursuant to § 292.420, a hearing officer to hold a hearing and issue a report to the panel containing findings of fact, conclusions of law, and recommendations including, where appropriate, remedial action to be taken and notices to be posted. The secretary shall furnish to the hearing officer the investigator's report and all other relevant information in the panel's possession.

§ 292.420 Designation of hearing officer.

(a) The panel, absent special circumstances, shall employ The Center to select the hearing officer to conduct the hearing at a site most convenient to the parties and witnesses. The individual who performed the investigation, pursuant to § 292.210, shall not be barred from acting as a hearing officer on the same matter. The selection of the hearing officer, to the extent practicable, shall be done with the concurrence of the parties.

(b) Any party may request the hearing officer, at any time following his designation and before the filing of his decision, to withdraw on grounds of previously demonstrated personal bias, conflict of interest, or prejudice by filing with him promptly upon the discovery of the alleged facts a timely affidavit setting forth in detail the matters alleged to constitute grounds for disqualification. If, in the opinion of the hearing officer, such affidavit is filed with due diligence and is sufficient on its face, he shall forthwith disqualify himself and withdraw from the proceeding. If he does not so withdraw, he shall so rule upon the record, stating the grounds for his ruling and proceed with the hearing, or, if the hearing has closed, he shall proceed with the issuance of his decision which shall be subject to the same review by the panel that is given to the rest of his decision.

(c) The costs of conducting the hearing and of the hearing officer shall be borne by the panel. Witness fees and expenses shall be paid by the party at whose instance the witnesses appear.

§ 292.430 Contents of notice of hearing.

The notice of hearing shall include:

(a) A copy of the charge;

(b) A statement of the time of the hearing which shall be not less than 10 days after service of the notice of hearing, except in extraordinary circumstances. All charges involving a "refusal to bargain" allegation and all charges, if sustained, that would require the setting aside of an election, or the conducting of a new election shall be given first priority;

(c) A statement of the place and nature of hearing;

(d) A statement of the legal authority and jurisdiction under which the hearing is to be held;

(e) A reference to the particular section of the policy and rules and regulations of this chapter involved;

(f) A copy of the determination, if any, made causing the invocation of these formal proceedings.

§ 292.440 Conduct of hearing.

(a) Hearing shall be public unless otherwise ordered by the hearing officer or the panel. An official reporter shall make the only official transcript of such proceedings.

(b) Copies of the official transcript will not be provided to the parties, but may be purchased by arrangement with the official reporter or with such costs as the panel may otherwise assess or may be examined in the offices of the panel and/or the hearing officer subject to such conditions as it may prescribe.

(c) A complainant in asserting that an unfair labor practice has been committed within the meaning of the policy, shall have the burden of proving the allegations of the charge, or the amended charge, by a preponderance of the evidence.

(d) The parties shall not be bound by the technical rules of evidence, but the hearing officer may, in his discretion, exclude any evidence or offer of proof if he finds that its probative value is substantially outweighed by the risk that its admission will either necessitate undue consumption of time or create substantial danger of undue prejudice or confusion. The hearing officer shall give effect to the rules of privilege and confidentiality recognized by law.

§ 292.441 Rights of parties.

(a) Any party shall have the right to appear at such hearing in person, by counsel, or by other representative, to call, examine, and cross-examine witnesses as may be required for a full and true disclosure of the facts, and to introduce into the record documentary or other relevant evidence, except that the participation of any party shall be limited to the extent permitted by the hearing officer. Five copies of such documentary evidence shall be submitted unless the hearing officer permits a reduced number for good cause shown.

(b) Any party shall be entitled, upon request, to a reasonable period at the close of the hearing for oral argument, which shall be included in the stenographic report of the hearing.

(c) Any party shall be entitled to file a brief to the hearing officer within 7 days after the close of the hearing, but no reply brief may be filed except upon special permission of the hearing officer. A party filing a brief must file the original and one copy with the hearing officer along with proof of service of a copy of such brief to all parties. Requests for extension of time to file briefs must be made to the hearing officer who must receive the request at least 3 days prior to the expiration of time fixed for filing of briefs and notice of the request shall be served simultaneously on all other parties, and proof of service shall be furnished. If a request for extension of time is based on the need for a copy of the transcript prior to filing a brief, such

request must be made to the hearing officer before the hearing is closed and must be ruled on prior to the close of the hearing.

§ 292.442 Duties and powers of the hearing officer.

The hearing officer shall inquire fully into the facts as to whether the respondent has engaged or is engaging in an unfair labor practice as set forth in the charge or the amended charge. The hearing officer shall have authority, with respect to cases assigned to him, between the time he is designated and transfer of the case to the panel, subject to the rules and regulations in this part, to:

(a) Administer oaths and affirmations;

(b) Grant requests to require attendance of witnesses and production of documents;

(c) Rule upon petitions to quash requests made pursuant to paragraph (b) of this section;

(d) Call, examine, and cross-examine parties and witnesses as may be required for a full and true disclosure of the facts and to introduce into the record documentary or other evidence;

(e) Rule upon offers of proof and receive relevant evidence;

(f) Take or cause depositions to be taken whenever the ends of justice would be served thereby;

(g) Limit lines of questioning or testimony which are repetitive, cumulative or irrelevant;

(h) Regulate the course of the hearing and, if appropriate or necessary, exclude persons or counsel from the hearing for contemptous conduct and strike all related testimony of witnesses refusing to answer any proper question;

(i) Hold such prehearing conferences as may be necessary to expedite proceedings and hold such other conferences for the settlement or simplification of the issues by consent of the parties or upon his own motion;

(j) Dispose of procedural requests, motions, or similar matters which shall be made part of the record of the proceeding, including motions referred to the hearing officer by the panel, and motions to amend pleadings, also to recommend dismissal of cases or portions thereof, and to order hearings reopened or, upon motion, consolidated prior to issuance of the hearing officer's report and recommendations;

(k) Request the parties at any time during tthe hearing to state their respective positions concerning any issue in the case or theory in support thereof;

(l) Require the parties, if necessary, to file written briefs in support of their positions;

(m) Take any other action necessary under the foregoing and authorized by the rules and regulations in this part.

In the event the hearing officer designated to conduct the hearing becomes unavailable, the panel may designate another hearing officer for the purpose of further hearing or issuance of a report and recommendation on the records as made, or both.

§ 292.443 Motions before or after a hearing.

All motions (including motions for intervention), other than those made during a hearing, shall be made in writing to the secretary of the panel, shall briefly state the relief sought, shall set forth the grounds for such motion, and shall be accompanied 3 days thereafter by proof of service on all parties. Answering statements, if any, must be served on all parties and the original thereof, together with two copies and statement of service, shall be filed with the secretary within 5 days after service of the moving papers, unless the secretary directs otherwise. Motions may be referred to the hearing officer whose ruling shall be made upon the record or the motion may be stayed until such time as the panel reviews the hearing officer's report and recommendations.

§ 292.444 Objection to conduct of hearing; other motions during hearing.

Any objection with respect to the conduct of the hearing, including any objection to the introduction of evidence, or any other motion during the course of the hearing, including a request to allow intervention, may be stated orally or in writing accompanied by a short statement of the grounds for such objection, and included in the record. No such objection shall be deemed waived by further participation in the hearing and such objection shall not stay the conduct of the hearing. Automatic exceptions will be allowed to all adverse rulings and shall be considered by the panel upon its review of the hearing officer's report and recommendations, if exception to the ruling is included in a statement of exceptions submitted to the panel after the close of the hearing, subject to the requirements of § 292.520.

§ 292.450 Submission of hearing officer's report to the Panel.

After the close of the hearing, and the receipt of briefs, if any, the hearing officer shall prepare a report and recommendations, containing findings of fact, conclusions of law, including judgments as to the credibility of witnesses where appropriate, and the reasons or basis therefor, and recommendations as to the disposition of the case, and, where appropriate, including the remedial action and notices to be posted. After he has caused his report and recommendations to be served promptly on all parties to the proceeding, he shall transfer the case to the panel including his report and recommendations and the complete record. Such submission shall be made within 20 days after the close of the hearing and the receipt of briefs, if any, unless otherwise extended by the panel. The record shall include the charge, notice of hearing, service sheet, motions, rulings, orders, official transcript of the hearing, stipulations, objections, depositions, documentary evidence, exhibits, and any briefs or other documents submitted to the parties.

PANEL REVIEW OF HEARING OFFICER'S REPORT AND RECOMMENDED DECISION

§ 292.510 Review by Panel.

The panel shall review the report and recommendations of each hearing officer, the record of the hearing, and such other documents as enumerated in § 292.450, whether or not any party files an appeal, unless the parties file with the panel a settlement agreement within 10 days after service of the hearing officer's report upon them. In the course of such review, the panel may require oral argument or written briefs on any relevant issue within such time limits as the panel may prescribe, and may reopen the record in any case and receive further evidence.

§ 292.520 Exceptions to hearing officer's report.

(a) Any party may file with the panel exceptions to the hearing officer's report and recommendations, and any ruling contained therein, if made within 10 days after service of the report and recommendations. The panel may, for good cause shown, extend the time for filing such exceptions upon written request, with copies served simultaneously on the other parties, received not later than 3 days before the date exceptions are due. Requests for oral argument will not be considered unless filed with exceptions.

(b) Any exception to a ruling, finding, conclusion, or recommendation which is not specifically urged shall be deemed to have been waived, although the panel may on its own motion rule upon any matter in the report and recommendations.

(c) Any exception which fails to comply with the following requirements may be disregarded:

(1) The exceptions shall set forth specifically the questions of procedure, fact, law, or policy to which exceptions are taken;

(2) The exceptions shall identify the part of the hearing officer's report to which objection is made;

(3) The exceptions shall designate by precise citation of page the portions of the record relied on, shall state the grounds for the exceptions, and shall include the citation of authorities unless set forth in a supporting brief.

(d) Any brief in support of exceptions shall contain no matter not included within the scope of the exceptions and shall contain in the order indicated, the following:

(1) A concise statement of the case containing all that is material to the consideration of the questions presented;

(2) A specification of the questions involved and to be argued;

(3) The argument, presenting clearly the points of fact and law relied on in support of the position taken on each question, with specific page reference to the transcript and the legal or other material relied on.

(e) Answering briefs to the exceptions, and cross-exceptions and supporting briefs will not be permitted without special leave of the panel. Requests for oral

argument will not be considered unless accompanying such petition for special leave.

(f) Five copies of exceptions and briefs must be filed with the panel along with a statement of service of copies of the exceptions and supporting briefs upon all parties.

§ 292.530 Briefs in support of the hearing officer's report.

Any party may file a brief in support of the hearing officer's report and recommendations subject to the same time limits and rules pertaining to filing exceptions and briefs in support thereof, as set forth in § 292.520.

§ 292.540 Action by the panel.

After considering the hearing officer's report and recommendations, the record, and other documents, any exceptions filed, and any oral argument permitted, the panel shall issue its written decision. Upon finding that the respondent is engaging in or has engaged in an unfair labor practice, the panel shall order the respondent to cease and desist from such conduct and may require the respondent to take such affirmative corrective action as the panel deems appropriate to effectuate the policy. Such action by the panel may include, but shall not be limited to, orders to provide back pay, reinstatement, set aside an election, bargain, and award recognition. Upon finding no violation of the policy, the panel shall dismiss the case. The panel's decision and order setting forth the remedial action, if any, required shall be conspicuously posted by the parties.

COMPLIANCE

§ 292.610 Procedures.

Where remedial action is ordered or provided for in a settlement agreement, a report to the panel that such action has been taken and that compliance with the decision and orders of the panel has been effected shall be submitted within the period of time specified in the panel's decision. The panel is empowered to utilize whatever administrative procedures it deems necessary to ascertain compliance.

§ 292.620 Action by panel.

In any case where it is found, after a hearing, that the respondent has failed to comply with the final decision and order of the panel, the panel shall be empowered to take whatever action may be appropriate and shall expect the full cooperation of the Board of Governors of the Federal Reserve System in obtaining such compliance. Among the actions that may be taken by the panel against a noncomplying respondent labor organization, after a show cause hearing, may be suspension of that labor organization's checkoff privileges or recognition as exclusive bargaining representative for such period of time as determined by the panel.

GENERAL RULES

§ 292.710 Rules to be liberally construed.

(a) Whenever the panel finds that unusual circumstances or good cause exist and that strict compliance with the terms of the rules and regulations in this part will work an injustice or unfairness, it shall construe the rules and regulations in this part liberally to prevent injustices and to effectuate the purposes of the policy.

(b) When an act is required or allowed to be done at or within a specified time, the panel may at any time, in its discretion, order the period altered where it shall be manifest that strict adherence will work surprise or injustice or interfere with the proper effectuation of the policy.

§ 292.720 Computation of time for filing papers.

In computing any period of time prescribed by or allowed by the panel, the day of the act, event, or default after which the designated period of time begins to run, shall not be included. The last day of the period so computed is to be included, unless it is a Saturday, Sunday, or the applicable local legal holiday in which event the period shall run until the end of the next day which is neither a Saturday, Sunday, or legal holiday. When the period of time prescribed, or allowed, is less than 7 days, intermediate Saturdays, Sundays, and legal holidays shall be excluded from the computations. When the rules and regulations in this part require the filing of any paper, such document must be received by the panel or the officer or agent designated by it to receive such matter before the close of business of the last day of the time limit, if any, for such filing or extension of time that may have been granted.

§ 292.730 Number of copies; form.

Except as otherwise provided in the regulations in this part, any documents or papers shall be filed with four copies in addition to the original. All matters filed shall be printed, typed, or otherwise legibly duplicated; carbon copies of typewritten matter will be accepted if they are clearly legible.

§ 292.731 Signature.

The original of each document filed shall be signed by the party or by an attorney or representative of record for the party, or by an officer of the party and shall contain the address and telephone number of the person signing it.

§ 292.740 Service of pleading and other paper; statement of service.

(a) *Method of service.* Notices of hearings, decisions, orders, and other papers may be served personally or by registered or certified mail or by telegraph.

(b) *Upon whom served.* Unless otherwise provided in the rules and regulations in this part, all papers except complaints, petitions, and papers relating to requests for appearance or production of documents, shall be served upon all counsel of record and upon parties not represented by counsel or by their agents designated by them or by law and upon the panel, or its designated officers or agents, where appropriate. Service upon such counsel or representative shall constitute service upon the party, but a copy also shall be transmitted to the party.

(c) *Proof of service.* The party or persons serving the papers or process shall submit simultaneously to the panel or its designated representative, or the individual conducting the proceeding, a written statement of such service. Failure to file a statement of service shall not affect the validity of the service. Proof of service, except where otherwise provided, shall be required only if subsequent to the receipt of a statement of service a question is raised with respect to proper service.

§ 292.750 Requests for appearance of witnesses and production of documents.

Parties may request appearance of witnesses and production of documents by filing application therefor, depending upon the stage of the proceedings at which the request is made, with the officer conducting the investigation or hearing, or with the panel. Such application shall name and identify the witnesses or documents sought and shall briefly state the need for such appearance or production. The officer with whom such request is filed shall rule upon each such request and the record of the proceeding shall contain a record of that ruling and the basis therefor. The record shall also contain a statement of reasons for any request for the appearance of witnesses or production of documents initiated by a presiding officer. In the event that any party or representative thereof or other person fails to comply with the request of a presiding officer for an appearance or production of documents: (a) All evidence otherwise received by the presiding officer on behalf of a party, representative thereof, or other person so failing to comply may be disregarded or may be assigned appropriate weight relevant to any issue; and/or (b) the panel may take such remedial or enforcement action as may be appropriate in the circumstances.

Effective date. The rules and regulations in this part shall take effect _____.

[F.R. Doc. 70-3158; Filed, Mar. 12, 1970; 10:54 a.m.]

SECURITIES AND EXCHANGE COMMISSION

[17 CFR Part 240]

[Release No. 34-8835]

INITIAL USE OF MICROFILM RECORDS

Notice of Proposed Rule Making

Notice is hereby given that the Securities and Exchange Commission has under consideration a proposal to amend Rule 17a-4(f) (17 CFR 240.17a-4(f)) under the Securities Exchange Act of 1934 ("Exchange Act") to permit, upon specified conditions, the books and records of brokers and dealers to be initially maintained and preserved in the form of microfilm in lieu of hard copy paper print-out.

The Commission has been advocating and encouraging the use of automation in many facets of the securities business,[1] including the maintenance of books and records,[2] for effecting economies and efficiencies as well as for improving service of the broker-dealer community to the public. Consistent with that objective, the staff has granted "no action" requests under the bookkeeping rules (Rules 17a–3 (17 CFR 240.17a–3) and 17a–4 (17 CFR 240.17a–4) under the Exchange Act), to permit variations from the rules in recognition of recent developments of microfilm technology.[3] In each instance, the variations which have been permitted were accompanied by conditions to preserve the basic safeguards designed by those rules for the protection of public investors.

Newly developed microfilm systems translate data from magnetic tape to readable text on the face of a cathode ray tube from which it is photographed on microfilm tape at high speeds. No hard copy is produced, but the microfilm is developed quickly and reader-printers are available on which the microfilm can be read and facsimile enlargements can be made quickly. In addition, an entire reel of microfilm tape can be quickly copied from the master reel. Microfilm records also can be produced in much less time than is required to prepare hard copy records on computer printers. Another application involves rapid preparation of microfilm from records which are initially in hard copy form. The retention of reels of microfilm as against bulky hard copy records should enable an organization to effect substantial savings in storage space and man-hours.

The Commission is of the view that experience with this matter on a case-by-case basis is sufficient to warrant the amendment of Rule 17a–4(f) under the Exchange Act. It would be a condition of the amendment as proposed that a broker-dealer availing himself of this procedure shall have readily available at all times appropriate reader-printer equipment for Commission examination of the records, as well as equipment for hard copy reproduction which is to be promptly furnished upon a request of the Commission, its examiners or other representatives. Moreover, as added protection against possible loss of records, the proposed amendment provides that duplicate copies be made of all microfilm tapes on a current basis and that the extra copies be stored separately.

In its present form, Rule 17a–4 requires the preservation in hard copy form of all records required to be maintained and preserved by Rules 17a–3 and 17a–4, except that the provisions of paragraph (f) of Rule 17a–4 permit the substitution of microfilm after a period of 2 years following the creation of the hard copy record. By the proposed amendment, the hard copy maintenance and preservation requirements would be relaxed to permit the microfilming process to be used for the initial maintenance and to authorize compliance with the preservation requirements of Rule 17a–4 in the form of immediate microfilm substitution for the hard copy record.

Persons who desire to avail themselves of the provisions of the proposed rule might, for general guidance on the matter of microfilm quality and care, refer to items 5 (g) and (h) under the caption, "General Instructions" contained in Accounting Series Release No. 84 (17 CFR 257.315).

As proposed, paragraph (f) of § 240.17a–4 of Chapter II of Title 17 of the Code of Federal Regulations would be amended to read as follows:

§ 240.17a–4 Records to be preserved by certain exchange members, brokers and dealers.

* * * * *

(f) The records required to be maintained and preserved pursuant to § 240.17a–3 and this § 240.17a–4 may be immediately produced or reproduced on microfilm and be maintained and preserved for the required time in that form. If such microfilm substitution for hard copy is made by a member, broker, or dealer, he shall (1) at all times have available for Commission examination of his records, pursuant to section 17(a) of the Act, facilities for immediate, easily readable projection of the microfilm and for producing easily readable facsimile enlargements, (2) arrange the records and index and file the films in such a manner as to permit the immediate location of any particular record, (3) be ready at all times to provide, and immediately provide, any facsimile enlargement which the Commission by its examiners or other representatives may request, and (4) store separately from the original, one other copy of the microfilm for the time required.

All interested persons are invited to submit their views and comments on the above proposal, in writing, to the Securities and Exchange Commission, Washington, D.C. 20549, on or before April 15, 1970. All such communications will be considered available for public inspection.

(Secs. 17(a), 23(a), 48 Stat. 897, 901, as amended; 49 Stat. 1379, 15 U.S.C. 78q, 78w)

By the Commission.

[SEAL] ORVAL L. DUBOIS, *Secretary.*

MARCH 6, 1970.

[F.R. Doc. 70–3151; Filed, Mar. 16, 1970; 8:45 a.m.]

[1] See SEC Report of Special Study of Securities Markets (1963) (Special Study), part 2, pp. 358, 668–9 and 678.

[2] See Special Study, part 4, p. 590.

[3] The attitude of the staff as respects the microfilming of computer generated records has been reported publicly. See, for example, page 8 of the booklet published by the Association of Stock Exchange Firms entitled, "Guide to the Rules and Regulations Governing the Retention of Records" (1969).

[17 CFR Part 274]

[Release No. IC–5996]

FORMS FOR USE BY INSURANCE COMPANIES MAINTAINING OR PROPOSING TO MAINTAIN CERTAIN SEPARATE ACCOUNTS

Notice of Proposed Rule Making

Notice is hereby given that the Securities and Exchange Commission has under consideration the adoption of (1) Form N–6E–1 (17 CFR 274.301) for the required Notification and (2) Form N–6E–2 (17 CFR 274.302) for the required report under the Investment Company Act of 1940 ("Act") by any insurance company which maintains or proposes to maintain a separate account with respect to which exemption from registration under Rule 6e–1 (17 CFR 270.6e–1) under the Act is claimed.

On July 15, 1969, the Commission adopted Rule 6e–1 (Investment Company Act Release No. IC–5741) (34 F.R. 13019), which relates to certain separate accounts of insurance companies in which employer or employee contributions under qualified pension and profit-sharing plans are held and invested, and also simultaneously adopted, as set forth in the same release, temporary Form N–6E–1(T). The Commission found that adoption of Form N–6E–1(T) was appropriate in the public interest and consistent with the protection of investors and that notice and procedure pursuant to 5 U.S.C. 553 was not necessary. However, before adopting a permanent form, the Commission believes it appropriate to receive comments thereon from the public and other interested persons.

Proposed Form N–6E–1 (§ 274.6e–1 of this chapter) is the notification of claim of exemption required by paragraph (b)(1) of § 270.6e–1 of this chapter. It is substantially the same as Form N–6E–1(T) and, when adopted, will supersede Form N–6E–1(T). Proposed Form N–6E–2 (§ 274.6e–2 of this chapter) is the report required by paragraph (b)(2) of § 270.6e–1 of this chapter.

The proposed forms would be adopted pursuant to the authority granted to the Commission in sections 6(c), 6(e) and 38(a) of the Act (15 U.S.C. 80a–6, 80a–37). Copies of Release No. IC–5996 setting forth the text of Forms N–6E–1 and N–6E–2 have been filed with the Office of the Federal Register and copies of such release may be obtained on request from the Securities and Exchange Commission, Washington, D.C. 20549.

Part 274 and Chapter II of Title 17 of the Code of Federal Regulations would be amended as follows:

I. The table of contents under Part 274 of Chapter II of Title 17 of the Code of Federal Regulations would be amended by adding the following new subpart immediately following the description of § 274.217.

Subpart D—Forms for Exemptions

Sec.
274.301 Form N–6E–1, notification of claim of exemption filed pursuant to Rule 6e–1 (§ 270.6e–1 of this chapter).
274.302 Form N–6E–2, report filed pursuant to Rule 6e–1 (§ 270.6e–1 of this chapter) by an insurance company establishing a separate account for which it has filed a notification of claim of exemption on Form N–6E–1 (§ 274.301).

II. A new Subpart D would be added under Part 274 of Chapter II of Title 17 of the Code of Federal Regulations reading as follows:

Subpart D—Forms for Exemptions

§ 274.301 Form N–6E–1, notification of claim of exemption filed pursuant to Rule 6e–1 (§ 270.6e–1 of this chapter).

This form shall be filed with the Commission as required by section 270.6e–1 of this chapter by each insurance company with respect to each separate account for which it claims an exemption under the Act pursuant to said section 270.6e–1.

§ 274.302 Form N–6E–2, report filed pursuant to Rule 6e–1 (§ 270.6e–1 of this chapter) by an insurance company establishing a separate account for which it has filed a notification of claim of exemption on Form N–6E–1 (§ 274.301).

This form shall be filed with the Commission as required by section 270.6e–1 of this chapter by each insurance company with respect to each separate account, within 3 months after such company has filed a notification of claim of exemption on Form N–6E–1 (§ 274.301 of this chapter): *Provided*, That, if the fiscal year of the separate account ends within this 3-month period, the report may be filed within 3 months after the end of such fiscal year.

III. Section 274.6e–1: Form N–6E–1 (T) would be deleted since it would be superseded by § 274.301.

All interested persons are invited to submit their views and comments on the proposed forms. Written statements of views and comments in respect of the proposed forms should be submitted to the Securities and Exchange Commission, Washington, D.C. 20549, on or before April 6, 1970. All such communications will be available for public inspection.

(Secs. 6, 38, 54 Stat. 800, 841; 15 U.S.C. 80a–6, 80a–37)

By the Commission.

[SEAL] ORVAL L. DUBOIS, *Secretary.*

MARCH 6, 1970.

[F.R. Doc. 70–3152; Filed, Mar. 16, 1970; 8:45 a.m.]

Notices

DEPARTMENT OF THE TREASURY

Bureau of Customs

[T.D. 70-63]

J. W. TARVER

Revocation of Customhouse Broker's License

MARCH 10, 1970.

Notice is hereby given that in a decision dated February 26, 1970, the Secretary of the Treasury, pursuant to section 641, Tariff Act of 1930, as amended, revoked customhouse broker's license No. 47 issued to J. W. Tarver on or about September 17, 1930, for customs district No. 17, Georgia (now the customs district of Savannah, Ga.). The Secretary's decision is effective as of February 26, 1970.

This notice is published pursuant to § 31.74, Customs Regulations (19 CFR 31.74).

[SEAL] MYLES J. AMBROSE,
Commissioner of Customs.

[F.R. Doc. 70-3208; Filed, Mar. 16, 1970; 8:50 a.m.]

DEPARTMENT OF AGRICULTURE

Commodity Credit Corporation

CONTROLLER ET AL.

Delegation of Authority; Termination

The Delegation of Authority entitled "Controller Et Al." which was published in the FEDERAL REGISTER of July 16, 1968 (33 F.R. 10156), authorizing certain officers of the Commodity Credit Corporation (CCC) to receive information in behalf of the Executive Vice President, CCC, or his designees under policy No. MSF 124 2800, with Fireman's Fund Insurance Co., San Francisco, Calif., indicating a failure of a warehouseman to perform his obligations under certain CCC storage agreements is hereby terminated.

Effective date: Upon publication in the FEDERAL REGISTER.

Signed at Washington, D.C., on March 9, 1970.

KENNETH E. FRICK,
Executive Vice President,
Commodity Credit Corporation.

[F.R. Doc. 70-3206; Filed, Mar. 16, 1970; 8:50 a.m.]

Consumer and Marketing Service

NORTH DAKOTA

Notice of Designation Under Federal Meat Inspection Act

Paragraph 301(c) of the Federal Meat Inspection Act (21 U.S.C. 661(c)) requires the Secretary of Agriculture to designate promptly after December 15, 1969, any State as one in which the requirements of titles I and IV of said Act shall apply to intrastate operations and transactions, and to persons, firms and corporations engaged therein, with respect to meat products and other articles and animals subject to the Act, if he determines after consultation with the Governor of the State, or his representative, that the State involved has not developed and activated requirements, at least equal to those under titles I and IV, with respect to establishments within the State at which cattle, sheep, swine, goats, or equines are slaughtered, or their carcasses, or parts or products thereof, are prepared for use as human food, solely for distribution within such State. However, if the Secretary has reason to believe that the State will activate the necessary requirements within an additional year, he may allow the State the additional year in which to activate such requirements.

The Secretary has determined after consultation with the Governor of the State of North Dakota, that the State has not developed and activated the prescribed requirements and the Secretary does not have reason to believe that the State will be able to activate such requirements if the State is allowed an additional year in accordance with the Act. Therefore, notice is hereby given that the Secretary of Agriculture designates said State under paragraph 301(c) of the Act. Upon the expiration of 30 days after publication of this notice in the FEDERAL REGISTER, the provisions of titles I and IV of said Act shall apply to intrastate operations and transactions and persons, firms, and corporations engaged therein, to the same extent and in the same manner as if such operations and transactions were conducted in or for "commerce" within the meaning of the Act, and any establishment in North Dakota which conducts any slaughtering or preparation of carcasses or parts or products thereof as described above must have Federal inspection or cease its operations, unless it qualifies for an exemption under sections 23(a) and 301(c)(2) of the Act. The exemption provisions of the Act are very limited.

Therefore, the operator of each such establishment who desires to continue such operations after designation of the State becomes effective should immediately communicate with the Regional Director, L. H. Burkert, U.S. Department of Agriculture, Room 638, Federal Building and U.S. Courthouse, 316 Robert Street, St. Paul, Minn. 55101 (Telephone: Area Code 612 725-7835) for information concerning the requirements and exemptions under the Act and application for inspection and a survey of the establishment.

Done at Washington, D.C., on March 11, 1970.

RICHARD E. LYNG,
Assistant Secretary.

[F.R. Doc. 70-3204; Filed, Mar. 16, 1970; 8:50 a.m.]

DEPARTMENT OF COMMERCE

Business and Defense Services Administration

DUKE UNIVERSITY MEDICAL CENTER

Notice of Decision on Application for Duty-Free Entry of Scientific Article

The following is a decision on an application for duty-free entry of a scientific article pursuant to section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Public Law 89-651, 80 Stat. 897) and the regulations issued thereunder as amended (34 F.R. 15787 et seq.).

A copy of the record pertaining to this decision is available for public review during ordinary business hours of the Department of Commerce, at the Scientific Instrument Evaluation Division, Department of Commerce, Washington, D.C.

Docket No. 70-00143-33-46040. Applicant: Duke University Medical Center, Durham, N.C. 27706. Article: Electron microscope, Model EM 300. Manufacturer: Philips Electronic Instruments, the Netherlands.

Intended use of article: The article will be used for studies concerning viral assembly. These studies will concentrate on the RNA cancer viruses and on E. coli bacteriophage T4. The investigation will require ultrahigh resolution electron microscopy of stained and unstained virus, and protein or lipoprotein subunit materials. For the RNA Avian tumor (cancer) viruses, the applicant will be attempting to elucidate: small structural differences (10-20Å) on the outer envelope that may occur among various "antigenic types"; localization of different antigens on viral envelope by use of ferritin-conjugated antibodies; the capsomere substructure for various nucleocapsids.

Comments: No comments have been received with respect to this application.

Decision: Application approved. No instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, is being manufactured in the United States.

