FEDERAL REGISTER

VOLUME 36 • NUMBER 3

Wednesday, January 6, 1971 • Washington, D.C.

Pages 135–208

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FEDERAL REGISTER

Area Code 202 Phone 962-8626

Published daily, Tuesday through Saturday (no publication on Sundays, Mondays, or on the day after an official Federal holiday), by the Office of the Federal Register, National Archives and Records Service, General Services Administration, Washington, D.C. 20408, pursuant to the authority contained in the Federal Register Act, approved July 26, 1935 (49 Stat. 500, as amended; 44 U.S.C., Ch. 15), under regulations prescribed by the Administrative Committee of the Federal Register, approved by the President (1 CFR Ch. I). Distribution is made only by the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402.

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Title 7—AGRICULTURE

Chapter III—Agricultural Research Service, Department of Agriculture

PART 301—DOMESTIC QUARANTINE NOTICES

Subpart—Witchweed

REGULATED AREAS

Under the authority of § 301.80–2 of the Witchweed Quarantine regulations, 7 CFR 301.80–2, as amended, a supplemental regulation designating regulated areas, 7 CFR 301.80–2a, is hereby amended as follows:

(A) In § 301.80–2a relating to the State of North Carolina, under generally infested areas, in the counties of Richmond and Wayne, the following properties are added in alphabetical order as follows:

NORTH CAROLINA

(1) *Generally infested area.* * * *

Richmond County. * * *

The Terry, Tom, farm located on both sides of State Secondary Road 1442 and 0.3 mile northeast of its junction with State Secondary Road 1477.

* * * * *

Wayne County. * * *

The Grant, Maggie, estate located on the west side of North Carolina Highway 111 and 1.1 miles south of the junction of State Secondary Road 1730 with said highway.

* * * * *

(B) In § 301.80–2a relating to the State of North Carolina, under suppressive areas, in the counties of Johnston, Lenoir, and Wilson, the following properties are added in alphabetical order as follows:

NORTH CAROLINA

* * * * *

(2) *Suppressive area.* * * *

Johnston County. * * *

The Oliver, Mrs. Beulah, farm located on the southeast side of the junction of State Secondary Road 2540 with State Secondary Road 2372.

* * * * *

Lenoir County. The Barwick, Wilson, farm located in the northwest junction of State Secondary Roads 1333 and 1332.

* * * * *

The Carter, Ephrom, farm located on the south side of State Secondary Road 1116 and 1.5 miles east of its junction with State Highway 11.

* * * * *

Wilson County. * * *

The Harrison, J. W. Heirs, farm located 1.5 miles north of Sims on the south side of State Secondary Road 1302, 0.8 mile east of the intersection of State Secondary Roads 1302 and 1301.

* * * * *

(C) In § 301.80–2a relating to the State of South Carolina, under suppressive areas, in the county of Chesterfield, the following property is added in alphabetical order as follows:

SOUTH CAROLINA

* * * * *

(2) *Suppressive area.* * * *

The Curry, Henry, Estate farm located on the south side of State Secondary Highway 337 and 1 mile southeast of its junction with State Secondary Highway 144.

* * * * *

(D) In § 301.80–2a relating to the State of North Carolina, under suppressive areas, all of Montgomery County is deleted, and the following property in Brunswick County is deleted:

The Register, A. M., farm located at the end of a dirt road 0.4 mile west of the junction of said dirt road with State Highway 130, said junction being 1.1 miles northwest of Ash.

(E) In § 301.80–2a relating to the State of South Carolina, under suppressive areas, all of Lee County is deleted.

(Secs. 8 and 9, 37 Stat. 318, sec. 106, 71 Stat. 33; 7 U.S.C. 161, 162, 150ee; 29 F.R. 16210, as amended; 7 CFR 301.80–2)

The Director of the Plant Protection Division has determined that witchweed infestations have been found or that there is reason to believe they exist in the civil divisions, parts of civil divisions, or premises in the quarantined States listed above, or that it is necessary to regulate such areas because of their proximity to witchweed infestations or their inseparability for quarantine enforcement purposes from witchweed infested localities. The Director has further determined that each of the quarantined States is enforcing a quarantine or regulation with restrictions on intrastate movement of the regulated articles substantially the same as the restrictions on interstate movement of such articles imposed by the quarantine and regulations in this subpart, and that designation of less than the entire State as a regulated area will otherwise be adequate to prevent the interstate spread of witchweed. Accordingly, such civil divisions, parts of civil divisions, and premises listed above are designated as witchweed regulated areas.

The purpose of this amendment is to delete from regulation the entire counties of Montgomery in North Carolina and Lee in South Carolina, and the A. M. Register farm located in Brunswick County, N.C. In addition, the regulated area has been extended in the previously regulated counties of Johnston, Lenoir, Richmond, Wayne, and Wilson in North Carolina, and Chesterfield in South Carolina.

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

This amendment shall become effective upon publication in the FEDERAL REGISTER.

Done at Hyattsville, Md., this 31st day of December 1970.

J. F. SPEARS,
Acting Director,
Plant Protection Division.

[F.R. Doc. 71–160; Filed, Jan. 5, 1971; 8:51 a.m.]

Chapter VII—Agricultural Stabilization and Conservation Service (Agricultural Adjustment), Department of Agriculture

SUBCHAPTER B—FARM MARKETING QUOTAS AND ACREAGE ALLOTMENTS

[Amdt. 10]

PART 730—RICE

Subpart—Rice Marketing Quota Regulations for 1967 and Subsequent Crop Years

IDENTIFICATION OF RICE

Basis and purpose. The amendment herein is issued under and in accordance with the provisions of the Agricultural Adjustment Act of 1938, as amended (7 U.S.C. 1281 et seq.).

The purpose of this amendment is to remove the provision requiring each person who buys or acquires rice to obtain the names and addresses of all producers in the county who are ineligible for price support. The price support procedure currently provides for this information to be furnished as necessary.

Since rice harvest is substantially completed in the rice producing areas, it is important that this amendment be issued and made effective as soon as possible. Accordingly, it is hereby determined and found that compliance with the notice, public procedure, and effective date requirements of 5 U.S.C. 553 is impracticable and contrary to the public interest, and this amendment shall become effective as provided herein.

The Subpart—Rice Marketing Quota Regulations for 1967 and Subsequent Crop Years (32 F.R. 8666, as amended) is amended as follows:

Section 730.17 is amended by revising the second and third sentences thereof to read as follows:

§ 730.17 Identification of rice by buyer.

* * * In addition, before acquiring any rice, each person who buys or acquires rice shall obtain from the county committee of each county where the rice being offered to him was produced, or from the State executive director, a list showing (a) the serial number of each farm in the county which is subject to

a penalty and (b) the names and addresses of all producers who were engaged in the production of rice on such farm in the year for which the penalty was determined. If there are no farms in the county subject to a penalty for the current year's crop or a previous crop, the list shall so state.

(Secs. 356, 375, 52 Stat. 62, as amended, 66, as amended; 7 U.S.C. 1356, 1375)

Effective date: Date of filing with the Director, Office of the Federal Register.

Signed at Washington, D.C., on December 30, 1970.

CARROLL G. BRUNTHAVER,
Acting Administrator, Agricultural Stabilization and Conservation Service.

[F.R. Doc. 71-159; Filed, Jan. 5, 1971; 8:50 a.m.]

SUBCHAPTER B—FARM MARKETING QUOTAS AND ACREAGE ALLOTMENTS

PART 730—RICE

PROCLAMATIONS AND DETERMINATIONS WITH RESPECT TO MARKETING QUOTA AND NATIONAL ACREAGE ALLOTMENT FOR 1971 CROP RICE, AND APPORTIONMENT OF 1971 NATIONAL ACREAGE ALLOTMENT OF RICE AMONG THE SEVERAL STATES

The provisions of §§ 730.1501 to 730.1503 are issued pursuant to the Agricultural Adjustment Act of 1938, as amended (7 U.S.C. 1281 et seq.) (referred to as the "act"), with respect to the 1971 crop of rice. The purpose of these provisions is to (1) proclaim that marketing quotas shall be in effect for the 1971 crop of rice, (2) establish the national acreage allotment for such crop, and (3) apportion the national acreage allotment among the States. The latest available statistics of the Federal Government have been used in making determinations under these provisions.

Notice that the Secretary was preparing to make determinations with respect to these provisions was published in the FEDERAL REGISTER on September 18, 1970 (35 F.R. 14620), in accordance with the provisions of 5 U.S.C. 553. Data, views and recommendations were submitted pursuant to such notice and consideration was given thereto to the extent permitted by law.

It is essential that these provisions be made effective as soon as possible, since the proclamation of quotas is required to be made not later than December 31, 1970, and a referendum to determine whether rice producers favor or oppose the quotas must be held within 30 days after proclamation of the quotas. Accordingly, it is hereby found and determined that compliance with the 30-day effective date requirement of 5 U.S.C. 553 is impracticable and contrary to the public interests and §§ 730.1501 to 730.1503 shall be effective upon filing this document with the Director, Office of the Federal Register.

§ 730.1501 Marketing quotas for the 1971 crop of rice.

The total supply of rice in the United States for the marketing year beginning August 1, 1970, is determined to be 99.3 million hundredweight (rough basis). The normal supply of rice for such marketing year is determined to be 93.8 million hundredweight (rough basis). Since the total supply of rice for the 1970–71 marketing year exceeds the normal supply for such marketing year, marketing quotas shall be in effect for the 1971 crop of rice.

§ 730.1502 National acreage allotment of rice for 1971.

(a) The normal supply of rice for the marketing year commencing August 1, 1971, is determined to be 93.2 million hundredweight (rough basis). The carryover of rice on August 1, 1971, is estimated at 12.5 million hundredweight. Therefore, the production of rice needed in 1971 to make available a supply of rice for the 1971–72 marketing year equal to the normal supply for such marketing year is 80.7 million hundredweight. The national average yield of rice for the 5 calendar years 1966 through 1970 is determined to be 4,397 pounds per planted acre. The national acreage allotment of rice for 1971 computed on the basis of the normal supply for 1971, less estimated carryover, and the national average yield per planted acre for the 5 calendar years, 1966 through 1970, is 1,836,461 acres.

(b) Since this amount is more than the total acreage allotted in 1956, which is the minimum national acreage allotment prescribed by section 353(C)(6) of the act, the national allotment for rice for the calendar year 1971 shall be 1,836,461 acres.

§ 730.1503 Apportionment of 1971 national acreage allotment of rice among the several States.

The national acreage allotment proclaimed in § 730.1502, less a reserve of 679 acres, is hereby apportioned among the several rice-producing States as follows:

State		*Acres*
Arizona		254
Arkansas		443,331
California		333,054
Florida		1,063
Illinois		22
Louisiana:		
Farm Administrative Area	508,923	
Producer Administrative Area	18,833	
State total		527,756
Mississippi		51,858
Missouri		5,286
North Carolina		43
Oklahoma		166
South Carolina		3,163
Tennessee		575
Texas		469,211
Total apportioned to States		1,835,782
Unapportioned national reserve		679
U.S. total		1,836,461

(Secs. 301, 352, 353, 354, 375, 52 Stat. 38, 60, 61, 66, as amended; 7 U.S.C. 1301, 1352, 1353, 1354, 1375)

Effective date: Date of filing with the Director, Office of the Federal Register.

Signed at Washington, D.C., on December 29, 1970.

J. PHIL CAMPBELL,
Acting Secretary.

[F.R. Doc. 70-17654; Filed, Dec. 30, 1970; 4:44 p.m.]

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

SUBCHAPTER B—SUGAR REQUIREMENTS AND QUOTAS

PART 812—SUGAR REQUIREMENTS AND QUOTAS: HAWAII AND PUERTO RICO

Establishment of Quotas for Local Consumption in 1971

On page 18918 of the FEDERAL REGISTER of December 12, 1970, there was published a notice of proposed rule making to issue a regulation determining sugar requirements for 1971 and establishing quotas for Hawaii and Puerto Rico for the calendar year 1971. Interested persons were given until December 24, 1970, to submit written data, views, or arguments for consideration in connection with the proposed regulation.

No views or comments were received relative to the proposed regulation.

The proposed regulation is hereby adopted without change.

Effective date: January 1, 1971.

Signed at Washington, D.C., on December 30, 1970.

CARROLL G. BRUNTHAVER,
Acting Administrator, Agricultural Stabilization and Conservation Service.

Basis and purpose. The purpose of Sugar Regulation 812 is to determine pursuant to sections 201 and 203 of the Sugar Act of 1948, as amended (hereinafter referred to as the "Act"), the amount of sugar needed to meet the requirements of consumers in Hawaii and in Puerto Rico and to establish quotas for local consumption in such areas for the calendar year 1971. To the extent required by section 201 of the Act, this regulation establishes sugar requirements based on official estimates of the Department of Agriculture and on statistics published by other agencies of the Government.

Since the Act provides that the Secretary of Agriculture determine sugar requirements for local consumption in Hawaii and in Puerto Rico and establish local consumption quotas to be effective on January 1, 1971, it is found to be impracticable and not in the public interest to comply with the 30-day effective date requirements in 5 U.S.C. 553(d) (80 Stat. 378), and these regulations shall be effective January 1, 1971.