Reasons: The foreign article has a guaranteed resolving power of 3.5 angstroms. The most closely comparable domestic instrument available at the time the application was received was the Model EMU-4B electron microscope which was formerly being manufactured

by the Radio Corp. of America (RCA) and which is currently being produced by the Forgflo Corp. (Forgflo). The Model EMU–4B electron microscope has a guaranteed resolving power of 5 angstroms. (The lower the numerical rating in terms of angstrom units, the better the resolving power.) We are advised by the Department of Health, Education, and Welfare (HEW) in its memorandum dated February 6, 1970 that the applicant requires a resolving power of 3.5 angstroms for his research studies. The better resolving power of the foreign article is therefore pertinent. HEW further advises that the Model EMU–4B electron microscope is not of equivalent scientific value to the foreign article for such purposes as this article is intended to be used.

The Department of Commerce knows of no other instrument or apparatus of equivalent scientific value to the foreign article for the purposes for which such article is intended to be used, which is being manufactured in the United States.

CHARLEY M. DENTON,
Assistant Administrator for Industry Operations, Business and Defense Services Administration.

[F.R. Doc. 70–3169; Filed, Mar. 16, 1970; 8:47 a.m.]

HUNTINGTON UNION FREE SCHOOL DISTRICT NO. 3, N.Y.

Notice of Decision on Application for Duty-Free Entry of Scientific Article

The following is a decision on an application for duty-free entry of a scientific article pursuant to section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Public Law 89–651, 80 Stat. 897) and the regulations issued thereunder as amended (34 F.R. 15787 et seq.).

A copy of the record pertaining to this decision is available for public review during ordinary business hours of the Department of Commerce, at the Scientific Instrument Evaluation Division, Department of Commerce, Washington, D.C.

Docket No. 70–00120–16–61800. Applicant: Huntington Union Free School District No. 3, 300 Broadway, Box 1500, Huntington, N.Y. 11743. Article: Planetarium and auxiliary projectors, Apollo Model. Manufacturer: Goto Optical Co., Japan.

Intended use of article: The article will be used with programs that are available for both elementary and secondary school studies. These programs will be supplemented by actual student operation of the instrument as well as teacher operation.

Comments: Comments dated October 6, 1969, were received from Spitz Laboratories, Inc. (Spitz), which alleges inter alia that the Spitz Model A4 planetarium meets the specifications of the foreign article and is completely suitable for the intended purposes of the article.

Decision: Application approved. No instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, is being manufactured in the United States.

Reasons: The applicant requires for its purposes an apparatus that could be used with domes of approximately 10 feet in diameter; is easily movable from one classroom to another and, from one school to another; can be automatically as well as manually controlled; provides a minimum of 750 stars and automatic phasing of the Moon; and has facilities for automatically pointing to any given planet or star.

(1) The Spitz, Model A4 planetarium has a density of 1,345 stars, but specifies a 30-foot dome. The Spitz Model A4 is primarily designed for fixed installation in museums and similar places for viewing by large groups. The Spitz Model A4, therefore, does not provide the characteristic of mobility which is considered to be pertinent to the purposes for which the foreign article is intended to be used.

(2) We also considered the Model III planetarium manufactured by Nova Laboratories (Nova). The Nova Model III planetarium provides 750 stars and can be equipped for use with domes 10 feet in diameter. The Nova Model III is also capable of being operated both automatically and manually. However, it is not designed for portability. Morever, the Model III does not provide any means for automatically pointing to and identifying any particular stars or planets. We are advised by the National Bureau of Standards (NBS) in its memorandum dated November 21, 1969, that this characteristic is pertinent to the purposes for which the foreign article is intended to be used.

For the foregoing reasons, we find that neither the Spitz Model A4 nor the Nova Model III planetarium is of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used.

The Department of Commerce knows of no other instrument or apparatus of equivalent scientific value to the foreign article, for the purposes for which such article is intended to be used, which is being manufactured in the United States.

CHARLEY M. DENTON,
Assistant Administrator for Industry Operations, Business and Defense Services Administration.

[F.R. Doc. 70–3178; Filed, Mar. 16, 1970; 8:48 a.m.]

INDIANA STATE UNIVERSITY

Notice of Decision on Application for Duty-Free Entry of Scientific Article

The following is a decision on an application for duty-free entry of a scientific article pursuant to section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Public Law 89–651, 80 Stat. 897) and the regulations issued thereunder as amended (34 F.R. 15787 et seq.).

A copy of the record pertaining to this decision is available for public review during ordinary business hours of the Department of Commerce, at the Scientific Instrument Evaluation Division, Department of Commerce, Washington, D.C.

Docket No. 70–00111–33–46040. Applicant: Indiana State University, College of Arts and Sciences, Life Sciences Department, Terre Haute, Ind. 47809. Article: Electron microscope, Model HU–11E. Manufacturer: Hitachi Ltd., Japan.

Intended use of article: The article will be used for the following research programs.

1. Adsorption of bacteriophage to colloidal ferric oxide particles.

2. Structure of algal quantasomes separated by density gradient centrifugation.

3. The tertiary structure and folding of bacteriophage DNA.

4. Structural aspects of foliar symbiosis in Psychotria.

Comments: No comments have been received with respect to this application.

Decision: Application approved. No instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, was being manufactured in the United States at the time the foreign article was ordered (June 4, 1968).

Reasons: The foreign article had a guaranteed resolving power of 5 angstroms. The most closely comparable domestic instrument available at the time the foreign article was ordered was the Model EMU–4 electron microscope which was then being manufactured by the Radio Corp. of America (RCA) and which is currently being produced by Forgflo Corporation (Forgflo). The Model EMU–4 electron microscope had a guaranteed resolving power of 8 angstroms. (The lower the numerical rating in terms of angstroms the better the resolving power.) The purposes for which the foreign article is intended to be used require the highest available resolution. We are advised by the Department of Health, Education, and Welfare (HEW) in its memorandum dated January 28, 1970, that the additional resolving capability of the foreign article is pertinent to the purposes for which the article is intended to be used.

We therefore find that the Model EMU–4 electron microscope was not of equivalent scientific value to the foreign article for such purposes as this article is intended to be used.

The Department of Commerce knows of no other instrument or apparatus of equivalent scientific value to the foreign article for the purposes for which such article is intended to be used, which was being manufactured in the United States at the time the applicant placed the order for the foreign article.

CHARLEY M. DENTON,
Assistant Administrator for Industry Operations, Business and Defense Services Administration.

[F.R. Doc. 70–3171; Filed, Mar. 16, 1970; 8:47 a.m.]

JERSEY CITY STATE COLLEGE

Notice of Decision on Application for Duty-Free Entry of Scientific Article

The following is a decision on an application for duty-free entry of a scientific article pursuant to section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Public Law 89-651, 80 Stat. 897) and the regulations issued thereunder as amended (34 F.R. 15787 et seq.).

A copy of the record pertaining to this decision is available for public review during ordinary business hours of the Department of Commerce, at the Scientific Instrument Evaluation Division, Department of Commerce, Washington, D.C.

Docket No. 70-00118-33-46040. Applicant: Jersey City State College, 2039 Kennedy Boulevard, Jersey City, N.J. 07305. Article: Electron microscope, Model JEM-T7. Manufacturer: Japan Electron Optics Laboratory Co., Japan.

Intended use of article: The article will be used in a course on electron microscopy. The course will be offered to students in all science departments to gain knowledge in basic electron optics and techniques of electron microscopy.

Comments: No comments have been received with respect to this application.

Decision: Application approved. No instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, is being manufactured in the United States.

Reasons: The foreign article is an intermediate electron microscope which, in terms of sophistication and capabilities lies between the simple, portable electron microscope and the highly complex research types. The applicant intends to use the foreign article for teaching beginning students the fundamentals of electron microscope techniques and, for this purpose requires a transitional instrument for bridging the gap between the use of the light microscope and the research type of electron microscope. The most closely comparable domestic instrument available at the time the applicant ordered the foreign article was the EMU-4B electron microscope which was then being manufactured by the Radio Corp. of America (RCA) and, which is currently being produced by Forgflo Corp. (Forgflo). The Model EMU-4B electron microscope is a highly sophisticated and relatively complex research electron microscope intended for the use of an expert. We are advised by the Department of Health, Education, and Welfare (HEW) in its memorandum dated January 28, 1970, that the foreign article is easy to operate and, is thus more acceptable as a teaching instrument than the EMU-4B. We, therefore, find that the greater ease of operation of the foreign article is pertinent to the applicant's teaching purposes. For this reason, we find that the Model EMU-4B electron microscope is not of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used.

The Department of Commerce knows of no other instrument or apparatus of equivalent scientific value to the foreign article, for the purposes for which such article is intended to be used, which is being manufactured in the United States.

CHARLEY M. DENTON,
Assistant Administrator for Industry Operations, Business and Defense Services Administration.

[F.R. Doc. 70-3180; Filed, Mar. 16, 1970; 8:48 a.m.]

MASSACHUSSETTS GENERAL HOSPITAL ET AL.

Notice of Applications for Duty-Free Entry of Scientific Articles

The following are notices of the receipt of applications for duty-free entry of scientific articles pursuant to section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Public Law 89-651; 80 Stat. 897). Interested persons may present their views with respect to the question of whether an instrument or apparatus of equivalent scientific value for the purposes for which the article is intended to be used is being manufactured in the United States. Such comments must be filed in triplicate with the Director, Scientific Instrument Evaluation Division, Business and Defense Services Administration, Washington, D.C. 20230, within 20 calendar days after date on which this notice of application is published in the FEDERAL REGISTER.

Amended regulations issued under cited Act, as published in the October 14, 1969 issue of the FEDERAL REGISTER, prescribe the requirements applicable to comments.

A copy of each application is on file, and may be examined during ordinary Commerce Department business hours at the Scientific Instrument Evaluation Division, Department of Commerce, Washington, D.C.

Docket No. 70-00488-33-43780. Applicant: The Massachusetts General Hospital, Fruit Street, Boston, Mass. 02114. Article: Hip joint replacement, three each. Manufacturer: Protek Ltd., Switzerland. Intended use of article: The article is intended to be used for a study and scientific assessment of hip reconstructions, using total hip replacement in contrast to previously existing modes of reconstructive hip surgery. Application received by Commissioner of Customs: February 13, 1970.

Docket No. 70-00492-98-75000. Applicant: University of Nebraska, Special Business Services, 901 North 17th Street, Room 227, Lincoln, Nebr. 68508. Article: Soil heat flux disk. Manufacturer: Middleton & Co., Australia. Intended use of article: The article will be used for research on evaporation and energy exchange at the earth's surface. Application received by Commissioner of Customs: February 6, 1970.

Docket No. 70-00493-98-70000. Applicant: University of Nebraska, Special Business Services, 901 North 17th Street, Room 227, Lincoln, Nebr. 68508. Article: Five miniature net radiometers with 3 dozen square hemispheres and a calibration certificate for one of the radiometers. Manufacturer: Middleton & Co., Pty. Ltd., Australia. Intended use of article: The article will be used for research on evaporation and energy exchange at the earth's surface. Application received by Commissioner of Customs: February 6, 1970.

Docket No. 70-00495-99-75000. Applicant: Polytechnic Institute of Brooklyn, 333 Jay Street, Brooklyn, N.Y. 11201. Article: 3-inch horizontal de-airing extruder. Manufacturer: Rawdon Ltd., United Kingdom. Intended use of article: The article is intended for use as a unit in the soil mechanics laboratory for the preparation of samples of clay for use in both the regular educational program of undergraduate and graduate courses and for a research program. Application received by Commissioner of Customs: February 17, 1970.

Docket No. 70-00496-00-11000. Applicant: Harvard University, Purchasing Department, 75 Mt. Auburn Street, Cambridge, Mass. 02138. Article: Mass marker, Model IKB 9010, and scan magnet, Model IKB 9046B. Manufacturer: IKB Produkter AB, Sweden. Intended use of articles: The articles are to be used as accessories for an existing gas chromatograph-mass spectrometer. Application received by Commissioner of Customs: February 20, 1970.

Docket No. 70-00498-33-43780. Article: The Massachusetts General Hospital, Fruit Street, Boston, Mass. 02114. Article: Edinburgh self-retaining brain retractor and two screw pegs. Manufacturer: Allen & Hansbury Ltd., United Kingdom. Intended use of article: The article will be used in the education and training of neurosurgical residents participating in the applicant's neurosurgical service training program of the Harvard Medical School department of surgery. Use of this instrument is essential to complete this training, to surgically manipulate the brain in a manner that will do it the least trauma. Application received by Commissioner of Customs: February 24, 1970.

Docket No. 70-00501-33-07730. Applicant: University of California, San Francisco, Purchasing Department, 1438 South 10th Street, Richmond, Calif. 94804. Article: X-ray diffraction camera (complete Toroid camera). Manufacturer: Hilger & Watts Ltd., United Kingdom. Intended use of article: The article will be used to study biological materials. X-ray diffraction patterns will be recorded on film and analyzed in order to learn the molecular structure of these materials. Application received by Commissioner of Customs: February 24, 1970.

Docket No. 70-00502-33-86500. Applicant: University of Kentucky, Wenner-Gren Aero. Res. Lab., Rose Street Campus, Lexington, Ky. 40506. Article: Weissenberg rheogoniometer, Model C: OS Rheo-Visco Elastometer. Manufacturer: Sangamo Controls, Ltd., United Kingdom. Intended use of article: The article will be used for the measurement of viscous and visco-elastic properties of

biological materials. Of particular importance is that of the rheology of blood. It will also be used as a device which will produce and measure the stresses applied to a blood sample. Application received by Commissioner of Customs: February 24, 1970.

Docket No. 70–00503–33–46040. Applicant: Northern Illinois University Department of Biological Sciences, DeKalb, Ill. 60115. Article: Electron microscope, Model HU–125E. Manufacturer: Hitachi, Ltd., Japan. Intended use of article: The article will be used in biological ultrastructural research on higher plants; chromosomes; and *Actinoplanes philipinensis* and related virus particles. Also the electron microscope will be used for studies of metamorphosing amphibian tissues and cells. Application received by Commissioner of Customs: February 12, 1970.

Docket No. 70–00504–65–46070. Applicant: Massachusetts Institute of Technology, Charles Stark Draper Laboratory, 68 Albany Street, Cambridge, Mass. 02139. Article: Scanning electron microscope, Model Mark IIA, and accessories. Manufacturer: Cambridge Instrument Co., Ltd., United Kingdom. Intended use of article: The article will be used to advance the development of, and to refine the performance of, gas bearings developed in the applicant's laboratory. To advance the state of the art of gas bearing fabrication, more knowledge is required with respect to the structure of materials used; machining and measuring techniques, and the quality of bearing geometry and surface finish. Other studies concern friction, wear, material failure, and the examination of submicroinch geometry. Application received by Commissioner of Customs: February 12, 1970.

Docket No. 70–00505–98–26000. Applicant: Community College, 711 Allegheny Building, Pittsburgh, Pa. 15219. Article: Dr. Clemenz standard construction device, Model EG 2A/ZT. Manufacturer: Dr. Clemenz, West Germany. Intended use of article: The article will be used for teaching the basic theory of electricity. Application received by Commissioner of Customs: February 12, 1970.

Docket No. 70–00506–33–43780. Applicant: The Massachusetts General Hospital, Fruit Street, Boston, Mass. 02114. Article: Total hip joint replacements, three each. Manufacturer: Protek Ltd., Switzerland. Intended use of article: The article will be used for a study and scientific assessment of hip reconstructions, using total hip replacement in contrast to previously existing modes of reconstructive hip surgery. Application received by Commissioner of Customs: February 27, 1970.

CHARLEY M. DENTON,
Assistant Administrator for Industry Operations, Business and Defense Services Administration.

[F.R. Doc. 70–3181; Filed, Mar. 16, 1970; 8:48 a.m.]

MIDDLETOWN CITY SCHOOLS, OHIO

Notice of Decision on Application for Duty-Free Entry of Scientific Article

The following is a decision on an application for duty-free entry of a scientific article pursuant to section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Public Law 89–651, 80 Stat. 897) and the regulations issued thereunder as amended (34 F.R. 15787 et seq.).

A copy of the record pertaining to this decision is available for public review during ordinary business hours of the Department of Commerce, at the Scientific Instrument Evaluation Division, Department of Commerce, Washington, D.C.

Docket No. 70–00116–16–61800. Applicant: Middletown City Schools, 1515 Girard Avenue, Middletown, Ohio 45042. Article: Planetarium and auxiliary projectors, Model "Apollo".

Intended use of article: The article will be used for the following courses:

(a) Senior High School, Grade 10–12, Practical Science, Physics I, Physics II, Physical Science and Astronomy.

(b) Freshman High School, Grade 9, Physical Science.

(c) Elementary School, Grade 1–6, Elementary Science.

The article will serve 10,000 students in the school district, as well as community activities including the adult education program.

Comments: Comments dated September 25, 1969 were received from Spitz Laboratories, Inc. (Spitz), which alleges inter alia that the Spitz Model A4 planetarium meets the specifications of the foreign article and is completely suitable for the intended purposes of the article. Comments dated September 26, 1969 were also received from Nova Laboratories (Nova) which alleges inter alia that Nova was capable of meeting the requirements of the foreign article for its intended purposes.

Decision: Application approved. No instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, is being manufactured in the United States.

Reasons: The applicant requires for its purposes an apparatus that could be used with domes of approximately 10 feet in diameter; is easily movable from one classroom to another and, from one school to another; can be automatically as well as manually controlled; provides a minimum of 750 stars and automatic phasing of the Moon; and has facilities for automatically pointing to any given planet or star.

(1) The Spitz Model A4 planetarium has a density of 1,345 stars, but specifies a 30-foot dome. The Spitz Model A4 is primarily designed for fixed installation in museums and similar places for viewing by large groups. The Spitz Model A4, therefore, does not provide the characteristic of mobility which is considered to be pertinent to the purposes for which the foreign article is intended to be used.

(2) The Nova Model III planetarium provides 750 stars and can be equipped for use with domes of 10 feet diameter. The Nova Model III is also capable of being operated both automatically and manually. However, it is not designed for portability. Moreover, the Model III does not provide any means for automatically pointing to and identifying any particular stars or planets. We are advised by the National Bureau of Standards (NBS) in its memorandum dated November 21, 1969, that this characteristic is pertinent to the purposes for which the foreign article is intended to be used.

For the foregoing reasons, we find that neither the Spitz Model A4 nor the Nova Model III planetarium is of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used.

The Department of Commerce knows of no other instrument or apparatus of equivalent scientific value to the foreign article, for the purposes for which such article is intended to be used, which is being manufactured in the United States.

CHARLEY M. DENTON,
Assistant Administrator for Industry Operations, Business and Defense Services Administration.

[F.R. Doc. 70–3179; Filed, Mar. 16, 1970; 8:48 a.m.]

NEW YORK UNIVERSITY MEDICAL CENTER

Notice of Decision on Application for Duty-Free Entry of Scientific Article

The following is a decision on an application for duty-free entry of a scientific article pursuant to section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Public Law 89–651, 80 Stat. 897) and the regulations issued thereunder as amended (34 F.R. 15787 et seq.).

A copy of the record pertaining to this decision is available for public review during ordinary business hours of the Department of Commerce, at the Scientific Instrument Evaluation Division, Department of Commerce, Washington, D.C.

Docket No. 70–00138–33–46500. Applicant: New York University Medical Center, 550 First Avenue, New York, N.Y. 10016. Article: Ultramicrotome, Model SIDEA (CmU2). Manufacturer: C. Reichert Optische Werke A.G., Austria.

Intended use of article: The article will be used to provide ultrathin sections measuring 50 to 100 angstroms in thickness for study of the ultrastructural features of cells in the adrenal cortex of fetal rats throughout the period of organogenesis. The project is intended to provide a comprehensive description of the true structure of the tissue as it acquires the capability of producing cortiosteroid hormones. The organelles

known to be especially concerned with steroidogenesis will be given special attention. By studying the fetal tissue, information germane to these problems is hoped to be gained.

Comments: No comments have been received with respect to this application.

Decision: Application approved. No instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, was being manufactured in the United States at the time the application was received (Aug. 20, 1969).

Reasons: The foreign article provides a minimum thickness capability of at least 50 angstroms. The most closely comparable domestic instrument being manufactured in the United States at the time the application was received was the Model MT–2 ultramicrotome that was being manufactured by Ivan Sorvall, Inc. (Sorvall). The Sorvall Model MT–2 had a guaranteed minimum thickness capability of 100 angstroms. We are advised by the Department of Health, Education, and Welfare (HEW) in its memorandum dated February 3, 1970, that the applicant's research studies require sections less than 100 angstroms thick.

For this reason, we find that the Sorvall Model MT–2 is not of equivalent scientific value to the foreign article for such purposes as this article is intended to be used.

The Department of Commerce knows of no other instrument or apparatus of equivalent scientific value to the foreign article, which was being manufactured in the United States at the time the application was received.

CHARLEY M. DENTON,
Assistant Administrator for Industry Operations, Business and Defense Services Administration.

[F.R. Doc. 70–3170; Filed, Mar. 16, 1970; 8:47 a.m.]

OCCIDENTAL COLLEGE

Notice of Decision on Application for Duty-Free Entry of Scientific Article

The following is a decision on an application for duty-free entry of a scientific article pursuant to section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Public Law 89–651, 80 Stat. 897) and the regulations issued thereunder as amended (34 F.R. 15787 et seq.).

A copy of the record pertaining to this decision is available for public review during ordinary business hours of the Department of Commerce, at the Scientific Instrument Evaluation Division, Department of Commerce, Washington, D.C.

Docket No. 70–00139–01–77030. Applicant: Occidental College, 1600 Campus Road, Los Angeles, Calif., 90041. Article: Nuclear magnetic resonance spectrometer, Model JNM–C60–HL and accessory. Manufacturer: Japan Electron Optics Laboratory Co., Japan.

Intended use of article: The article will be used as a multipurpose educational-research instrument. Educational purpose will encompass the following courses:

(a) Chemistry 61–63—Organic Chemistry; Structure and Mechanism.

(b) Chemistry 101–103—Physical Chemistry—An introduction to the study of thermodynamics, electrochemical properties of systems in equilibrium, chemical kinetics, quantum and statistical mechanics, and spectroscopy.

(c) Chemistry 150—Instrumental Analysis—The theory, application and limitations of modern methods of analysis.

Comments: No comments have been received with respect to this application.

Decision: Application approved. No instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, is being manufactured in the United States.

Reasons: The foreign article provides both internal and external locking facilities. The most closely comparable domestic instrument is the Model A–60 nuclear magnetic resonance spectrometer (NMR) which is being manufactured by the Varian Associates (Varian). The Varian Model A–60 provides either an external or internal locking system, but not both in the same instrument. We are advised by the Department of Health, Education, and Welfare in its memorandum dated February 3, 1970 that the educational purposes for which the foreign article is intended to be used include some experiments that require internal locking facilities, as well as experiments that require external locking facilities and, therefore, the dual internal-external lock of the foreign article is a pertinent characteristic. For this reason, we find that the Varian A–60 NMR is not of equivalent scientific value to the foreign article for such purposes as this article is intended to be used.

The Department of Commerce knows of no other instrument or apparatus of equivalent scientific value to the foreign article for the purposes for which such article is intended to be used, which is being manufactured in the United States.

CHARLEY M. DENTON,
Assistant Administrator for Industry Operations, Business and Defense Service Administration.

[F.R. Doc. 70–3168; Filed, Mar. 16, 1970; 8:47 a.m.]

SACRAMENTO STATE COLLEGE

Notice of Decision on Application for Duty-Free Entry of Scientific Article

The following is a decision on an application for duty-free entry of a scientific article pursuant to section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Public Law 89–651, 80 Stat. 897) and the regulations issued thereunder as amended (34 F.R. 15787 et seq.).

A copy of the record pertaining to this decision is available for public review during ordinary business hours of the Department of Commerce, at the Scientific Instrument Evaluation Division, Department of Commerce, Washington, D.C.

Docket No. 70–00141–01–77030. Applicant: Sacramento State College, Department of Chemistry, 6000 J Street, Sacramento, Calif. 95819. Article: Nuclear magnetic resonance spectrometer, Model R–20. Manufacturer: Hitachi, Ltd., Japan. Intended use of article: The article will be used for both teaching and research. For teaching, it will be used to demonstrate the techniques of nuclear magnetic resonance to first year classes and in subsequent classes let the students themselves operate the instrument. For research, the instrument will be used for studying the following types of problems:

(a) Conformational studies of law and high temperatures and the determination of the activation energies involved.

(b) Structure and conformational determinations utilizing coupling constants and spin decoupling experiments.

(c) Conformational equilibria and structure determination of fluorine containing compounds will be studied.

Comments: No comments have been received with respect to this application.

Decision: Application approved. No instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, was being manufactured in the United States at the time the foreign article was ordered (July 1, 1967).

Reasons: The foreign article provides a single sweep of 20 kiloHertz (kHz) while continuously maintaining a lock on one band. The most closely comparable instrument available at the time the foreign article was ordered was the Model HA–60IL NMR spectrometer manufactured by Varian Associates (Varian). The HA–60IL could provide a 20-kHz sweep only by sweeping small portions of the total range in a number of steps by locking on a series of bands. We are advised by the National Bureau of Standards (NBS) in a memorandum dated January 13, 1970, that the single sweep capability of the foreign article, which was not matched in available domestic instruments, is pertinent. NBS further advises that it knows of no instrument or apparatus of equivalent scientific value to the foreign article for such purposes as this article is intended to be used, which was being manufactured in the United States at the time the foreign article was ordered.

CHARLEY M. DENTON,
Assistant Administrator for Industry Operations, Business and Defense Services Administration.

[F.R. Doc. 70–3174; Filed, Mar. 16, 1970; 8:47 a.m.]

TULARE COUNTY DEPARTMENT OF EDUCATION, CALIF.

Notice of Decision on Application for Duty-Free Entry of Scientific Article

The following is a decision on an application for duty-free entry of a scientific article pursuant to section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Public Law 89-651, 80 Stat. 897) and the regulations issued thereunder as amended (34 F.R. 15787 et seq.).

A copy of the record pertaining to this decision is available for public review during ordinary business hours of the Department of Commerce, at the Scientific Instrument Evaluation Division, Department of Commerce, Washington, D.C.

Docket No. 70-00112-16-61800. Applicant: Tulare County Department of Education, 202 County Civic Center, Visalia, Calif. 93277. Article: Planetarium and auxiliary projectors, Apollo Model. Manufacturer: Goto Optical Co., Japan.

Intended use of article: The article will be used with programs that are available for both elementary and secondary school studies. These programs will be supplemented by actual student operation of the instrument as well as teacher operation.

Comments: Comments dated October 6, 1969 were received from Spitz Laboratories, Inc. (Spitz), which allege inter alia that the Spitz Model A4 planetarium meets the specifications of the foreign article and is completely suitable for the intended purposes of the article.

Decision: Application approved. No instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, is being manufactured in the United States.

Reasons: The applicant requires for its purposes an apparatus that could be used with domes of approximately 10 feet in diameter; is easily movable from one classroom to another and, from one school to another; can be automatically as well as manually controlled; provides a minimum of 750 stars and automatic phasing of the Moon; and has facilities for automatically pointing to any given planet or star.

(1) The Spitz Model A4 planetarium has a density of 1,345 stars, but specifies a 30-foot dome. The Spitz Model A4 is primarily designed for fixed installation in museums and similar places for viewing by large groups. The Spitz Model A4, therefore, does not provide the characteristic of mobility which is considered to be pertinent to the purposes for which the foreign article is intended to be used.

(2) We also considered the Model III planetarium manufactured by Nova Laboratories (Nova). The Nova Model III planetarium provides 750 stars and can be equipped for use with domes 10 feet in diameter. The Nova Model III is also capable of being operated both automatically and manually. However, it is not designed for portability. Moreover, the Model III does not provide any means for automatically pointing to and identifying any particular stars or planets. We are advised by the National Bureau of Standards (NBS) in its memorandum dated November 21, 1969 that this characteristic is pertinent to the purposes for which the foreign article is intended to be used. For the foregoing reasons, we find that neither the Spitz Model A4 nor the Nova Model III planetarium is of equivalent scientific value to the foreign article for such purposes as this article is intended to be used.

The Department of Commerce knows of no other instrument or apparatus of equivalent scientific value to the foreign article for the purposes for which such article is intended to be used, which is being manufactured in the United States.

CHARLEY M. DENTON,
Assistant Administrator for Industry Operations, Business and Defense Services Administration.

[F.R. Doc. 70-3167; Filed, Mar. 16, 1970; 8:47 a.m.]

UNIVERSITY OF CALIFORNIA

Notice of Decision on Application for Duty-Free Entry of Scientific Article

The following is a decision on an application for duty-free entry of a scientific article pursuant to section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Public Law 89-651, 80 Stat. 897) and the regulations issued thereunder as amended (34 F.R. 15787 et seq.).

A copy of the record pertaining to this decision is available for public review during ordinary business hours of the Department of Commerce, at the Scientific Instrument Evaluation Division, Department of Commerce, Washington, D.C.

Docket No. 70-00147-33-46500. Applicant: University of California, 405 Hilgard Avenue, Los Angeles, Calif. 90024. Article: Ultramicrotome, Model LKB 8800A. Ultratome III. Manufacturer: LKB Produkter AB, Sweden.

Intended use of article: The article will be used to prepare ultrathin tissue sections for electron microscopic study of: First, the synaptology of the vesticular apparatus, that is the interconnections of the nerves and receptor cells of the inner ear together with spatial relationships; and secondly, the passage of macromolecules and pathenoglobulins through the tissue of the lymph nodes. Due to the dimensions of the structures under investigation, it is essential to be able to section in the 50-100 angstrom range to insure there will be no superposition effects within the section to be observed.

Comments: No comments have been received with respect to this application.

Decision: Application approved. No instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used was manufactured in the United States at the time the application was received.

Reasons: The foreign article has a guaranteed minimum thickness capability of 50 angstroms. The most closely comparable domestic instrument available at the time the application was received was the Model MT-2 ultramicrotome that was being manufactured by Ivan Sorvall, Inc. (Sorvall). The Sorvall Model MT-2 had a guaranteed minimum thickness capability of 100 angstroms. We are advised by the Department of Health, Education, and Welfare (HEW) in its memorandum dated February 5, 1970, that the applicant's research studies require uniform serial sections of less than 100 angstroms. Therefore, the lower minimum thickness capability of the foreign article is pertinent to the purposes for which the article is intended to be used.

For this reason, we find that Sorvall Model MT-2 ultramicrotome is not of equivalent scientific value to the foreign article for such purposes as this article is intended to be used.

The Department of Commerce knows of no other instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article in intended to be used, which was being manufactured in the United States at the time the application was received.

CHARLEY M. DENTON,
Assistant Administrator for Industry Operations, Business and Defense Services Administration.

[F.R. Doc. 70-3176; Filed, Mar. 16, 1970; 8:47 a.m.]

UNIVERSITY OF MICHIGAN

Notice of Decision on Application for Duty-Free Entry of Scientific Article

The following is a decision on an application for duty-free entry of a scientific article pursuant to section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Public Law 89-651, 80 Stat. 897) and the regulations issued thereunder as amended (34 F.R. 15787 et seq.).

A copy of the record pertaining to this decision is available for public review during ordinary business hours of the Department of Commerce, at the Scientific Instrument Evaluation Division, Department of Commerce, Washington, D.C.

Docket No. 70-00043-33-46040. Applicant: University of Michigan Medical Center, Department of Dermatology, 1405 East Ann Street, Ann Arbor, Mich. 48104. Article: Electron microscope, Model EM 300 and accessories. Manufacturer: Philips Electron Instruments, The Netherlands.

Intended use of article: The article will be used as an adjunct to the applicant's biochemical isolation and characterization of an epidermal macromolecular inhibitor. This repressor molecule, termed the epidermal chalone, has been shown to be water soluble, nondialysable, alcohol precipitable and destroyed by boiling.

Its molecular weight has been estimated by Sephadex molecular sieve chromatography and analytical ultracentrifugation. The applicant feels that a combination of the techniques of negative staining and unstained material will enable him to obtain high resolution at low accelerating voltage and thereby enable him to estimate the micrographic homogeneity and size of chalone and contaminating molecules in solution.

Comments: No comments have been received with respect to this application.

Decision: Application approved. No instrument or apparatus of equivalent scientific value to the foreign article, for the purposes for which such article is intended to be used, was being manufactured in the United States at the time the application was prepared.

Reasons: The only known comparable domestic instrument available at the time the foreign article was ordered was the Model EMU–4 electron microscope which was then being manufactured by the Radio Corp. of America (RCA), and which is currently being produced by Forgflo Corp. (Forgflo). Effective September 1968, the Model EMU–4 has been redesigned to increase certain performance capabilities, with a quoted delivery time of 60 days. However, at the time the applicant prepared the order for the foreign article only the RCA EMU–4 was available. The determination of scientific equivalency has, therefore, been made with reference to the characteristics and specifications of the RCA Model EMU–4 relevant at that time.

(1) The foreign article has a guaranteed resolution of 5 angstroms, whereas the RCA Model EMU–4 had a guaranteed resolution of 8 angstroms. (The lower the numerical rating in terms of angstrom units, the better the resolving capabilities.) For the purposes for which the foreign article is intended to be used, the highest possible resolving power must be utilized. Therefore, the additional resolving capabilities of the foreign article are pertinent.

(2) The foreign article provides accelerating voltages of 20, 40, 60, 80, and 100 kilovolts, whereas the RCA Model EMU–4 provided only 50- and 100-kilovolt accelerating voltages. It has been experimentally established that the lower accelerating voltage of the foreign article offers optimum contrast for thin unstained biological specimens and that the voltage intermediate between 50 and 100 kilovolts affords optimum contrast for negatively stained specimens. The research program with which the foreign article is intended to be used involves experiments on both unstained and negatively stained specimens. Therefore, the additional accelerating voltages provided by the foreign article are pertinent.

For these reasons, we find that the RCA Model EMU–4 was not of equivalent scientific value to the foreign article, for the purposes for which such article is intended, at the time the application was prepared.

The Department of Commerce knows of no other instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, which was being manufactured in the United States at the time the application was prepared.

CHARLEY M. DENTON,
Assistant Administrator for Industry Operations, Business and Defense Services Administration.

[F.R. Doc. 70-3177; Filed, Mar. 16, 1970; 8:47 a.m.]

UNIVERSITY OF SOUTHERN CALIFORNIA

Notice of Decision on Application for Duty-Free Entry of Scientific Article

The following is a decision on an application for duty-free entry of a scientific article pursuant to section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Public Law 89–651, 80 Stat. 897) and the regulations issued thereunder as amended (34 F.R. 15787 et seq.).

A copy of the record pertaining to this decision is available for public review during ordinary business hours of the Department of Commerce, at the Scientific Instrument Evaluation Division, Department of Commerce, Washington, D.C.

Docket No. 70–00077–33–46500. Applicant: University of Southern California, School of Medicine, 2025 Zonal Avenue, Los Angeles, Calif. 90033. Article: Ultramicrotome, LKB 8800A, Ultratome III. Manufacturer: LKB Produkter A.B., Sweden.

Intended use of article: The article will be used to produce both serial ultrathin sections and 1 micron thick sections of a wide variety of human, animal, and avian tumors and tissues. The investigator will make electron microscopic examination of the serial ultrathin sections for 110-millimicron diameter C type virus particles, budding C type particles and conjugated cytochemical and antibody labels. Since a budding particle is indicative of a replicating virus, it is very important that the investigator demonstrates this in the serial ultrathin sections.

Comments: No comments have been received with respect to this application.

Decision: Application approved. No instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used was manufactured in the United States at the time the application was received.

Reasons: The foreign article has a guaranteed minimum thickness capability of 50 angstroms. The most closely comparable domestic instrument available at the time the application was received was the Model MT–2 ultramicrotome that was being manufactured by Ivan Sorvall, Inc. (Sorvall). The Sorvall Model MT–2 had a guaranteed minimum thickness capability of 100 angstroms. We are advised by the Department of Health, Education, and Welfare (HEW) in its memorandum dated January 8, 1970, that the applicant's research studies require uniform serial sections of less than 100 angstroms. Therefore, the lower minimum thickness capability of the foreign article is pertinent to the purposes for which the article is intended to be used.

For this reason, we find that the Sorvall Model MT–2 ultramicrotome is not of equivalent scientific value to the foreign article for such purposes as this article is intended to be used.

The Department of Commerce knows of no other instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, which was being manufactured in the United States at the time the application was received.

CHARLEY M. DENTON,
Assistant Administrator for Industry Operations, Business and Defense Services Administration.

[F.R. Doc. 70-3175; Filed, Mar. 16, 1970; 8:47 a.m.]

WASHINGTON UNIVERSITY

Notice of Decision on Application for Duty-Free Entry of Scientific Article

The following is a decision on an application for duty-free entry of a scientific article pursuant to section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Public Law 89–651, 80 Stat. 897) and the regulations issued thereunder as amended (34 F.R. 15787 et seq.).

A copy of the record pertaining to this decision is available for public review during ordinary business hours of the Department of Commerce, at the Scientific Instrument Evaluation Division, Department of Commerce, Washington, D.C.

Docket No. 70–00142–33–42500. Applicant: Washington University, Lindell and Skinker Boulevards, St. Louis, Mo. 63130. Article: Liquid-liquid interfacial film balance. Manufacturer: Instrument Workshop of Unilever Research Laboratory, United Kingdom.

Intended use of article: The article will be used for the investigation of the properties of monolayers of phospholipids at an oil-water interface. Both surface potential-molecular area isotherms will be investigated. The determination of these properties is fundamental to the understanding of such processes as cholesterol deposition in arteries and its prevention by phospholipids and unsaturated fatty acids, and in investigation of the physical chemical forces involved in the interaction between phospholipids and enzymes. This article will be specifically used in studies of fatty substances and phospholipids in blood clotting and the relation of these substances to blood clot formation.

Comments: No comments have been received with respect to this application.

Decision: Application approved. No instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, is being manufactured in the United States.

Reasons: The foreign article provides means of measuring surface pressure, as well as molecular area and surface area isotherms. For the purposes for which the foreign article is intended to be used, we are advised by the National Bureau of Standards (NBS) that these are pertinent characteristics. (Memorandum dated Nov. 18, 1969.) NBS further advises that it knows of no instrument or apparatus being manufactured in the United States, which is of equivalent scientific value to the foreign article for those purposes for which the article is intended to be used.

CHARLEY M. DENTON,
Assistant Administrator for Industry Operations, Business and Defense Services Administration.

[F.R. Doc. 70-3172; Filed, Mar. 16, 1970; 8:47 a.m.]

YALE UNIVERSITY

Notice of Decision on Application for Duty-Free Entry of Scientific Article

The following is a decision on an application for duty-free entry of a scientific article pursuant to section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Public Law 89-651, 80 Stat. 897) and the regulations issued thereunder as amended (34 F.R. 15787 et seq.).

A copy of the record pertaining to this decision is available for public review during ordinary business hours of the Department of Commerce, at the Scientific Instrument Evaluation Division, Department of Commerce, Washington, D.C.

Docket No. 70-00136-33-46500. Applicant: Yale University School of Medicine, 310 Cedar Street, New Haven, Conn. 06510. Article: Ultramicrotome, Model SIDEA "OmU2". Manufacturer: C. Reichert Optische Werke, AG, Austria.

Intended use of article: The article will be used for thin sectioning of sections of 60 angstroms of tissue culture cells and transplanted tumors to the brain for electron microscopic examination in connection with studies of the morphology and three dimensional relationships intracerebral neoplasms.

Comments: No comments have been received with respect to this application.

Decision: Application approved. No instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, was being manufactured in the United States at the time the application was received (Aug. 20, 1969).

Reasons: The foreign article provides a minimum thickness capability of at least 50 angstroms. The most closely comparable domestic instrument being manufactured in the United States at the time the application was received was the Model MT-2 ultramicrotome that was being manufactured by Ivan Sorvall, Inc. (Sorvall). The Sorvall Model MT-2 had a guaranteed minimum thickness capability of 100 angstroms. We are advised by the Department of Health, Education, and Welfare (HEW) in its memorandum dated February 3, 1970, that the applicant's research studies require sections less than 100 angstroms thick.

For this reason, we find that the Sorvall Model MT-2 is not of equivalent scientific value to the foreign article for such purposes as this article is intended to be used.

The Department of Commerce knows of no other instrument or apparatus of equivalent scientific value to the foreign article, which was being manufactured in the United States at the time the application was received.

CHARLEY M. DENTON,
Assistant Administrator for Industry Operations, Business and Defense Services Administration.

[F.R. Doc. 70-3173; Filed, Mar. 16, 1970; 8:47 a.m.]

Office of the Secretary

[Dept. Organization Order 25-4B]

OFFICE OF MINORITY BUSINESS ENTERPRISE

Organization and Functions

The following order was issued by the Secretary of Commerce on February 13, 1970.

SECTION 1. *Purpose.* This order prescribes the organization and assignment of functions within the Office of Minority Business Enterprise (OMBE).

SEC. 2. *Organization structure.* The principal organization structure and line of authority of the Office of Minority Business Enterprise shall be as depicted in the attached organization chart. (A copy of the organization chart is on file with original of this document with the Office of the Federal Register.

SEC. 3. *Office of the Director.* .01 The Director shall determine policy, direct the programs, be responsible for all activities of the Office, and serve as adviser to the Secretary on minority enterprise matters.

.02 The Deputy Director shall be the principal assistant to the Director. In this capacity, he shall direct the planning of programs and projects; determine requirements and coordinate plans within OMBE for utilizing the Office of Field Services in selected field locations; and perform the duties of the Director during his absence.

SEC. 4. *Staff offices.* .01 The Legal Adviser shall provide legal services and shall direct and coordinate OMBE's legislative program, subject to the overall supervision of the Office of the General Counsel.

.02 The Administrative Officer shall participate with the Director and Deputy Director in the formulation of budget requirements for the program; develop operational procedures for the Office; direct general administrative activities performed within OMBE; and arrange for and monitor the provision of administrative and support services from the Office of the Secretary.

.03 The Minority Enterprise Information Center shall operate a central information facility to serve as a national clearinghouse for information on minority business enterprise and related activities and shall compile and maintain information on the status of program actions of the Office and on results achieved. Specifically, the Center shall:

a. Compile and maintain a reference collection and data base on minority enterprise matters, such as an inventory of Federal programs and resources, data on available financing, statistical data on minority-owned or operated businesses, and information from private and public organizations, both national and local, involved in minority business efforts;

b. Determine information requirements for use in planning and programing the operations of the Office;

c. Develop methods and procedures to assist program divisions of OMBE in the collection of information on various aspects of the program;

d. Analyze data on minority enterprise activities and prepare summary reports for use within and outside the Office;

e. Coordinate the compilation of special reports for use in furthering major programs of the Office; and

f. Develop automated means for the storage and retrieval of information assembled and maintained by the Office.

SEC. 5. *Government Programs Division.* The Government Programs Division shall work at the national level with Federal departments and agencies to achieve the objectives of the minority enterprise program. Specifically, the Division shall:

a. Propose and develop working relations with Federal agencies through interagency task forces or working groups, agreements for the interchange of information, and other means to achieve a coordinated Federal effort;

b. Develop proposals for changes in plans, programs, and operations of other Federal agencies engaged in minority enterprise activities;

c. Obtain commitments for financial support and management or technical assistance from Federal agencies for minority business ventures;

d. Encourage Federal agencies to expedite procedures for providing assistance to minority members or groups;

e. Arrange for the provision of Federal support at the local level;

f. Collect data on budgets, plans, and programs in the Federal sector applicable to minority business programs; and

g. Assess the impact of Federal programs or plans on other operations of the Office.

SEC. 6. *Business Opportunities Division.* The Business Opportunities Division shall promote the mobilization of activities and resources of industry, business and financial institutions, associations, universities, foundations, professional organizations, and volunteer groups to achieve the objectives of the minority enterprise program.

.01 Specifically, it shall:

a. Enlist the support of and develop arrangements with business organizations to provide dealerships, franchises, and other types of business opportunities for minority involvement;

b. Develop sources of private financial assistance to initiate and sustain minority-owned businesses;

c. Encourage the establishment of Minority Enterprise Small Business Investment Companies (MESBICs) to make capital financing and technical assistance more readily available for minority businessmen;

d. Develop arrangements for the provision of management and technical assistance from the private sector for potential and existing minority businesses;

e. Stimulate universities, foundations, and other professional groups to conduct research on minority enterprise activities or to investigate ways in which these groups could provide assistance to potential and existing minority businessmen;

f. Follow up on the implementation of commitments from private organizations and initiate such actions as may be appropriate to facilitate achieving full realization of such commitments; and

g. Compile information on business opportunities, sources of financial assistance, and management and technical support programs for dissemination as useful.

.02 The Division shall insure that information on business opportunities, financial assistance, and management and technical support is made readily available for direct referral to specific field locations of the Office of Field Services and business opportunity centers or similar local community organizations. Further, the Division shall work closely with the Community Services Division in servicing the needs of local organizations for assistance and advice on various matters pertaining to the minority business field.

SEC. 7. *Community Services Division.* The Community Services Division shall stimulate, develop and monitor local community support and services for minority enterprise efforts.

.01 Specifically, it shall:

a. Promote the development of business opportunity centers by local organizations for disseminating information on minority-owned business opportunities and on available financial and technical assistance, and for identifying and assisting potential minority entrepreneurs;

b. Provide for the coordination of minority enterprise activities of local organizations, including civic, business and financial institutions, and governmental agencies;

c. Coordinate OMBE's activities with applicable State agencies; and

d. Appraise progress, problems, and needs of the minority business program in the field.

.02 The Division shall carry out these responsibilities at the local level through, and in conjunction with, the Field Offices of the Office of Field Services wherever such offices are designated as the primary point of field coordination for the OMBE program. In locations where such designations are not practicable, the Division shall work directly with local groups in establishing appropriate means for accomplishing specific objectives of the OMBE program and shall provide direct assistance and support to such groups.

SEC. 8. *Field operations.* .01 The Office of Field Services, through its various Field Offices, shall assist in carrying out OMBE's program in the field as provided below:

a. All Field Offices shall serve as a source of information for the local area on the program and take the initiative to advise relevant groups and individuals about the program; assist OMBE in establishing appropriate contacts at the local level; report on minority enterprise developments in the area; and otherwise facilitate execution of the program as may be requested, such as arranging meetings, obtaining specified information, or following up on particular matters.

b. The Office of Minority Business Enterprise shall, in conjunction with the Office of Field Services, designate certain Field Offices to have primary responsibility for OMBE's program in the localities served by those offices. The designations shall be made for particular locations only as determined to be in accord with program priorities established by the Secretary. Specifically, the responsibilities of these offices shall be to:

1. Assist in the identification of local community organizations which will be utilized for advertising the availability of minority business opportunities, including related financial and technical services, and identifying, screening and assisting potential minority entrepreneurs;

2. Review and process requests for assistance to local organizations and individuals;

3. Work with local Federal agencies, the Federal Executive Boards, and other governmental groups on programs of mutual interest in the minority enterprise field and resolve minor problems at the local level; and

4. Represent OMBE with State and local government officials to promote local support for the program.

.02 In geographic areas where Field Offices do not have primary responsibility for OMBE's field activities, OMBE shall make direct arrangements with local groups and organizations for carrying out the program in those localities. In these situations, OMBE shall keep the appropriate Field Office informed of local developments and activities related to the program, and utilize the Field Office as specified in subparagraph 8.01a. above.

Effective date: February 13, 1970.

LARRY A. JOBE,
Assistant Secretary for Administration.

[F. R. Doc. 70-3166; Filed, Mar. 16, 1970; 8:47 a.m.]

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Office of the Secretary

SOCIAL AND REHABILITATION SERVICE

Statement of Organization, Functions, and Delegations of Authority

Part 7 of the Statement of Organization, Functions, and Delegations of Authority for the Department of Health, Education, and Welfare (34 F.R. 1279, Jan. 25, 1969, as amended) is hereby further amended to reflect the reorganization of the Medical Services Administration. For such purposes, section 7-B is amended as follows:

By striking out all that follows under the heading "Medical Services Administration" and inserting in lieu thereof the following:

Provides national leadership in the administration of title XIX programs. Directs the planning, coordination, and development of these programs and the development of effective relationships between them and other federally supported health and health-related programs.

Within broad Department of Health, Education, and Welfare and Social and Rehabilitation Service policy and guidelines and subject to the health policy direction and other authority of the Assistant Secretary for Health and Scientific Affairs, the Medical Services Administration establishes program goals and objectives; develops policies, standards, and guidelines to accomplish stated goals; provides professional guidance and assistance to State and local organizations and leadership to regional office staff; develops modifications and innovations in program and in administration; works with and coordinates with other Social and Rehabilitation Service organizations and related health components of the Department to organize training and assistance programs in the States to promote and provide skilled medical and medically related manpower to better assist the needy; obtains, analyzes, and provides information related to medical assistance; develops and implements appropriate information and payment systems, maintains relationships with a variety of Federal, State, local, and nongovernmental organizations who have an interest in the health and welfare of the Nation and who have an impact on Medical Services Administration programs; evaluates progress in State and national administration of the title XIX programs and takes action to direct or redirect national and State efforts; conducts organizational management analysis and planning (including PPBS coordination), administrative and program budget, staffing, legislative, and other general administrative services activities, conducts public information, public inquiries, and public education activities; proposes legislation to provide for changing needs of program directions and for financing

of better health care to program recipients; promotes experimental programs in financing of health delivery systems. Provides management support to advisory councils. The Medical Services Administration has assigned functional responsibilities to the various offices and divisions as follows:

Office of Program Planning and Evaluation. Develops policies and plans for the development and coordination of the financing aspects of the Federal/State medical care programs for persons eligible under applicable titles of the Social Security Act. Determines statistical data to be collected; and maintains records of characteristics of State title XIX plans. Conducts studies of the economy with emphasis on areas relating to the medical aspects of the title XIX program. Coordinates with all other health-related DHEW policymaking organizations and works with Federal, State, MSA, and nongovernment advisory groups. Sets objectives and goals for MSA; guides program and administrative planning; reviews total program effort and prepares appraisal of programs of national impact.

Office of Program Innovation. Develops modifications and innovations in the administration of title XIX programs; promotes experiments in funding arrangements for health plans; collaborates with related Federal, State, regional, and community agencies in developing and implementing new health systems concepts to assure that title XIX activities are supportive of general systems improvements; coordinates title XIX support of research, demonstration projects, and analytic studies concerned with reducing the cost of making high quality health care available to the indigent.

Division of Management Information and Payment Systems. Plans and develops specifications for management information and payment systems; administers a management information system for the medicaid program; evaluates and improves the claims payment process; assists States and regions in the development and implementation of systems, provides regional, State, and headquarters liaison for EDP systems; provides staff coordination, direction, and advice to MSA organizations on reporting requirements and information; makes analyses and prepares management data and information necessary to administer the programs.

Division of Program Operations and Standards. Develops and prepares policies, standards and guides to regions and States for program participation, operations, administration and related areas; reviews State administration and operations; insures that program activities, standards, and other issuances are consistent with those of the Public Health Service and with the Social Security Administration; develops reimbursement standards for skilled nursing homes, hospitals, and other providers of medical care under the title XIX program; coordinates with regions on individual State problems; assists States in planning for and in extending the scope, content and quality of programs; cooperates with Assistance Payments Administration in the development of policies, methods, and guides for determination of eligibility for medical assistance. In coordination with other SRS organizations, formulates medical eligibility criteria for Aid to the Blind, Aid to Families with Dependent Children, and Aid to the Permanently and Totally Disabled.

Division of Technical Assistance and Training. Provides technical assistance and consultation to State agencies on organization, management methods and staffing for the title XIX program; provides liaison functions on expertise for interchange of personnel; develops personnel training and development programs for regional offices and State agencies. Works with States and regions on contracts for procurement of assistance, arranges for technical assistance and development not assigned to other divisions and offices.

Approved: March 5, 1970.

ROBERT H. FINCH,
Secretary.

[F.R. Doc. 70-3056; Filed, Mar. 16, 1970; 8:45 a.m.]

Public Health Service

LICENSED BIOLOGICAL PRODUCTS

Notice is hereby given that pursuant to section 351 of the Public Health Service Act, as amended (42 U.S.C. 262), and regulations issued thereunder (42 CFR Part 73), the following establishment license and product license actions have been taken from July 1, 1969, to December 31, 1969, inclusive.

These lists are supplementary to the lists of licensed establishments and products in effect on June 30, 1969. These were published on March 27, 1969, in F.R. Vol. 34, No. 60, and on August 30, 1969, in F.R. Vol. 34, No. 167.

ESTABLISHMENT LICENSES ISSUED

Establishment	City and State	License No.
Georgia Blood Bank and Serum Laboratories, Inc	Columbus, Ga	421
American Blood Bank Service, Inc	Miami, Fla	422
GCI Laboratories, Inc	Clearwater, Fla	423
Rh Bio Laboratories, Inc	Cincinnati, Ohio	424
Homer D. Cobb Memorial Hospital	Phenix City, Ala	425
Regional Blood Components, Ltd	Los Angeles, Calif	426
Wellcome Reagents Limited	Beckenham, Kent, England	427

ESTABLISHMENT LICENSES REVOKED AT THE REQUEST OF THE MANUFACTURER

Establishment	City and State	License No.
Cambridge Nuclear Corp	Cambridge, Mass	350
Chicago Wesley Memorial Hospital Blood Bank	Chicago, Ill	318
Illinois Department of Public Health, Bureau of Biologic Products, Division of Laboratories.	Chicago, Ill	120
Sherman Laboratories	Detroit, Mich	30

ESTABLISHMENT LICENSES REVOKED WITHOUT PREJUDICE AND REISSUED

Establishment	City and State	License No.	Action
Advance Biofactures Corp	Lynbrook, N.Y	383	Name change.
Allied Plasma Corp	Miami, Fla. and New Orleans, La.	418	Location added: New Orleans, La.
Barry Laboratories, Inc	Detroit, Mich. and Pompano Beach, Fla.	119	Location added: Pompano Beach, Fla.
Behring Diagnostics, Inc	Woodbury, N.Y	157	Name change.
Central Florida Blood Bank, Inc	Orlando, Fla	227	Locations added: Eustis, Fla. Rockledge, Fla. Seminole, Fla. Titusville, Fla.
Georgia Blood Bank and Serum Laboratories, Inc.	Augusta, Ga. and Columbus, Ga.	421	Location added: Augusta, Ga.
Metrix Clinical and Diagnostics Division Armour Pharmaceutical Co.	Chicago, Ill. and Kankakee, Ill.	149	Name change and location added: Chicago, Ill.
Miles Laboratories, Inc	Elkhart, Ind. and West Haven, Conn.	362	Location added: Elkhart, Ind.
Ohio Biomedical, Inc	Cincinnati, Ohio	424	Name change.
Spectra Biologicals Division Becton, Dickinson & Co.	Oxnard, Calif	344	Move to Oxnard, Calif.
W. E. and Lela I. Stewart Blood Center, Inc	Tyler, Tex	265	Name change.

PRODUCT LICENSES ISSUED

Product	Establishment	License No.
Anti-A Blood Grouping Serum	Metrix clinical and Diagnostics Division Armour Pharmaceutical Co.	149
Anti-B Blood Grouping Serum	do	149
Do	North American Biologicals, Inc	413
Anti-A, B Blood Grouping Serum	Metabolic Research Foundation, Inc	415
Do	Metrix Clinical and Diagnostics Division Armour Pharmaceutical Co.	149

Product	Establishment	License No.
Anti-Fy^a Serum (Anti-Duffy)	Abbott Laboratories	43
Anti-Human Chorionic Gonadotropic Serum	Miles Laboratories, Inc	362
Do	Wellcome Reagents Ltd	427
Anti-Human Serum	Eastern Biologicals, Inc	420
Do	Metrix Clinical and Diagnostics Division Armour Pharmaceutical Co.	149
Anti-K Serum (Anti-Kell)	do	149
Anti-Kp^a Serum (Anti-Penney)	Dade Division American Hospital Supply Corp	179
Anti-Le^a Serum (Anti-Lewis)	Metrix Clinical and Diagnostics Division Armour Pharmaceutical Co.	149
Anti-M Serum	do	149
Anti-N Serum	Lederle Laboratories Division, American Cyanamid Co.	17
Do	Metrix Clinical and Diagnostics Division Armour Pharmaceutical Co.	149
Anti-Rh Typing Serums:		
Anti-Rh$_0$ (Anti-D)	Eastern Biologicals, Inc	420
Do	Metrix Clinical and Diagnostics Division Armour Pharmaceutical Co.	149
Anti-Rh$_0$′ (Anti-CD)	do	149
Anti-Rh$_0$″ (Anti-DE)	do	149
Anti-Rh$_0$rh′rh″ (Anti-CDE)	Eastern Biologicals, Inc	420
Do	Metrix Clinical and Diagnostics Division Armour Pharmaceutical Co.	149
Anti-rh′ (Anti-C)	do	149
Anti-rh″ (Anti-E)	do	149
Anti-hr′ (Anti-c)	do	149
Anti-hr″ (Anti-e)	do	149
Anti-U Serum (Anti-Ss)	do	149
Blood Group Specific Substance A	do	149
Blood Group Specific Substance B	do	149
Blood Group Specific Substance A and B	do	149
Brucella Skin Test Antigen	Merck Sharp & Dohme, Division of Merck & Co., Inc.	2
Immune Globulin (Human), Pepsin-Modified	do	2
Packed Red Blood Cells (Human)	GCI Laboratories, Inc	423
Do	Rock Island County Blood Bank, Inc	373
Do	San Diego Blood Bank	201
Do	Scott County Medical Society Blood Bank, Inc	366
Plasma Protein Fraction (Human)	Metrix Clinical and Diagnostics Division Armour Pharmaceutical Co.	149
Reagent Red Blood Cells (Human)	do	149
Rubella Virus Vaccine, Live	Philips-Roxane, Inc	376
Russell Viper Venom	Wellcome Reagents, Ltd	427
Single Donor Plasma (Human)	San Diego Blood Bank	201
Whole Blood (Human)	American Blood Bank Service, Inc	422
Do	GCI Laboratories, Inc	423
Do	Georgia Blood Bank and Serum Laboratories, Inc	421
Do	Homer D. Cobb Memorial Hospital	425
Do	Regional Blood Components, Ltd	426
Do	Rh Bio Laboratories, Inc	424

PRODUCT LICENSES REVOKED AT THE REQUEST OF THE MANUFACTURER

Product	Establishment	License No.
Absorbed Anti-A Serum	Michael Reese Research Foundation	113
Anti-A Blood Grouping Serum	do	113
Anti-B Blood Grouping Serum	do	113
Anti-A, B Blood Grouping Serum	do	113
Anti-Human Chorionic Gonadotropic Serum	Wellcome Foundation Limited	129
Anti-Human Serum	Michael Reese Research Foundation	113
Anti-K Serum (Anti-Kell)	do	113
Anti-Le^a Serum (Anti-Lewis)	do	113
Anti-M Serum	do	113
Anti-N Serum	do	113
Anti-U Serum (Anti-Ss)	do	113
Anti-Rh Typing Serums:		
Anti-Rh$_0$ (Anti-D)	do	113
Anti-Rh$_0$′ (Anti-CD)	do	113
Anti-Rh$_0$″ (Anti-DE)	do	113
Anti-Rh$_0$rh′rh″ (Anti-CDE)	do	113
Anti-rh′ (Anti-C)	do	113
Anti-rh″ (Anti-E)	do	113
Anti-hr′ (Anti-c)	do	113
Anti-hr″ (Anti-e)	do	113
Bacterial Antigens made from:		
Colon bacillus	Sherman Laboratories	30
Pneumococcus	do	30
Staphylococcus albus	do	30
Staphylococcus aureus	do	30
Streptococcus	do	30
Bacterial Vaccines made from:		
Friedlander bacillus	Barry Laboratories, Inc	119
Do	Sherman Laboratories	30
Influenza bacillus	Barry Laboratories, Inc	119
Do	Sherman Laboratories	30
Micrococcus catarrhalis	Barry Laboratories, Inc	119
Do	Sherman Laboratories	30
Pneumococcus	Barry Laboratories, Inc	119
Do	Sherman Laboratories	30
Pseudodiphtheria bacillus	Barry Laboratories, Inc	119
Do	Sherman Laboratories	30
Staphylococcus albus	Barry Laboratories, Inc	119
Do	Sherman Laboratories	30
Staphylococcus aureus	Barry Laboratories, Inc	119
Do	Sherman Laboratories	30
Staphylococcus citreus	Barry Laboratories, Inc	119
Streptococcus	do	119
Do	Sherman Laboratories	30
Blood Group Specific Substance A	Michael Reese Research Foundation	113
Blood Group Specific Substance B	do	113
Blood Group Specific Substance A and B	do	113
Cholera Vaccine	Parke, Davis and Co	1
Diphtheria Antitoxin	do	1
Diphtheria Toxin for Schick Test	Illinois Department of Public Health, Bureau of Biologic Products, Division of Laboratories.	120
Diphtheria Toxoid	do	120
Diphtheria Toxoid Alum Precipitated and Pertussis Vaccine Combined.	do	120
Diphtheria Toxoid and Pertussis Vaccine Combined Aluminum Phosphate Adsorbed.	Parke, Davis and Co	1
Dysentery Antitoxin, Shiga	do	1
Mumps Immune Serum (Human)	Michael Reese Research Foundation	113
Normal Bovine Serum	Merck Sharp & Dohme, Division of Merck & Co., Inc.	2
Pertussis Vaccine	Illinois Department of Public Health, Bureau of Biologic Products, Division of Laboratories.	120
Do	Massachusetts Public Health Biologic Laboratories	64
Plasma Protein Fraction (Human)	do	64
Poison Ivy Extract	Sherman Laboratories	30
Poison Ivy Extract Alum Precipitated	Barry Laboratories, Inc	119
Poison Ivy-Poison Oak Extracts Combined	Sherman Laboratories	30
Poison Oak Extract	do	30
Poliomyelitis Immune Globulin (Human)	E.R. Squibb & Sons, Inc	52
Do	Massachusetts Public Health Biologic Laboratories	64
Do	Oesterreichisches In stitut Fuer Haemoderivate m.b.H.	258
Rabies Vaccine	Illinois Department of Public Health, Bureau of Biologic Products, Division of Laboratories.	120
Radio-Iodinated (I^{131}) Serum Albumin (Human)	Cambridge Nuclear Corp	350
Reagent Red Blood Cells (Human)	Michael Reese Research Foundation	113
Russell Viper Venom	Wellcome Foundation Ltd	129
Sensitized Bacterial Vaccines made from:		
Paratyphoid Bacillus A	Merck Sharp & Dohme, Division of Merck & Co., Inc.	
Paratyphoid Bacillus B	do	2
Typhoid Bacillus	do	2
Tetanus Antitoxin	do	2
Typhoid Vaccine	Illinois Department of Public Health, Bureau of Biologic Products, Division of Laboratories.	120
Typhoid and Paratyphoid Vaccine	do	120
Do	Merck Sharp & Dohme, Division of Merck & Co., Inc.	2
Vibrion septique Antitoxin	Parke, Davis and Co	1
Whole Blood (Human)	Chicago Wesley Memorial Hospital Blood Bank	318

PRODUCT LICENSES FOR TUBERCULIN, OLD; TUBERCULIN, P.P.D.; AND TUBERCULIN, TINE TEST REVOKED WITHOUT PREJUDICE AND REISSUED AS TUBERCULIN

Product	Establishment	License No.
Tuberculin	Connaught Medical Research Laboratories, University of Toronto	73
Do	Cutter Laboratories, Inc.	8
Do	Eli Lilly and Co.	56
Do	Evans Medical Ltd.	351
Do	Institut Merieux	384
Do	Lederle Laboratories Division, American Cyanamid Co.	17
Do	Massachusetts Public Health Biologic Laboratories	64
Do	Merck Sharp & Dohme, Division of Merck & Co., Inc.	2
Do	Michigan Department of Public Health Bureau of Laboratories	99
Do	Parke, Davis and Co.	1
Do	Texas State Department of Health	121

Approved:

RODERICK MURRAY,
Director, Division of Biologics Standards, National Institutes of Health, Public Health Service, U.S. Department of Health, Education, and Welfare.