Sec.
812.1 Sugar requirements and quota—Hawaii.
812.2 Sugar requirements and quota—Puerto Rico.
812.3 Restrictions on marketing.

§ 812.1 Sugar requirements and quota—Hawaii.

It is hereby determined, pursuant to section 203 of the Act, that the amount of sugar needed to meet the requirements of consumers in Hawaii for the calendar year 1971 is 50,000 short tons, raw value, and a quota of 50,000 short tons, raw value, is hereby established for Hawaii for local consumption for the calendar year 1971.

§ 812.2 Sugar requirements and quota—Puerto Rico.

It is hereby determined, pursuant to section 203 of the Act, that the amount of sugar needed to meet the requirements of consumers in Puerto Rico for the calendar year 1971 is 135,000 short tons, raw value, and a quota of 135,000 short tons, raw value, is hereby established for Puerto Rico for local consumption for the calendar year 1971.

§ 812.3 Restrictions on marketing.

Pursuant to section 209 of the Act, for the calendar year 1971 all persons are hereby prohibited from marketing, pursuant to Part 816 of this chapter (33 F.R. 8495), in Hawaii or in Puerto Rico, for consumption therein, any sugar or liquid sugar after the quota for the area for the calendar year 1971 has been filled. Pursuant to section 211(c) of the Act, the quota for each area may be filled only with sugar produced from sugarcane grown in the respective area. Furthermore, pursuant to section 211 (c) of the Act sugar may be unladed from a carrier and brought into a Foreign Trade Zone for manipulating therein or manufacturing therein another product for the subsequent entry into Hawaii or Puerto Rico for consumption only if such sugar is charged pursuant to S.R. 816 to the applicable respective local quota.

Statement of bases and considerations. Pursuant to section 203 of the Act, the provisions of section 201 of the Act deemed applicable to the determination of the amounts of sugar needed to meet the requirements of consumers in Hawaii and in Puerto Rico relate to (1) the quantities of sugar distributed for local consumption in Hawaii and in Puerto Rico during the 12-month period ended September 30, 1970, (2) deficiencies or surpluses in inventories of sugar, and (3) changes in consumption because of changes in population and demand conditions.

The quantities of sugar distributed for consumption in Hawaii and in Puerto Rico, including that which was lost in refining after charge to the local quotas, during such 12-month period are estimated to have been approximately 36,000 short tons of sugar, raw value, and 125,000 short tons of sugar, raw value, respectively.

Based on preliminary 1970 U.S. Census data the population of Hawaii and Puerto Rico as of April 1, 1970, was 748,575 and 2,689,932, respectively.

In Hawaii industrial use accounts for a substantial portion of the total consumption of sugar and this demand is a significant factor in the total sugar requirements. During the period 1960 through 1969 the annual sugar consumption in this area has varied from approximately 88 to 138 pounds, raw value, per person. These wide year-to-year variations suggest the possibility that requirements could be higher in 1971 than in the 12 months ended September 30, 1970, when sugar marketings approximated 36,000 short tons, raw value.

In Puerto Rico during the 12 months ended September 30, 1970, marketings of sugar for local consumption totaled approximately 125,000 short tons, raw value. After making allowance for possible consumption increases in 1971 resulting from probable population increases, the total sugar needed to meet requirements for local consumption in Puerto Rico in 1971 may be approximately 135,000 short tons, raw value.

Circumstances prevailing in the utilization of quota for local consumption in Hawaii and Puerto Rico are such that no special problems arise nor are the objectives of the Act jeopardized if the 1971 local quota is not completely filled. It is therefore, desirable to establish the 1971 requirements and quotas sufficiently high initially so that later adjustments may be avoided.

In accordance with the above, the requirements for local consumption in Hawaii and Puerto Rico for 1971 have been determined to be 50,000 and 135,000 short tons, raw value, respectively.

(Sec. 403, 61 Stat. 932; 7 U.S.C. 1153, Secs. 201, 203, 209, 211; 61 Stat. 923, as amended, 925, 928; 7 U.S.C. 1111, 1113, 1119, 1121)

[F.R. Doc. 71-94; Filed, Jan. 5, 1971; 8:46 a.m.]

[Sugar Reg. 814.9]

PART 814—ALLOTMENT OF SUGAR QUOTAS, MAINLAND CANE SUGAR AREA

Calendar Year 1971

Basis and purpose. This allotment order is issued under section 205(a) of the Sugar Act of 1948, as amended (61 Stat. 922), hereinafter called the "Act", for the purpose of establishing preliminary allotments of a portion of the 1971 sugar quota for the Mainland Cane Sugar Area for the period January 1, 1971, until the date allotments of such quota are prescribed for the full calendar year 1971 on the basis of a subsequent hearing.

Omission of recommended decision and effective date. The record of the hearing regarding the subject of this order shows that approximately 905,000 tons of 1969 and 1970 crop sugar will remain to be marketed after January 1, 1971. This quantity of sugar, along with production of sugar from 1971 crop sugarcane, will result in a supply of sugar available for marketing in 1971 sufficiently in excess of the 1971 quota that disorderly marketing may occur and some interested persons may be prevented from having equitable opportunities to market sugar (R 6). The inventories of sugar on January 1, 1971, together with production in early 1971, may make it possible for some allottees to market shortly after January 1, 1971, a quantity of sugar larger than the allotments established by this order. It, therefore, is necessary that such allotments to be effective, be in effect on January 1, 1971. In view thereof and since this proceeding was instituted for the purpose of issuing allotments to prevent disorderly marketing of sugar and to afford all interested persons an equitable opportunity to market, it is hereby found that due and timely execution of the functions imposed upon the Secretary under the Act imperatively and unavoidably requires omission of a recommended decision in this proceeding. It is hereby further found that compliance with the 30-day effective date requirements of 5 U.S.C. 553 is impracticable and contrary to the public interest and consequently, this order shall be effective on January 1, 1971.

Preliminary statement. Section 205(a) of the Act requires the Secretary to allot a quota whenever he finds that the allotment is necessary (1) to assure an orderly and adequate flow of sugar or liquid sugar in the channels of interstate or foreign commerce, (2) to prevent the disorderly marketing of sugar or liquid sugar, (3) to maintain a continuous and stable supply of sugar or liquid sugar, or (4) to afford all interested persons equitable opportunities to market sugar within the quota for the area. Section 205(a) also requires that such allotment be made after such hearing and upon such notice as the Secretary may by regulation prescribe.

Pursuant to the applicable rules of practice and procedure (7 CFR 801.1 et seq.) a preliminary finding was made that allotment of the quota is necessary, and a notice was published on November 21, 1970 (35 F.R. 17953), of a public hearing to be held at Washington, D.C., in Room 4711, South Building, on December 3, 1970, beginning at 10 a.m., e.s.t., for the purpose of receiving evidence to enable the Administrator, ASCS, (1) to affirm, modify, or revoke the preliminary finding of necessity for allotment, and (2) to establish fair, efficient, and equitable allotments of a portion of the 1971 quota for the Mainland Cane Sugar Area for the period January 1, 1971, until the date the Secretary prescribes allotments of such quota for the calendar year 1971 based on a subsequent hearing.

The hearing was held at the time and place specified in the notice of hearing and testimony was received with respect to the subject and issues referred to in the hearing notice. In arriving at the findings, conclusions, and the regulatory provisions of this order all proposed findings and conclusions were carefully and fully considered in conjunction with the record evidence pertaining thereto.

Basis for findings and conclusions. Section 205(a) of the Act reads in pertinent part as follows:

* * * Allotments shall be made in such manner and in such amounts as to provide a fair, efficient, and equitable distribution of such quota or proration thereof, by taking into consideration the processing of sugar or liquid sugar from sugar beets or sugarcane, limited in any year when proportionate shares were in effect to processings to which porportionate shares, determined pursuant to the provisions of subsection (b) of section 302, pertained; the past marketings or importations of each such person; and the ability of such persons to market or import that portion of such quota or proration thereof allotted to him. The Secretary is also authorized in making such allotments of a quota for any calendar year to take into consideration in lieu of or in addition to the foregoing factors of processing, past marketings and ability to market, the need for establishing an allotment which will permit such marketings of sugar as is necessary for the reasonably efficient operation of any nonaffiliated single plant processor of sugar beets or any processor of sugarcane and as may be necessary to avoid unreasonable carryover of sugar in relation to other processors in the area: *Provided*, That * * * the marketing allotments of a processor of sugarcane shall not be increased under this provision above an allotment equal to the effective inventory of sugar of such processor on January 1 of the calendar year for which such allotment is made, * * *: *Provided further*, That the total increases in marketing allotments made pursuant to this sentence to processors in the mainland cane sugar area shall be limited to 16,000 short tons of sugar, raw value, for each calendar year. In making such allotments, the Secretary may also take into consideration and make due allowance for the adverse effect of drought, storm, floods, freeze, disease, insects, or other similar abnormal and uncontrollable conditions seriously and broadly affecting any area served by the factory or factories of such person. The Secretary may also, upon such hearing and notice as he may by regulations prescribe, revise or amend any such allotment upon the same basis as the initial allotment was made. * * *

The necessity for allotment of the 1971 sugar quota for the Mainland Cane Sugar Area is indicated by the extent to which the quantity of sugar in prospect for marketing in 1971 exceeds the quota that may be established and that in the absence of allotments disorderly marketings would result, and some interested persons would be prevented from having equitable opportunities to market sugar (R 6, 7).

Testimony indicates that it is desirable to defer allotment proceedings with respect to the allotment of the full quota for 1971 until most allottees have completed processing of 1970 crop sugarcane, but allotments of a portion of the quota should be in effect beginning January 1, 1971. On the basis of estimated 1971 effective sugar inventories of individual processors, it appears that no processor will market in excess of his final 1971 allotments early in 1971 assuming the allotment method used for determining final 1971 allotments is the same as that used in 1970. However, there is a possibility that the 1970 crop production of an individual processor, due to unforeseen circumstances, might be at such a high level that an allottee's marketings of sugar early in the year might exceed his final allotment.

The Department of Agriculture proposed at the hearing that for the period January 1, 1971, to the date an order is made effective based on a subsequent hearing that for the Mainland Cane Sugar Area, the preliminary 1971 allotment for each allottee be established at the larger of 75 percent of each allottee's respective 1970 allotment for the area which became effective on August 15, 1970, pursuant to Sugar Regulation 814.8, Amendment 2 (35 F.R. 13003), or the respective allotee's estimated January 1, 1971, effective inventory which cannot be marketed within the allottee's 1970 marketing allotment.

The witness representing all the processors in the Mainland Cane Sugar Area concurred in the proposal made by the representative of the Department.

The proposal by the Government witness included provisions as to the latest dates for the submission of inventory data to be used in determining allotments, and also, included a provision whereby the allotment order could be revised to substitute revisions of estimated inventories.

The method for determining preliminary allotments of a portion of the 1971 Mainland Cane Sugar Area quota adopted herein as set forth in the accompanying findings and conclusions follows the proposal of the Government witness that would establish minimum preliminary allotments which would permit all processors to market their January 1, 1971, effective inventories which could not be marketed within 1970 allotments. Other provisions included in this allotment order also were apparently agreeable to all interested persons and follow the proposal made by the Government witness. It has been determined that preliminary 1971 allotments for each individual processor established at the higher of 75 percent of his 1970 allotment or his estimated January 1, 1971, effective inventory would not permit any allottee to market sugar early in 1971 in excess of the final 1971 allotment for such allottee which will be established on the basis of a subsequent hearing.

The hearing record contains proposals to include in the order to become effective January 1, 1971, paragraphs essentially the same as paragraphs (b), (c), and (d) of § 814.8, Sugar Regulation 814.8, Amendment 2 (35 F.R. 13003) (R 11).

Findings and conclusions. On the basis of the record of the hearing, I hereby find and conclude that:

(1) For the calendar year 1971 Mainland cane sugar processors will have available for marketing from 1970 crop sugarcane approximately 905,000 short tons, raw value, of sugar. This quantity of sugar, together with production of sugar from 1971 crop sugarcane, will result in a supply of sugar available for marketing in 1971 sufficiently in excess of the anticipated 1971 quota for the Mainland Cane Sugar Area to cause disorderly marketing and prevent some interested persons from having equitable opportunities to market sugar.

(2) The allotment of the 1971 Mainland Cane Sugar Area quota is necessary to prevent disorderly marketing and to afford all interested persons equitable opportunities to market sugar processed from sugarcane produced in the area.

(3) It is desirable to defer the allotment of the entire 1971 calendar year sugar quota for the Mainland Cane Sugar Area until processings from 1970 crop sugarcane can be known or closely estimated for all allottees, but it is necessary to make allotments of a portion of the 1971 quota effective January 1, 1971, to prevent any allottee from marketing a quantity of sugar larger than eventually may be allotted to it when the entire 1971 quota is allocated.