Approved:

JANE STAFFORD,
Director of Information, For the Director, National Institutes of Health, Public Health Service, U.S. Department of Health, Education, and Welfare.

[F.R. Doc. 70-3096; Filed, Mar. 16, 1970; 8:45 a.m.]

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

ASSISTANT REGIONAL ADMINISTRATOR FOR METROPOLITAN DEVELOPMENT AND DEPUTY ASSISTANT REGIONAL ADMINISTRATOR FOR METROPOLITAN DEVELOPMENT, REGION VI (SAN FRANCISCO)

Redelegations of Authority With Respect to Specific Programs

The redelegations of authority to the Assistant Regional Administrator for Metropolitan Development and the Deputy Assistant Regional Administrator for Metropolitan Development, Region VI (San Francisco), effective November 9, 1966 (32 F.R. 4084, Mar. 15, 1967), are hereby amended under section A by adding a new paragraph 8 as follows:

8. Historic Preservation Grant Program under title VII of the Housing Act of 1961, as amended (42 U.S.C. 1500–1500e) except the authority to:

a. Provide technical assistance and undertake studies and publish information under section 708 (42 U.S.C. 1500d).

b. Determine further terms and conditions under section 702(d) (42 U.S.C. 1500a(d)).

(Redelegation by Assistant Secretary for Metropolitan Development published at 31 F.R. 7359, May 20, 1966, as amended at 31 F.R. 8969, June 29, 1966; 31 F.R. 13148, Oct. 11, 1966; and 33 F.R. 11099, Aug. 3, 1968)

Effective date. This amendment of redelegations of authority is effective as of November 1, 1969.

ROBERT B. PITTS,
Regional Administrator, Region VI.

[F.R. Doc. 70-3188; Filed, Mar. 16, 1970; 8:48 a.m.]

ATOMIC ENERGY COMMISSION

PLUTONIUM AND URANIUM ENRICHED IN U^{233}

Guaranteed Purchase Prices

1. This notice amends a similarly entitled notice published March 25, 1965, 30 F.R. 3886, as amended by notices published December 19, 1967, 32 F.R. 18119 and May 24, 1969, 34 F.R. 8174 as follows:

2. In the second sentence of paragraph 1 of the notice, the phrase: "to plutonium enriched in U^{233} delivered to the AEC prior to January 1, 1971" is revised to read: "to plutonium delivered to the AEC prior to January 1, 1971, and to uranium enriched in U^{233} delivered to AEC prior to January 1, 1976".

3. In the last sentence of paragraph 4 of the notice, the date "January 1, 1971" is revised to "January 1, 1976".

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

Dated at Washington, D.C., this 10th day of March 1970.

For the Atomic Energy Commission.

F. T. HOBBS,
Assistant Secretary.

[F.R. Doc. 70-3143; Filed, Mar. 16, 1970; 8:45 a.m.]

[Dockets Nos. 50-327, 50-328]

TENNESSEE VALLEY AUTHORITY

Notice of Hearing on Application for Provisional Construction Permits

In the matter of Tennessee Valley Authority (Sequoyah Nuclear Plant Units 1 and 2); Dockets Nos. 50-327, 50-328.

Pursuant to the Atomic Energy Act of 1954, as amended (the Act), and the regulations in Title 10, Code of Federal Regulations, Part 50, "Licensing of Production and Utilization Facilities," and Part 2, "Rules of Practice," notice is hereby given that a hearing will be held at 10 a.m. local time, on April 23, 1970, in the Kirkman Technical High School, 215 Chestnut Street, Chattanooga, Tenn., to consider the application filed under section 104b of the Act by the Tennessee Valley Authority (the applicant), for provisional construction permits for two pressurized water nuclear reactors designed to operate initially at 3411 megawatts (thermal) to be located at the applicant's site on the west shore of Chickamauga Lake in Hamilton County, Tenn.

The hearing will be conducted by the Atomic Safety and Licensing Board designated by the Atomic Energy Commission, consisting of Dr. Hugh C. Paxton, Los Alamos, N. Mex.; Mr. Warren E. Nyer, Idaho Falls, Idaho; and James R. Yore, Esq., Washington, D.C., Chairman. Dr. David B. Hall, Los Alamos, N. Mex., has been designated as a technically qualified alternate, and Samuel W. Jensch, Esq., Washington, D.C. has been designated as an alternate qualified in the conduct of administrative proceedings.

A prehearing conference will be held by the Board in Room 2010, Federal Office Building No. 7, 726 Jackson Place (entrance on 17th Street) NW., Washington, D.C., April 7, 1970, at 2 p.m. local time, to consider the matters provided for consideration by 10 CFR 2.752 and section II of Appendix A to 10 CFR Part 2.

The Director of Regulation proposes to make affirmative findings on Items Nos. 1–3 and a negative finding on Item 4 specified below as the basis for the issuance of provisional construction permits to the applicant.

1. Whether in accordance with the provisions of 10 CFR 50.35(a);

(a) The applicant has described the proposed design of the facilities including, but not limited to, the principal architectural and engineering criteria for the design, and has identified the major features or components incorporated therein for the protection of the health and safety of the public;

(b) Such further technical or design information as may be required to complete the safety analysis and which can reasonably be left for later consideration, will be supplied in the final safety analysis report;

(c) Safety features or components, if any, which require research and development have been described by the applicant and the applicant has identified, and there will be conducted, a research and development program reasonably designed to resolve any safety questions associated with such features or components; and

(d) On the basis of the foregoing, there is reasonable assurance that (i) such safety questions will be satisfactorily resolved at or before the latest dates stated in the application for completion of construction of the proposed facilities, and (ii) taking into consideration the site criteria contained in 10 CFR Part 100, the proposed facilities can be constructed and operated at the proposed location without undue risk to the health and safety of the public;

2. Whether the applicant is technically qualified to design and construct the proposed facilities;

3. Whether the applicant is financially qualified to design and construct the proposed facilities; and

4. Whether the issuance of permits for the construction of the facilities will be inimical to the common defense and security or to the health and safety of the public.

In the event that this proceeding is not a contested proceeding, as defined by 10 CFR 2.4 of the Commission's rules of practice, the Board will, without conducting a de novo evaluation of the application, consider the issues of whether the application and the record of the proceeding contain sufficient information, and the review by the Commission's regulatory staff has been adequate, to support the findings proposed to be made and the provisional construction permits proposed to be issued by the Director of Regulation.

In the event that this proceeding becomes a contested proceeding, the Board will consider and initially decide, as the issues in this proceeding, Items Nos. 1 through 4 above as the basis for determining whether provisional construction permits should be issued to the applicant.

As they become available, the application, the proposed provisional construction permits, the applicant's summary of the application, the report of the Commission's Advisory Committee on Reactor Safeguards (ACRS) and the safety evaluation by the Commission's regulatory staff will be placed in the Commission's Public Document Room, 1717 H Street NW., Washington, D.C., where they will be available for inspection by members of the public. Copies of this notice of hearing, the proposed provisional construction permits, the ACRS report, the applicant's summary of the application and the regulatory staff's safety evaluation will also be available at the office of Mr. Ralph Pennington, assistant principal, Kirkman Technical High School, 215 Chestnut Street, Chattanooga, Tenn., for inspection by members of the public each weekday between the hours of 8 a.m. to 3:30 p.m. Copies of the proposed provisional construction permits, the ACRS report and the regulatory staff's safety evaluation may be obtained by request to the Director of the Division of Reactor Licensing, U.S. Atomic Energy Commission, Washington, D.C. 20545.

Any person who wishes to make an oral or written statement in this proceeding setting forth his position on the issues specified, but who does not wish to file a petition for leave to intervene, may request permission to make a limited appearance pursuant to the provisions of 10 CFR 2.715 of the Commission's rules of practice. Limited appearances will be permitted at the time of the hearing in the discretion of the Board, within such limits and on such conditions as may be fixed by the Board. Persons desiring to make a limited appearance are requested to inform the Secretary, U.S. Atomic Energy Commission, Washington, D.C. 20545, by April 2, 1970.

Any person whose interest may be affected by the proceeding who does not wish to make a limited appearance and who wishes to participate as a party in the proceeding must file a petition for leave to intervene.

Petitions for leave to intervene, pursuant to the provisions of 10 CFR 2.714 of the Commission's rule of practice, must be received in the Office of the Secretary, U.S. Atomic Energy Commission, Washington, D.C. 20545, Attention: Chief, Public Proceedings Branch, or the Commission's Public Document Room, 1717 H. Street NW., Washington, D.C., not later than April 2, 1970, or in the event of a postponement of the prehearing conference, at such time as the Board may specify. The petition shall set forth the interest of the petitioner in the proceedings, how that interest may be affected by Commission action, and the contentions of the petitioner in reasonably specific detail. A petition which sets forth contentions relating only to matters outside the Commission's jurisdiction will be denied. A petition for leave to intervene which is not timely filed will be denied unless the petitioner shows good cause for failure to file it on time.

A person permitted to intervene becomes a party to the proceeding, and has all the rights of the applicant and the regulatory staff to participate fully in the conduct of the hearing. For example, he may examine and cross-examine witnesses. A person permitted to make a limited appearance does not become a party, but may state his position and raise questions which he would like to have answered to the extent that the questions are within the scope of the hearing as specified in the issues set out above. A member of the public does not have the right to participate unless he has been granted the right to intervene as a party or the right of limited appearance.

An answer to this notice, pursuant to the provisions of 10 CFR 2.705 of the Commission's rules of practice, must be filed by the applicants on or before April 2, 1970.

Papers required to be filed in this proceeding may be filed by mail or telegram addressed to the Secretary, United States Atomic Energy Commission, Washington, D.C. 20545, Attention: Chief, Public Proceedings Branch, or may be filed by delivery to the Commission's Public Document Room, 1717 H Street NW., Washington, D.C.

Pending further order of the Board, parties are required to file, pursuant to the provisions of 10 CFR 2.708 of the Commission's rules of practice, an original and 20 conformed copies of each such paper with the Commission.

With respect to this proceeding, the Commission has delegated to the Atomic Safety and Licensing Appeal Board the authority and the review function which would otherwise be exercised and performed by the Commission. The Commission has established the Appeal Board pursuant to 10 CFR 2.785 of the Commission's rules of practice, and has made the delegation pursuant to paragraph (a)(1) of this section. The Appeal Board is composed of the Chairman and Vice Chairman of the Atomic Safety and Licensing Board Panel and a third member who is technically qualified and designated by the Commission. The Commission has designated Dr. Lawrence Quarles, dean of the School of Engineering and Applied Science, the University of Virginia, as this third member.

Dated at Washington, D.C., this 13th day of March, 1970.

UNITED STATES ATOMIC ENERGY COMMISSION,
W. B. McCOOL,
Secretary.

[F.R. Doc. 70-3235; Filed, Mar. 16, 1970; 8:51 a.m.]

[Docket No. 50-245]

CONNECTICUT LIGHT AND POWER CO. ET AL.

Notice of Proposed Issuance of Provisional Operating License

The Atomic Energy Commission (the Commission) is considering the issuance of a provisional operating license to the Connecticut Light and Power Co. (CL&P), the Hartford Electric Light Co. (HELCO), Western Massachusetts Electric Co. (WMECO), and the Millstone Point Co. (Millstone), which would authorize Millstone, acting for itself and as agent for CL&P, HELCO, and WMECO to possess, use, and operate the Millstone Nuclear Power Station Unit 1 (Millstone 1). Millstone would be authorized to operate the single-cycle, boiling light-water reactor at the Millstone Nuclear Power Station in the town of Waterford, Conn., at steady-state power levels not to exceed 2,011 megawatts (thermal), in accordance with the provisions of the license and the Technical Specifications appended thereto. The license would also authorize CL&P, HELCO, and WMECO to acquire and possess title to the facility as their interests appear in the application. Construction of Millstone 1 was authorized by Provisional Construction Permit No. CPPR-20 issued by the Commission on May 19, 1966.

The Commission has found that the application for the facility license, as amended, complies with the requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's regulations published in 10 CFR Chapter I.

Prior to issuance of the provisional operating license, the facility will be inspected by the Commission to determine whether it has been constructed in accordance with the application, as amended, and the provisions of Provisional Construction Permit No. CPPR–20. The license will be issued after the Commission makes the findings, relating to its review of the application, which are set forth in the proposed license, and concludes that the issuance of this license will not be inimical to the common defense and security or to the health and safety of the public. Upon issuance of the license, CL&P, HELCO, WMECO, and Millstone (the applicants) will be required to execute an idemnity agreement as required by section 170 of the Act and 10 CFR Part 140 of the Commission's regulations.

In the event that construction has not been completed to permit full power operation, the Commission may issue a provisional operating license consistent with the level of construction completed to permit initial fuel loading and low-power testing prior to the issuance of the full-power license.

Within 30 days from the date of publication of this notice in the FEDERAL REGISTER, the applicants 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 in 10 CFR Part 2. If a request for a hearing or petition for leave to intervene is filed within the time prescribed in this notice, the Commission will issue a notce of hearing or appropriate order.

For further details with respect to this proposed provisional operating license, see (1) the application for construction permit and facility license dated November 10, 1965, as amended (Amendment Nos. 5 through 24), (2) the report of the Advisory Committee on Reactor Safeguards on the application for Millstone 1 facility license, dated January 15, 1970, (3) the proposed provisional operating license, including Technical Specifications attached as Appendix A thereto, and (4) a related safety evaluation prepared by the Division of Reactor Licensing, all of which are available for public inspection at the Commission's Public Document Room, 1717 H Street NW., Washington, D.C. Copies of items (2) and (4) above may be obtained at the Commission's Public Document Room or upon request addressed to the Atomic Energy Commission, Washington, D.C. 20545, Attention: Director, Division of Reactor Licensing.

Dated at Bethesda, Md., this 13th day of March 1970.

For the Atomic Energy Commission.

PETER A. MORRIS,
Director,
Division of Reactor Licensing.

[F.R. Doc. 70-3278; Filed, Mar. 16, 1970; 10:05 a.m.]

CIVIL AERONAUTICS BOARD

[Dockets Nos. 16349, 18078; Order 70-3-54]

AMERICAN AIRLINES, INC., AND SEABOARD WORLD AIRLINES, INC.

Order To Show Cause

Adopted by the Civil Aeronautics Board at its office in Washington, D.C., on the 11th day of March 1970.

On November 4, 1969, American Airlines, Inc. (American), and Seaboard World Airlines, Inc. (Seaboard), filed a notice of election and agreement to equalize rates for the carriage of airmail and military ordinary mail (MOM) on an interline basis between Washington, D.C., and Baltimore, Md., on the one hand, and London and Frankfurt, on the other, the reduced charges to be equal to the lowest charges in effect for service between such points by any other air carrier or air carriers.

On November 21, 1969, Trans World Airlines, Inc. (TWA), filed an objection to the above-described proposal as it applied to the equalization of rates for MOM. TWA states that Order 68–9–8 [1] establishes MOM rates only for those carriers specified therein over their respective routes, and MOM rates cannot apply to the services or routes of any other carrier. TWA further states that Order 69–9–152 [2] amends Order 68–9–8 to provide for equalization with respect to MOM rates, but makes no change with respect to the services or routes to which those rates apply. TWA contends, therefore, that American cannot carry MOM at the rate established by Order 68–9–8, inasmuch as such rates do not apply to American's routes and services, and it cannot participate with Seaboard in the proposed equalization of MOM.

On November 21, 1969, American filed a petition to amend Order 68–9–8, stating that the Post Office Department had questioned whether equalization as proposed by American and Seaboard for MOM was appropriate since the domestic segment to be carried by American would be part of a transatlantic service for which no MOM rate has been established for American. In view of this, American requests that Order 68–9–8 be amended to the extent necessary to permit American and Seaboard to equalize rates for MOM on through service as provided for in the agreement filed herein.

On November 28, 1969, American answered TWA's objections contending that Order 68–9–8, as amended by 69–9–152, is sufficiently broad to permit the proposed equalization with Seaboard, but that it had filed the previously noted application to amend 68–9–8 to remove any doubts in this regard.

On December 1, 1969, TWA filed objections to American's application stating that Order 68–9–8 does not contemplate the carriage of MOM by a domestic carrier over domestic routes, and the effect of American's request would be to establish a domestic MOM rate. TWA states this would change the basic concept of MOM service and the rate applicable thereto, and the effects and propriety of such a change could only be explored in a normal mail-rate proceeding.

Also on December 1, 1969, the Postmaster General filed a reply in support of American's application stating that the proposed election and agreement by American and Seaboard would provide greater flexibility to the Department for the dispatch of mail from the Washington area, via New York, to London and Frankfurt.

Upon consideration of the complaints and answers thereto, and other relevant matters of record, the Board proposes to issue an order to further amend Order 68–9–8, to provide for the equalization of MOM as requested herein.

MOM consists of all classes of U.S. mail other than airmail and air parcel post, including official and personal letters and parcels, addressed to or from Armed Forces Post Offices outside of the United States. The basic concept of MOM is mail moving between international gateways and points on the transatlantic, transpacific, and Latin American routes of the U.S. carriers certificated to serve these areas. The relief requested by American, which would enable that carrier to transport MOM between the Washington area and New York and then transfer the mail to Seaboard for transportation over the latter's transatlantic routes,[3] does not significantly alter this concept. This mail originates in the Washington area and is destined to either London or Frankfurt. Under present circumstances this mail can move directly across the Atlantic or go via New York. The fact that the routing may be via New York does not change the character of the mail nor the fact that the lower Washington direct mileage would apply in either instance. Similarly, premitting American to perform the Washington-New York leg will not alter this concept, and by so doing the Post Office Department will have greater flexibility in schedules and thus provide better service to the Department of Defense.

On the basis of the foregoing, the Board proposes to issue an order to include the following findings and conclusions:

1. The notice of election and agreement to equalize mail rates filed by American Airlines, Inc., and Seaboard World Airlines, Inc., shall be approved.

2. Order 68–9–8, shall be further amended as follows:

a. At line 5 of page 2, after the words "Seaboard World Airlines, Inc.," add "American Airlines, Inc.,"; [4]

b. In footnote 2 on page 2 the period at the end of paragraph (2) shall be

[1] Sept. 4, 1968.
[2] Sept. 30, 1969.

[3] Seaboard presently has authorization to provide transatlantic service from Washington and Baltimore.

[4] Other carriers certificated to carry mail between Washington/Baltimore and New York who so request will be added to the final order herein.

changed to a semicolon and the word "and" added.

c. Thereafter a new paragraph (3) shall be added which is to read "(3) such service shall also include the carriage of MOM by American between Washington, D.C., and Baltimore, Md., on the one hand and New York, N.Y., on the other hand in conjunction with the through carriage of MOM between Washington, D.C., and Baltimore, Md., on the one hand and London, England, and Frankfurt, Germany, on the other."

Accordingly, pursuant to the Federal Aviation Act of 1958, and particularly sections 204(a) and 406 thereof, and pursuant to the regulations promulgated in 14 CFR Part 302:

It is ordered, That:

1. All interested persons and particularly American Airlines, Inc., Pan American World Airways, Inc., Seaboard World Airlines, Inc., Trans World Airlines, Inc., and the Postmaster General are directed to show cause why the Board should not adopt the foregoing proposed findings and conclusions.

2. Further procedures herein shall be in accordance with 14 CFR Part 302, and, if there is any objection to the rates or to the other findings and conclusions proposed herein, notice thereof shall be filed within 10 days after the date of service of this order, and if notice is filed, written answer and supporting documents shall be filed within 30 days after date of service of this order.

3. If notice of objection is not filed within 10 days, or if notice is filed and if answer is not filed within 30 days after service of this order, all persons shall be deemed to have waived the right to a hearing and all other procedural steps short of a final decision by the Board, an dthe Board may enter an order incorporating the findings and conclusions proposed herein and fix and determine the final and temporary rates specified herein.

4. If answer is filed presenting issues for hearing,[5] the issues involved in determining the fair and reasonable rates herein shall be limited to those specifically raised by such answers except as otherwise provided in 14 CFR 302.307.

5. This order shall be served upon American Airlines, Inc., Pan American World Airways, Inc., Seaboard World Airlines, Inc., Trans World Airlines, Inc., and the Postmaster General.

This order will be published in the FEDERAL REGISTER.

By the Civil Aeronautics Board.

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

[F.R. Doc. 70-3203; Filed, Mar. 16, 1970; 8:50 a.m.]

[5] In our opinion, there appear to be no factual issues that would require an evidentiary hearing in this case. Any person filing an answer should set forth with supporting data the factual issues which he believes require such a hearing. In the absence of such a showing, the Board intends to issue a final order without hearing.

[Docket No. 20993; Order 70-3-53]

INTERNATIONAL AIR TRANSPORT ASSOCIATION

Order Regarding Specific Commodity Rates

Adopted by the Civil Aeronautics Board at its office in Washington, D.C., on the 11th day of March 1970.

By Order 69-11-54, dated November 14, 1969, action was deferred on an agreement embodied in the resolutions of Traffic Conference 1 of the International Air Transport Association (IATA), and adopted by the 25th meeting of the Traffic Conference 1 Specific Commodity Rates Board. After a 10-day period in which interested persons might file petitions in support of or in opposition to our proposal to approve [1] the agreement, the tentative conclusions in Order 69-11-54 were finalized in Order 69-12-82, dated December 18, 1969, except with respect to the proposed extension of effectiveness of a specific commodity rate for floral and nursery stock from Merida to New Orleans. Action on this latter aspect of the agreement was further deferred in light of comments received from International Comador of Memphis, Inc. (Comador).

Comador, in comments received on December 4, 1969, requested that the Board disapprove or take other necessary action to eliminate an alleged discrimination in rates for floral and/or nursery stock under Commodity Item 1400 from Merida to New Orleans (which had earlier been increased from 14 to 17 cents per kilogram at a minimum weight of 200 kilograms [2]) vis-a-vis other points, principally Miami.

Pan American has indicated that the earlier changes in the rate should have been made for other sectors along the same routing, including Merida to Miami. Subsequently, an agreement has been filed with the Board, as a result of action instituted by Pan American, in an effort to alleviate the situation complained of by Comador. The agreement, which was adopted by mail vote and has been designated as Agreement CAB 21635, would cancel the rate of 17 cents per kilogram for shipments of 200 kilograms or more moving from Merida to New Orleans. This cancellation would have the effect of allowing this rate to revert to its previously constructed status and level, as applicable from Merida to Miami, at 14 cents per kilogram. Therefore, we shall consider that portion of Agreement CAB 21379 on which action was deferred to be superseded by the later agreement.

By communication dated January 2, 1970, Comador advised that the situation contemplated by the more recent agreement is satisfactory, and its complaint shall herein be dismissed as moot.

In these circumstances, and acting pursuant to sections 102, 204(a), and 412 of the Act, the Board does not find that Resolution 100(Mail 830)590, which is incorporated in Agreement CAB 21635, is adverse to the public interest or in violation of the Act.

Accordingly, it is ordered, That:

1. Agreement CAB 21635 be and hereby is approved; and

2. The petition of International Comador of Memphis, Inc., is hereby dismissed as moot.

This order will be published in the FEDERAL REGISTER.

By the Civil Aeronautics Board.

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

[F.R. Doc. 70-3202; Filed, Mar. 16, 1970; 8:50 a.m.]

[1] Except insofar as it would establish certain specific commodity rates for household goods and personal effects to/from or between Miami and a number of points within Central and South America at levels higher than the Board-approved IATA general cargo rates.

[2] Order 69-5-77, issued under delegated authority, proposed to approve the Merida to New Orleans specific commodity rate of 17 cents per kilogram, minimum weight 200 kilograms, under Commodity Item 1400. No complaints were received during the 10-day period allowed prior to finalization of the tentative conclusions by Order 69-6-6.

LONG-HAUL MOTOR CARRIER APPLICATIONS FOR AIR FREIGHT FORWARDER AUTHORITY [1]

Notice to Interested Persons

Notice is hereby given, pursuant to §§ 296.84 and 297.64 of the Board's economic regulations, that the following applications of long-haul motor carriers of general commodities for air freight forwarder authority are on file with the Board:

Bushman Dock & Terminal Co., Inc., doing business as Traffic-Transportation Services, 127 Main Street, Green Bay, Wis. 54301 (D&I).

Gateway Aviation Co., Inc., 2130 South Avenue, La Crosse, Wis. 54601 (D&I).

IML Freight International, Inc., 2175 South 3270 West, Post Office Box 2277, Salt Lake City, Utah 84110 (D&I).

Interstate System, 134 Grandville Avenue SW., Grand Rapids, Mich. 49502 (D).

Lynden Transfer, Inc., doing business as Lynden Transport, Post Office Box 433, Lynden, Wash. 98264 (D).

Mercury Motor Express, Inc., Post Office Box 3391, Tampa, Fla. 33601 (D).

Missouri Pacific Airfreight, Inc., 210 North 13 Street, St. Louis, Mo. 63103 (D&I).

Neptune World Wide Moving, Inc., 55 Weyman Avenue, New Rochelle, N.Y. 10802 (D&I).

Riss & Company, Inc., 903 Grand Avenue, Post Office Box 2809, Kansas City, Mo. 64106 (D&I).

Southern Pacific Air Freight, Inc., 65 Market Street, San Francisco, Calif. 94105 (D&I).

T.I.M.E.—DC, Inc., Post Office Box 2550, Lubbock, Tex. 79408 (D&I).

Transcon Lines, Post Office Box 54005, Terminal Annex, Los Angeles, Calif. 90054 (D&I).

Western Gillette, Inc., doing business as C & T Air Freight, Post Office Box 58767, Los Angeles, Calif. 90058 (D&I).

Wilson Air Freight Forwarding System, Inc., 3636 Follett Avenue, Cincinnati, Ohio (D&I).

[1] D—Interstate; I—International.

Dated at Washington, D.C., March 10, 1970.

[SEAL] HAROLD S. PARROTT,
Chief, Supplementary Services Division, Bureau of Operating Rights.

[F.R. Doc. 70-3198; Filed, Mar. 16, 1970; 8:49 a.m.]

[Docket No. 9977]

MUTUAL AID AGREEMENT

Notice of Oral Argument Regarding Renewal

Notice is hereby given, pursuant to the provisions of the Federal Aviation Act of 1958, as amended, that oral argument in the above-entitled matter is assigned to be heard by the Board on April 8, 1970, at 10 a.m., e.s.t., in Room 1027, Universal Building, 1825 Connecticut Avenue NW., Washington, D.C.

Dated at Washington, D.C., March 11, 1970.

[SEAL] THOMAS L. WRENN,
Chief Examiner.

[F.R. Doc. 70-3200; Filed, Mar. 16, 1970; 8:49 a.m.]

[Docket No. 19685]

SERVICE TO SALT LAKE CITY INVESTIGATION

Notice of Oral Argument

Notice is hereby given, pursuant to the provisions of the Federal Aviation Act of 1958, as amended, that oral argument in the above-entitled matter is assigned to be heard by the Board on April 15, 1970, at 10 a.m., e.s.t., in Room 1027, Universal Building, 1825 Connecticut Avenue NW., Washington, D.C.

Dated at Washington, D.C., March 12, 1970.

[SEAL] THOMAS L. WRENN,
Chief Examiner.

[F.R. Doc. 70-3199; Filed, Mar. 16, 1970; 8:49 a.m.]

CIVIL SERVICE COMMISSION

DEPARTMENT OF DEFENSE

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 Defense to fill, by noncareer executive assignment in the excepted service, the position of Special Assistant to the Deputy Assistant Secretary (Policy Plans and National Security Council Affairs).

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

[F.R. Doc. 70-3190; Filed, Mar. 16, 1970; 8:49 a.m.]

DEPARTMENT OF DEFENSE

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 Defense to fill by noncareer executive assignment in the excepted service the position of Deputy Director for International Sales Negotiations, Office of the Director Military Assistance and Sales, OASD (International Security Affairs).

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

[F.R. Doc. 70-3192; Filed, Mar. 16, 1970; 8:49 a.m.]

DEPARTMENT OF THE AIR FORCE

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 tht Air Force to fill by noncareer executive assignment in the excepted service the position of Special Assistant to the President, Central Control Group, Executive Offices of the President.

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

[F.R. Doc. 70-3189; Filed, Mar. 16, 1970; 8:49 a.m.]

DEPARTMENT OF THE TREASURY

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 the Treasury to fill by noncareer executive assignment in the excepted service the position of Deputy Assistant Secretary (Enforcement and Operations).

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

[F.R. Doc. 70-3191; Filed, Mar. 16, 1970; 8:49 a.m.]