(4) The findings in (3), above, require that effective for the period January 1, 1971, until the date allotments of the 1971 calendar year Mainland Cane Sugar Area quota are prescribed on the basis of a subsequent hearing, the preliminary allotment of the 1971 Mainland Cane Sugar Area quota for each allottee shall be established at the larger of 75 percent of its 1970 allotment which became effective on August 15, 1970, pursuant to Sugar Regulation 814.8, Amendment 2 (35 F.R. 13003), or the respective allottee's estimated January 1, 1971, effective inventory, which could not be marketed within its 1970 marketing allotment. Official notice will be taken of production reports received from allottees of their estimated January 1, 1971, effective inventories by letters or written reports postmarked not later than December 24, 1970, when they became official records of the Department. Subsequent to the issuance of this initial order official notice will be taken of all revised and corrected January 1, 1971, inventory data when they become part of the official records of the Department.

(5) January 1, 1971, effective inventories of sugar are physical inventories of sugar on January 1, 1971, plus sugar produced from 1970 crop sugarcane in 1971. Such estimated January 1, 1971, effective inventories of sugar in short tons, raw value, which could not be marketed under 1970 marketing allotments are shown as follows for each named allottee.

Cajun Sugar Co-op., Inc	24,184
Cora-Texas Manufacturing Co., Inc	8,288
St. James Sugar Co-op., Inc	20,822
South Coast Corp	56,930
Atlantic Sugar Association, Inc	27,075
Florida Sugar Corp	20,377
Glades County Sugar Growers Co-op., Association	40,410
Gulf+Western Food Products Co., Division of Gulf+Western Industries, Inc	75,892
Osceola Farms Co	46,545
Sugarcane Growers Co-op. of Florida	97,806
Talisman Sugar Corp	46,727
U.S. Sugar Corp	195,861

The allotment established for each such named allottee in this order is not less than such listed quantity. The individual preliminary allotments for all other allottees determined at 75 percent of each allottee's 1970 allotment as pro-

vided in finding (4) above exceeds their respective estimated January 1, 1971, effective inventories.

(6) Consideration has been given to the statutory factors "processings," "past marketings," and "ability to market" in establishing allotments of the 1971 sugar quota for the Mainland Cane Sugar Area as set forth in finding (4) above.

(7) No allotments shall be established herein for the former allottee, Young's Industries, Inc., which does not plan to market sugar during 1971.

(8) Gulf & Western Food Products Co., a Division of Gulf & Western Industries, Inc., shall succeed to all rights of South Puerto Rico Sugar Co., incident to allotments of the Mainland Cane Sugar Area Quota and Southdown Lands, Inc., shall succeed to all rights of Southdown, Inc., incident to allotments of the Mainland Cane Sugar Area Quota.

(9) Provision shall be made in the order to restrict marketings of sugar to allotments established herein.

(10) Only sugar produced from 1970 or earlier crops of sugarcane may be marketed under allotments established herein.

(11) To facilitate full and effective use of allotments, provision shall be made in the order for transfer of allotments under circumstances of a succession of interest, and under circumstances involving an allottee becoming unable to process sugarcane and such cane as he would normally process, if operating, is processed by other allottees.

(12) To aid in the efficient movement and storage of sugar, provision shall be made to enable a processor to market a quantity of sugar of his own production in excess of his allotment equivalent to the quantity of sugar which he holds in storage and which was acquired by him within the allotment of another allottee of the 1971 Mainland Cane Sugar Area quota.

(13) For the period January 1, 1971, until the date allotments of the Mainland Cane Sugar Area quota for the 1971 calendar year are prescribed on the basis of a subsequent hearing, the allotments established in the foregoing manner provide a fair, efficient, and equitable distribution of such quota and meet the requirements of section 205(a) of the Act.

Order. Pursuant to the authority vested in the Secretary of Agriculture by section 205(a) of the Act: *It is hereby ordered:*

§ 814.9 Allotment of the 1971 sugar quota for the Mainland Cane Sugar Area.

(a) *Allotments.* For the period January 1, 1971, until the date allotments of the 1971 calendar year sugar quota for the Mainland Cane Sugar Area are prescribed, on the basis of a subsequent hearing, the 1971 quota of 1,186,667 tons for the Mainland Cane Area is hereby allotted in part, to the extent shown in this section, to the following processors in the quantities which appear opposite their respective names:

Processors	Allotments (Short tons, raw Value)
Albania Sugar Co	8,544
Alma Plantation, Ltd	10,153
J. Aron & Co., Inc	12,429
Billeaud Sugar Factory	9,467
Breaux Bridge Sugar Co-op	8,691
Wm. T. Burton Industries, Inc	6,239
Caire & Graugnard	5,444
Cajun Sugar Co-op., Inc	24,184
Caldwell Sugars Co-op., Inc	13,704
Columbia Sugar Co	6,995
Cora-Texas Manufacturing Co., Inc.	8,288
Dugas & LeBlanc, Ltd	16,058
Duhe & Bourgeois Sugar Co	10,006
Evan Hall Sugar Co-op., Inc	21,905
Frisco Cane Co., Inc	2,344
Glenwood Co-op., Inc	15,323
Helvetia Sugar Co-op., Inc	11,487
Iberia Sugar Co-op., Inc	16,676
Lafourche Sugar Co	19,935
Harry L. Laws & Co., Inc	14,518
Levert-St. John, Inc	10,996
Louisa Sugar Co-op., Inc	10,054
Louisiana State Penitentiary	3,482
Louisiana State University	38
Meeker Sugar Co-op., Inc	10,114
Milliken & Farwell, Inc	10,467
M. A. Patout & Son, Ltd	14,577
Poplar Grove Planting & Refining Co	8,466
Savoie Industries	14,587
St. James Sugar Co-op., Inc	20,822
St. Mary Sugar Co-op., Inc	13,380
South Coast Corp	56,930
Southdown Lands, Inc	34,716
Sterling Sugars, Inc	23,524
J. Supple's Sons Planting Co., Ltd.	4,718
Valentine Sugars, Inc	12,242
Vida Sugars, Inc	4,689
A. Wilbert's Sons Lumber & Shipping Co	9,074
Louisiana subtotal	505,266
Atlantic Sugar Association, Inc	27,075
Florida Sugar Corp	20,377
Glades County Sugar Growers Co-op., Association	40,410
Gulf & Western Food Products Co., Division of Gulf & Western Industries, Inc	75,892
Osceola Farms Co	46,545
Sugarcane Growers Co-op. of Florida	97,806
Talisman Sugar Corp	46,727
U.S. Sugar Corp	195,861
Florida subtotal	550,693
Total allotted	1,055,959
Unallotted	130,708
Total Mainland Cane	1,186,667

(b) *Marketing limitations.* Marketings shall be limited to the marketing of sugar produced from the 1969 and 1970 crops of sugarcane and to the allotments as established herein subject to the prohibitions and provisions of § 816.3 of this chapter (33 F.R. 8495).

(c) *Transfer of allotments.* The Director, Sugar Division, Agricultural Stabilization and Conservation Service of the Department of Agriculture, may permit marketings to be made by one allottee, or other persons, within the allotment established for another allottee upon relinquishment by such allottee of a quantity of its allotment and upon receipt of evidence satisfactory to the Director that (1) a merger, consolidation, transfer of sugar-processing facilities, or other action of similar effect upon the allottees or persons involved has occurred, or (2) the allottee receiving such permission will process sugarcane which the allottee relinquishing allotment has become unable to process.

(d) *Exchanges of sugar between allottees.* When approved in writing by the Director, Sugar Division, Agricultural Stabilization and Conservation Service of the Department, any allottee holding sugar or liquid sugar acquired by him within the allotment of another person established in paragraph (a) of this section may ship, transport, or market up to an equivalent qauntity of sugar processed by him in excess of his allotment establishment in paragraph (a) of this section. The sugar or liquid sugar held under this paragraph shall be subject to all other provisions of this section as if it had been processed by the allottee who acquired it for the purpose authorized by this paragraph.

(e) *Revision of allotments.* Allotments established under this order may be revised without further notice or hearing to give effect to the substitution of revised estimates or final data for estimates of such data.

(Sec. 403, 61 Stat. 932; 7 U.S.C. 1153, Interprets or applies secs. 205, 209; 61 Stat. 926, as amended, 928; 7 U.S.C. 1115, 1119)

Effective date: January 1, 1971.

Signed at Washington, D.C., on December 30, 1970.

CARROLL G. BRUNTHAVER,
Acting Administrator, Agricultural Stabilization and Conservation Service.

[F.R. Doc. 71-102; Filed, Jan. 5, 1971; 8:46 a.m.]

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

[Amdt. 6]

PART 906—ORANGES AND GRAPEFRUIT GROWN IN LOWER RIO GRANDE VALLEY IN TEXAS

Container, Pack, and Container Marking Regulations

Notice is hereby given of the approval of amendment, as hereinafter set forth, of § 906.340 (Subpart—Container and Pack Requirements) effective pursuant to the applicable provisions of the marketing agreement, as amended, and Order No. 906, as amended (7 CFR Part 906), regulating the handling of oranges and grapefruit grown in the Lower Rio Grande Valley in Texas. This program is effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601-674).

On August 22, 1970, Amendment 5 of § 906.340 *Container, pack, and container marking regulations* was published in the

FEDERAL REGISTER (35 F.R. 13449) with an effective date of January 1, 1971. Said amendment was recommended by the Texas Valley Citrus Committee, established under said marketing agreement and order as the agency to administer the terms and provisions thereof. On such effective date said amendment will, unless further amended, delete the 20-pound bag from the list of authorized containers in which handlers may ship oranges or grapefruit.

The committee now has recommended unanimously that said effective date be changed to February 1, 1971, to provide handlers an extra month during which they may ship oranges and grapefruit in 20-pound bags. The extra month during which such usage is permitted under this amendment will provide handlers the additional time necessary to exhaust their inventories of 20-pound bags.

The committee also has recommended that during the period January 1 through March 31, 1971, handlers be permitted to ship oranges and grapefruit in mesh or woven type bags having a capacity of 18 pounds of such fruit. The committee wishes to ascertain whether there is a suitable market demand for fruit packed in the aforementioned capacity and types of bags and whether to recommend use of such containers after March 31, 1971. Accordingly, it has recommended permitting the use of such bags only for the limited time specified herein and has developed plans to evaluate the economic results of fruit shipments in the 18-pound bags.

It is hereby found that the amendment hereinafter set forth is in accordance with the provisions of said marketing agreement and order, and will tend to effectuate the declared policy of the act. Therefore, § 906.340(a)(1)(iv) is hereby amended to read as follows:

§ 906.340 Container, pack and container marking regulations.

(a) * * *

(1) * * *

(iv) Bags having a capacity of 5 or 8 pounds of fruit: *Provided*, That handlers may, until February 1, 1971, ship fruit in bags having a capacity of 20 pounds of fruit: *Provided further*, That handlers may, during the period January 1 through March 31, 1971, ship fruit in mesh or woven type bags having a capacity of 18 pounds of fruit;

* * * * *

It is hereby further found that it is impracticable, unnecessary, and contrary to the public interest to give preliminary notice, engage in public rule-making procedure, and postpone the effective date of this amendment until 30 days after publication in the FEDERAL REGISTER (5 U.S.C. 553) in that (1) the handling of fruit is now in progress and to be of maximum benefit the provisions of this amendment should be effective upon the date hereinafter specified, (2) the effective date hereof will not require of handlers any preparation that cannot be completed prior thereto, (3) this amendment was recommended by members of the Texas Valley Citrus Committee in an open meeting at which all interested persons were afforded an opportunity to submit their views, and (4) this amendment relieves restrictions on the handling of oranges and grapefruit grown in the Lower Rio Grande Valley in Texas.

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

Dated, December 30, 1970, to become effective January 1, 1971.

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

[F.R. Doc. 71–101; Filed, Jan. 5, 1971; 8:46 a.m.]

[Navel Orange Reg. 218, 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, 35 F.R. 16359), 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 restrictions on the handling of Navel oranges grown in Arizona and designated part of California.

Order, as amended. The provisions in paragraph (b)(1) (i), (ii), and (iii) of § 907.518 (Navel Orange Regulation 218, 35 F.R. 19631) are hereby amended to read as follows:

§ 907.518 Navel Orange Regulation 218.

* * * * *

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

(i) District 1: 576,000 cartons;

(ii) District 2: 90,000 cartons;

(iii) District 3: 24,000 cartons.

* * * * *

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

Dated: December 31, 1970.

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

[F.R. Doc. 71–158; Filed, Jan. 5, 1971; 8:50 a.m.]

Title 9—ANIMALS AND ANIMAL PRODUCTS

Chapter I—Agricultural Research Service, Department of Agriculture

SUBCHAPTER C—INTERSTATE TRANSPORTATION OF ANIMALS AND POULTRY

[Docket No. 70–318]

PART 76—HOG CHOLERA AND OTHER COMMUNICABLE SWINE DISEASES

Areas Quarantined

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

In § 76.2, the introductory portion of paragraph (e) is amended by adding the name of the State of Alabama; paragraph (f) is amended by deleting the name of the State of Alabama; and a new paragraph (e)(15) relating to the State of Alabama is added to read:

(15) *Alabama.* That portion of Dallas County bounded by a line beginning at the junction of U.S. Highway 80 and the Alabama River; thence, following U.S. Highway 80 in a southeasterly direction to State Highway 41; thence, following State Highway 41 in a generally southwesterly direction to Cedar Creek; thence following the north bank of Cedar Creek in a generally northwesterly direction to the Alabama River; thence, following the east bank of the Alabama River in a generally northeasterly direction to its junction with U.S. Highway 80.

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

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

The amendment quarantines a portion of Dallas County, Alabama, because of the existence of hog cholera. This action is deemed necessary to prevent further spread of the disease. The restrictions

pertaining to the interstate movement of swine and swine products from or through quarantined areas as contained in 9 CFR Part 76, as amended, will apply to the quarantined portion of such county.

The amendment also deletes Alabama from the list of hog cholera eradication States in § 76.2(f), and the special provisions pertaining to the interstate movement of swine and swine products from and to such eradication States under Part 76 are no longer applicable to Alabama.

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

Done at Washington, D.C., this 31st day of December 1970.

F. J. MULHERN,
Acting Administrator,
Agricultural Research Service.

[F.R. Doc. 71-133; Filed, Jan. 5, 1971; 8:49 a.m.]

Title 10—ATOMIC ENERGY

Chapter I—Atomic Energy Commission

FEES FOR FACILITIES AND MATERIALS LICENSES

On August 4, 1970, the Atomic Energy Commission published in the FEDERAL REGISTER (35 F.R. 12412) proposed amendments to 10 CFR Parts 30, 40, 70, and 170 of its regulations which would revise fees charged for facilities and materials licenses. Interested persons were invited to submit written comments and suggestions for consideration within 30 days after publication of the notice of proposed rule making in the FEDERAL REGISTER. Subsequently, the time for submitting comments was extended for an additional 45 days to October 18, 1970.

The decision to publish the notice of proposed rule making was based on the Bureau of the Budget Circular No. A-25 and Title V of the Independent Offices Appropriation Act of 1952 (65 Stat. 290; 31 U.S.C. 483a), which states:

> It is the sense of the Congress that any work, service, publication, report, document, benefit, privilege, authority, use, franchise, license, permit, certificate, registration, or similar thing of value or utility performed, furnished, provided, granted, prepared, or issued by any Federal agency * * * to or for any person (including groups, associations, organizations, partnerships, corporations, or businesses), except those engaged in the transaction of official business of the Government shall be self-sustaining to the fullest extent possible, and the head of each Federal agency is authorized by regulation * * * to prescribe therefor such fee, charge, or price, if any, as he shall determine, in case none exists, or redetermine, in case of an existing one, to be fair and equitable taking into consideration direct and indirect cost to the Government, value to the recipient, public policy or interest served, and other pertinent facts * * *.

The revised fees for facilities and materials licenses are based on the principle of full cost recovery. Only those regulatory costs associated with the processing of licenses were used. No costs related to compliance, rule making, development of standards, codes, criteria, special nuclear material safeguards, and administration of the State relations program were included. Costs associated with licenses exempt from fees were identified and excluded. The Commission has also sought to achieve simplicity of computation and ease in the administration of the fee system in the establishment of the fee schedule. Where feasible, groupings have been made of different kinds of licenses and a common fee established for the entire grouping in order to avoid undue complexity.

After consideration of the comments received and other factors involved, the Commission has adopted the proposed amendments with certain modifications discussed below.

Several commentators maintained that, where an operating license fee has been paid for the first reactor at multiple unit, single-site power stations, similar additional units at these stations should be subject to a reduced operating license fee where they are subject to concurrent review. To reflect anticipated reduced effort in such situations, the fee schedule in § 170.21 of the proposed amendment has been modified to reduce the operating license fee for follow-on units at multiple unit, single-site power stations that are the same design as the first unit and are subject to concurrent licensing review. To maintain the principle of full cost recovery, the revenue that will be lost by reducing the operating license fee for these follow-on units is recovered by increasing the fee itself. Section 170.21 has also been modified to establish an upper limit power level for computation of construction permit fees, operating license fees, and annual fees for power reactors. (Minor modifications have also been made to the description of the fee to be paid for construction permits issued for multiple unit, single-site power stations to make the language consistent with the revised language for operating licenses.)

Section 170.11(a) has been amended to exempt from license fees uranium used in licensed devices and containers as shielding material.

Section 170.12(c) has been revised to clarify the due date for payment of license fees. Payment of prescribed fees for those licenses that have not been subject to fees prior to the amendments to Part 170 herein will be required within 30 days after the effective date. In the case of licenses that have been subject to fees prior to promulgation of these amendments, the licensee will be billed at the revised rate 1 year from the due date of the last fee payment.

The fee schedule in § 170.31 of the proposed amendment has been modified to more clearly identify those licensed activities that were included in the proposed fee Category 3A. This has been accomplished by establishing a category for licenses authorizing distribution of generally licensed items or quantities, and a category for licenses authorizing distribution of exempt items or quantities. Fees are required for each of these licensed activities because each involves distinct licensing effort.

One commentator maintained that where the reviews of applications for construction permits for reactors at multiple unit, single-site power stations are conducted concurrently but, because of some technicality the permits are not issued concurrently, applicants should not have to pay a separate construction permit fee for the delayed unit. It was not the Commission's intent to charge a separate fee for such units that are delayed solely because of technicalities unrelated to health and safety.

The Commission is required in accordance with BoB Circular No. A-25 to keep the matter of license fees under continuing review and, if costs of licensing services change, it may be expected that the fee schedule will be adjusted.

Pursuant to the Atomic Energy Act of 1954, as amended, and sections 552 and 553 of title 5 of the United States Code, the following amendments to Title 10, Chapter 1, Code of Federal Regulations, Parts 30, 40, 70, and 170, are published as a document subject to codification to be effective 30 days after publication in the FEDERAL REGISTER.

PART 30—RULES OF GENERAL APPLICABILITY TO LICENSING OF BYPRODUCT MATERIAL

1. Footnote 1 which follows § 30.32(e) of 10 CFR Part 30 is deleted and § 30.32 (e) is amended to read as follows:

§ 30.32 Applications for specific licenses.

* * * * *

(e) Each application for a byproduct material license, other than a license exempted from Part 170 of this chapter, shall be accompanied by the fee prescribed in § 170.31 of this chapter. No fee will be required to accompany an application for renewal or amendment of a license, except as provided in § 170.31 of this chapter.

PART 40—LICENSING OF SOURCE MATERIAL

2. Footnote 2 which follows § 40.31(f) of 10 CFR Part 40 is deleted and § 40.31(f) is redesignated (e) and amended to read as follows:

§ 40.31 Applications for specific licenses.

* * * * *

(e) Each application for a source material license, other than a license

exempted from Part 170 of this chapter, shall be accompanied by the fee prescribed in § 170.31 of this chapter. No fee will be required to accompany an application for renewal or amendment of a license, except as provided in § 170.31 of this chapter.

PART 70—SPECIAL NUCLEAR MATERIAL

3. Footnote 1 which follows § 70.21(e) of 10 CFR Part 70 is deleted and § 70.21(e) is amended to read as follows:

§ 70.21 Filing.

* * * * *

(e) Each application for a special nuclear material license, other than a license exempted from Part 170 of this chapter, shall be accompanied by the fee prescribed in § 170.31 of this chapter. No fee will be required to accompany an application for renewal or amendment of a license, except as provided in § 170.31 of this chapter.

PART 170—FEES FOR FACILITIES AND MATERIALS LICENSES UNDER THE ATOMIC ENERGY ACT OF 1954, AS AMENDED

4. Section 170.2 of 10 CFR Part 170 is amended to read as follows:

§ 170.2 Scope.

Except for persons who apply for or hold the licenses exempted in § 170.11, the regulations in this part apply to each person who is an applicant for, or holder of, a specific license for byproduct material issued pursuant to Parts 30 and 32–35 of this chapter, for source material issued pursuant to Part 40 of this chapter, for special nuclear material issued pursuant to Part 70 of this chapter, or for a production or utilization facility issued pursuant to Part 50 of this chapter.

5. Paragraph (l) of § 170.3 is deleted and a new paragraph (p) is added to § 170.3 to read as follows:

§ 170.3 Definitions.

As used in this part:

* * * * *

(l) [Deleted]

* * * * *

(p) "Human use" means the internal or external administration of byproduct, source, or special nuclear material, or the radiation therefrom, to human beings.

6. New subparagraphs (6), (7), and (8) are added to § 170.11(a) of 10 CFR Part 170 to read as follows:

§ 170.11 Exemptions.

(a) No application filing fees, license fees, or annual fees shall be required for:

* * * * *

(6) A license authorizing the human use only of byproduct material, source material, or special nuclear material.

(7) A license authorizing the use of byproduct material, source material, or special nuclear material in civil defense activities only.

(8) A license authorizing the use of source material as shielding only in devices and containers, provided, however, that all other licensed byproduct material, source material, or special nuclear material in the device or container will be subject to the fees prescribed in § 170.31.

* * * * *

7. Section 170.12(c) of 10 CFR Part 170 is amended to read as follows:

§ 170.12 Payment of fees.

* * * * *

(c) *Annual fees.* All licenses outstanding on February 5, 1971, are subject to payment of the annual fee prescribed by this Part 170, as amended, within 30 days after February 5, 1971, and annually thereafter: *Provided, however,* That, in the case of licenses which have been subject to license fees prior to February 5, 1971, the next annual fee will be payable 1 year from the due date of the last fee payment and annually thereafter.

* * * * *

8. Section 170.21 of 10 CFR Part 170 is amended to read as follows:

§ 170.21 Schedule of fees for production and utilization facilities.

Applicants for construction permits or operating licenses for production or utilization facilities and holders of construction permits or operating licenses for production or utilization facilities shall pay the fees set forth below: *Provided, however,* That annual fees shall not be paid by holders of licenses which authorize the possession but not operation of production or utilization facilities:

SCHEDULE OF FEES

Facility (thermal megawatt values refer to the maximum capacity stated in the permit or license) [1]	Application fee for construction permit	Construction permit fee [2]	Operating license fee [4]	Annual fee after issuance of operating license
(1) Power reactor [5]	$25,000	[3] $45/Mw(t)	$60,000+ [4] $65/Mw(t)	[3] $2/Mw(t) ($2,000 minimum)
(2) Testing facility	800	3,000	4,500	2,500
(3) Research reactor	500	2,000	3,000	1,500
(4) Other production or utilization facility	8,000	15,000	20,000	10,000

[1] Amendments reducing capacity shall not entitle the applicant to a partial refund of any fee; applications for amendments increasing capacity to a higher fee category will not be accepted for filing unless accompanied by the prescribed fee less the amount already paid.

[2] Thermal megawatts.

[3] When construction permits are issued for two or more power reactors of the same design at a single power station that were subject to concurrent licensing review, the construction permit fee of $45/Mw(t) will be charged only for the first reactor.

[4] When operating licenses are issued for two or more power reactors of the same design at a single power station that were subject to concurrent licensing review, the operating license fee will be $60,000+$65/Mw(t) for the first reactor and $30,000+$32.50/Mw(t) for each additional reactor.

[5] For construction permits and operating licenses for power reactors with a capacity in excess of 3,000 Mw(t) the fee will be computed on a maximum power level of 3,000 Mw(t).

9. Section 170.31 of 10 CFR Part 170 is amended to read as follows:

§ 170.31 Schedule of fees for materials licenses.

Applicants for materials licenses and holders of materials licenses shall pay the following fees:

SCHEDULE OF MATERIALS LICENSE FEES

Category of materials licenses [1]	Application fee [2]	Annual fee
1. Special nuclear material:		
A. Licenses for quantities greater than 350 grams of contained uranium-235, uranium-233 and plutonium, except for licenses authorizing possession and use of special nuclear material in sealed sources as defined in Part 70 of this chapter and licenses for storage only.	$1.60 per gram (maxium fee $8,000).	$1.60 per gram (maximum fee $8,000).
B. Licenses for quantities greater than 350 grams of contained uranium-235, uranium-233 and plutonium, for storage only, except for licenses authorizing storage only of special nuclear material in sealed sources as defined in Part 70 of this chapter.	$550	$550.
C. All other specific special nuclear material licenses	$40	$40.
2. Source material:		
A. Licenses for source material in quantities greater than 50 kilograms, except licenses for storage only.	$1.45 per kilogram (maximum fee $800).	$1.45 per kilogram (maximum fee $800).
B. All other specific source material licenses	$40	$40.
3. Byproduct material:		
A. Licenses for possession and use of byproduct material issued pursuant to Parts 30 and 33 of this chapter for processing, or manufacturing of items containing byproduct material or quantities of byproduct material for commercial distribution.	$500	$500.
B. Licenses for byproduct material issued pursuant to Part 34 of this chapter for industrial radiography.	$150	$150.
C. Licenses for possession and use of byproduct material in quantities of 10,000 curies or more in sealed sources for irradiation of materials.	$375	$375.
D. Licenses issued pursuant to Part 32 of this chapter to distribute items containing byproduct material or quantities of byproduct material to persons generally licensed under Part 31 or 35 of this chapter.	$500	$500.
E. Licenses issued pursuant to Part 32, except § 32.11, of this chapter to distribute items containing byproduct material or quantities of byproduct material to persons exempt from the licensing requirements of Part 30 of this chapter.	$500	$500.