FEDERAL COMMUNICATIONS COMMISSION

STANDARD BROADCAST APPLICATIONS READY AND AVAILABLE FOR PROCESSING

MARCH 11, 1970.

Notice is hereby given, pursuant to § 1.571(c) of the Commission's rules, that on April 21, 1970, the standard broadcast applications listed below will be considered as ready and available for processing. Pursuant to §§ 1.227(b)(1), 1.591(b) and Note 2 to § 1.571 of the Commission's rules,[1] an application, in order to be considered with any application appearing below must be in direct conflict with said application, substantially complete and tendered for filing at the offices of the Commission by the close of business on April 20, 1970. The attention of prospective applicants is directed to the fact that some contemplated proposals may not be eligible for consideration with an application appearing below by reason of conflicts between the listed applications and applications appearing in previous notices published pursuant to § 1.571(c) of the Commission's rules.

The attention of any party in interest desiring to file pleadings concerning any pending standard broadcast application pursuant to section 309(d)(1) of the Communications Act of 1934, as amended, is directed to § 1.580(i) of the Commission's rules for provisions governing the time of filing and other requirements relating to such pleadings.

Adopted: March 11, 1970.

Released: March 11, 1970.

FEDERAL COMMUNICATIONS COMMISSION,
[SEAL] BEN F. WAPLE,
Secretary.

APPLICATIONS FROM THE TOP OF THE PROCESSING LINE

BP-18477	New Cuthbert, Ga. R. G. Blaskow. Req: 850 kc., 500 w., Day.
BP-18504	WMAG, Forrest, Miss. Scott County Broadcasting Co., Inc. Has: 860 kc., 500 w., Day. Req: 850 kc., 10 kw., DA, Day.
BP-18655	KJNP, North Pole, Alaska, Radio Prayer League, Has: 1170 kc., 5 kw., 10 kw.-LS, U. Req: 1170 kc., 50 kw., DA-N, U.
BP-18691	WGNC, Gastonia, N.C. Catherine T. McSwain. Has: 1450 kc., 250 w., U. Req: 1450 kc., 250 w., 1 kw.-LS, U.
BP-18693	KWXY, Cathedral City, Calif. Glen Barnett. Has: 1340 kc., 250 w., 500 w.-LS, U. Req: 1340 kc., 250 w., 1 kw.-LS, U.
BP-18694	KFLI, Mountain Home, Idaho. KFLI Radio, Inc. Has: 1240 kc., 250 w., U. Req: 1240 kc., 250 w., 1 kw.-LS, U.
BP-18708	WDME, Dover-Foxcroft, Maine. The Radio Voice of Dover-Foxcroft. Has: 1340 kc., 250 w., U. Req: 1340 kc., 250 w., 1 kw.-LS, U.
BP-18709	KLOG, Kelso, Wash. Washington Interstate Broadcasting Co. Has: 1490 kc., 250 w., U. Req: 1490 kc., 250 w., 1 kw.-LS, U.
BP-18710	KRSC, Othello, Wash. Basin Broadcasting Corp. Has: 1400 kc., 250 w., S.H. Req: 1400 kc., 250 w., 1 kw.-LS, S.H.

[1] See report and order released July 18, 1968, FCC 68-739, Interim Criteria to Govern Acceptance of Standard Broadcast Applications, 33 F.R. 10343, 13 RR 2d 1667.

BP–18712 KTSL, Burnet, Tex.
Hill Country Broadcasting Corp.
Has: 1240 kc., 250 w., U.
Req: 1340 kc., 250 w., 1 kw.–LS, U.

[F.R. Doc. 70–3186; Filed, Mar. 16, 1970; 8:48 a.m.]

FEDERAL MARITIME COMMISSION

MARYLAND PORT AUTHORITY AND MOORE-McCORMACK LINES, INC.

Notice of Agreement Filed for Approval

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 agreements at the offices of the District Managers, New York, N.Y.; New Orleans, La.; and San Francisco, Calif. Comments with reference to an agreement including a request for hearing, if desired, 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. A copy of any such statement should also be forwarded to the party filing the agreement (as indicated hereinafter), and the comments should indicate that this has been done.

Notice of agreement filed for approval by:

Mr. Philip G. Kraemer, Director of Transportation, Marland Port Authority, Pier 2, Pratt Street, Baltimore, Maryland 21202

Agreement No. T–2066 C (1) between the Maryland Port Authority and Moore-McCormack Lines, Incorporated is a modification of Agreement No. T–2066 C which provides for the lease of 25,000 square feet of space at Dundalk Marine Terminal for receiving, handling and storing waterborne freight. The purpose of the modification is to provide a cancellation and renewal option for the leased premises.

Dated: March 11, 1970.

By order of the Federal Maritime Commission.

FRANCIS C. HURNEY,
Secretary.

[F.R. Doc. 70–3195; Filed, Mar. 16, 1970; 8:49 a.m.]

PORT OF OAKLAND AND HOWARD TERMINAL

Notice of Agreement Filed for Approval

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 agreements at the offices of the District Managers, New York, N.Y.; New Orleans, La.; and San Francisco, Calif. Comments with reference to an agreement including a request for hearing, if desired, 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. A copy of any such statement should also be forwarded to the party filing the agreement (as indicated hereinafter), and the comments should indicate that this has been done.

Notice of agreement filed for approval by:

Mr. J. Kerwin Rooney, Port Attorney, Port of Oakland, 66 Jack London Square, Post Office Box 2064, Oakland, Calif. 94607

Agreement No. T–1701–2 between the Port of Oakland (Oakland) and Howard Terminal (Howard) modifies the basic agreement which provides for the preferential assignment to Howard of certain premises located in the port area of the City of Oakland. The purpose of the modification is to revise the basic agreement with respect to the division of revenue.

Dated: March 12, 1970.

By order of the Federal Maritime Commission.

FRANCIS C. HURNEY,
Secretary.

[F.R. Doc. 70–3194; Filed, Mar. 16, 1970; 8:49 a.m.]

NOUVELLE COMPAGNIE DE PAQUEBOTS

Notice of Issuance of Casualty Certificate

Security for the protection of the public; financial responsibility to meet liability incurred for death or injury to passengers or other persons on voyages.

Notice is hereby given that the following have been issued a certificate of financial responsibility to meet liability incurred for death or injury to passengers or other persons on voyages pursuant to the provisions of section 2, Public Law 89–777 (80 Stat. 1356, 1357) and Federal Maritime Commission General Order 20, as amended (46 CFR Part 540):

Nouvelle Compagnie de Paquebots (Paquet Lines), 70–72 Rue de la Republique, Marseille, France.

Dated: March 12, 1970.

FRANCIS C. HURNEY,
Secretary.

[F.R. Doc. 70–3196; Filed, Mar. 16, 1970; 8:49 a.m.]

NOUVELLE COMPAGNIE DE PAQUEBOTS

Notice of Issuance of Performance Certificate

Security for the protection of the public; indemnification of passengers for nonperformance of transportation.

Notice is hereby given that the following have been issued a certificate of financial responsibility for indemnification of passengers for nonperformance of transportation pursuant to the provisions of section 3, Public Law 89–777 (80 Stat. 1357, 1358) and Federal Maritime Commission General Order 20, as amended (46 CFR Part 540):

Nouvelle Compagnie de Paquebots (Paquet Lines), 70–72 Rue de la Republique, Marseille, France.

Dated: March 12, 1970.

FRANCIS C. HURNEY,
Secretary.

[F.R. Doc. 70–3197; Filed, Mar. 16, 1970; 8:49 a.m.]

FEDERAL POWER COMMISSION

[Docket No. G–11647 etc.]

R. L. WHARTON ET AL.

Findings and Order

MARCH 5, 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, accepting agreements and undertakings, 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.

Pioneer Gas Products Co. (Operator), applicant in Docket No. CI63–815, proposes to continue the sale of natural gas heretofore authorized in said docket to be made pursuant to Elcor Chemical Corp. FPC Gas Rate Schedule No. 1. Said rate schedule will be redesignated as that of applicant. The presently effective rate

under said rate schedule is in effect subject to refund in Docket No. RI68–543. Applicant has filed a motion to be made a co-respondent in said proceeding. Therefore, applicant will be made a co-respondent in the proceeding pending in Docket No. RI68–543; said proceeding will be redesignated accordingly; and applicant will be required to file an agreement and undertaking to assure the refund of any amounts collected by it in excess of the amount determined to be just and reasonable in said proceeding.

Reading & Bates, Inc., applicant in Dockets Nos. CI64–1262, CI66–878, CI67–884, and CI68–161, proposes to continue the sales of natural gas authorized to be made in said dockets pursuant to Reading & Bates Offshore Drilling Co. FPC Gas Rate Schedules Nos. 1, 3, 4, and 5, respectively. Said rate schedules will be redesignated as those of applicant. The presently effective rates under the predecessor's FPC Gas Rate Schedules Nos. 1, 3, 4, and 5 are in effect subject to refund in Dockets Nos. RI68–470, RI68–604, RI69–304, and RI68–658, respectively. Therefore, applicant will be made a co-respondent in said proceedings and the proceedings will be redesignated accordingly.

B. J. Brown, applicant in Docket No. CI70–304 proposes to continue in part, inter alia, the sale of natural gas heretofore authorized in Docket No. CI67–1104 to be made pursuant to Humble Oil & Refining Co. FPC Gas Rate Schedule No. 420. The contract comprising said rate schedule will also be accepted for filing as a rate schedule of applicant. The presently effective rate under Humble's rate schedule is in effect subject to refund in Docket No. RI69–34. Applicant indicates in his certificate application that he intends to be responsible for the total refund from the time that the increased rate was made effective subject to refund. Therefore, applicant will be made a co-respondent in the proceeding pending in Docket No. RI69–34; the proceeding will be redesignated accordingly; and applicant will be required to file an agreement and undertaking to assure the refund of all amounts collected from the subject acreage from the time that the increased rate was made effective subject to refund.

Arthur J. Wessely, applicant in Docket No. CI70–504, proposes to continue in part the sales of natural gas heretofore authorized in Dockets Nos. G–13098, G–13704, and G–19572 to be made pursuant to Atlantic Richfield Co. FPC Gas Rate Schedule No. 174, Shell Oil Co. FPC Gas Rate Schedule No. 167, and Shell Oil Co. FPC Gas Rate Schedule No. 218, respectively. The contracts on file as Atlantic Richfield's rate schedule and Shell's FPC Gas Rate Schedule No. 167 and the instrument of ratification on file as Shell's FPC Gas Rate Schedule No. 218 will also be accepted for filing as rate schedules of applicant. The presently effective rate under Atlantic Richfield's rate schedule is in effect subject to refund in Docket No. RI68–90 and the presently effective rates under Shell's FPC Gas Rate Schedules Nos. 167 and 218 are in effect subject to refund in Dockets Nos. RI68–69 and RI65–475, respectively. Applicant has filed motions to be made co-respondent in the proceedings pending in Dockets Nos. RI65–475 and RI–68–69, together with agreements and undertakings to assure the refunds of any amounts collected by him in excess of the amounts determined to be just and reasonable in said proceedings. Applicant will be made co-respondent in the proceedings pending in Dockets Nos. RI65–475, RI68–69, and RI68–90; the proceedings will be redesignated accordingly; the agreements and undertakings submitted by applicant will be accepted for filing; and applicant will be required to file an agreement and undertaking in Docket No. RI68–90.

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 March 4, 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 Pioneer Gas Products Co. (Operator) should be made a co-respondent in the proceeding pending in Docket No. RI68–543; that said proceeding should be redesignated accordingly, and that Pioneer should be required to file an agreement and undertaking in said proceeding.

(10) It is necessary and appropriate in carrying out the provisions of the Natural Gas Act that Reading & Bates, Inc., should be made a co-respondent in the proceedings pending in Dockets Nos. RI68–470, RI68–604, RI68–658, and RI69–304 and that said proceedings should be redesignated accordingly.

(11) It is necessary and appropriate in carrying out the provisions of the Natural Gas Act that B. J. Brown should be made a co-respondent in the proceeding pending in Docket No. RI69–34, that said proceeding should be redesignated accordingly, and that B. J. Brown should be required to file an agreement and undertaking in said proceeding.

(12) It is necessary and appropriate in carrying out the provisions of the Natural Gas Act that Arthur J. Wessely should be made a co-respondent in the proceedings pending in Dockets Nos. RI65–475, RI68–69, and RI68–90; that said proceedings should be redesignated accordingly; that the agreements and undertakings submitted by him in Dockets Nos. RI65–475 and RI68–69 should be accepted for filing; and that he should be required to file an agreement and undertaking in Docket No. RI68–90.

(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 and the amended certificates are subject to the following conditions:

(a) The initial rates for sales authorized in Dockets Nos. CI65–1355, CI69–1013, CI69–1028, and CI70–20 shall be the applicable area base rates prescribed in Opinion No. 468, as modified by Opinion No. 468–A, as adjusted for quality of gas, or the contract rates, whichever are lower. If the quality of the gas delivered by applicants deviates at any time from the quality standards set forth in Opinion No. 468, as modified by Opinion No. 468–A, so as to require a downward adjustment of the existing rate, a notice of change in rate shall be filed pursuant to section 4 of the Natural Gas Act: *Provided, however,* That adjustments reflecting changes in B.t.u. content of the gas shall be computed by the applicable formula and charged without the filing of a notice of change in rate. Within 90 days from the date of initial delivery, applicants in Dockets Nos. CI65–1355 and CI70–20 shall file rate schedule quality statements in the form prescribed in Opinion No. 468–A.

(b) The rate for the sale authorized in Docket No. CI70–496 shall be 15.94 cents per Mcf at 14.65 p.s.i.a., the applicable area rate prescribed in Opinion No. 468, as modified by Opinion No. 468–A, as reflected in applicant's rate schedule quality statement.

(c) Applicants in Dockets Nos. CI69–1013, CI69–1028, and CI70–20 shall not require buyers to take-or-pay for an annual quantity of gas-well gas which is in excess of an average of 1 Mcf per day for each 7,300 Mcf of determined gas-well gas reserves.

(d) Applicant in Docket No. CI70–20 shall advise the Commission of any advanced payments received under the contract. The propriety of such payments is subject to further order of the Commission.

(e) The authorization granted in Dockets Nos. CI63–299, CI64–41, CI66–405, and CI66–406 shall be subject to Opinions Nos. 546 and 546–A, and accompanying orders, specifically including those relating to rate reductions, refunds, and filings required by those orders for sales made on or after August 1, 1969, and the authorization granted to Hugh A. Hawthorne shall be subject to Opinions Nos. 546 and 546–A, and accompanying orders for sales made prior to August 1, 1969.

(f) The authorization granted in Docket No. CI69–942 shall be subject to Opinions Nos. 546 and 546–A, and accompanying orders, specifically including those relating to rate reductions, refunds, and filings required by those orders.

(g) The initial rate for the sale authorized in Docket No. CI70–543 shall be 19 cents per Mcf at 15.025 p.s.i.a., subject, however, to Opinions Nos. 546 and 546–A, and accompanying orders, specifically including those relating to rate reductions, refunds, and filings required by those orders.

(h) The initial rate for the sale authorized in Docket No. CI70–571 shall be 18.5 cents per Mcf at 15.025 p.s.i.a. for gas-well gas and casinghead gas, as applied to base area rates, but not to exceed the rate provided in the related rate schedule. No increase in rate shall be filed by applicant prior to January 1, 1974, at any price which would exceed the ceiling prescribed for the Southern Louisiana area as provided by Opinion No. 546–A.

(i) If the quality of the gas delivered by applicant in Docket No. CI70–571 deviates at any time from the quality standards, as applied to base area rates set forth in Opinions Nos. 546 and 546–A, so as to require a downward adjustment of the existing rate, a notice of change in rate shall be filed pursuant to the provisions of section 4 of the Natural Gas Act: *Provided, however,* That adjustments reflecting changes in B.t.u. content of the gas shall be computed by the applicable formula and charged without the filing of a notice of change in rate. Within 90 days from the date of initial delivery applicant shall file a rate schedule quality statement in the form prescribed in Opinion No. 546.

(j) Sales continued by applicant in Docket No. C167–820 pursuant to the temporary certificate shall be made at the predecessor's rate of 15 cents per Mcf at 14.65 p.s.i.a. subject to B.t.u. adjustment.

(k) The rate for the sale authorized in Docket No. CI68–84 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, applicant thereupon may substitute the new rate reflecting the amount of such increase and thereafter collect the new rate prospectively in lieu of the initial rate herein authorized in said docket.

(l) The initial rate for sales authorized in Dockets Nos. CI70–528 and CI70–573 shall be 15 cents per Mcf at 14.65 p.s.i.a. subject to B.t.u. adjustment.

(m) The initial rate for the sale authorized in Docket No. CI70–548 shall be 17 cents per Mcf at 14.65 p.s.i.a. subject to B.t.u. adjustment.

(n) The initial rates for sales authorized in Docket No. CI70–582 shall be 16 cents per Mcf at 14.65 p.s.i.a. subject to B.t.u. adjustment for sales from Meade County, Kans, and 17 cents per Mcf at 14.65 p.s.i.a. subject to B.t.u. adjustment for sales from Beaver County, Okla.

(o) The authorizations granted in Dockets Nos. CI68–84, CI70–548, CI70–573, and CI70–582 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 certificate issued in Docket No. CI70–559 involving the sale of gas by Colorado Oil and Gas Corp. to its affiliate, Colorado Interstate Gas Co., a Division of Colorado Interstate Corp., determines the rate which legally may be paid by the buyer to the seller, but is without prejudice to any action which the Commission may take in any rate proceeding involving either company.

(F) Within 30 days from the date of this order applicant in Docket No. CI70–579 shall file three copies of a sample billing statement as required by the regulations under the Natural Gas Act.

(G) A certificate is issued in Docket No. CI70–496 authorizing The Superior Oil Co. to continue the sale of natural gas previously covered by the certificate issued to Continental Oil Co. in Docket No. CI61–636.

(H) The order issuing a certificate in Docket No. CI61–636 is amended by deleting therefrom the interest of The Superior Oil Co.

(I) A certificate is issued in Docket No. CI70–553 authorizing Kern Drilling Co., Inc. (Operator), et al., to continue the sales of natural gas heretofore authorized in Docket No. G–20587 to be made by L. E. Smith et al., and the certificate issued in Docket No. G–20587 is terminated.

(J) The orders issuing certificates in Dockets Nos. G–11893, CI65–407, CI65–530, CI65–1355, CI68–84, CI69–966, and CI70–62 are amended by adding thereto or deleting therefrom authorization to sell natural gas as described in the tabulation herein.

(K) The certificate and related rate schedule in Docket No. CI65–530 are redesignated from Guy I. Warren (Operator) et al., to Guy I. Warren as described in the tabulation herein.

(L) The orders issuing certificates in Dockets Nos. G–11647, CI62–739, CI62–1336, CI63–299, CI63–577, CI63–815, CI64–41, CI64–1262, CI64–1336, CI65–1217, CI66–405, CI66–406, CI66–878, CI67–820,[1] CI67–884, CI68–161, CI69–751, and CI69–942 are amended by substituting the successors in interest as certificate holders.

(M) The order issuing a certificate in Docket No. CI63–1237 is amended to reflect the change in name as described in the tabulation herein.

(N) 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–3711	CI70–580
G–13098	CI70–504
G–13704	CI70–504
G–15714	CI70–547
G–19010	CI70–543
G–19572	CI70–504
CI66–653	CI70–304
CI67–1104	CI70–304
CI68–156	CI70–511
CI68–274	CI69–966

(O) Permission for and approval of the abandonement of service by applicants, as hereinbefore described, all as more fully described in the applications and in the tabulation herein are granted.

(P) Permission for and approval of the abandonments in Dockets Nos. CI70–545 and CI70–600 shall not be construed to relieve applicants of any refund obligations in the rate proceedings pending in Docket No. RI65–504 and in Dockets Nos. RI64–556, and RI66–295, respectively.

(Q) Permission for and approval of the abandonment in Docket No. CI70–590 shall not be construed to relieve Applicant of any refunds which may be ordered in the proceeding in Docket No. CI61–628.

(R) The certificates heretofore issued in Dockets Nos. G–9734, G–10858, G–10859, G–14895, CI61–628, CI61–1353, and CI64–363 are terminated.

(S) Pioneer Gas Products Co. (Operator) is made a co-respondent in the proceeding pending in Docket No. RI68–543 and said proceeding is redesignated accordingly. Pioneer shall comply with the refunding and reporting procedure required by the Natural Gas Act and § 154.102 of the regulations thereunder.

(T) Within 30 days from the issuance of this order, Pioneer Gas Products Co. (Operator) 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. RI68–543 to assure the refund of any amounts collected by it, 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.

(U) Reading & Bates, Inc. (Operator) et al., is made a co-respondent in the proceedings pending in Dockets Nos. RI68–470 and RI69–304; Reading & Bates, Inc., et al., are made co-respondents in the proceeding pending in Docket No. RI68–658; Reading & Bates, Inc., is made a co-respondent in the proceeding pending in Docket No. RI68–604; and said proceedings are redesignated accordingly. Reading & Bates, Inc., shall comply with the refunding and reporting procedure required by the Natural Gas Act and § 154.102 of the regulations thereunder.

(V) B. J. Brown is made a co-respondent in the proceeding pending in Docket No. RI69–34 and said proceeding is redesignated accordingly. B. J. Brown shall comply with the refunding and reporting procedure required by the Natural Gas Act and section 154.102 of the regulations thereunder.

(W) Within 30 days from the issuance of this order, B. J. Brown 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. RI69–34 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 with respect to sales by Humble Oil & Refining Co. and B. J. Brown from the acreage assigned by Humble to Brown from which sales are authorized in Docket No. CI70–304. 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.

(X) Arthur J. Wessely is made a co-respondent in the proceedings pending in Dockets Nos. RI65–475, RI68–69, and RI68–90; said proceedings are redesignated accordingly; and the agreements and undertakings submitted by him in Dockets Nos. RI65–475 and RI68–69 are accepted for filing. The agreements and undertakings shall remain in full force and effect until discharged by the Commission. Arthur J. Wessely shall comply with the refunding and reporting procedure required by the Natural Gas Act and § 154.102 of the regulations thereunder.

(Y) Within 30 days from the issuance of this order, Arthur J. Wessely 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. RI68–90 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. 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.

(Z) 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–11647 E 12–10–69	R. L. Wharton (successor to Cities Service Oil Co.).	Consolidated Gas Supply Corp., Warren District, Upshur County, W. Va.	Cities Service Oil Co., FPC GRS No. 275.	5	
			Supplement Nos. 1–2	5	1–2
			Notice of succession (undated).		
			Assignment 7–1–69	5	3
			Effective date: 7–1–69		
G–11893 D 1–5–70	Mobil Oil Corp. (Operator) et al.	Northern Natural Gas Co., Blinebry Field, Lea County, N. Mex.	Assignment 10–17–69 [1] [2]	17	22
CI62–739 E 11–5–69	Signal Oil & Gas Co., a Division of The Signal Cos., Inc. (Operator) (successor to Service Gas Products Co. (Operator)).	Lone Star Gas Co., West Hoover Plant, Garvin County, Okla.	Service Gas Products Co. (Operator), FPC GRS No. 4.	30	
			Supplement No. 1	30	1
			Notice of succession 11–3–69.		
			Assignment 10–31–69	30	2
			Effective date: 10–31–69		
CI62–1336 E12–22–69	Kirby Petroleum Co. (Operator and Agent) et al. (successor to Kirby Royalties, Inc. (Operator and Agent) et al.).	Mountain Fuel Supply Co., Vermilion Creek Unit, Area, Sweetwater County, Wyo.	Kirby Royalties, Inc. (Operator and Agent), et al., FPC GRS No. 1.	32	
			Supplement Nos. 1–3	32	1–3
			Notice of succession 12–16–69.		
			Assignment 2–24–69	32	4
			Effective date: 2–24–69		

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.

[1] Temporary certificate.

Docket No. and date filed	Applicant	Purchaser, field, and location	FPC rate schedule to be accepted		
			Description and date of document	No.	Supp.
CI63-299 E 11-3-69	Expando Production Co. (successor to Hugh A. Hawthorne).	United Gas Pipe Line Co., South Elton Field, Jefferson Davis Parish, La.	Hugh A. Hawthorne, FPC GRS No. 2.	3	
			Supplement No. 1	3	1
			Notice of succession 10-30-69.		
			Act of donation 6-2-69 [3]	3	2
			Conveyance 8-15-69 [4]	3	3
			Conveyance 8-15-69 [5]	3	4
			Assignment 9-17-69 [6]	3	5
CI63-577 E 11-5-69	Signal Oil & Gas Co., a division of The Signal Cos., Inc. (Operator) (successor to Service Gas Products Co. (Operator)).	Lone Star Gas Co., Doyle Plant, Stephens County, Okla.	Service Gas Products Co. (Operator), FPC GRS No. 5.	31	
			Supplement Nos. 1-2	31	1-2
			Notice of succession 11-3-69.		
			Assignment 10-31-69	31	
			Effective date: 10-31-69		
CI63-815 E 12-12-69	Pioneer Gas Products Co. (Operator) (successor to Elcor Chemical Corp.).	Lone Star Gas Co., Madill Plant, Marshall County, Okla.	Elcor Chemical Corp., FPC GRS No. 1.	1	
			Supplement Nos. 1-11	1	1-11
			Notice of succession 12-8-69.		
			Assignment 11-1-69	1	12
			Assumption 12-1-69	1	13
			Effective date: 11-1-69		
CI63-1237 12-3-69 [7]	Nancy Lee Qualls, d.b.a. Central Production Co. (formerly Nancy Lee Elliott, d.b.a. Central Production Co.).	El Paso Natural Gas Co., Pictured Cliffs Field, Rio Arriba County, N. Mex.	Nancy Lee Elliott, d.b.a. Central Production Co., FPC GRS No. 1.	1	
			Supplement No. 1	1	1
			Notice of succession 12-11-69.		
			Effective date: 12-26-6[7]		
CI64-41 E 11-3-69	Expando Production Co. (successor to Hugh A. Hawthorne (Operator) et al.).	Texas Gas Transmission Corp., North Tepetate Field, Acadia Parish, La.	Hugh A. Hawthorne (Operator) et al., FPC GRS No. 3.	4	
			Notice of succession 10-30-69.		
			Conveyance 8-15-69 [5]	4	1
			Assignment 9-17-69 [6]	4	2
CI64-1262 E 11-21-69	Reading & Bates, Inc. (Operator), et al. (successor to Reading & Bates Offshore Drilling Co. (Operator) et al.).	Oklahoma Natural Gas Gathering Corp., Ringwood Area, Major County, Okla.	Reading & Bates Offshore Drilling Co. (Operator) et al., FPC GRS No. 1.	1	
			Supplement Nos. 1-4	1	1-4
			Notice of succession (undated).		
			Assignment 10-14-69	1	5
			Effective date: 10-1-69		
CI64-1336 E 11-21-69	do	El Paso Natural Gas Co., North Justis Blinebry and North Justis Tubb-Drinkard Fields, Lea County, N. Mex.	Rading & Bates Offshore Drilling Co. (Operator), et al., FPC GRS No. 2.	2	
			Supplement Nos. 1-12	2	1-12
			Notice of succession (undated).		
			Amendatory agreement 8-6-69 [8]	2	13
			Effective date: 12-22-69		
			Assignment 10-10-69	2	14
			Effective date: 10-1-69		
CI65-407 D 12-15-69	Texaco, Inc	El Paso Natural Gas Co., Tocito Dome Field, San Juan County, N. Mex.	Agreement 11-14-69 [2] [9]	346	4
CI65-530 D 10-30-69	Guy I. Warren	United Gas Pipe Line Co., Circle "A" Field, Bee and Goliad Counties, Tex.	Notice of partial cancellation (undated). [2] [10]	1	3
CI65-1217 E 12-22-69	Kirby Petroleum Co. (Operator), et al. (successor to Kirby Royalties, Inc. (Operator), et al.).	Mountain Fuel Supply Co., West Side Canal Field, Carbon County, Wyo.	Kirby Royalties, (Operator), et al., FPC GRS No. 2.	33	
			Supplement Nos. 1-2	33	1-2
			Notice of succession 12-16-69.		
			Assignment 2-3-69	33	3
			Effective date: 2-3-69		
			Assignment 2-24-69	33	4
			Effective date: 2-24-69		
			Assignment 7-25-69	33	5
			Effective date: 7-25-69		
CI65-1355 D 12-3-69	Mobil Oil Corp	El Paso Natural Gas Co., Waha and Coyanosa Fields, Pecos and Reeves Counties, Tex.	Notice of partial cancellation 12-2-69. [2] [11]	377	5
CI65-1355 C 12-10-69	do	El Paso Natural Gas Co., Worsham-Bayer Field, Reeves County, Tex.	Supplemental agreement 12-3-69.	377	6
CI66-405 E 11-3-69	Expando Production Co. (successor to Hugh A. Hawthorne).	Michigan Wisconsin Pipe Line Co., South Elton Field, Jefferson Davis Parish, La.	Hugh A. Hawthorne, FPC GRS No. 4.	5	
			Supplements Nos. 1-10	5	1-10
			Notice of succession 10-30-69.		
			Act of donation 6-2-69 [3]	5	11
			Conveyance 8-15-69 [4]	5	12
			Conveyance 8-15-69 [5]	5	13
			Assignment 9-17-69 [6]	5	14
CI66-406 E 11-3-69	do	United Gas Pipe Line Co., South Elton Field, Jefferson Davis Parish, La.	Hugh A. Hawthorne, FPC GRS No. 5.	6	
			Supplements Nos. 1-6	6	1-6
			Notice of succession 10-30-69.		
			Act of donation 6-2-69 [3]	6	7
			Conveyance 8-15-69 [4]	6	8
			Conveyance 8-15-69 [5]	6	9
			Assignment 9-17-69 [6]	6	10
CI66-878 E 11-21-69	Reading & Bates, Inc. (successor to reading & Bates Offshore Drilling Co.).	Michigan Wisconsin Pipe Line Co., Laverne Gas Area, Harper County, Okla.	Reading & Bates Offshore Drilling Co., FPC GRS No. 3.	3	
			Supplement No. 1	3	1
			Notice of succession (undated).		
			Assignment 10-7-69	3	2
			Effective date: 10-1-69		
CI67-820 [13] E 11-5-69	Signal Oil & Gas Co., a division of The Signal Co., Inc. (Operator) (successor to Service Gas Products Co. (Operator)).	Michigan Wisconsin Pipe Line Co., Northeast Lovedale Plant, Woods County, Okla.	Service Gas Products Co. (Operator), FPC GRS No. 8.	28	
			Supplement No. 1	28	1
			Notice of succession 11-3-69.		
			Assignment: 10-31-69		
			Effective date: 10-31-69	28	2
CI67-884 E 11-21-69	Reading & Bates, Inc. (Operator), et al. (successor to Reading & Bates Offshore Drilling Co. (Operator), et al.).	Northern Natural Gas Co., West Six Mile Field, Beaver County, Okla.	Reading & Bates Offshore Drilling Co. (Operator), et al., FPC GRS No. 4.	4	
			Supplement Nos. 1-4	4	1-4
			Notice of succession (undated).		
			Assignment 10-10-69	4	5
			Assignment 10-10-69	4	6
			Effective date: 10-1-69		
CI68-84 C 11-14-69	W. B. Osborn, Jr. (Operator), et al.	Panhandle Eastern Pipe Line Co., acreage in Woods County, Okla.	Amendatory Agreement 9-22-69.	26	4
			Compliance 2-4-70 [14] [15]	26	5