SCHEDULE OF MATERIALS LICENSE FEES—continued

Category of materials licenses [1]	Application fee [2]	Annual fee
4. Waste Disposal: A. Waste disposal licenses specifically authorizing the receipt of waste byproduct material, source material, or special nuclear material from other persons for the purpose of commercial disposal by land or sea burial by the waste disposal licensee.	$500	$500.
5. All other licenses: A. All other specific materials licenses other than licenses in Categories 1A through 4A.	$40	$40.

[1] Amendments reducing the scope of a licensee's program shall not entitle the licensee to a partial refund of any fee; applications for amendments increasing the scope of a program to a higher fee category will not be accepted for filing unless accompanied by the prescribed fee less the amount already paid.

[2] Applications for materials licenses covering more than one fee category shall be accompanied by the prescribed fee for each category.

(Sec. 501, 65 Stat. 290; 31 U.S.C. 483a)

Dated at Washington, D.C., this 29th day of December 1970.

For the Atomic Energy Commission.

F. T. HOBBS,
Acting Secretary of the Commission.

[F.R. Doc. 71-35; Filed, Jan. 5, 1971; 8:45 a.m.]

Title 14—AERONAUTICS AND SPACE

Chapter I—Federal Aviation Administration, Department of Transportation

[Airspace Docket No. 70-WE-87]

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

Designation of Transition Area

On November 19, 1970, a notice of proposed rule making was published in the FEDERAL REGISTER (35 F.R. 17790) stating that the Federal Aviation Administration was considering an amendment to Part 71 of the Federal Aviation Regulations that would designate a transition area for Los Banos Municipal Airport, Calif.

Interested persons were given 30 days in which to submit written comments, suggestions, or objections. No objections have been received and the proposed amendment is hereby adopted subject to the following change. In the fourth line of the transition area description insert "* * * VORTAC * * *" after "* * * Los Banos * * *".

Effective date. This amendment shall be effective 0901 G.m.t., March 4, 1971.

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

Issued in Los Angeles, Calif., on December 24, 1970.

LEE E. WARREN,
Acting Director, Western Region.

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

LOS BANOS, CALIF.

That airspace extending upwards from 700 feet above the surface within a 3-mile radius of Los Banos Municipal Airport (latitude 37°03'43" N., longitude 120°52'05" W.) and within 3 miles each side of the Los Banos VORTAC 348° radial, extending from the 3-mile-radius area to 18.5 miles north of the VORTAC.

[F.R. Doc. 71-140; Filed, Jan. 5, 1971; 8:49 a.m.]

[Airspace Docket No. 70-CE-111]

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

Alteration of Transition Area

The purpose of this amendment to Part 71 of the Federal Aviation Regulations is to alter the transition area at Ames, Iowa.

U.S. Standard for Terminal Instrument Procedures (TERPS) became effective November 18, 1967, and was issued only after extensive consideration and discussion with Government agencies concerned and affected industry groups. TERPS updates the criteria for the establishment of instrument approach procedures in order to meet the safety requirements of modern day aviation and to make more efficient use of the airspace possible. As a result, the criteria for designation of controlled airspace for the protection of these procedures were modified to conform to TERPS. The new criteria requires minor alteration of the transition area at Ames, Iowa. Action is taken herein to reflect this change.

Since changes in most, if not all, existing airspace designations are required in order to achieve the increased safety and efficient use of the airspace that TERPS is designed to accomplish and since these changes are minor in nature, notice and public procedure hereon have been determined to be both unnecessary and impracticable.

In consideration of the foregoing, Part 71 of the Federal Aviation Regulations is amended effective 0901 G.m.t., March 4, 1971, as hereinafter set forth:

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

AMES, IOWA

That airspace extending upward from 700 feet above the surface within a 5½-mile radius of Ames Municipal Airport (latitude 41°59'25" N., longitude 93°37'05" W.), and within 3 miles each side of the 127° bearing from Ames Municipal Airport, extending from the 5½-mile-radius area to 7 miles southeast of the airport.

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

Issued in Kansas City, Mo., on December 14, 1970.

DANIEL E. BARROW,
Acting Director, Central Region.

[F.R. Doc. 71-141; Filed, Jan. 5, 1971; 8:49 a.m.]

[Docket No. 10751; Amdt. 736]

PART 97—STANDARD INSTRUMENT APPROACH PROCEDURES

Miscellaneous Amendments

This amendment to Part 97 of the Federal Aviation Regulations incorporates by reference therein changes and additions to the Standard Instrument Approach Procedures (SIAPs) that were recently adopted by the Administrator to promote safety at the airports concerned.

The complete SIAPs for the changes and additions covered by this amendment are described in FAA Forms 3139, 8260-3, 8260-4, or 8260-5 and made a part of the public rule making dockets of the FAA in accordance with the procedures set forth in Amendment No. 97-696 (358 F.R. 5610).

SIAPs are available for examination at the Rules Docket and at the National Flight Data Center, Federal Aviation Administration, 800 Independence Avenue SW., Washington, DC 20590. Copies of SIAPs adopted in a particular region are also available for examination at the headquarters of that region. Individual copies of SIAPs may be purchased from the FAA Public Document Inspection Facility, HQ-405, 800 Independence Avenue SW., Washington, DC 20590, or from the applicable FAA regional office in accordance with the fee schedule prescribed in 49 CFR 7.85. This fee is payable in advance and may be paid by check, draft, or postal money order payable to the Treasurer of the United States. A weekly transmittal of all SIAP changes and additions may be obtained by subscription at an annual rate of $125 per annum from the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402.

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

In consideration of the foregoing, Part 97 of the Federal Aviation Regulations is amended as follows, effective on the dates specified:

1. Section 97.17 is amended by establishing, revising, or canceling the follow-

ing ILS SIAPs, effective January 28, 1971:

New York, N.Y.—John F. Kennedy International Airport; ILS Runway 4R, Amdt. 16; Revised.

2. Section 97.19 is amended by establishing, revising, or canceling the following Radar SIAPs, effective January 28, 1971:

New York, N.Y.—John F. Kennedy International Airport; Radar 1, Amdt. 15; Canceled.

3. Section 97.23 is amended by establishing, revising, or canceling the following VOR–VOR/DME SIAPs, effective January 23, 1971:

Austin, Tex.—Robert Mueller Municipal Airport; VOR Runway 16R, Amdt. 22; Revised.
Beaumont, Tex.—Jefferson County Airport; VOR–A, Amdt. 2; Revised.
Beaumont, Tex.—Jefferson County Airport; VOR–B, Amdt. 1; Revised.
Crystal Lake, Ill.—Crystal Lake Airport; VOR–A, Amdt. 3; Revised.
Killeen, Tex.—Killeen Municipal Airport; VOR–A, Amdt. 5; Revised.
Leesburg, Va.—Leesburg Municipal/Godfrey Field; VOR–A, Amdt. 1; Revised.
Oakland, Calif.—Metropolitan Oakland International Airport; VOR–A, Amdt. 6; Revised.
Oakland, Calif.—Metropolitan Oakland International Airport; VOR Runway 9R, Amdt. 1; Revised.
San Francisco, Calif.—San Francisco International Airport; VOR–A, Original; Established.
San Francisco, Calif.—San Francisco International Airport; VOR–B Original; Established.
San Francisco, Calif.—San Francisco International Airport; VOR Runway 10L/R, Amdt. 6; Canceled.
San Francisco, Calif.—San Francisco International Airport; VOR Runway 19L, Amdt. 14; Canceled.
San Francisco, Calif.—San Francisco International Airport; VOR Runway 28L/R, Amdt. 13; Revised.
Talladega, Ala.—Talladega Municipal Airport; VOR–A, Amdt. 2; Revised.
Beaumont, Tex.—Jefferson County Airport; VOR/DME–A, Original; Established.
Beaumont, Tex.—Jefferson County Airport; VOR/DME Runway 34, Original; Established.
Talladega, Ala.—Talladega Municipal Airport; VOR/DME Runway 3, Original; Established.
Trenton, Tenn.—Gibson County Airport; VOR/DME–A, Original; Established.

4. Section 97.25 is amended by establishing, revising, or canceling the following LOC–LDA SIAPs, effective January 28, 1971:

Chicago, Ill.—Chicago O'Hare International Airport; LOC (BC) Runway 9R, Amdt. 3; Revised.
New Orleans, La.—Lakefront Airport; LOC Runway 17, Amdt. 1; Revised.
Oakland, Calif.—Metropolitan Oakland International Airport; LOC (BC) Runway 11, Amdt. 1; Revised.
Parkersburg, W. Va.—Wood County Airport/Gill Robb Wilson Field; LOC Runway 3, Amdt. 2; Revised.
San Francisco, Calif.—San Francisco International Airport; LOC (BC)–A, Original; Established.

5. Section 97.27 is amended by establishing, revising, or canceling the following NDB/ADF SIAPs, effective January 28, 1971:

Chicago, Ill.—Chicago O'Hare International Airport; NDB Runway 9R, Amdt. 1; Revised.
Hayward, Wis.—Hayward Municipal Airport; NDB Runway 20, Amdt. 3; Revised.
San Francisco, Calif.—San Francisco International Airport; NDB Runway 19L, Amdt. 1; Revised.
San Francisco, Calif.—San Francisco International Airport; NDB Runway 28L, Amdt. 1; Revised.

6. Section 97.29 is amended by establishing, revising, or canceling the following ILS SIAPs, effective January 28, 1971:

San Francisco, Calif.—San Francisco International Airport; ILS Runway 19L, Amdt. 6; Revised.
San Francisco, Calif.—San Francisco International Airport; ILS Runway 28L, Amdt. 6; Revised.

(Secs. 307, 313, 601, 1110, Federal Aviation Act of 1958, 49 U.S.C. 1438, 1354, 1421, 1510; sec. 6(c) Department of Transportation Act, 49 U.S.C. 1655(c), 5 U.S.C. 552(a)(1))

Issued in Washington, D.C., on December 23, 1970.

EDWARD C. HODSON,
Acting Director,
Flight Standards Service.

NOTE: Incorporation by reference provisions in §§ 97.10 and 97.20 (35 F.R. 5610) approved by the Director of the Federal Register on May 12, 1969.

[F.R. Doc. 71–6; Filed, Jan. 5, 1971; 8:45 a.m.]

Title 21—FOOD AND DRUGS

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

SUBCHAPTER C—DRUGS

PART 148h—KANAMYCIN SULFATE

Effective on publication in the FEDERAL REGISTER, Part 148h is republished as follows to incorporate editorial and nonrestrictive technical changes. This order revokes all prior publications.

SEC.
148h.1 Nonsterile kanamycin sulfate.
148h.1a Sterile kanamycin sulfate.
148h.2 Kanamycin sulfate injection.
148h.3 Kanamycin sulfate capsules.

AUTHORITY: The provisions of this Part 148h issued under sec. 507, 59 Stat. 463, as amended; 21 U.S.C. 357.

§ 148h.1 Nonsterile kanamycin sulfate.

(a) *Requirements for certification—*(1) *Standards of identity, strength, quality, and purity.* Kanamycin sulfate is the sulfate salt of a kind of kanamycin or a mixture of two or more such salts. It is so purified and dried that:

(i) Its potency on an anhydrous basis is not less than 750 micrograms of kanamycin per milligram.

(ii) It passes the safety test.

(iii) Its loss on drying is not more than 4 percent.

(iv) Its pH in an aqueous solution containing 10 milligrams per milliliter is not less than 6.5 and not more than 8.5.

(v) Its residue on ignition is not more than 1.0 percent.

(vi) It gives a positive identity test for kanamycin.

(vii) It contains not more than 5.0 percent kanamycin B.

(viii) It is crystalline.

(2) *Labeling.* It shall be labeled in accordance with the requirements of § 148.3(b) of this chapter.

(3) *Requests for certification; samples.* In addition to complying with the requirements of § 146.2 of this chapter, each such request shall contain:

(i) Results of tests and assays on the batch for potency, safety, loss on drying, pH, residue on ignition, identity, kanamycin B content, and crystallinity.

(ii) Samples required on the batch: 10 packages, each containing approximately 500 milligrams.

(b) *Tests and methods of assay—*(1) *Potency.* Proceed as directed in § 141.110 of this chapter, preparing the sample for assay as follows: Dissolve an accurately weighed sample in sufficient 0.1*M* potassium phosphate buffer, pH 8.0 (solution 3), to give a stock solution of convenient concentration. Further dilute the stock solution with solution 3 to the reference concentration of 5.0 micrograms of kanamycin per milliliter (estimated).

(2) *Safety.* Proceed as directed in § 141.5 of this chapter.

(3) *Loss on drying.* Proceed as directed in § 141.501(b) of this chapter.

(4) *pH.* Proceed as directed in § 141.503 of this chapter, using a solution containing 10 milligrams per milliliter.

(5) *Residue on ignition.* Proceed as directed in § 141.510(a) of this chapter.

(6) *Identity.* Dissolve about 10 milligrams of kanamycin sulfate in 1 milliliter of water, and add 1 milliliter of a 1:500 solution of triketohydrindene hydrate in normal butyl alcohol; then add 0.5 milliliter of pyridine. Heat in a steam bath for 5 minutes and add 10 milliliters of water; a deep-purple color is produced.

(7) *Kanamycin B content—*(i) *Cylinders (cups).* Use cylinders described under § 141a.1(a) of this chapter.

(ii) *Culture medium.* Use ingredients that conform to the standards prescribed by the U.S.P. or N.F. Make agar for the base and seed layers as follows:

Peptone	6.0 gm.
Yeast extract	3.0 gm.
Beef extract	1.5 gm.
Agar	15.0 gm.
pH 7.8 to 8.0 after sterilization.	
Distilled water, q.s.	1,000.00 ml.

(iii) *Working standard.* Dissolve a suitable quantity of the kanamycin sulfate working standard, accurately weighed, in 0.1*M* potassium phosphate buffer, pH 8.0, to give a concentration equivalent to 1.0 milligram of kanamycin per milliliter.

(iv) *Preparation of sample.* To 100 milligrams, accurately weighed, of kanamycin sulfate in a suitable container (such as a 7.5-milliliter serum vial) add

5.0 milliliters of 6*N* hydrochloric acid, and tightly close the container. Heat in a water bath at 100° C. for 1 hour and cool. Add 4 milliliters of 6*N* sodium hydroxide, then dilute with sterile 0.1*M* potassium phosphate buffer, pH 8.0, to obtain a concentration of the equivalent of 1 microgram of kanamycin B per milliliter (estimated).

(v) *Preparation of test organism.* Use *Bacillus subtilis* (ATCC 6633) prepared as described in § 141.104 of this chapter, using method 2.

(vi) *Preparation of plates.* Add 21 milliliters of the agar prepared as described in this subparagraph to each Petri dish (20 millimeters x 100 millimeters). Distribute the agar evenly in the plates and allow to harden. Use the plates the same day they are prepared. Add 4.0 milliliters of the fresh daily inoculum described in subdivision (iv) of this subparagraph to each plate, tilting the plates back and forth to spread the inoculated agar evenly over the surface.

(vii) *Standard curve.* Prepare on the day of testing in 0.1M potassium phosphate buffer, pH 7.8 to 8.0, from the standard stock solution, sufficient volumes of the following concentrations: 0.64, 0.8, 1.0, 1.25, and 1.56 micrograms per milliliter. The 1.0 microgram-per-milliliter solution is the reference point of the standard curve. On each of three plates fill three cylinders with the 1.0 microgram-per-milliliter standard and the other three cylinders with the concentration under test. Thus, there will be thirty-six 1.0-microgram determinations for each of the other points on the curve. After the plates have incubated read the diameters of the circles of inhibition. Average the readings of the 1.0 microgram-per-milliliter concentration and the readings of the concentration test for each set of three plates and average also all 36 readings of the 1.0 microgram-per-milliliter concentration. The average of the 36 readings of the 1.0 microgram-per-milliliter concentration is the correction point for the curve. Correct the average value obtained for each point to the figure it would be if the 1.0 microgram-per-milliliter reading for that set of three plates were the same as the correction point. Thus, if in correcting the 0.8-microgram concentration, the average of the 36 readings of the 1.0 microgram-per-milliliter concentration is 16.5 millimeters and the average of the 1.0 microgram-per-milliliter concentration of this set of three plates is 16.3 millimeters, the correction is +0.2 millimeter. If the average readings of the 0.8 microgram-per-milliliter concentration of these same three plates is 15.9 millimeters, the corrected value is 16.1 millimeters. Plot these corrected values, including the average of the 1.0 microgram-per-milliliter concentration, on 2-cycle semilogarithmic paper, using the concentration in micrograms per milliliter as the ordinate and the diameter of the zone of inhibition as the abscissa. Draw the standard curve through these points, either by inspection or by means of the following equations:

$$L=\frac{3a+2b+c-e}{5},$$

$$H=\frac{3e+2d+c-a}{5},$$

where:

L = Calculated zone diameter for the lowest concentration of the standard curve;

H = Calculated zone diameter for the highest concentration of the standard curve;

c = Average zone diameter of 36 readings of the 1.0 microgram-per-milliliter standard;

a, b, d, e = Corrected average values for the 0.64, 0.8, 1.0, 1.25, and 1.56 micrograms-per-milliliter solutions, respectively.

Plot the values obtained for L and H and connect with a straight line.

(viii) *Assay.* Place six cylinders on the inoculated agar surface in each Petri dish prepared as described in subdivision (vi) of this subparagraph, so that they are at approximately 60° intervals on a 2.8-centimeter radius. Use three plates for each sample. Fill three cylinders on each plate with the 1.0 microgram-per-milliliter standard and three cylinders with the 1.0 microgram (estimated)-per-milliliter sample, alternating standard and sample. Incubate plates for 16 hours to 18 hours at 32° C. to 35° C., and measure the diameter of each circle of inhibition.

(ix) *Estimation of kanamycin B content.* Average the zone readings of the standard and average the zone readings of the sample on the three plates used. If the sample gives larger average zone size than the average of the standard, add the difference between them to the 1.0-microgram zone size of the standard curve. If the average value is lower than the standard value, subtract the difference between them from the 1.0-microgram value on the curve. From the curve, read the kanamycin potencies corresponding to these corrected values of zone sizes. Multiply the observed potency by 100 and divide by 126 to obtain a value representing the potency in terms of the milligram equivalent of kanamycin B. The calculated amount of kanamycin B is not more than 5 percent of the content of kanamycin found in subparagraph (1) of this paragraph.

(8) *Crystallinity.* Proceed as directed in § 141.504(a) of this chapter.

§ 148h.1a Sterile kanamycin sulfate.

(a) *Requirements for certification*—(1) *Standards of identity, strength, quality, and purity.* Kanamycin sulfate is the sulfate salt of a kind of kanamycin or a mixture of two or more such salts. It is so purified and dried that:

(i) Its potency on an anhydrous basis is not less than 750 micrograms of kanamycin per milligram.

(ii) It is sterile.

(iii) It passes the safety test.

(iv) It is nonpyrogenic.

(v) Its loss on drying is not more than 4 percent.

(vi) Its pH in an aqueous solution containing 10 milligrams per milliliter is not less than 6.5 and not more than 8.5.

(vii) Its residue on ignition is not more than 1.0 percent.

(viii) It gives a positive identity test for kanamycin.

(ix) It contains not more than 5.0 percent kanamycin B.

(x) It is crystalline.

(2) *Labeling.* It shall be labeled in accordance with the requirements of § 148.3(b) of this chapter.

(3) *Requests for certification; samples.* In addition to the requirements of § 146.2 of this chapter, each such request shall contain:

(i) Results of tests and assays on the batch for potency, sterility, safety, pyrogens, loss on drying, pH, residue on ignition, identity, crystallinity, and kanamycin B content.

(ii) Samples required:

(*a*) For all tests except sterility: 10 packages, each containing approximately 500 milligrams.

(*b*) For sterility testing: 20 packages, each containing approximately 300 milligrams.

(b) *Tests and methods of assay*—(1) *Potency.* Proceed as directed in § 141.110 of this chapter, preparing the sample for assay as follows: Dissolve an accurately weighed sample in sufficient 0.1*M* potassium phosphate buffer, pH 8.0 (solution 3), to give a stock solution of convenient concentration. Further dilute the stock solution with solution 3 to the reference concentration of 5.0 micrograms of kanamycin per milliliter (estimated).

(2) *Sterility.* Proceed as directed in § 141.2 of this chapter, using the method described in paragraph (e)(1) of that section.

(3) *Safety.* Proceed as directed in § 141.5 of this chapter.

(4) *Pyrogens.* Proceed as directed in § 141.4(b) of this chapter, using a solution containing 10 milligrams of kanamycin per milliliter.

(5) *Loss on drying.* Proceed as directed in § 141.501(b) of this chapter.

(6) *pH.* Proceed as directed in § 141.503 of this chapter, using a solution containing 10 milligrams per milliliter.

(7) *Residue on ignition.* Proceed as directed in § 141.510(a) of this chapter.

(8) *Identity.* Dissolve about 10 milligrams of kanamycin sulfate in 1 milliliter of water and add 1 milliliter of a 1:500 solution of triketohydrindene hydrate in normal butyl alcohol. Then add 0.5 milliliter of pyridine. Heat in a steam bath for 5 minutes and add 10 milliliters of water; a deep-purple color is produced.

(9) *Kanamycin B content.* Proceed as directed in § 148h.1(b)(7).

(10) *Crystallinity.* Proceed as directed in § 141.504(a) of this chapter.

§ 148h.2 Kanamycin sulfate injection.

(a) *Requirements for certification*—(1) *Standards of identity, strength, quality, and purity.* Kanamycin sulfate injection is an aqueous solution of kanamycin sulfate with suitable and harmless buffer substances and preservatives. It contains either 75 milligrams of kanamycin per 2.0 milliliters, or 250 milligrams of kanamycin per milliliter, or 1.0

gram of kanamycin per 3.0 milliliters. Its potency is satisfactory if it is not less than 90 percent and not more than 115 percent of the number of milligrams of kanamycin that it is represented to contain. It is sterile. It passes the safety test. It is nonpyrogenic. Its pH is not less than 3.5 and not more than 5.0. The kanamycin sulfate used conforms to the standards prescribed by § 148h.1a(a)(1) (i), (v), (vii), (viii), (ix), and (x).

(2) *Labeling.* In addition to the requirements prescribed by § 148.3 of this chapter, the labeling of each package shall bear a warning to the effect that older patients and patients receiving a total dose of more than 20 grams of the drug should be carefully observed for signs of eighth-nerve damage. In patients with impaired kidney function or with prerenal azotemia, the risk of severe ototoxic reaction that may result in permanent deafness is sharply increased.

(3) *Requests for certification; samples.* In addition to the requirements of § 146.2 of this chapter, each such request shall contain:

(i) Results of tests and assays on:

(*a*) The kanamycin sulfate used in making the batch for potency, residue on ignition, loss on drying, identity, crystallinity, and kanamycin B content.

(*b*) The batch for potency, sterility, safety, pyrogens, and pH.

(ii) Samples required:

(*a*) The kanamycin sulfate used in making the batch: 10 packages, each containing approximately 500 milligrams.

(*b*) The batch:

(*1*) For all tests except sterility: Minimum of 12 immediate containers.

(*2*) For sterility testing: 20 immediate containers, collected at regular intervals throughout each filling operation.

(b) *Tests and methods of assay*—(1) *Potency.* Proceed as directed in § 141.110 of this chapter, preparing the sample for assay as follows: Introduce a representative aliquot of the solution into an appropriate-sized volumetric flask and dilute to mark with 0.1*M* potassium phosphate buffer, pH 8.0 (solution 3). Mix well and further dilute with solution 3 to the reference concentration of 5 micrograms of kanamycin per milliliter (estimated).

(2) *Sterility.* Proceed as directed in § 141.2 of this chapter, using the method described in paragraph (e)(1) of that section.

(3) *Safety.* Proceed as directed in § 141.5 of this chapter.

(4) *Pyrogens.* Proceed as directed in § 141.4(b) of this chapter, using a solution containing 10 milligrams of kanamycin per milliliter.

(5) *pH.* Proceed as directed in § 141.503 of this chapter, using the undiluted solution.

§ 148h.3 Kanamycin sulfate capsules.

(a) *Requirements for certification*—(1) *Standards of identity, strength, quality, and purity.* Kanamycin sulfate capsules are composed of crystalline kanamycin sulfate, with or without one or more suitable and harmless buffer substances, vegetable oils, preservatives, diluents, binders, lubricants, colorings, and flavorings, enclosed in gelatin capsules. Each capsule contains 500 milligrams of kanamycin. Its potency is satisfactory if it is not less than 90 percent and not more than 115 percent of the number of milligrams of kanamycin that it is represented to contain. The loss on drying is not more than 4.0 percent. The crystalline kanamycin sulfate used conforms to the standards prescribed by § 148h.1(a)(1).

(2) *Labeling.* It shall be labeled in accordance with the requirements of § 148.3 of this chapter.

(3) *Requests for certification; samples.* In addition to the requirements of § 146.2 of this chapter, each such request shall contain:

(i) Results of tests and assays on:

(*a*) The kanamycin sulfate used in making the batch for potency, safety, loss on drying, pH, residue on ignition, identity, kanamycin B content, and crystallinity.

(*b*) The batch for potency and loss on drying.

(ii) Samples required:

(*a*) Kanamycin sulfate used in making the batch: 10 packages, each containing approximately 500 milligrams.

(*b*) The batch: Minimum of 30 capsules.

(*c*) In case of an initial request for certification, each other ingredient used in making the batch: One package of each containing approximately 5 grams.

(b) *Tests and methods of assay*—(1) *Potency.* Proceed as directed in § 141.110 of this chapter, preparing the sample for assay as follows: Place a representative number of capsules in a glass blending jar containing 500 milliliters of 0.1*M* potassium phosphate buffer, pH 8.0 (solution 3). Using a high-speed blender, blend 3 to 5 minutes. Further dilute with solution 3 to the reference concentration of 5 micrograms of kanamycin per milliliter (estimated).