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.
CI68-161 E 11-21-69	Reading & Bates, Inc., et al. (successor to Reading & Bates Offshore Drilling Co., et al.).	Northern Natural Gas Co., West Six Mile Field, Beaver County, Okla.	Reading & Bates Offshore Drilling Co., et al., FPC GRS No. 5.	5	
			Supplement Nos. 1-2	5	1-2
			Notice of succession (undated).		
			Assignment 10-10-69	5	3
			Assignment 10-10-69	5	4
			Effective date: 10-1-69		
CI69-751 E 11-21-69	Reading & Bates, Inc. (Operator), et al. (successor to Reading & Bates Offshore Drilling Co. (Operator) et al.).	Humble Gas Transmission Co., Magnolia Field, Adams County, Miss.	Reading & Bates Offshore Drilling Co. (Operator) et al., FPC GRS No. 6.	6	
			Notice of succession (undated).		
			Assignment 10-7-69	6	1
			Effective date: 10-1-69		
CI69-942 E 12-10-69	Clinton Oil Co. (Operator) et al. (successor to J. P. Owen (Operator), et al.).	United Gas Pipe Line Co., Garden City Field, St. Mary Parish, La.	J. P. Owen (Operator), et al., FPC GRS No. 18 Supp. Nos. 1-4.	38	
				38	1-4
			Notice of succession 12-2-69.		
			Letter agreement 3-12-69	38	5
			Assignment 8-28-69	38	6
CI69-966 (CI68-274) C 12-15-69	King Resources Co	Michigan Wisconsin Pipe Line Co., North Thorndike Field, Gray County, Tex.	Assignment 8-8-69 [16]	19	5
			Assignment 8-14-69 [15 17]	19	6
CI69-1013 A 4-28-69	Sun Oil Co.[18] (DX Division).	Natural Gas Pipeline Co. of America Mexico Federal "P" Area, Lea County, N. Mex.	Contract 3-1-69	298	
CI69-1028 A 5-6-69	Skelly Oil Co.[18]	do	Contract 3-1-69	238	
CI70-20 A 7-10-69	The Rodman Corp. et al.[19]	Northern Natural Gas Co., V.I.P. Clearfork Field, Crockett County, Tex.	Contract 7-2-69 [15]	2	
CI70-62 C 12-15-69	J. L. Trittipo, et al., d.b.a. Trittipo and Clark.	Equitable Gas Co., Otter District, Braxton County, W. Va.	Letter agreement 10-16-69.[15]	3	1
CI70-304 (CI66-653) F 9-23-69	B. J. Brown (successor to Austral Oil Co., Inc., et al.).	Arkansas Louisiana Gas Co., Northeast Spiro Field, Le Flore County, Okla.	Ratified 11-15-65 [20]	4	
			Contract 3-30-64	4	1
			Letter agreement 3-30-64	4	2
			Assignment 7-1-69 [21]	4	3
			Effective date: 5-1-69		
CI70-304 (CI67-1104) F 9-23-69	B. J. Brown (successor to Humble Oil & Refining Co.).	do	Contract 2-1-67 [22]	5	
			Assignment (3947) 7-18-69.[23]	5	1
			Assignment (3948) 7-18-69.[23]	5	2
			Effective date: 5-1-69		
(CI67-1104) [23a]	Humble Oil & Refining Co.	do	Assignment 7-18-69 [23] (L-180914-1 et al.).	420	7
			Assignment 7-18-69 [23] (L-180983).[2]	420	8
CI70-496 A 11-20-69 [24] (CI61-636)	The Superior Oil Co	Transwestern Pipeline Co., Bell Lake Unit, Lea County, N. Mex.	Ratified 3-31-62	138	
			Contract 10-12-60 [24a]	138	1
			Letter agreement 3-31-62	138	2
			Letter agreement 10-21-63	138	3
			Letter agreement 12-15-65	138	4
			Letter agreement 4-5-68	138	5
			Quality statement 10-22-69.[2]	138	6
CI70-504 (G-13704) F 11-24-69	Arthur J. Wessely (successor to Shell Oil Co.).	Northern Natural Gas Co., Southwest Camp Creek Field, Beaver County, Okla.	Contract 9-16-57 [25]	3	
			Supplemental agreement 8-1-66.	3	1
			Amendatory agreement 7-7-67.	3	2
			Assignment 8-28-69 [26]	3	3
			Effective date: 10-1-69		
CI70-504 (G-19572) F 11-24-69	do	Colorado Interstate Gas Co., a division of Colorado Interstate Corp., Southwest Camp Creek Field, Beaver County, Okla.	Ratified 5-5-59 [27]	4	
			Contract 3-19-56	4	1
			Supplemental agreement 7-16-57.	4	2
			Amendatory agreement 2-9-62.	4	3
			Amendatory agreement 4-20-67.	4	4
			Assignment 8-28-69 [26]	4	5
			Effective date: 10-1-69		
CI70-504 (G-13098) F 11-24-69	Arthur J. Wessely (successor to Atlantic Richfield Co.).	Northern Natural Gas Co., Southwest Camp Creek Field, Beaver County, Okla.	Contract 7-11-57 [28]	5	
			Supplemental agreement 10-23-67.	5	1
			Assignment 10-31-69 [29]	5	2
			Effective date: 10-1-69		
CI70-511 (CI68-156) F 12-1-69	Apache Corp. (successor to Mobil Oil Corp.).	Natural Gas Pipeline Co. of America, Custer City Field, Custer County, Okla.	Contract 5-15-67 [30]	48	
			Assignment 1-22-68	48	1
			Assignment 1-26-68	48	2
			Assignment 10-11-68	48	3
CI70-528 A 12-5-69	White Shield Oil & Gas Corp. (Operator) et al.	United Gas Pipe Line Co., Joaquin Field, Shelby and Panola Counties, Tex.	Contract 11-12-69	4	
			Compliance 1-16-70 [15 31]	4	1
CI70-543 (G-19010) F 12-11-69	Ocean Drilling & Exploration Co. (Operator) et al. (successor to Exchange Oil & Gas Co.[32]).	Transcontinental Gas Pipe Line Corp., Block 172, Eugene Island Area, Offshore Louisiana.	Ratified 11-3-69 [33]	9	
			Contract 12-23-57	9	1
			Ratified 10-1-62 [34]	9	2
			Amendment 10-14-63	9	3
			Assignment 4-30-69 [35]	9	4
			Assignment 9-1-69 [36]	9	5
CI70-544 A 12-11-69	Phillips Petroleum Co	Natural Gas Pipeline Co. of America, East Grand Valley Field, Beaver County, Okla.	Contract 10-1-69 [15]	473	
CI70-545 (CI64-363) B 12-12-69	R. O. Thompson, Executor of the Estate of D. W. Skinner, Deceased (Operator) et al.	Cities Service Gas Co., Boggs Field, Barber County, Kans.	Notice of cancellation 12-10-69.[2 37]	[38] 3	2
CI70-546 A 12-15-69	Weiner Enterprise	Equitable Gas Co., Otter and Salt Lick Districts. Braxton County, W. Va.	Contract 7-15-69	1	
CI70-547 (G-15714) F 12-12-69	Phlcon Development Co. (successor to Humble Oil & Refining Co.).	Transwestern Pipeline Co., acreage in Lipscomb County, Tex.	Contract 7-7-58 [39]	3	
			Letter agreement 11-3-58.	3	1
			Letter agreement 10-8-59	3	2
			Letter agreement 10-22-59.	3	3
			Letter agreement 3-11-60	3	4
			Assignment 12-5-69 [40]	3	5
CI70-548 A 12-12-69	A. L. Abercrombie,[41] et al.	Panhandle Eastern Pipe Line Co., acreage in Texas County, Okla.	Contract 11-4-69 [15]	20	
CI70-549 A 12-15-69	Norman A. Bock and Julian Evans.	Texas Eastern Transmission Corp., Henderson Buna Field, Jasper County, Tex.	Contract 12-5-69	1	
CI70-551 A 12-15-69	Cramon Stanton, Inc	United Fuel Gas Co., Poca District, Kanawha County, W. Va.	Contract 11-7-69	1	
CI70-552 A 12-15-69	Imperial-American Management Co.	Cascade Natural Gas Corp., Winter Valley Field, Moffat County, Colo.	Contract 11-28-69	6	

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.
CI70-553 (G-20587) [43] E 12-9-69	Kern Drilling Co.,[42] Inc. (Operator), et al. (successor to L. E. Smith, et al.).	Arkansas Louisiana Gas Co., Greenwood-Waskom Field, Caddo Parish, La.	Contract 8-12-59	4	
			Contract 4-13-49	4	1
			Letter agreement 6-17-49	4	2
			Supplemental agreement 7-20-49.	4	3
			Letter agreement 9-1-49	4	4
			Letter agreement 5-1-50	4	5
			Letter agreement 3-26-52	4	6
			Amendatory agreement 12-1-52.	4	7
			Supplemental agreement 5-10-55.	4	8
			Letter agreement 4-8-57	4	9
			Letter 8-13-58	4	10
			Assignment 2-1-61	4	11
			Letter agreement 4-16-62	4	12
			Amendment 8-14-62	4	13
			Assignment 8-9-65 [44]	4	14
			Assignment 2-21-67 [44a]	4	15
			Assignment 3-22-67 [44b]	4	16
			Assignment 5-19-67 [44c]	4	17
			Assignment 6-13-68 [44d]	4	18
			Order 5-5-69	4	19
CI70-557 A 12-15-69	Weipenn Gas Co., Inc.	Equitable Gas Co., Church District, Wetzel County, W. Va.	Contract 11-27-67 [15]	2	
CI70-559 A 12-18-69	Colorado Oil & Gas Corp.	Colorado Interstate Gas Co., a division of Colorado Interstate Corp., Table Rock Field, Sweetwater County, Wyo.	Contract 12-5-69 [15]	66	
CI70-561 (CI61-1353) B 12-18-69	Willard E. Ferrell	Equitable Gas Co., Union District, Ritchie County, W. Va.	Notice of cancellation 12-12-69 [2] [37]	9	1
CI70-562 (G-10859) B 12-18-69	David Crow, Trustee, et al.	United Gas Pipe Line Co., Maxie-Pistol Ridge Field, Pearl River County, Miss.	Notice of cancellation 12-15-69 [2] [37]	4	3
CI70-563 (G-10858) B 12-18-69	do	do	Notice of cancellation 12-15-69 [2] [37]	5	3
CI70-570 A 12-22-69	Appalachian Exploration & Development, Inc.	United Fuel Gas Co., Center District, Wyoming County, W. Va.	Contract 9-1-69	18	
CI70-571 A 12-22-69 [45]	Opco Oil & Gas Co	Southern Natural Gas Co., Alliance Field, Plaquemines Parish, La.	Contract 10-10-69 [15]	1	
CI70-572 A 12-22-69	Oklahoma Natural Gas Co. (Operator), et al.	Natural Gas Pipeline Co., of America, East Grand Valley Field, Beaver County, Okla.	Contract 10-1-69 [15]	36	
CI70-573 A 12-22-69	The Rodman Corp. (Operator) et al.[46]	Cities Service Gas Co., Sooner Trend Field, Kingfisher County, Okla.	Contract 9-19-69 [15]	3	
CI70-574 A 12-22-69	Petroleum, Inc.	Arkansas Louisiana Gas Co., North Watonga Field, Blaine County, Okla.	Contract 12-2-69	60	
CI70-575 A 12-22-69	Oklahoma Natural Gas Co. (Operator) et al.	do	Contract 11-21-69	37	
CI70-578 A 12-22-69	A. C. Radford et al.	United Fuel Gas Co., Coopers Creek Field, Kanawha County, W. Va.	Contract 12-19-69 [15]	12	
CI70-579 A 12-23-69	Charles H. Hornsby, Jr.	Valley Gas Transmission, Inc., Leal (2200') Field, Duval County, Tex.	Contract 12-1-69 [15]	1	
CI70-582 A 12-29-69	Underwood Oil Co., Inc. (Operator), et al.[47]	Natural Gas Pipeline Co. of America, acreage in Meade County, Kans. and Beaver County, Okla.	Contract 11-3-69 [15]	1	
CI70-583 (G-14895) B 12-29-69	Occidental Petroleum Corp. (Operator) et al.	United Gas Pipe Line Co., Cabeza Creek Area, Goliad, Dewitt and Karnes Counties, Tex.	Notice of cancellation 12-8-69. [2] [37]	6	9
CI70-585 A 12-29-69	The Waverly Oil Works Co.	Equitable Gas Co., Salt Lick District, Braxton County, W. Va.	Contract 12-9-69 [15]	8	
CI70-590 (CI61-628) B 12-31-69	The California Co., a division of Chevron Oil Co.	Texas Gas Transmission Corp., Bayou Piquant Field, Terrebonne Parish, La.	Notice of cancellation 12-29-69 [2] [37]	26	5
CI70-591 A 12-31-69	Westrans Petroleum, Inc.	United Fuel Gas Co., Elk District, Kanawah County, W. Va.	Contract 11-24-69	9	
CI70-592 A 12-31-69	May Petroleum, Inc. (Operator), et al.	Northern Natural Gas Co., North Woodward Area, Woodward County, Okla.	Contract 10-9-69	32	
			Contract 11-29-67 [15]	32	1
CI70-593 A 1-2-70	Rosen Enterprises, Inc.	Panhandle Eastern Pipe Line Co., Einsel Field, Kiowa County, Kans.	Contract 11-26-69 [15]	1	
CI70-594 A 1-2-70	Howard W. Kaler	Kansas-Nebraska Natural Gas Co., Inc., Engelland Field, Cheyenne County, Nebr.	Contract 10-29-69	1	
CI70-595 A 1-2-70	Patrick Petroleum Co.	United Fuel Gas Co., Poca District, Kanawah County, W. Va.	Contract 11-21-69	2	
CI70-600 (G-9734) B 1-5-70	A. L. Abercrombie (Operator) et al.	Cities Service Gas Co., North Mississippi Gas Pool, Barber County, Kans.	Notice of cancellation 12-30-69. [2] [37]	2	5
CI70-602 A 1-5-70	Donald S. Garvin et al., d. b. a. Garvin and Summers.	Equitable Gas Co., Otter and Salt Lick Districts, Braxton County, W. Va.	Contract 12-17-69	1	
CI70-603 A 1-5-70	Shield Petroleum Corp.	Consolidated Gas Supply Corp., Troy District, Gilmer County, W. Va.	Contract 10-7-69 [15]	5	
CI70-606 A 1-6-70	Westrans Petroleum, Inc., et al.	Consolidated Gas Supply Corp., Grant District, Ritchie County, W. Va.	Contract 8-27-68 [48]	10	
			Letter agreement 3-26-69. [15] [49]	10	1
CI70-607 A 1-6-70	W. H. Mossor et al.	do	Contract 3-21-69 [15]	73	
CI70-608 A 1-6-70	Hays & Co., agent for Mid-American Exploration Co. et al.	Consolidated Gas Supply Corp., Troy District, Gilmer County, W. Va.	Contract 5-26-69 [15]	331	
CI70-609 A 1-6-70	Westrans Petroleum, Inc.	Consolidated Gas Supply Corp., Lee and Spencer Districts, Calhoun and Roane Counties, W. Va.	Contract 8-27-69 [15]	11	

See footnotes at end of table.

[1] Deletes acreage assigned to Solar Oil & Gas Co. which has a small producer certificate in Docket No. CS69-57.
[2] Effective date: Date of this order.
[3] Transfers acreage from Hugh A. Hawthorne and Doris Bouvier Hawthorne to The Hugh and Doris Hawthorne Foundation.
[4] Transfers acreage from The Hugh and Doris Hawthorne Foundation to Hal W. Yeager, Jr., d.b.a. Cactus Operating Co.
[5] Transfers acreage from Hugh A. Hawthorne, et al., to Hal W. Yeager, Jr., d.b.a. Cactus Operating Co.
[6] Transfers acreage from Hal. W. Yeager, Jr., d.b.a. Cactus Operating Co., to Expando Production Co.
[7] Amendment to the certificate filed to reflect a change in name.
[8] Amends liquid settlement provisions.
[9] Deletes nonproductive acreage released to landowner.
[10] Reflects abandonment of Lorene Lambert Lease in which sole "et al." party, Palm Petroleum Corp., held interest. Warren requests that the designation "(Operator), et al." be deleted from the certificate and rate schedule.

[11] Deletes certain nonproductive acreage which has been released from dedication due to cancellation of the leases.
[12] Applicant has agreed to accept permanent authorization consistent with Opinion No. 468, as modified by Opinion No. 468–A.
[13] No permanent certificate has been issued to the predecessor (Service Gas). Service Gas was issued a temporary certificate conditioned to a rate of 15 cents from the 17-cent contract rate. Service Gas would not accept a permanent certificate at the 15-cent rate; Signal's contract summary reflects the 17-cent rate.
[14] Complies with temporary certificate issued Jan. 22, 1970. Applicant states willingness to accept permanent authorization conditioned to a rate of 15 cents per Mcf plus B.t.u. adjustment and subject to the ultimate disposition of the proceeding in Docket No. R–338.
[15] Effective date: Date of initial delivery (applicant shall advise the Commission as to such date).
[16] From Standard Oil Co. of Texas to V. Ross Brown (acreage previously covered by Standard Oil Co. of Texas, a division of Chevron Oil Co. FPC GRS No. 45).
[17] From V. Ross Brown to applicant.
[18] By letters filed June 12, 1969, and Sept. 6, 1969, Applicants in Dockets Nos. CI69–1013 and CI69–1028, respectively, agreed to accept permanent certificates containing the same conditions imposed by the temporary certificates.
[19] By letter filed July 18, 1969, Applicant agreed to accept a permanent certificate conditioned as Opinion Nos. 468 and 468–A. By letter filed Oct. 3, 1969, Applicant also agreed to the inclusion of conditions reserving the issue of advance payments and limiting the buyers daily take-or-pay obligation to 1 Mcf for each 7,300 Mcf of recoverable reserves.
[20] Ratifies March 30, 1964 contract; also on file as Austral Oil Co., Inc., et al., FPC GRS No. 27.
[21] From Austral Oil Co., Inc., et al., to B. J. Brown.
[22] Also on file as Humble Oil & Refining Co. FPC GRS No. 420.
[23] From Humble Oil & Refining Co. to B. J. Brown.
[23a] No certificate filing made or necessary; only the related rate filing is being accepted for filing.
[24] Applicant is requesting a certificate to cover its portion of a sale presently covered by Continental Oil Co., FPC GRS No. 180 and certificated in Docket No. CI61–636.
[24a] On file as Continental Oil Co. FPC GRS No. 180.
[25] Currently on file as Shell Oil Co., FPC GRS No. 167.
[26] Conveys interest from Shell Oil Co., to Arthur J. Wessely.
[27] Currently on file as Shell Oil Co., FPC GRS No. 218.
[28] Currently on file as Atlantic Richfield Co., FPC GRS No. 174.
[29] Conveys interest from Atlantic Richfield Co. to Arthur J. Wessely.
[30] Currently on file as Mobil Oil Corp. FPC GRS No. 404.
[31] Complies with temporary certificate issued Jan. 8, 1970. Applicant is willing to accept a permanent certificate at 15 cents per Mcf subject to Btu adjustment; contract rate is 17 cents per Mcf.
[32] Assignee of Texas Gas Exploration Corp.
[33] Ratifies contract dated Nov. 23, 1957 between Phillips Petroleum Co. and Transco and designated as Texas Gas Exploration Corp. (Operator) et al., FPC GRS No. 10.
[34] Instrument whereby Texas Gas et al., ratify Dec. 23, 1957 contract between Phillips and Transco.
[35] Transfers acreage from Texas Gas Exploration Corp. et al., to Exchange Oil & Gas Co.
[36] Transfers interest from Exchange Oil & Gas Co. to Ocean Drilling & Exploration Co. and Southdown Burmah Oil Co.
[37] Source of gas dep'eted.
[38] Rate schedule designated as D. W. Skinner (Operator) et al.
[39] On file as Humble Oil & Refining Co. (Operator) et al., FPC GRS No. 239.
[40] Conveys interest from Humble to Philcon Development Co.
[41] By letter dated Dec. 18, 1969, applicant stated willingness to accept a permanent certificate conditioned to the ultimate disposition of the proceeding in Docket No. R–338.
[42] Kern Drilling Co., Inc. (changed name from Latham Oil Co., Inc., on May 5, 1969).
[43] L. E. Smith et al., FPC GRS No. 2 is being superseded by Kern's FPC GRS No. 4; therefore, the certificate heretofore issued to L. E. Smith et al., in Docket No. G–20587 will be terminated.
[44] From L. E. Smith to Jacqueline Rosett and Lynda Rosett Jordan.
[44a] From Jacqueline Rosett, Lynda Rosett Jordan, and Charles Lee Jordan to James A. Latham.
[44b] From James A. Latham to J. A. Crowson, Jr.
[44c] From Latham Management Co., Inc. and James M. Latham to Latham Oil Co., Inc.
[44d] From J. A. Crowson, Jr., to Latham Sixty-Eight, Ltd.
[45] Jan. 1, 1974, moratorium provided by Opinion No. 546–A.
[46] Applicant has expressed a willingness to accept a permanent certificate conditioned to the ultimate disposition of the proceeding in Docket No. R–338.
[47] Applicant has expressed willingness to accept a permanent certificate at the rates of 16 cents subject to B.t.u. adjustment (for acreage in Meade County, Kans.) and 17 cents subject to B.t.u. adjustment (for acreage in Beaver County, Okla.). By letter filed Jan. 6, 1970, applicant advised willingness to accept a certificate conditioned to the ultimate disposition of the proceeding in Docket No. R–338.
[48] Sale being rendered without prior Commission authorization.
[49] Adds acreage.

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--.

By ----------
(Name of Respondent)

Attest:

[F.R. Doc. 70–3089; Filed, Mar. 16, 1970; 8:45 a.m.]

[Docket No. RI70–1330]

CLARK FUEL PRODUCING CO.

Order Providing for Hearing on and Suspension of Proposed Change in Rate

MARCH 10, 1970.

Clark Fuel Producing Co. (Clark) [1] tendered for filing a proposed change in its presently effective rate schedule for sales of natural gas subject to the jurisdiction of the Commission. The proposed change, which constitutes an increased rate and charge, is designated as follows:

Description: (1) Letter Agreements,[2] [3] (2) Notice of change in rate.

Purchaser and producing area: Florida Gas Transmission Co. (South Kelsey and Northeast Starr County Fields, Starr County, Tex.) (Texas Railroad District No. 4).

Rate schedule designation: (1) Supplement No. 1 to Clark's FPC Gas Rate Schedule No. 6. (2) Supplement No. 2 to Clark's FPC Gas Rate Schedule No. 6.

Effective date: March 9, 1970.[4]
Amount of annual increase: $8,340.
Effective rate: 16 cents per Mcf.
Proposed rate: 18 cents per Mcf.[5]
Pressure base: 14.65 p.s.i.a.

Concurrently with the filing of its rate increase, Clark submitted letters dated October 17, 1969, and October 24, 1969, designated as Supplement No. 1 to Clark's FPC Gas Rate Schedule No. 6. We believe that it would be-in the public interest to accept for filing Clark's aforementioned letter agreements to become effective as of March 9, 1970, the expiration date of the statutory notice, but not the proposed rate contained therein which is suspended herein for 5 months from March 9, 1970.

Clark's proposed increased rate and charge exceeds the area increased rate ceiling for Texas Railroad District No. 4 as set forth in the Commission's statement of general policy No. 61–1, as amended (18 CFR 2.56).

The proposed changed rate and charge may be unjust, unreasonable, unduly discriminatory, or preferential, or otherwise unlawful.

The Commission finds: It is necessary and proper in the public interest and to aid in the enforcement of the provisions of the Natural Gas Act that the Commission enter upon a hearing concerning the lawfulness of the proposed change, and that Supplement No. 2 to Clark's FPC Gas Rate Schedule No. 6 be suspended and the use thereof deferred as hereinafter ordered.

The Commission orders:

(A) Supplement No. 1 to Clark's FPC Gas Rate Schedule No. 6 is accepted for filing and permitted to become effective as of March 9, 1970, the expiration date of the statutory notice.

(B) Pursuant to the authority of the Natural Gas Act, particularly sections 4 and 5 thereof, the Commission's rules of practice and procedure, and the regulations under the Natural Gas Act (18 CFR Ch. I), a public hearing shall be held upon a date to be fixed by notice from the Secretary concerning the lawfulness of the proposed increased rate and charge contained in Supplement No. 2 to Clark's FPC Gas Rate Schedule No. 6.

(C) Pending a hearing and decision thereon, Supplement No. 2 to Clark's FPC Gas Rate Schedule No. 6 is hereby suspended and the use thereof deferred until August 9, 1970, and thereafter until such further time as it is made effective in the manner prescribed by the Natural Gas Act.

[1] Address is: 727 Houston Club Building, Houston, Tex. 77002.
[2] Notice of service change dated Feb. 4, 1970, reflecting Clark's intention of invoking the delivery pressure reduction provision of its contract.
[3] Includes letters dated Oct. 17, 1969, and Oct. 24, 1969, from Clark to Florida and Florida to Clark, respectively.
[4] The stated effective date is the first day after expiration of the statutory notice.
[5] Two-step periodic rate increase.

(D) Neither the supplement hereby suspended, nor the rate schedule sought to be altered thereby, shall be changed until this proceeding has been disposed of or until the period of suspension has expired, unless otherwise ordered by the Commission.

(E) Notices of intervention or petitions to intervene may be filed with the Federal Power Commission, Washington, D.C. 20426, in accordance with the rules of practice and procedure (18 CFR 1.8 and 1.37(f)), on or before April 22, 1970.

By the Commission.

[SEAL] GORDON M. GRANT, *Secretary.*

[F.R. Doc. 70-3145; Filed, Mar. 16, 1970; 8:45 a.m.]

[Docket No. RI70-1302]

SOUTHERN NATURAL GAS CO.

Order Suspending Proposed Change in Rate, Providing for Hearing, and Allowing Changed Rate To Become Effective Subject to Refund

MARCH 9, 1970.

Southern Natural Gas Co. (Southern Natural), on February 9, 1970, filed First Revised Sheet No. 121A to its FPC Gas Tariff, Original Volume No. 3, Rate Schedule F-5, providing for an annual increase in rates of approximately $4,500. The aforementioned rate schedule is applicable to the field sale of gas to Transwestern Pipeline Company in Reeves County, Tex. which is included in the Permian Basin Area. The present rate is 13.48 cents per Mcf which reflects a base price of 16.5 cents per Mcf plus quality adjustments. The revised rate is 13.76 cents per Mcf which reflects the base rate of 16.5 cents per Mcf plus the increase in Texas Production Tax from 7 percent to 7½ percent and changes in the quality adjustment provisions.

The proposed base price plus tax reimbursement is above the applicable Permian Basin rate level of 16.5 cents per Mcf established in Opinion No. 468, as modified. Order No. 390, issued October 10, 1969, in Docket No. R-370, provides that rate increases above the area rate ceilings pertaining solely to the increase in the Texas Production Tax shall be suspended for 1 day if filed after October 31, 1969. Southern Natural requests that the Commission waive its rules and permit the increased rate to become effective as of March 1, 1970.

The Commission finds:

(1) Good cause has been shown that the 30-day notice requirement provided in the Commission's regulations be waived with respect to the aforementioned tariff sheet applicable to the sale to Transwestern.

(2) It is in the public interest and consistent with the Natural Gas Act, that the Commission enter upon a hearing regarding the lawfulness of the proposed change in rate set out in First Revised Sheet No. 121A, and that such sheet be suspended and its use deferred as hereinafter ordered.

The Commission orders:

(A) The 30-day notice requirements provided in the Natural Gas Act and the Commission's regulations are hereby waived.

(B) Under the Natural Gas Act, particularly sections 4 and 15 thereof, the regulations pertaining thereto, and the Commission's rules of practice and procedure, a public hearing shall be held concerning the lawfulness of the change in rate proposed in First Revised Sheet No. 121A.

(C) Pending hearing and decision thereon, First Revised Sheet No. 121A is hereby suspended and its use deferred until March 2, 1970, and thereafter until made effective as prescribed in the Natural Gas Act: *Provided, however,* First Revised Sheet No. 121A shall become effective subject to refund on the date and in the manner hereinbefore set forth if within 20 days from the date of the issuance of this order Southern Natural shall execute and file under the above designated docket number with the Secretary of the Commission its agreement and undertaking to comply with the refunding and reporting procedure required by the Natural Gas Act and §154.102 of the regulations thereunder, accompanied by a certificate showing service of a copy thereof upon Transwestern. Unless Southern Natural is advised to the contrary within 15 days after the filing of the aforementioned agreement and undertaking, such agreement and undertaking shall be deemed to have been accepted.

(D) Unless otherwise ordered by the Commission, neither the aforementioned suspended tariff sheet, nor the tariff sheet sought to be superseded, shall be changed until the disposition of this proceeding or the expiration of the suspension period.

(E) Notices of intervention or petitions to intervene may be filed with the Federal Power Commission, Washington, D.C. 20426, in accordance with the rules of practice and procedure (18 CFR 1.8 and 1.37(f)) on or before March 30, 1970.

By the Commission.

[SEAL] GORDON M. GRANT, *Secretary.*

[F.R. Doc. 70-3146; Filed, Mar. 16, 1970; 8:45 a.m.]

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[Notice 70-1]

EXTRATERRESTRIAL EXPOSURE

Establishment of Quarantine Period

Pursuant to authority vested in me, and in accordance with 14 CFR 1211.104 (a)(1), I hereby determine that with respect to the Apollo 13 space mission:

a. The beginning of the quarantine period for extraterrestrial exposure is April 17, 1970.

b. The termination of the quarantine period for extraterrestrially exposed persons shall be on May 8, 1970, unless modified prior to that date.

c. The duration of the quarantine period for extraterrestrially exposed property, animals, other form of life (other than persons) or matter whatever, shall continue until successful completion of safety tests, decontamination or both.

J. W. HUMPHREYS, Jr.,
Major General, U.S. Air Force, Medical Corps, Director, Space Medicine, Office of Manned Space Flight.

[F.R. Doc. 70-3182; Filed, Mar. 16, 1970; 8:48 a.m.]