(2) *Loss on drying.* Proceed as directed in § 141.501(b) of this chapter.

(Sec. 507, 59 Stat. 463, as amended; 21 U.S.C. 357)

Dated: December 15, 1970.

H. E. SIMMONS,
Director, Bureau of Drugs.

[F.R. Doc. 71-17; Filed, Jan. 5, 1971; 8:46 a.m.]

Title 26—INTERNAL REVENUE

Chapter I—Internal Revenue Service, Department of the Treasury

SUBCHAPTER A—INCOME TAX

[T.D. 7085]

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

Termination of Private Foundation Status by Transfer to, or Operation as, Public Charity

The following regulations relate to the application of section 507(b)(1) of the Internal Revenue Code of 1954, as added by section 101(a) of the Tax Reform Act of 1969 (83 Stat. 492) to the requirements for termination of private foundation status by transfer to, or operation as, a public charity.

The regulations set forth herein are temporary and are designed to clarify and modify Temporary Treasury Regulation § 13.12, 35 F.R. 15913 (1970) in order to provide an extension of time to comply with the requirements of section 507(b)(1). The regulations are effective until the issuance of final regulations to be prescribed by the Commissioner and approved by the Secretary or his delegate.

In order to provide such temporary regulations under section 507(b)(1) of the Internal Revenue Code of 1954, the regulations are amended as follows:

Paragraphs (a)(4) and (j)(1) of Temporary Treasury Regulations § 13.12 are amended as follows:

§ 13.12 Termination of private foundation status by transfer to, or operation as, public charity.

(a) * * *

(4) *Special transitional rule.* (i) Section 4940(a) imposes a tax upon private foundations with respect to the carrying on of activities for each taxable year. For purposes of section 4940, an organization which terminates its private foundation status under section 507(b)(1)(A) by the end of the period described in subdivision (ii) of this subparagraph will not be considered as carrying on activities within the meaning of section 4940 during such period. Such organization will therefore not be subject to the tax imposed under section 4940(a) for such period.

(ii) The period referred to in subdivision (i) of this subparagraph is the 12-month period beginning with the first day of the organization's first taxable year which begins after December 31, 1969, but such period shall not be treated as ending before the 45th day after the last of the following dates:

(*a*) The day on which regulations (other than temporary regulations) first prescribed under section 507(b)(1) become final;

(*b*) The day on which regulations (other than temporary regulations) first prescribed under section 509 become final; or

(*c*) The day on which corrective and clarifying regulations under section 170(b)(1)(A) and designated as § 1.170A-9 of this chapter become final.

(iii) If the period described in subdivision (ii) of this subparagraph does not expire prior to the due date for the organization's Form 990 for its first taxable year which begins after December 31, 1969, an organization described in subdivision (i) of this subparagraph must submit a statement to the Commissioner of Internal Revenue, Washington, D.C. 20224, Attention: T:MS:EO, no later than the date on which the organization files its Form 990. Such statement shall be to the effect that the organization intends to terminate its private foundation status under section 507(b)(1)(A) by the

90th day after the last of the dates referred to in subdivision (ii) (*a*), (*b*), or (*c*) of ths subparagraph. A copy of such statement must be attached to the Form 990, and the organization shall complete all lines on the Form 990 relating to the computation of the tax under section 4940, except for the line entitled "Tax on investment income from Part III", as if such organization were liable for such tax. If the termination of private foundation status under section 507(b)(1)(A) does not occur as described in such statement, the organization shall be liable for such tax as of the first date on which it would have been so liable if it had not filed such statement. Alternatively, the organization may pay such tax and seek a refund upon completion, within the period specified in subdivision (ii) of this subparagraph, of its termination of private foundation status under section 507(b)(1)(A).

* * * * *

(j) *Extension of time.* (1)(i) For purposes of this section, the 12-month period referred to in section 507(b)(1)(B) shall not be treated as having expired before the end of the period described in § 13.12(a)(4)(ii).

(ii) For purposes of paragraph (c)(3) and (4) of this section, an organization will be considered as "normally" meeting the requirements of section 170(b)(1)(A)(iv) or (vi) or 509(a)(2) (as the case may be) if it meets the requirements of such provision with respect to either:

(*a*) The 12-month period beginning with the organization's first taxable year which begins after December 31, 1969; or

(*b*) The period described in § 13.12(a)(4)(ii).

Thus, for example, an organization on a calendar year basis which seeks to convert to a section 509(a)(2) organization under section 507(b)(1)(B) may meet the one-third support requirement based on the aggregate support received during the period described either in subdivision (ii) (*a*) or (*b*) of this subparagraph, for purposes of paragraph (c)(4) of this section.

* * * * *

Because of the need for immediate guidance with respect to the provisions contained in this Treasury decision, it is found impracticable to issue it with notice and public procedure thereon under subsection (b) of section 553 of title 5 of the United States Code or subject to the effective date limitation of subsection (d) of that section.

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

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

Approved: December 31, 1970.

EDWIN S. COHEN,
Assistant Secretary of the Treasury.

[F.R. Doc. 71-164; Filed, Jan. 5, 1971; 8:51 a.m.]

SUBCHAPTER D—MISCELLANEOUS EXCISE TAXES

[T.D. 7086]

PART 154—TEMPORARY REGULATIONS IN CONNECTION WITH THE AIRPORT AND AIRWAY REVENUE ACT OF 1970

Tax on Use of Civil Aircraft

In order to prescribe temporary regulations, which shall remain in effect until superseded by permanent regulations, under sections 4491, 4492, 4493, and 6426 (a), (b), (c), and (d) of the Internal Revenue Code of 1954, as added by section 206 of the Airport and Airway Revenue Act of 1970 (Public Law 91-258, 84 Stat. 242), the following regulations are hereby prescribed:

§ 154.3 Statutory provisions; imposition of tax; definitions; special rules; payment of tax by lessee.

Sections 4491, 4492, and 4493(a) of the Internal Revenue Code of 1954, as added by section 206(a) of the Airport and Airway Revenue Act of 1970:

SEC. 4491. *Imposition of tax*—(a) *Imposition of tax.* A tax is hereby imposed on the use of any taxable civil aircraft during any year at the rate of—

(1) $25, plus

(2) (A) In the case of an aircraft (other than a turbine engine powered aircraft) having a maximum certificated takeoff weight of more than 2,500 pounds, 2 cents a pound for each pound of the maximum certificated takeoff weight, or (B) in the case of any turbine engine powered aircraft, 3½ cents a pound for each pound of the maximum certificated takeoff weight.

(b) *By whom paid.* Except as provided in section 4493(a), the tax imposed by this section shall be paid—

(1) In the case of a taxable civil aircraft described in section 4492(a)(1), by the person in whose name the aircraft is, or is required to be, registered, or

(2) In the case of a taxable civil aircraft described in section 4492(a)(2), by the United States person by or for whom the aircraft is owned.

(c) *Proration of tax.* If in any year the first use of the taxable civil aircraft is after the first month in such year, that portion of the tax which is determined under subsection (a)(2) shall be reckoned proportionately from the first day of the month in which such use occurs to and including the last day in such year.

(d) *One tax liability per year*—(1) *In general.* To the extent that the tax imposed by this section is paid with respect to any taxable civil aircraft for any year, no further tax shall be imposed by this section for such year with respect to such aircraft.

(2) *Cross reference.* For privilege of paying tax imposed by this section in installments, see section 6156.

(e) *Termination.* On and after July 1, 1980, the tax imposed by subsection (a) shall not apply.

SEC. 4492. *Definitions*—(a) *Taxable civil aircraft.* For purposes of this subchapter, the term "taxable civil aircraft" means any engine driven aircraft—

(1) Registered, or required to be registered, under section 501(a) of the Federal Aviation Act of 1958 (49 U.S.C., sec. 1401(a)), or

(2) Which is not described in paragraph (1) but which is owned by or for a United States person.

(b) *Weight.* For purposes of this subchapter, the term "maximum certificated takeoff weight" means the maximum such weight contained in the type certificate or airworthiness certificate.

(c) *Other definitions.* For purposes of this subchapter—

(1) *Year.* The term "year" means the one-year period beginning on July 1.

(2) *Use.* The term "use" means use in the navigable airspace of the United States.

(3) *Navigable airspace of the United States.* The term "navigable airspace of the United States" has the definition given to such term by section 101(24) of the Federal Aviation Act of 1958 (49 U.S.C., sec. 1301(24)), except that such term does not include the navigable airspace of the Commonwealth of Puerto Rico or of any possession of the United States.

SEC. 4493. *Special rules*—(a) *Payment of tax by lessee.*—(1) *In general.* Any person who is the lessee of any taxable civil aircraft on the day in any year on which occurs the first use which subjects such aircraft to the tax imposed by section 4491 for such year may, under regulations prescribed by the Secretary or his delegate, elect to be liable for payment of such tax. Notwithstanding any such election, if such lessee does not pay such tax, the lessor shall also be liable for payment of such tax.

(2) *Exception.* No election may be made under paragraph (1) with respect to any taxable civil aircraft which is leased from a person engaged in the business of transporting persons or property for compensation or hire by air.

* * * * *

[Secs. 4491, 4492, and 4493(a) as added by sec. 206(a) of the Airport and Airway Revenue Act of 1970 (84 Stat. 242)]

§ 154.3-1 Tax on use of civil aircraft.

(a) *Purpose of this section.* In general, section 4491 of the Internal Revenue Code of 1954, as added by the Airport and Airway Revenue Act of 1970, imposes a tax upon the use, at any time during the taxable period, of any taxable civil aircraft in the navigable airspace of the United States. This tax is imposed upon such use during any taxable period beginning on July 1, 1970, and on each subsequent July 1 before July 1, 1980. This section sets forth rules as to the general applicability of the tax and also sets forth rules, as authorized by section 4493(a), to provide a method whereby certain lessees of taxable civil aircraft may elect to be liable for the tax. Further, this section provides administrative provisions relating to the payment of tax and the filing of tax returns.

(b) *Definitions*—(1) *Use.* The term "use" means use in the navigable airspace of the United States, as defined in section 4492(c)(3), except that such term does not include use by a manufacturer, dealer, wholesaler, retailer, exporter, or importer of aircraft solely for demonstration, testing, or delivery purposes. Mere possession of a civil aircraft does not constitute "use."

(2) *Taxable civil aircraft.* The term "taxable civil aircraft" means any engine powered aircraft which is either registered or required to be registered under section 501(a) of the Federal Aviation Act of 1958 (49 U.S.C. 1401(a)) or which is owned by or for a U.S. person. Such term includes civil aircraft owned by the

United States and State and local governments. Military aircraft and aircraft of the National Guard are not within the definition of taxable civil aircraft.

(3) *Taxable period.* The term "taxable period" means any 1-year period beginning July 1 and ending the following June 30 during the period after June 30, 1970, and before July 1, 1980.

(4) *U.S. person.* The term "United States person" means a citizen or resident of the United States, a domestic partnership, a domestic corporation, or any estate or trust (other than a foreign estate or foreign trust within the meaning of section 7701(a)(31)).

(5) *Maximum certificated takeoff weight.* The term "maximum certificated takeoff weight" means the maximum weight of the aircraft, accessories, fuel, pilot, passengers, and cargo that is permitted on takeoff under the best conditions, as determined for such aircraft by the Federal Aviation Administration. Such weight is normally stated on the type certificate.

(6) *Navigable airspace of the United States.* The term "navigable airspace of the United States" has the definition given to such term by section 101(24) of the Federal Aviation Act of 1958 (49 U.S.C. 1301(24)), except that such term does not include the navigable airspace of the Commonwealth of Puerto Rico or of any possession of the United States.

(c) *Rate and computation of tax*—(1) *Rate.* The tax imposed for any taxable period on each taxable civil aircraft is $25 (the "basic charge") plus, in certain instances, a tax based on weight (the "poundage charge"). The poundage charge is (i) in the case of a turbine engine powered aircraft, 3½ cents a pound for each pound of the maximum certificated takeoff weight of the aircraft, and (ii) in the case of a nonturbine engine powered aircraft with a maximum certificated takeoff weight of more than 2,500 pounds, 2 cents a pound for each pound of the maximum certificated takeoff weight of the aircraft.

(2) *Proration of tax.* If the first use of a taxable civil aircraft is made after the first month of the taxable period, the poundage charge is computed by multiplying the amount of the poundage charge that would be due for the full taxable period by a fraction, the numerator of which is the number of months, including the month of first use, that remain in the taxable period and the denominator of which is 12.

(d) *Persons liable for payment of tax*—(1) *In general.* Except as provided for certain leased aircraft, the tax imposed by section 4491 shall be paid (i) by the person in whose name the taxable civil aircraft is registered, or required to be registered, under section 501(a) of the Federal Aviation Act of 1958, or, (ii) if not so registered or required to be registered, by the U.S. person by or for whom the aircraft is owned. The tax liability arises at the time of the first use of such aircraft in the taxable period.

(2) *Subsequent owners.* If the entire tax has been paid by the person liable therefor as of the time of the first use in the taxable period, any subsequent owners in the same taxable period are not subject to further tax on use of the transferred taxable civil aircraft. However, if the tax has not been paid for that taxable period, both the person liable for the tax at the time of the first use during the taxable period and any subsequent owners during that period shall be liable for the unpaid tax (including any outstanding installments) for that period.