TARIFF COMMISSION

[AA1921-61]

AMINOACETIC ACID FROM FRANCE

Determination of Injury

FEBRUARY 17, 1970.

On November 17, 1969, the Tariff Commission was advised by the Assistant Secretary of the Treasury that aminoacetic acid (glycine) from France is being, and is likely to be, sold at less than fair value within the meaning of the Antidumping Act, 1921, as amended. In accordance with the requirements of section 201(a) of the Antidumping Act (19 U.S.C. 160(a)), the Tariff Commission on November 18, 1969, instituted investigation No. AA1921-61 to determine whether an industry in the United States is being, or is likely to be, injured, or is prevented from being established, by reason of the importation of such merchandise into the United States.

A public hearing was held beginning on January 13, 1970. Notices of the investigation and hearing (subsequently postponed) were published in the FEDERAL REGISTER (34 F.R. 18775; 20076).

In arriving at a determination in this case, the Commission gave due consideration to all written submissions from interested parties, evidence adduced at the hearing, and all factual information obtained by the Commission's staff from questionnaires, personal interviews, and other sources.

On the basis of the investigation, the majority of the Commission has determined that an industry in the United States is being injured by reason of the importation of aminoacetic acid sold at less than fair value within the meaning of the Antidumping Act, 1921, as amended.[1]

STATEMENT OF REASONS FOR AFFIRMATIVE DETERMINATION

VIEWS OF COMMISSIONERS CLUBB, NEWSOM, AND MOORE

This case arises under the Antidumping Act of 1921, as amended, section

[1] Commissioners Clubb, Newsom, and Moore determine that an industry is being injured by reason of imports of glycine from France and other countries. Chairman Sutton determines that an industry in the United States is being injured by reason of imports of glycine from France and deems it inappropriate for the Commission to make its determination extend beyond such imports. Commissioners Thunberg and Leonard determine in the negative.

201(a) of which [2] requires that whenever the Secretary of the Treasury determines that a "class or kind of foreign merchandise" is being sold in the United States at less than fair value (hereinafter LTFV), he shall advise the Tariff Commission, whereupon the Tariff Commission shall determine whether a domestic industry is being, or is likely to be, injured "by reason of the importation of such merchandise." Pursuant to this Act the Treasury Department has informed the Commission that aminoacetic acid (glycine) [3] is being imported from France at less than fair value.[4]

We have determined that (1) neither our investigation nor our findings are limited to the countries designated by the Treasury Department and (2) that the "class or kind of foreign merchandise" before the Commission is glycine imported at LTFV, not just that imported from France. After considering the effect of all imports of glycine at LTFV, we have determined that an industry in the United States is being injured by reason of such imports.

This case has its origin in the period 1966–67 when competition in the U.S. glycine market became increasingly severe as large quantities of imported glycine entered the U.S. market at LTFV prices—prices which averaged as much as 25 percent to 30 percent less than the price of domestically produced glycine.

As a result of this price structure, domestic production fell by more than 40 percent, while imports increased by 140 percent between 1966 and 1967. By the end of 1967, imports, which had supplied less than 25 percent of U.S. consumption in 1964, had taken over 70 percent of the U.S. market. At that time imports were supplied by four countries in the following proportions: Japan, 39 percent; the Netherlands, 36 percent; France, 13 percent; and Germany, 12 percent.

On March 1, 1968, these proceedings were begun when Chattem Drug and Chemical Co., the sole U.S. producer of glycine, filed a dumping complaint with the Treasury Department, alleging that imports from all four countries were being sold at less than fair value. In April and May 1969 the Treasury Department terminated its proceedings against the exporters from West Germany [5] and the Netherlands [6] for reasons not in issue here. This left only imports from Japan and France still involved, and despite the fact that it appears from the record that both were being sold at LTFV, the Treasury Department in November 1969 terminated its proceedings against the Japanese exporters and referred the case of the French imports alone to the Commission for an injury determination.

It is the Treasury Department's reason for the termination of its proceedings against LTFV imports from Japan which has caused the principal problem in this case. The Secretary found that both the French and the Japanese exporters' sales prices were less than their home market prices, and, accordingly, both were selling at less than fair value within the meaning of the Antidumping Act. Nevertheless, because the Japanese exporter agreed to discontinue the LTFV sales, the Treasury Department officially found that imports from Japan were not being sold at LTFV,[7] despite the fact that the evidence clearly shows that they were when the complaint was filed. Imports from France, on the other hand, were found to be at LTFV, and this matter was referred to the Commission for an injury determination.[8]

The problem with the dismissal of the Treasury Department proceedings against Japanese LTFV imports is that the Japanese exporters were the principal disruptive force in the U.S. market—the French LTFV imports merely played a contributory role. The Japanese exporters sold at much lower prices and in much larger quantities than the French,[9] and undoubtedly were the major cause for the filing of the complaint. Yet if the Commission confines its investigation and determination to France, the country designated in the Treasury Department notice, it is possible that either no injury determination at all could be made (the conclusion reached by Commissioners Thunberg and Leonard), or that the dumping determination would be made against the French exporters who were not the principal offenders (the conclusion reached by Chairman Sutton).

This presents a procedural issue which has not been involved in prior cases.

The Antidumping Act requires the Secretary of the Treasury to notify the Commission when he has determined that a "class or kind of foreign merchandise" is being imported at less than fair value. In the past the Secretary has always attached a country designation to his advice to the Commission, as he did in this case. For example, the Commission has been advised of LTFV sales of window glass from the U.S.S.R., chromic acid from Austria, and Concord grapes from Canada. In each instance the Commission as a matter of convenience limited the scope of its investigation to the LTFV imports from the country named in the Treasury Department's notice.

We have never before had occasion to determine, however, whether we are legally bound by the country designation in the Treasury Department notice, because in no previous case has it been crucial to our determination. To put it another way, we have never determined whether a product from country X is a different "class or kind of foreign merchandise" for purposes of the Antidumping Act than the identical product from

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[2] Section 201(a) of the Antidumping Act provides in pertinent part as follows:

Whenever the Secretary of the Treasury * * * determines that a class or kind of foreign merchandise is being, or is likely to be, sold in the United States or elsewhere at less than its fair value, he shall so advise the Untied States Tariff Commission, and the said Commission shall determine within three months thereafter whether an industry in the United States is being or is likely to be injured * * * by reason of the importation of such merchandise into the United States * * *. 19 U.S.C. Sec. 160(a).

[3] Glycine is a white, odorless, crystalline material with a sweetish taste which is used principally in pharmaceuticals. It is also used as a postoperative nutriment for intravenous feeding and as a low-calorie sweetener.

[4] Letter from Assistant Secretary Rossides to Chairman Sutton dated Nov. 12, 1969.

[5] In April 1969 the Secretary of the Treasury determined that Glycine from West Germany was not being, and was not likely to be sold at less than fair value because—

The only known producer of Aminoacetic Acid (Glycine) for exportation to the United States has discontinued production of the product and has given assurances that no further shipments will be made to the United States. (34 F.R. 2210 (1969).)

The final negative determination for West Germany was filed Apr. 11, 1969. (34 F.R. 6447 (1969).)

[6] In May 1969 a negative determination by the Secretary was made with respect to shipments from the Netherlands (because glycine from that source was being sold at fair value). (34 F.R. 7334 (1969).) The final negative determination for the Netherlands was filed June 26, 1969. (34 F.R. 11427 (1969).)

[7] A tentative determination for Japan was filed Sept. 27, 1969, and read in pertinent part as follows:

I hereby make a tentative determination that Aminoacetic Acid (Glycine) from Japan is not being, nor likely to be, sold at less than fair value within the meaning of section 201(a) of the Act (19 U.S.C. 160(a)).

Statement of reasons on which this tentative determination is based * * *

* * * * *

Comparison between purchase price or exporter's sales price and home market price revealed that exporter's sales price and purchase price were lower than home market price.

Upon being advised of the above, exporters of the glycine from Japan provided assurances that they would make no sales to the United States at less than fair value within the meaning of the Antidumping Act.

The final negative determination for Japan was filed November 28, 1969. It stated that—

The statement of reasons for the tentative determination was published in the above-mentioned notice and interested parties were afforded until November 7, 1969, to make written submissions or requests for an opportunity to present views in connection with the tentative determination.

No written submissions or requests having been received, I hereby determine that for the reasons stated in the tentative determination, Aminoacetic Acid (Glycine) from Japan is not being, nor likely to be, sold at less than fair value (section 201(a) of the Act; 19 U.S.C. 160(a)). (34 F.R. 19210 (1969).)

[8] 34 F.R. 18559 (1969).

[9] Data relating to sales and prices were submitted in confidence to the Commission. Rules prohibiting the disclosure of confidential information prevent a more precise statement of facts.

country Y.[10] Accordingly, despite Commission acquiescence in the country designations which have been attached to dumping cases in the past, we believe that this issue is still to be decided. We reject the argument that our affirmative determination in this case upsets ancient and established precedents.

After reviewing the available authorities, we have determined that the Commission is not bound by the country designation in the Treasury Department notice. We find no evidence in the legislative history of the Antidumping Act that Congress intended the term "class or kind of foreign merchandise" to carry a geographical connotation, nor does the common meaning of "class" or "kind" found in the dictionary support it. "Class" is defined as—

> A number of * * * things regarded as forming a group by reason of common attributes, characteristics, qualities, or traits.[11]

"Kind" is defined as—

> A class or group of individual objects * * * of the same nature or character or classified together because they have traits in common.[12]

Thus it is the qualities, attributes, or traits inherent in the imported product itself which must determine its "class or kind" for purposes of the Antidumping Act.[13]

Realistically, it could not be otherwise. Congress enacted the Andidumping Act to protect domestic producers from unfairly priced imports of the "class or kind" produced by them. The geographic origin of the imported product is irrelevant to this issue. LTFV imports of glycine from one country have the same effect on the domestic producer as LTFV imports of glycine from any other country. Both are sold to potential customers of the domestic producer. Both have an effect on price competition in the domestic market. And both contribute to the injury to the domestic producer.

As the producer in this case observed, it is not possible to neatly separate the effects of French and Japanese LTFV sales, because a domestic producer subjected to unfairly priced imports from several sources is like a man assaulted by three assailants in a dark alley—he doesn't know which one cut his arm and which one put the lump on his head, all he knows is that the three combined injured him.

If the Commission's investigation and finding is limited by the country designation in the Treasury Department notice, as two of the dissenting Commissioners believe it is, we would be required to treat LTFV imports of glycine from each country as a separate "class or kind of foreign merchandise," and we would be required to trace and separate the effects of LTFV imports from each country, making separate injury determinations for each one. If we were unable to trace the effects of each country's LTFV sales, we would presumably be required to make a finding of no injury, despite the fact that the evidence clearly shows the domestic producer has been severely injured by all LTFV imports combined.

We believe that such a rigid interpretation of our responsibilities runs counter to the plain words of the Act, as well as contrary to the obvious congressional intent expressed therein. Accordingly, we hold that we are not bound by the country designations in the Treasury Department notice; that the matter before the Commission in this case is not "gylcine from France", but "glycine"; and the issue is whether imports of glycine at less than fair value from all sources have injured the domestic glycine industry.

There can be no doubt that they have. During 1967, the last full year before imports were affected by this proceeding, imports sold at less than fair value in the United States market accounted for at least 35 percent of U.S. consumption, and perhaps more. These LTFV imports, especially those from Japan, sold at prices considerably below the domestic product, and had a substantial price depressing effect on the U.S. market. Under these circumstances there can be no doubt that the domestic industry has been injured by the LTFV imports.

It is argued that, however correct this interpretation of the Act might be for future cases, it cannot be utilized here because the Commission's Notice of Investigation referred only to LTFV imports of glycine from France, and to include LTFV imports from Japan in the investigation or findings would deny the Japanese exporter due process of law. In this connection our attention has been invited to Carl Zeiss, Inc. v. United States, 23 CCPA 7 (1935). We think it is sufficient to note that the Zeiss case arose under a statute (Sec. 336 of the Tariff Act of 1930, as amended, 19 U.S.C. sec. 1336) which directs that the Commission shall "hold hearings and give reasonable public notice thereof, and shall afford reasonable opportunity for parties interested to be present, to produce evidence, and to be heard at such hearings." In contrast, the Antidumping Act merely directs the Commission to conduct "such investigation as it deems necessary." Moreover, we note that there are no LTFV imports of glycine awaiting liquidation, and, accordingly, no dumping duties will be payable at this time either by the French or the Japanese exporters as a result of this determination.

In any event, failure to consider Japanese LTFV imports in this case would not only discriminate against the French exporter who would be barred from further dumping while his Japanese competitors would be under no such bar, but it would provide inadequate protection to the domestic producer as well. We think that such a result would be contrary to the requirements of the Antidumping Act.

VIEWS OF CHAIRMAN SUTTON

In my opinion, an industry in the United States is being injured by reason of the importation of aminoacetic acid (glycine) from France, which is being sold in the United States at less than fair value (LTFV) within the meaning of the Antidumping Act, 1921, as amended.

The domestic industry. In making this determination under section 201(a) of the Antidumping Act, 1921, as amended, I have considered the injured industry to be those facilities in the United States that produce aminoacetic acid (glycine), hereinafter referred to as "glycine".

In early 1964 the United States had two major producers of glycine; imports from all countries supplied one-fourth of U.S. consumption and were sold by importers at prices considerably below the price of the domestic product. In the latter part of that year the complainant in this case became the third U.S. producer of glycine using a highly efficient new method of production which appears to have enabled the firm to be more competitive with imports than the other two firms. One of the two original producers ceased production in 1965. The other producer ceased production in the latter part of 1966 when it turned to foreign sources for supplies of glycine to sell in the United States, a major source being LTFV imports from France.

Glycine imports. The complainant advised the Treasury Department that glycine was "being imported into the United States under such circumstances as to bring it within the purview of the Antidumping Act". The Treasury Department investigated the pricing practices of all known world producers.

The Netherlands. Glycine from the Netherlands was found on the merits to be sold at or above fair value.[14]

West Germany. Treasury's investigation of glycine from West Germany was discontinued with a determination of no sales at LTFV based on a cessation of production apparently wholly unrelated to the pendency of the dumping issue. The case was not decided on the merits.[15]

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[10] Implicitly, it might be said that we have determined that identical products are in the same "class or kind" of merchandise, since in cases where imports of the same product from several countries have been before us at the same time, we have tested the cumulative effect of all. Pig Iron from East Germany, Czechoslovakia, Romania and the U.S.S.R., Potash from Canada, France and West Germany. If the product from one country was a different "class or kind" of merchandise than the identical product from another country, the Act would require that we treat each separately.

[11] "Random House Dictionary of the English Language" (1966), p. 272.

[12] Id., at 787.

[13] Judicial interpretation of similar statutory terms also establishes that a class must be determined by the inherent characteristics of the thing or persons being classified, and not by such extraneous considerations as geography or ownership. See, Switchmen's Union of N. American v. National M. Board, 135 F. 2d 785, 793–94 (D.C. Cir., 1943), rev'd on other grounds 320 U.S. 297; Inter County Rural E. Cooperative Corp. v. Reeves, 171 S.W. 2d 978 (Kty. 1943); Star-Kist Foods, Inc. v. United States, 150 F. Supp. 737 (Cust. Ct., 1956).

[14] 34 F.R. 7334; 11427.

[15] 34 F.R. 2210; 6447.

Japan. Glycine from Japan was ascertained by Treasury to have been sold at LTFV prior to December 1968. However, upon receipt of assurances from the Japanese producers that they would cease shipping at prices below fair value to the United States, the Treasury made a "technical" determination of no sales at LTFV in 1969.[16] Direct imports of glycine from Japan were all sold at fair value after November 1968.

Treasury records indicate that the margins of dumping (or amounts of price discrimination) in the case of imports from Japan prior to December 1968 were generally much greater than the margin which existed in the case of the French imports. Also, the Commission received unrefuted evidence that Japanese glycine has been, and is being, sold in Europe at prices well below the Japanese market value, that some of these European shipments have been resold and diverted to the United States at about twenty cents below the Japanese market value.

France. Glycine from France was determined to be, and likely to be, sold at less than fair value in the United States.[17] The margin of dumping (or amount of price discrimination) in the early onset of competition was for practical purposes equivalent to the price differential between domestic glycine and French glycine. French imports constituted 25 percent of all imports or 13.2 percent of U.S. consumption of glycine in 1968.

Cumulative and sequential impact of LTFV imports. Because the Treasury published a negative determination regarding glycine imports from Japan, the producer of the LTFV imports from France, who ships glycine directly to the United States, has contended that it is not appropriate for the Commission to weigh the combined impact of the imports from both Japan and France in this case. He contends that we must consider only the impact of imports of French glycine; further, he contends that he has not undersold imports from Japan but has had to lower his prices to, or almost to, the price level of the Japanese product if he is to sell in the United States.

The contentions of the French producer must be rejected. These contentions are based upon technical matters regarding the respective jurisdictions of the Treasury and the Tariff Commission under the Act. In my opinion, these technical matters, as will be explained below, do not preclude the Commission's consideration of the cumulative and sequential impact on the domestic industry of all LTFV imports from both Japan and France.

The Antidumping Act establishes two separate but interrelated jurisdictions—the first being in the Treasury, and the second being in the Tariff Commission. The statute vests in the Treasury sole authority to determine the existence or likelihood of LTFV sales and to define the class or kind of merchandise involving such sales, and vests in the Tariff Commission sole authority to determine whether an industry in the United States is being or is likely to be injured by such LTFV imports. The Treasury only can initiate action under the Act. The Tariff Commission derives its jurisdiction wholly from the formal determination of the Treasury. The Commission has no authority to review and revise the Secretary's action in any respect nor, in my judgment, does it have authority to make formal determinations of injury pursuant to which the Treasury, in making and publishing the requisite "finding" under section 201(a), would be obligated to provide for possible assessment of dumping duties outside the scope of Treasury's initial determination regarding LTFV sales. Accordingly, in my opinion, the Commission's formal action in this case must necessarily be limited to a determination of injury which can apply only to imports of glycine from France.

The foregoing conclusion, however, does not foreclose the possibility of giving consideration to the LTFV imports from Japan. The mutually exclusive jurisdictions vested in the Treasury and the Tariff Commission—while occasioning problems from time to time in regard to coordination of the respective functions of each agency—do not compel this result in this case. The Commission in previous determinations under the Antidumping Act has been guided by the principle that all LTFV imports of a particular product from various sources sold in the United States at the same time or in sequence may be considered in the aggregate in the context of both their cumulative and sequential impact in the U.S. markets.[18] It will be noted that each of these precedents involves LTFV sales which were the subject of formal affirmative determinations of the Treasury Department, whereas in the present case one of the Treasury's formal determinations was in the negative. The sole question, therefore, is whether the formal negative determination in this case as a matter of law vitiates the persuasiveness of the earlier Commission precedents.

In two of the earlier cases (pig iron and potash), no technical problem existed for the reason that Treasury's formal affirmative determinations with respect to LTFV imports from all sources were simultaneously before the Commission. In the other case (cement), however, it will be observed that the Customs Court has upheld the propriety of the Commission's looking into the sequential connection between LTFV imports in the case before it and LTFV imports in an earlier one involving cement from another source. Likewise, in my judgment, it is appropriate in this case for the Commission to look outside the formal Treasury determination before it in order to determine, if possible, the facts requisite to a proper disposition of the case.

As previously indicated, the Treasury's negative determination with respect to glycine imports from Japan was published in the FEDERAL REGISTER. This determination clearly shows on its face (1) that the action taken was not on the merits but was remedial in nature, (2) that Treasury revealed to the Japanese suppliers that the exporter's sales price and purchase price were lower than home market value (or, in other words, were at LTFV), and (3) that Treasury's action was premised upon having received from the Japanese exporter assurances that no future sales would be made in the United States at LTFV. The technical nature of Treasury's formal determination therefore is clearly demonstrated on its face. From this published Treasury determination the Commission can accept as a fact that Japanese shipments of gylcine to the United States made prior to the giving of assurances were sold at LTFV. In addition, information supplied to the Commission from Treasury records not only corroborates this fact but also reveals the very substantial margins of dumping involved. I cannot conclude in the circumstances that such legal technicalities prevent the Commission from giving due consideration to all LTFV imports of glycine from both Japan and France.

Conditions of competition. The market for glycine in the United States has experienced a modest growth and has an apparent excellent growth potential because of the many uses being made of the product. It is apparent that supplies will have to increase if future needs are to be met. Despite this glowing description for a market, glycine is priced too low for a healthy domestic industry[19] and a close examination of the conditions of competition needs to be made to ascertain the reasons why the domestic industry is suffering from low prices and whether such low prices are attributable to sales at LTFV.

To understand the full effect of LTFV sales on our domestic industry, it became apparent that we had to look not only at our domestic market place, but the world market, if we were to make a proper appraisal. Japanese glycine sold at LTFV not only came directly into the United States, but also via Denmark. French glycine came not only directly to the United States, but it has also been imported via West Germany, the Netherlands, Denmark, and England at prices below fair value as determined by Treasury.

Japanese producers, by reason of their selling for export at prices below their home market prices, have been the dominant price leaders in the world market as well as in the United States. Their prices in both markets are generally the

[16] 34 F.R. 15564; 19210.
[17] 33 F.R. 14079; 18559.

[18] See majority opinions in investigation No. AA1921–22 (portland cement), affirmed in City Lumber Co. et al v. United States, R.D. 11557 (now on appeal before the Court of Customs and Patent Appeals); investigations No. AA1921–52, 53, 54 and 55 (pig iron); and investigations No. AA1921–58, 59 and 60 (potassium chloride).

[19] Two out of three producers have ceased production and it is evident that they felt their participation in the industry was not reasonably profitable.

lowest and must be met by other foreign producers if sales are to be consummated. This appears to hold true particularly with respect to the glycine producer in the Netherlands, as virtually none of the product is consumed in the Netherlands and the producer must depend entirely on sales in the world market where delivered cost in the market place is the principal governing factor in making a sale. For that reason the Netherlands glycine cannot be sold at a price for export to the United States or elsewhere that it might otherwise command were the Japanese to sell for export only at their home market price. I mentioned the Netherlands producer in this case because it is the major producer in Europe who has clearly not sold at LTFV and is currently the only known European producer outside of France. Thus, I find that glycine imports, though at fair value, nevertheless enter the United States at depressed or suppressed prices as a principal result of the Japanese practice of price discrimination, but also in part because of the price discriminating practices of the French producers.

Market penetration. The largest U.S. imports in 1964–66 came from the Netherlands, the next largest from Japan, and then France. In 1967 the Japanese became the largest supplier. Imports of French glycine are coming in increasing quantities into the United States via Belgium, Denmark, England, and West Germany at prices considerably below fair value. During the period 1964 to 1967, inclusive, imports increased their penetration of the U.S. market from 25 to 70 percent. Indeed, Japanese sales in the United States increased 600 percent in the last year of that period. U.S. direct or indirect effect of the LTFV sales by the Japanese and French producers, all imports at the unusually low exports of glycine have been negligible.

Price suppression or depression. As a prices have either suppressed or depressed the U.S. market price for glycine.

In 1964, the weighted average price of imported glycine from all sources was 14 cents a pound less than the weighted average price of domestic glycine. In 1965, when the complainant emerged as a third domestic producer on the market, the prices of glycine from virtually every source dropped. The weighted average price of one domestic producer dropped 2 cents per pound, another 4 cents per pound, and the new producer (the highly efficient plant) entered the market at a price several cents lower than either of its domestic competitors. Still, the average price of imports in 1965 was 13 cents per pound less than the average price of the domestic product. At this point of time, one of the early domestic producers ceased production. In 1966, the average price of imports dropped an additional 6 cents per pound and the domestic average price dropped 17 cents per pound, with a mere 2 cents-per-pound lower average price applicable to the imported product. At this price level, the second domestic producer ceased production and started importing the product to supply its customers. The average price of all glycine has continued to drop each year to date, the average prices for domestic glycine being higher each year than the average price of imported glycine (by 6 cents in 1967 and 4 cents in 1968 and 1969). Thus, importers of glycine have undersold domestic producers of glycine in every year for the last 6 years.

STATEMENT OF REASONS FOR NEGATIVE DETERMINATION

VIEWS OF COMMISSIONER THUNBERG

The Congress has divided the responsibility for administering the Antidumping Act between the Treasury Department and the Tariff Commission. Such a bifurcation of responsibility can be administered successfully—and all parties concerned treated equitably—only if the demarcation between the activities of the two agencies is unequivocally and unambiguously specified. By the language of the statute, "whenever the Secretary of the Treasury determines that a class or kind of foreign merchandise * * *," the Secretary of the Treasury is assigned responsibility for classifying, categorizing, defining the commodity being sold at less than fair value (LTFV) for purposes of administering the act. Depending on the nature of the commodity and of the markets in which it is sold, the scope of the appropriate classification scheme may be more or less inclusive. But authority for so specifying the commodity being sold at less than fair value is unquestionably assigned to the Secretary of the Treasury and legal and administrative precedent supports his authority to delimit the definition of the commodity. In the present case the commodity has been so defined as "aminoacetic acid (glycine) from France."

In assigning to the Treasury Department responsibility for determining whether sales at less than fair value occur, the Congress implied that that agency must investigate the volume of sales at less than fair value and the margins by which the purchase prices of goods exported to the United States differ from "fair value." In the case of a positive finding of LTFV sales, the statute implies that it is the responsibility of the Secretary of the Treasury to communicate to the Tariff Commission the specifics of its determination—the precise data of quantities sold at less than fair value, the margins at which these quantities were sold below fair value and the period of time over which these sales occurred. Whether or not LTFV imports cause injury to a domestic industry depends in preponderant part on how much is sold and at what margins below fair value. A small margin of dumping could, for example, be injurious if it has characterized a large volume of imports in a highly competitive market. Alternatively, a small volume of LTFV sales could cause injury if the margin of dumping were sufficiently great. In this case, LTFV sales of 150,000 pounds of glycine, sold at an average dumping margin of about 18 percent, were determined by the Treasury Department to have taken place between March 1, 1968, and August 11, 1969.

An injury determination can be reached only after the specifics of quantity and value have been made available. The demarcation between Treasury responsibility and Tariff Commission responsibility for the successful operation of the law implies that Treasury functions are suspended with its determination and communication to the Tariff Commission of the facts concerning quantity and value of LTFV sales. On the basis of the specific facts provided by the Treasury, the Tariff Commission assumes responsibility for determining whether injury has been caused. In the present case the Tariff Commission announced on November 18, 1969, that it was initiating an investigation to determine whether sales at less than fair value of aminoacetic acid (glycine) from France are injuring or are likely to injure a domestic industry. By its announcement the Commission confined its investigation of injury to the effects of imports of glycine from France at less than fair value.

LTFV imports from France in 1968 amounted to about 7 percent of domestic consumption of glycine. The sole domestic producer of glycine, The Chattem Drug & Chemical Co., consumes about two-thirds of its own output which amounts to one-quarter to one-third of total U.S. consumption. The sales of glycine to other domestic consumers thus account for only one-third of Chattem's production. No evidence was found that sales of LTFV imports from France caused Chattem to lower its selling prices or to lose sales. The margin of dumping in absolute terms was smaller than the difference between the price of the domestic glycine and the prices at which imports from Japan were sold in the domestic market. During 1967–69, moreover, average annual prices received by the sole importer of LTFV glycine from France for imported glycine sold in the U.S. market were generally higher than the average prices received for glycine by other importers and about equal to the average prices received by the domestic producer. Chattem's production and sales of glycine, which increased steadily in 1965–68, have expanded markedly in recent months to satisfy new demands. Since the company's unit production costs decline substantially as volume increases, the larger output should enable it to compete more effectively than formerly with imports. I have concluded, therefore, that LTFV imports from France are not causing and are not likely to cause injury to a domestic industry.

VIEWS OF COMMISSIONER LEONARD

I find no industry in the United States is being or is likely to be injured or is prevented from being established by reason of the importation into the United States of aminoacetic acid (glycine) from France which the Treasury determined is being, and is likely to be, sold at less than fair value (LTFV) within the meaning of the Antidumping Act, 1921, as amended.

Although total imports of glycine have increased substantially in recent years, imports at LTFV from France constituted but a small portion of total imports and at no time achieved a substantial penetration of the U.S. market. As Commissioner Thunberg reports, the Commission's investigation did not substantiate that sales of glycine from France at LTFV caused the domestic producer either to lose sales or to reduce his selling prices. In fact, the average prices received during 1967–69 by the only importer of the LTFV glycine from France were not only higher than those received by most other importers, but were somewhat higher than those received by the domestic producer.

While the record of the investigation fails to support a finding of injury or likelihood of injury to a domestic industry by reason of the importation of LTFV glycine from France alone, the basis of the findings of the majority in this investigation requires me to discuss imports of glycine from Japan. Such imports increased 600 percent in only 1 year, from 65,000 pounds in 1966 to 492,000 pounds in 1967, as Japan became the principal supplying country. The evidence produced during the Commission's investigation indicates that the Japanese exporters sold at much lower prices than did other foreign suppliers. During 1966–68, a large part of the glycine imported from Japan was resold by the importers at prices 17 to 26 cents per pound below the weighted average price received by all importers. The low price of glycine from Japan, coupled with the large increase in such imports in 1967 and 1968, almost certainly was a principal factor in causing price reductions in the U.S. market for glycine.

Despite such evidence, much of which also appeared in Treasury files, the Treasury published in the FEDERAL REGISTER a determination that "Aminoacetic Acid (Glycine) from Japan is not being, nor likely to be, sold at less than fair value." [20] Therefore, the Commission cannot determine that an industry in the United States is being or is likely to be injured, or is prevented from being established, by reason of the importation into the United States "of such merchandise," glycine from Japan.

With Treasury making such a negative determination on sales of glycine from Japan and, therefore, not sending such sales to the Commission for an injury determination, I cannot go beyond the statute and in some way be influenced by the Japanese glycine sales to find affirmatively in this investigation. Since I cannot consider the effect of the sales of glycine from Japan, I must render a negative finding on the question of injury to a domestic industry from LTFV sales of glycine from France. On the other hand, a majority of the Commission finds affirmatively because it does consider the effect of the sales of Japanese glycine.

Commissioners Clubb, Newsom, and Moore take account of the sales of Japanese glycine by determining that an industry in the United States is being injured by reason of imports of glycine from France and other countries. They disregard the country designation in the Treasury determination and contend that once Treasury makes an affirmative determination on a particular item of commerce, the Commission can consider all sources of that item in deciding whether injury is present.

This view of three-fourths of the majority may have been more appropriate if it had been taken when the Commission received the initial Treasury determination drawn along country lines. But that would have been in November 1954, when the Treasury determined affirmatively on muriate of potash from the Soviet Zone of Germany. However, the Commission in that investigation [21] and in every dumping investigation since has deliberately confined the scope of its notice and injury determination in accordance with the Treasury designation of source from which the commodity came. If Treasury's long-continued practice of designating the country or origin were outside the terms of the statute, the Congress, it is assumed, would have since corrected it in its considerations of the Antidumping Act and amendments thereto.[22] The issue has been present in every Treasury determination coming before the Commission. There never having been a challenge to the country designation until now, it is too much a part of the operational framework of the statute for the Commission at this late date to read out designation of source of the commodity in the present antidumping investigation.

Customs Simplification Act of 1954, Public Law 83–768, 68 Stat. 1136 (1954);
Antidumping Act Amendment, Public Law 85–630, 72 Stat. 583 (1958);
Renegotiation Amendments of 1968, Public Law 90–634, 82 Stat. 1347 (1968).

Besides, if the Commission were to choose the instant investigation to begin to ignore the country designation, it should have done so upon the institution of the investigation and the issuance of the public notice. However, the public notice read:

AMINOACETIC ACID FROM FRANCE

NOTICE OF INVESTIGATION AND HEARING

Having received advice from the Treasury Department on Nov. 17, 1969 that Aminoacetic Acid (Glycine) from France is being, and is likely to be, sold in the United States at less than fair value, the U.S. Tariff Commission has instituted an investigation under section 201(a) of the Antidumping Act, 1921, as amended (19 U.S.C. 160(a)), to determine whether an industry in the United States is being or is likely to be injured, or is prevented from being established, by reason of the importation of such merchandise into the United States.

The Commission is bound by that public notice. Its finding cannot go beyond the description of the merchandise in that notice. Where the Commission does not confine its investigation to the matters contained in its public notice, its findings and recommendations based upon such investigation are without authority of law and invalid.[23]

Nor are the views of Chairman Sutton of any more comfort to me. In his view, an industry in the United States is being injured by reason of LTFV imports of glycine from France, but, to find thusly, he examines the impact of the Japanese glycine sales on the total market structure and the world price situation. He extends what is termed the cumulative and sequential impact doctrine of past Commission decisions to find that French LTFV sales, on top of Japanese LTFV sales, are injuring the domestic glycine industry.

I have supported the cumulative and sequential impact theory in the past.[24] Last year's potash opinion of Chairman Sutton and myself expands his views expressed in a 1968 investigation.[25]

The doctrine referred to holds that Treasury determinations of LTFV sales of a product from all sources may be considered together in order to find injury resulting from the sales from any one source. Further, the Treasury determinations of sales at LTFV need not all be formally before the Commission at the same time. Earlier Treasury LTFV determinations can be examined by the Commission in investigating possible injury resulting from sales of the same product from a different source determined to be LTFV by Treasury at a later date.[26]

Treasury's practice of issuing its findings by procedurally or administratively separating the countries or producers which ship LTFV imports to the United States has no necessary investigative effect on the Commission's determination of injury.[27] However, while the Commission need not consider each Treasury LTFV determination independently of any other for a particular product, the Commission cannot consider as sales at LTFV sales of a product from one source determined by the Treasury not to be LTFV along with Treasury determined LTFV sales of the same product from another source. To do so in a case such as this one preempts Treasury's jurisdiction and is not, in my view, a permissible application of the cumulative and sequential impact theory. It is this which distinguishes the instant proceeding from the cumulative and sequential impact line of investigations.

[20] 34 F.R. 19210 (Dec. 4, 1969).

[21] Muriate of Potash from Soviet Zone of Germany, U.S. Tariff Comm. Release, Feb. 25, 1955.

[22] Treasury has from the inception of its jurisdiction in 1921 used source limitations in describing the articles within the scope of its proceedings under the Act. No changes in this practice have been made or suggested by the Congress.

[23] Carl Zeiss, Inc. v. U.S. 76 F. 2d 412 (1935), (23 CCPA 7); Best Foods Inc. v. U.S. 218 F. Supp. 576, 587 (Concur. opinion) (Cust. Ct., 1963).

[24] Muriate of Potash from Canada, France and West Germany, AA1921–58, 59, 60 (November 1969) T.C. Pub. 303.

[25] Pig Iron from East Germany, Czechoslovakia, Romania and the USSR, AA1921–52, 53, 54, 55 (September 1968) T.C. Pub. 265.

[26] City Lumber Co. v. United States, R.D. 11557 (July 1968), appeal filed before CCPA.

[27] Muriate of Potash from Canada, France and West Germany, AA1921–58, 59, 60 (November 1969) T.C. Pub. 303 at 4–9; and Pig Iron from East Germany, Czechoslovakia, Romania, and the USSR, AA1921–52, 53, 54, 55 (September 1968) T.C. Pub. 265 at 4–10.

Here, LTFV sales of the commodity from one country, Japan, have not been transmitted by the Treasury to the Commission to be joined with LTFV sales of the commodity from another country, France, which have so been sent by the Treasury to the Commission.

It may be true that in fact there were Japanese glycine sales in the United States at prices lower than the home-market price. The files of the Treasury viewed by the Commission would so indicate. Even Treasury's September 27, 1969 "Notice of Tentative Negative Determination" includes such a statement.[28] But it is also true that the final word from Treasury, the final determination from Treasury, is that "aminoacetic acid (glycine) from Japan is not being, nor likely to be, sold at less than fair value." [29]

It matters not the reason for the Treasury determination, a negative one in return for the Japanese assurances that there will be no more sales at LTFV. It can even be characterized as technical. All that matters is that Treasury's determination was negative. That being the case, this Commission can go no further. We cannot consider the Japanese sales as other than fair-value sales in trying to assess their effect on the French sales and in turn the effect on the domestic industry. Regrettable as it may be, Treasury's determination of glycine from Japan not being, nor likely to be, sold at LTFV based on assurances from Japan not to sell at LTFV in the future precludes the Commission in this investigation from determining under the statute injury to an industry in the United States.

By direction of the Commission.

KENNETH R. MASON,
Secretary.

[F.R. Doc. 70-3184; Filed, Mar. 16, 1970; 8:48 a.m.]

[TEA-I-17]

UMBRELLAS AND METAL PARTS THEREOF

Notice of Investigation and Hearing

Investigation instituted. Following receipt on March 5, 1970, of a petition filed by the Umbrella Frame Association of America, the U.S. Tariff Commission, on the 11th day of March 1970, instituted an investigation under section 301(b)(1) of the Trade Expansion Act of 1962 to determine whether umbrellas and metal parts thereof, provided for in items 751.05 and 751.20 of the Tariff Schedules of the United States, are, as a result in major part of concessions granted thereon under trade agreements, being imported into the United States in such increased quantities as to cause, or threaten to cause, serious injury to the domestic industry or industries producing like or directly competitive products.

Public hearing ordered. A public hearing in connection with this investigation will be held beginning at 10 a.m., e.d.s.t., on June 2, 1970, in the Hearing Room, Tariff Commission Building, Eighth and E Streets NW., Washington, D.C. Appearances at the hearing should be entered in accordance with § 201.13 of the Tariff Commission's rules of practice and procedure.

Inspection of petition. The petition filed in this case is available for inspections by persons concerned at the office of the Secretary, U.S. Tariff Commission, Eighth and E Streets NW., Washington, D.C., and at the New York office of the Tariff Commission located in Room 437 of the Customhouse.

Issued: March 12, 1970.

By order of the Commission.

[SEAL] KENNETH R. MASON,
Secretary.

[F.R. Doc. 70-3160; Filed, Mar. 16, 1970; 8:46 a.m.]

DEPARTMENT OF LABOR

Wage and Hour Division

CERTIFICATES AUTHORIZING EMPLOYMENT OF FULL-TIME STUDENTS WORKING OUTSIDE OF SCHOOL HOURS AT SPECIAL MINIMUM WAGES IN RETAIL OR SERVICE ESTABLISHMENTS OR IN AGRICULTURE

Notice is hereby given that pursuant to section 14 of the Fair Labor Standards Act of 1938 (52 Stat. 1060, as amended, 29 U.S.C. 201 et seq.), the regulation on employment of full-time students (29 CFR Part 519), and Administrative Order No. 595 (31 F.R. 12981), the establishments listed in this notice have been issued special certificates authorizing the employment of full-time students working outside of school hours at hourly wage rates lower than the minimum wage rates otherwise applicable under section 6 of the act. The effective and expiration dates are as indicated below. The minimum certificate rates are not less than 85 percent of the applicable statutory minimum.

The following certificates provide for an allowance not to exceed the proportion of the total hours worked by full-time students at rates below $1 an hour to the total number of hours worked by all employees in the establishment during the base period in occupations of the same general classes in which the establishment employed full-time students at wages below $1 an hour in the base period.

Barbecue Inn, restaurant; 116 West Crosstimbers, Houston, Tex; 1-9-70 to 1-8-71.

Blackburn Jobbing Co., foodstore; Mountain City, Tenn.; 1-5-70 to 1-4-71.

Campbells, variety-department store; 51 South Brown Street, Rhinelander, Wis.; 12-31-69 to 12-30-70.

Deelene Corp., restaurant; 1423 Laurel Avenue, Bowling Green, Ky.; 1-9-70 to 1-8-71.

Eigenrauch's Tom Boy Market, foodstore; 121 East St. Louis, Nashville, Ill.; 1-17-70 to 1-16-71.

Ernst Foods, foodstore; Nixon, Tex.; 1-13-70 to 1-12-71.

Flynn Super Market, foodstore; 116 North Main, Pocahontas, Iowa; 1-18-70 to 1-17-71.

Food Town, foodstore; Ashland, Ala.; 1-8-70 to 1-7-71.

Francis Department Store, variety-department store; Prestonsburg, Ky.; 1-17-70 to 1-16-71.

Fredericks' Super Market, foodstore; 240 West Main, West Concord, Minn.; 1-7-70 to 1-6-71.

Freeland-Brown Pharmacy, drugstore; 4508 South Peoria, Tulsa, Okla.; 1-17-70 to 1-16-71.

Goldblatt Brothers, Inc., variety-department stores, from 1-7-70 to 1-6-71: 9100 Commercial Avenue, Chicago, Ill.; Hillside Shopping Center, Hillside, Ill.

Good Samaritan Home, nursing home; 322 South Seventh Street, Wymore, Nebr.; 12-29-69 to 12-28-70.

W. T. Grant Co., variety-department stores: No. 737, Kokomo, Ind., 1-3-70 to 1-2-71; No. 77, Worcester, Mass., 2-1-70 to 1-31-71; No. 3554, Bristol, Pa., 1-16-70 to 1-15-71.

Hawkins' Big Star 36, foodstore; Somerville, Tenn.; 1-19-70 to 1-18-71.

Jack's Market, foodstore; 214 Main, Fowler, Colo.; 1-14-70 to 1-13-71.

McDonald's Hamburgers, restaurant; 10302 East 40 Highway, Independence, Mo.; 1-13-70 to 1-12-71.

Key Drug Store, drugstore; 500 Fourth Street, Sioux City, Iowa; 1-6-70 to 11-30-70.

Klaus Department Store, variety-department store; 2865 North Milwaukee Avenue, Chicago, Ill.; 1-19-70 to 1-18-71.

S. S. Kresge Co., variety-department stores: No. 262, Waterbury, Conn., 12-27-69 to 12-26-70; No. 755, Decatur, Ga., 12-23-69 to 12-22-70; No. 4591, Chicago, Ill., 1-13-70 to 1-12-71; No. 560, Detroit, Mich., 1-17-70 to 1-16-71; No. 699, Drayton Plains, Mich., 1-17-70 to 1-16-71; No. 4611, Sedalia, Mo., 1-7-70 to 12-17-70; No. 495, Akron, Ohio, 1-3-70 to 1-2-71; No. 4529, Ashland, Ohio, 1-12-70 to 1-11-71.

Lebensraum Nursing Home, nursing home; 114-118 South Ingalls, Grand Island, Nebr.; 12-22-69 to 9-8-70.

Leed's Drug, Inc., drugstores, from 1-9-70 to 1-8-71; 219 East Main Street, Anoka, Minn.; 1336 Coon Rapids Boulevard, Coon Rapids, Minn.

Mason Food Market, foodstore; 115 South Woodland, Riceville, Iowa; 1-13-70 to 1-9-71.

McCrory-McLellan-Green Stores, variety-department stores: No. 1064, Des Moines, Iowa, 1-7-70 to 12-29-70; No. 615, Merrill, Wis., 1-15-70 to 1-14-71.

Morgan & Lindsey, Inc., variety-department stores: No. 3029, Jennings, La., 1-17-70 to 1-16-71; No. 3041, Kosciusko, Miss., 1-19-70 to 1-18-71; No. 3058, Beaumont, Tex., 12-22-69 to 12-21-70; No. 3066, Beaumont, Tex., 1-5-70 to 1-4-71.

Newman's, apparel store; 122 South Michigan, South Bend, Ind.; 1-7-70 to 1-6-71.

Piggly Wiggly, foodstores: Hemingway, S.C., 1-5-70 to 1-4-71; No. 51, St. George, S.C., 12-16-69 to 12-15-70; 1322 North Main, Cleburne, Tex., 1-18-70 to 1-17-71; Nos. 1 and 2, Denton, Tex., 1-10-70 to 1-9-71.

Pleasure Ridge Super Market, foodstore; 4838 Maryman Road, Pleasure Ridge Park, Ky.; 1-2-70 to 1-1-71.

Quinn Brothers Supermarket, foodstore; 610 Southwest Third Street, Aledo, Ill.; 1-13-70 to 1-12-71.

Ralph's Super Valu, Inc., foodstore; 110 West Main Street, Beresford, S. Dak.; 1-13-70 to 1-9-71.

Savitz Drug Store, drugstore; 129 Court Square, Abbeville, S.C.; 1-7-70 to 1-6-71.

Smathers Market, foodstore; 118 Main Street, Canton, N.C.; 1-23-70 to 1-22-71.

Spurgeon's, variety-department stores: 713 Story Street, Boone, Iowa, 1-8-70 to 12-26-70; 117 North Maple, Creston, Iowa, 1-8-70 to 12-29-70; 911 Main Street, Grinnell, Iowa,

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[28] 34 F.R. 15564 (Oct. 7, 1969).
[29] 34 F.R. 19210 (1969).

1–12–70 to 1–9–71; 620 West Sheridan, Shenandoah, Iowa, 1–16–70 to 1–15–71; Pinecrest Shopping Center, Burlington, Wis., 1–12–70 to 1–11–71.

St. Louis Hospital, hospital; 324 School Street, Berlin, N.H.; 3–1–70 to 2–28–71.

Stephens Foodliner, foodstore; 307 East Cotton Avenue, Millen, Ga.; 1–14–70 to 1–11–71.

T.G. & Y. Stores Co., variety-department stores: No. 127, Kansas City, Kans., 1–6–70 to 11–6–70; No. 250, Carrolton, Tex., 1–8–70 to 1–7–71.

Wagner's Supermarket, Inc., variety-department store; 523 Nebraska Avenue, Arapahoe, Nebr.; 1–14–70 to 1–13–71.

Whetstone Valley Nursing Home, Inc., nursing home; 1103 South Second Street, Milbank, S. Dak.; 1–6–70 to 12–30–70.

A. W. Whitmore & Sons, Inc., foodstore; Main Street, Broadway, Va.; 1–2–70 to 1–1–71.

Whittaker, Inc., foodstore; No. 1, Oklahoma City, Okla.; 1–19–70 to 1–18–71.

Wolter's, foodstore; Gibbon, Minn.; 1–20–70 to 1–19–71.

Wood's Super Valu, foodstore; 17 Third Avenue Northeast, Pocahontas, Iowa; 1–15–70 to 1–14–71.

The following certificates were issued to establishments relying on the base-year employment experience of other establishments, either because they came into existence after the beginning of the applicable base year or because they did not have available base-year records. The certificates permit the employment of full-time students at rates of not less than 85 percent of the statutory minimum in the classes of occupations listed, and provide for the indicated monthly limitations on the percentage of full-time-student hours of employment at rates below the applicable statutory minimum to total hours of employment of all employees.

Bashas' Market, Inc., foodstores, for the occupations of carryout, janitorial, 10 percent, 12–14–69 to 12–13–70, except as otherwise indicated: No. 4, Casa Grande, Ariz.; No. 1, Chandler, Ariz.; No. 11, Glendale, Ariz.; Nos. 2 and 10, Mesa, Ariz.; No. 17, Mesa, Ariz. (12–19–69 to 12–18–70); Nos. 3, 5, 8, 9, 12, and 18, Phoenix, Ariz.; Nos. 7, 13, and 16, Scottsdale, Ariz.

Big John Discount Foods, foodstore; No. 3, Oblong, Ill.; stock clerk, bagger; 10 percent; 12–23–69 to 12–22–70.

Blooming Prairie Super Valu, foodstore; Blooming Prairie, Minn.; carryout, cleanup, checker, stock clerk; 14 to 21 percent; 1–22–70 to 1–21–71.

Carlton's Foodland, foodstore; Highway 64 East, Somerville, Tenn.; sacker, carryout, stockclerk, cleanup; 18 to 20 percent; 1–2–70 to 1–1–71.

Cooper & Ratcliff of Martinsville, Inc., foodstore; Brookdale Street, Martinsville, Va.; bagger, carryout; 10 percent; 1–2–70 to 1–1–71.

Country School of Evansville, restaurant; 4511 First Avenue, Evansville, Ind.; kitchen help, bus boy-girl, waiter-waitress, cleanup; 40 to 50 percent; 1–15–70 to 1–14–71.

Dillon Companies, Inc., foodstores, for the occupations of cashier, checker, carry out, wrapper, clerk, maintenance, 11 to 32 percent, 1–2–70 to 12–31–70: No. 106, Fayetteville, Ark.; No. 107, Rogers, Ark.

Dyche Jones Food Stores, Inc., foodstore; Highway 421, Manchester, Ky.; bagger, carryout, clean up, stock clerk; 5 to 10 percent; 1–12–70 to 1–11–71.

Fantastic Fair Store, foodstore; No. 6, Tucson, Ariz.; carryout, janitorial; 10 percent; 12–14–69 to 12–13–70.

Gem Wholesale Co., variety-department store; Alpine, Tex.; salesclerk, stock clerk; 0 to 35 percent; 1–2–70 to 1–1–71.

Goldblatt Brothers, Inc., variety-department store; 1084 Mount Prospect Plaza, Mount Prospect, Ill.; salesclerk, stock clerk; 3 to 5 percent; 1–7–70 to 1–6–71.

W. T. Grant Co., variety-department stores, for the occupations of salesclerk, stock clerk, office clerk, cashier except as otherwise indicated: No. 933, Jacksonville, Fla., 11 to 18 percent, 1–27–70 to 1–26–71; No. 448, Elmhurst, Ill., 2 to 19 percent, 12–14–69 to 12–13–70; No. 460, Burnham, Pa., 9 to 44 percent, 1–1–70 to 12–31–70; No. 1136, Norristown, Pa., 11 to 24 percent, 1–12–70 to 1–11–71; No. 105, Provo, Utah, 0.6 to 15 percent, 1–12–70 to 1–2–71 (salesclerk); No. 19, Rutland, Vt., 1 to 13 percent, 2–1–70 to 1–31–71 (salesclerk, stock clerk, cashier).

H.E.B. Food Store, foodstores, for the occupations of sacker, package clerk, bottle clerk, 10 percent: No. 94, Portland, Tex., 1–3–70 to 1–2–71; No. 67, San Antonio, Tex., 12–31–69 to 12–30–70.

Hilltop Manor Convalescent Center, nursing home; 1711 East Broad Street, Hazleton, Pa; floor aide, kitchen aide; 8 to 12 percent; 1–2–70 to 1–1–71.

Thomas Kilpatrick & Co., variety-department store; 150 Central Park, Omaha, Nebr.; stock, messenger, delivery, marking, clerical, selling, wrapping; 1 to 8 percent; 1–9–70 to 1–1–71.

S. S. Kresge Co., variety-department store, for the occupations of salesclerk, stock clerk, checker-cashier, office clerk except as otherwise indicated: No. 4086, Birmingham, Ala., 3 to 11 percent, 1–9–70 to 1–8–71 (salesclerk); No. 4087, Florence, Ala., 11 to 22 percent, 12–26–69 to 12–25–70 (salesclerk, checker); No. 14, Scottsdale, Ariz., 10 percent, 12–14–69 to 12–13–70 (carryout, janitorial); No. 4052, Fort Smith, Ark., 7 to 18 percent, 1–14–70 to 1–13–71 (salesclerk, stock clerk, office clerk); No. 4593, Chicago, Ill., 16 to 42 percent, 1–14–70 to 1–13–71; No. 4211, Chicago, Ill., 12 to 20 percent, 1–18–70 to 1–17–71; No. 4221, Collinsville, Ill., 5 to 10 percent, 1–3–70 to 1–2–71; No. 4214, Des Plaines, Ill., 12 to 20 percent, 1–12–70 to 1–11–71; No. 4262, Dolton, Ill., 5 to 10 percent, 1–6–70 to 1–5–71; No. 4100, Lombard, Ill., 12 to 20 percent, 1–18–70 to 1–17–71; No. 4228, Wheeling, Ill., 12 to 20 percent, 12–23–69 to 12–22–70; No. 4073, Clarksville, Ind., 3 to 7 percent, 1–3–70 to 1–2–71; No. 4587, Hammond, Ind., 14 to 25 percent, 1–4–70 to 1–3–71; No. 4522, Newton, Iowa, 6 to 17 percent, 1–2–70 to 1–1–71; No. 4171, Wichita, Kans., 16 to 25 percent, 1–12–70 to 12–4–70; No. 4063, Alexandria, La., 2 to 15 percent, 1–14 70 to 1–13–71 (salesclerk); No. 4128, Lake Charles, La., 2 to 15 percent, 1–19–70 to 1–18–71 (salesclerk); No. 4027, Detroit, Mich., 10 percent, 1–11–70 to 1–10–71 (salesclerk, maintenance, office clerk, food preparation, stock clerk, cashier, customer service); No. 4066, Jackson, Mich., 10 percent, 1–3–70 to 1–2–71 (stock clerk, maintenance, office clerk, food preparation, salesclerk, cashier, customer service); No. 4015, Port Huron, Mich., 10 percent, 1–8–70 to 1–7–71 (stock clerk, maintenance, office clerk, food preparation, sales clerk, cashier, customer service); No. 4193, Bridgeton, Mo., 5 to 10 percent, 1–9–70 to 12–22–70; No. 4165, Cincinnati, Ohio, 7 to 22 percent, 1–15–70 to 1–14–71 (salesclerk, stock clerk, maintenance, office clerk, checker-cashier, customer service); No. 4169, Massillon, Ohio, 6 to 10 percent, 1–19–70 to 1–18–71 (stock clerk, maintenance, office clerk, food preparation, cashier, salesclerk, customer service); No. 4234, Spartanburg, S.C., 11 to 22 percent, 1–27–70 to 1–26–71 (salesclerk, checker); No. 4004, Knoxville, Tenn., 2 to 17 percent, 1–6–70 to 1–5–71 (salesclerk, stock clerk, maintenance, office clerk, checker-cashier, customer service); No. 4033, Knoxville, Tenn., 2 to 17 percent, 12–23–69 to 12–22–70 (maintenance, stock clerk, cashier, customer service, salesclerk, office clerk); No. 4236, Houston, Tex., 7 to 27 percent, 1–19–70 to 1–18–71 (salesclerk); No. 4541, Racine, Wis., 15 to 23 percent, 1–14–70 to 1–13–71.

Lerner Shops, apparel store; No. 342, Pompano Beach, Fla.; salesclerk, cashier, credit clerk; 13 to 27 percent; 1–5–70 to 1–4–71.

Marco Supermarkets, Inc., foodstore; 5555 East Fifth Street, Tucson, Ariz.; carryout, cleanup, stock clerk; 10 percent; 1–11–70 to 1–10–71.

McCrory-McLellan-Green Stores, variety-department stores, for the occupations of office clerk, salesclerk, stock clerk: No. 221, Fort Lauderdale, Fla., 13 to 24 percent, 1–2–70 to 1–1–71; No. 237, Salisbury, Md., 27 to 38 percent, 1–5–70 to 1–4–71; No. 357, Trenton, N.J., 3 to 9 percent, 1–1–70 to 12–31–70.

Meijer, Inc., foodstores, for the occupations of carryout, cleanup, clerk; 10 percent, 1–5–70 to 1–4–71: 45 Urbandale Plaza, Battle Creek, Mich.; 110 South Main Street, Cedar Springs, Mich.; 430 North Beacon Plaza, Grand Haven, Mich.; 2425 Alpine Avenue Northwest, Grand Rapids, Mich.; 4242 South Division, Grand Rapids, Mich.; 1645 Eastern Avenue Southeast, Grand Rapids, Mich.; 425 Fuller Avenue Northeast, Grand Rapids, Mich.; 4365 Lake Michigan Drive Northwest, Grand Rapids, Mich.; 1620 Leonard Street Northwest, Grand Rapids, Mich.; 3757 Plainfield Northeast, Grand Rapids, Mich.; 2815 Woodward Avenue Southwest, Grand Rapids, Mich.; 1540 28th Street, Grand Rapids, Mich.; 1220 North Lafayette, Greenville, Mich.; 91 Douglas Street, Holland, Mich.; 352 Lincoln Avenue, Ionia, Mich.; 0–550 Baldwin Avenue, Jenison, Mich.; 1225 Paterson, Kalamazoo, Mich.; 5121 South Westnedge, Kalamazoo, Mich.; 6200 South Pennsylvania, Lansing, Mich.; 5125 West Saginaw, Lansing, Mich.; 376 Apple Avenue, Muskegon, Mich.; Morton at Seaway, Muskegon, Mich.; 1950 Sanford Street, Muskegon, Mich.; 2055 West Grand River, Okemos, Mich.

Morgan & Lindsey, Inc., variety-department store; No. 3063, Thibodaux, La.; clerk, salesclerk, stock clerk; 3 to 24 percent; 12–22–69 to 12–21–70.

Newman's Town & Country, apparel store; 2346 Miracle Lane, Mishawaka, Ind.; stock clerk, office clerk, marking clerk, fitting room checker; 8 to 9 percent; 1–7–70 to 1–6–71.

Fred M. Nye Co., apparel store; 2422 Washington Boulevard, Ogden, Utah; salesclerk, cashier, gift wrapper, receiving clerk, model; 7 to 22 percent; 1–6–70 to 11–20–70.

Piggly Wiggly, foodstores, for the occupations of sacker, carryout, stock clerk except as otherwise indicated: No. 4, Columbus, Ga., 10 to 13 percent, 2–1–70 to 1–31–71 (janitorial, sacker, bottle clerk); No. 3, Denton, Tex., 23 to 38 percent, 1–10–70 to 1–9–71; No. 4, Denton, Tex., 32 to 42 percent, 1–10–70 to 1–9–71; 646 West Main, Lewisville, Tex., 23 to 38 percent, 1–18–70 to 1–17–71.

Prenger's IGA Foodliner, foodstore; Centralia, Mo.; stock clerk, carryout, bottle clerk; 11 to 29 percent; 12–29–69 to 12–28–70.

Rose's Stores, Inc., variety-department store; No. 124, Columbia, S.C.; salesclerk, stock clerk; 6 to 21 percent; 1–2–70 to 1–1–71.

Serv-All Food Store, foodstore; 214 East Austin Street, Kermit, Tex.; carryout; 20 percent; 12–24–69 to 12–23–70.

T. G. & Y. Stores Co., variety-department stores, for the occupations of office clerk, salesclerk, stock clerk: No. 785, Thomasville, Ala., 15 to 30 percent, 1–2–70 to 1–1–71; No. 466, Emporia, Kans., 15 to 29 percent, 1–6–70 to 11–2–70; No. 427, Ardmore, Okla., 15 to 30 percent, 1–5–70 to 1–4–71; No. 415, Oklahoma City, Okla., 22 to 30 percent, 12–29–69 to 12–28–70; No. 101, Spearman, Tex., 14 to 30 percent, 1–5–70 to 1–4–71.

Western Quality Meats, Inc., foodstores, for the occupations of stock clerk, wrapper, carryout, cleanup; 25 percent, 1–2–70 to 1–1–71: 4000 East Eight Mile Road, Detroit, Mich.; 10341 West McNichols Road, Detroit, Mich.; 1318 Dix, Lincoln Park, Mich.

Whittaker, Inc., foodstore; No. 3, Bethany, Okla.; sackers, carryout, delicatessen help; 15 percent; 1–19–70 to 1–18–71.

Each certificate has been issued upon the representations of the employer which, among other things, were that employment of full-time students at special minimum rates is necessary to prevent curtailment of opportunities for employment, and the hiring of full-time students at special minimum rates will not create a substantial probability of reducing the full-time employment opportunities of persons other than those employed under a certificate. The certificates may be annulled or withdrawn, as indicated therein, in the manner provided in Part 528 of Title 29 of the Code of Federal Regulations. Any person aggrieved by the issuance of any of these certificates may seek a review or reconsideration thereof within 30 days after publication of this notice in the FEDERAL REGISTER pursuant to the provisions of 29 CFR 519.9.

Signed at Washington, D.C., this 6th day of March 1970.

ROBERT G. GRONEWALD,
Authorized Representative of the Administrator.

[F.R. Doc. 70–3150; Filed, Mar. 16, 1970; 8:45 a.m.]

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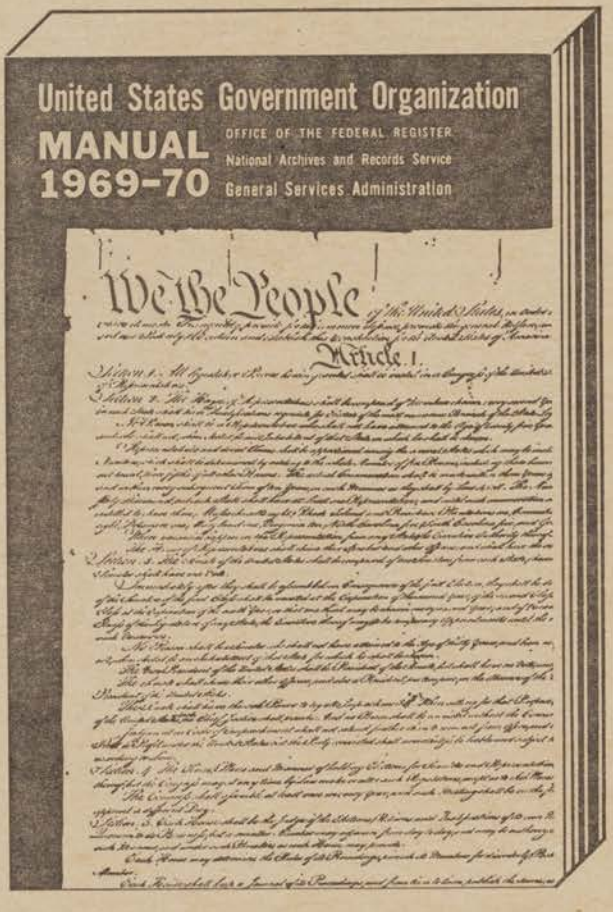

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