(3) *Leased aircraft.* Under section 4493(a) a lessee of a taxable civil aircraft may elect to pay the tax and file a return if he is the lessee on the day on which occurs the first use of the aircraft for the taxable period. Notwithstanding this election, the lessor shall also be liable for the tax if the lessee fails to pay the tax. No election may be made with respect to an aircraft leased from a person engaged in the business of transporting persons or property for compensation or hire by air. The election under section 4493(a) shall be made by filing Form 4638 (Federal Use Tax Return on Civil Aircraft) and attaching a list of leased aircraft as required by the instructions on such return.

(e) *Returns.* Every person liable for payment of tax imposed by section 4491 shall make a return of such tax on Form 4638 (Federal Use Tax Return on Civil Aircraft). The return shall be filed with the Internal Revenue Service Center designated on such form. If the first use of the taxable civil aircraft occurs in July the return for the taxable period shall be filed on or before August 31. However, if the first use of the taxable civil aircraft occurs after July the return for the taxable period shall be filed on or before the last day of the month following the month during which such use occurs.

(f) *Installment payments of tax*—(1) *Privilege to pay tax in installments.* Except in the case of liability for tax first incurred in April, May, or June of any taxable period, the liability shown on Form 4638 may be paid in equal installments, rather than by a single payment, if the return is timely filed and the person filing the return elects in the return, in accordance with the instructions contained therein, to pay the tax in installments.

(2) *Dates for paying installments.* The installments must be paid in accordance with the following table:

If the liability was incurred in—	1st installment is due on or before the last day of—	2d installment is due on or before the last day of—	3d installment is due on or before the last day of—	4th installment is due on or before the last day of—
July	Aug.	Dec.	Mar.	June.
Aug.	Sept.	Dec.	Mar.	June.
Sept.	Oct.	Dec.	Mar.	June.
Oct.	Nov.	Mar.	June.	
Nov.	Dec.	Mar.	June.	
Dec.	Jan.	Mar.	June.	
Jan.	Feb.	June.		
Feb.	Mar.	June.		
Mar.	Apr.	June.		

(3) *Proration of additional tax to installments.* If an installment payment election has been made and additional tax is assessed on a return for such tax before the date prescribed for payment of the last installment, the additional tax shall be prorated equally to all installments, whether paid or unpaid. That part of the additional tax so prorated to any installment not yet due shall be collected at the same time and as part of such installment. The part of the additional tax so prorated to any prior installment shall be paid upon notice and demand from the director of the service center where the return was required to be filed.

(4) *Acceleration of payment.* If any person elects under the provisions of this section to pay the tax in installments, any installment may be paid prior to the date prescribed for its payment. If an installment is not paid in full on or before the date fixed for its payment, the whole amount of the unpaid tax shall be paid upon notice and demand from the director of the service center where the return was required to be filed.

(g) *Extension of time for filing returns.* The director of the service center may, upon application of the taxpayer, grant a reasonable extension of time in which to file the return. Application for an extension of time for filing the return should be addressed to the director of the service center where the return is to be filed. The application must contain a full recital of the causes of the delay. An extension of time for filing shall operate to extend the time for payment of the tax or any installment thereof unless specified to the contrary in the extension.

(h) *Tax identification number.* Form 4638 (Federal Use Tax Return on Civil Aircraft) requires a tax identification number. For an individual, this is his Social Security number. For any other taxpayer, the number is the employer identification number. If such number has not been secured or applied for, an application on Form SS–4 shall be filed on or before the 7th day after the date of the first use of the taxable civil aircraft. Form SS–4 may be obtained from any district director or director of a service center. The application shall be filed with the internal revenue officer designated in the instructions applicable to Form SS–4.

§ 154.4 Statutory provisions; special rules; certain persons engaged in foreign air commerce; refund of aircraft use tax where plane transports for hire in foreign air commerce; general rule; definitions; payments to persons paying tentative tax; time for filing claim.

Sections 4493(b) and 6426(a), (b), (c), and (d) of the Internal Revenue Code of 1954, as added by section 206(a) and (c) of the Airport and Airway Revenue Act of 1970:

SEC. 4493 *Special rules.* * * *

(b) *Certain persons engaged in foreign air commerce.*—(1) *Election to pay tentative tax.* Any person who is a significant user of taxable civil aircraft in foreign air commerce may, with respect to that portion of the tax imposed by section 4491 which is determined under section 4491(a)(2) on any taxable

civil aircraft for any year beginning on or after July 1, 1970, elect to pay the tentative tax determined under paragraph (2). The payment of such tentative tax shall not relieve such person from payment of the net liability for the tax imposed by section 4491 on such taxable civil aircraft (determined as of the close of such year).

(2) *Tentative tax.* For purposes of paragraph (1), the tentative tax with respect to any taxable civil aircraft for any year is an amount equal to that portion of the tax imposed by section 4491 on such aircraft for such year which is determined under section 4491(a)(2), reduced by a percentage of such amount equal to the percentage which the aggregate of the payments to which such person was entitled under section 6426 (determined without regard to section 6426(c)(2)) with respect to the preceding year is of the aggregate of the taxes imposed by section 4491 for which such person was liable for payment for the preceding year. In the case of the year beginning on July 1, 1970, this subsection shall apply only if the person electing to pay the tentative tax establishes what the tentative tax would have been for such year if section 4491 had taken effect on July 1, 1969.

(3) *Significant users of aircraft in foreign air commerce.* For purposes of paragraph (1), a person is a significant user of taxable civil aircraft in foreign air commerce for any year only if the aggregate of the payments to which such person was entitled under section 6426 (determined without regard to section 6426(c)(2)) with respect to the preceding year was at least 10 percent of the aggregate of the taxes imposed by section 4491 for which such person was liable for payment for the preceding year.

(4) *Net liability for tax.* For purposes of paragraph (1), the net liability for the tax imposed by section 4491 with respect to any taxable civil aircraft for any year is—

(A) the amount of the tax imposed by such section, reduced by

(B) the amount payable under section 6426 with respect to such aircraft for the year (determined without regard to section 6426(c)(2)).

SEC. 6426. *Refund of aircraft use tax where plane transports for hire in foreign air commerce.*—(a) *General rule.* In the case of any aircraft used in the business of transporting persons or property for compensation or hire by air, if any of such transportation during any period is transportation in foreign air commerce, the Secretary or his delegate shall pay (without interest) to the person who paid the tax under section 4491 for such period the amount determined by mutliplying that portion of the amount so paid for such period which is determined under section 4491(a)(2) with respect to such aircraft by a fraction—

(1) the numerator of which is the number of airport-to-airport miles such aircraft traveled in foreign air commerce during such period while engaged in such business, and

(2) the denominator of which is the total number of airport-to-airport miles such aircraft traveled during such period.

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

(1) *Foreign air commerce.* The term "foreign air commerce" means any movement by air of the aircraft which does not begin and end in the United States; except that any segment of such movement in which the aircraft traveled between two ports or stations in the United States shall be treated as travel which is not foreign air commerce.

(2) *Airport-to-airport miles.* The term "airport-to-airport miles" means the official mileage distance between airports as determined under regulations prescribed by the Secretary or his delegate.

(c) *Payments to persons paying tentative tax.* In the case of any person who paid a tentative tax determined under section 4493(b) with respect to any aircraft for any period, the amount payable under subsection (a) with respect to such aircraft for such period—

(1) shall be computed with reference to that portion of the tax imposed under section 4491 for such period which is determined under section 4491(a)(2), and

(2) as so computed, shall be reduced by an amount equal to—

(A) the amount by which that portion of the tax imposed under section 4491 for such period which is determined under section 4491(a)(2), exceeds

(B) the amount of the tentative tax determined under section 4493(b) paid for such period.

(d) *Time for filing claim.* Not more than one claim may be filed under this section by any person with respect to any year. No claim shall be allowed under this subsection with respect to any year unless filed on or before the first September 30 after the end of such year.

* * * * *

[Secs. 4493(b) and 6426 (a), (b), (c), and (d) as added by sec. 206 (a) and (c) of the Airport and Airway Revenue Act of 1970 (84 Stat. 242, 245)]

§ 154.4–1 Tentative tax and refunds where plane transports for hire in foreign air commerce.

(a) *Purpose of this section.* This section sets forth rules relating to the election to pay the tentative tax provided by section 4493(b). The purpose of the tentative tax provisions is to permit persons who are significant users of aircraft in foreign air commerce to pay, in lieu of the full poundage charge, a portion of such charge based upon the taxpayer's experience in foreign air commerce during the preceding taxable period. This section also sets forth rules relating to refunds of the aircraft use tax under section 6426 and the definition of airport-to-airport miles (prescribed under the authority contained in section 6426(b)(2)).

(b) *Definitions*—(1) *Airport-to-airport miles.* The term "airport-to-airport miles" means the official mileage distance between airports contained in the direct airport-to-airport mileage record maintained by the Schedule Records Unit of the Office of the Secretary of the Civil Aeronautics Board.

(2) *Significant user of taxable civil aircraft in foreign air commerce.* A person is a "significant user of taxable civil aircraft in foreign air commerce" for any taxable period only if the aggregate of the payments to which such person was entitled under section 6426 (determined without regard to section 6426(c)(2)) with respect to the preceding taxable period was at least 10 percent of the aggregate taxes imposed by section 4491 for which such person was liable for payment for the preceding taxable period.

(3) *Foreign air commerce.* The term "foreign air commerce" means use of an aircraft in the business of transporting persons or property for compensation or hire if the movement does not begin and end in the United States. Any segment of such movement in which the aircraft pursuant to its schedule traveled between two ports or stations in the United States shall not be treated as foreign air commerce. For example, if an aircraft travels from London to New York to Chicago pursuant to its schedule, only the London to New York portion of the trip is in "foreign air commerce." Moreover, the London to New York portion of the trip continues to be in "foreign air commerce" even if the aircraft has to land in Boston because of adverse weather conditions before traveling on to New York, since the stopover in Boston is not scheduled.

(c) *Election to pay tentative tax*—(1) *Method of making election.* The election of a significant user of taxable civil aircraft in foreign air commerce to pay the tentative tax shall be made by filing Form 4638 and attaching thereto detailed computations showing (i) qualification as a significant user of taxable civil aircraft in foreign air commerce, and (ii) the amount of tentative tax for the taxable period.

(2) *Completed return.* Persons who elect to pay the tentative tax must file a completed return on Form 4638 and pay any net liability for tax (as defined in section 4493(b)(4)) by the first September 30 after the end of the taxable period.

(d) *Computation of tentative tax.* The tentative tax with respect to any aircraft for any taxable period is an amount equal to the poundage charge reduced by a percentage of such amount equal to the percentage which the aggregate of the payments to which the person electing to pay the tentative tax was entitled under section 6426 (determined without regard to section 6426(c)(2)) with respect to the preceding taxable period is of the aggregate of the taxes imposed by section 4491 for which such person was liable for payment for the preceding taxable period. A person electing to pay the tentative tax with respect to the year beginning on July 1, 1970, must establish what the tentative tax would have been for such year if section 4491 had been in effect on July 1, 1969.

(e) *Refunds under section 6426*—(1) *Purpose of refund provision.* Section 6426 provides for a refund with respect to the poundage charge for an aircraft used in the business of transporting persons or property for compensation or hire by air, if any of the transportation provided on such aircraft during the taxable period is in foreign air commerce. This refund procedure is available where no tentative tax election was made and, also, where the tentative tax election was made and the amount of tentative tax paid exceeds actual tax liability for the taxable period.

(2) *Determination of refund.* (i) Where the full poundage charge has been

paid with respect to an aircraft, the amount of the refund is determined by multiplying the poundage charge for the aircraft for the taxable period by a fraction the numerator of which is the number of airport-to-airport miles the aircraft traveled in foreign air commerce during the taxable period while engaged in such business and the denominator of which is the total number of airport-to-airport miles the aircraft traveled during the taxable period.

(ii) Where tentative tax has been elected and paid with respect to an aircraft, the amount of the refund is the refund that would be due with respect to that aircraft if the tentative tax had not been so elected and paid, reduced by the amount of the poundage charge not paid due to the tentative tax election. For example, if an aircraft upon which a tentative tax of $800 has been paid and upon which the full poundage charge is $1,000 is used 50 percent in foreign air commerce in the taxable period, the refund with respect to the aircraft would be $300 (the amount of the refund if the tentative tax had not been elected, $500, less the excess of the full poundage charge over the tentative tax paid, $200).

(3) *Aircraft-by-aircraft computations.* Computations under section 6426 must be made separately with respect to each aircraft for which the taxpayer paid the tax imposed by section 4491 for a taxable period. However, if a taxpayer can demonstrate, to the satisfaction of the Commissioner, that the difference between making computations under section 6426 on an aircraft-by-aircraft basis and on a basis of aggregating all aircraft of the same weight class is insubstantial, then the Commissioner will, upon application, permit such taxpayer to make computations on an aggregated basis. To make such a demonstration a taxpayer ordinarily will be required to submit computations on both an aircraft-by-aircraft basis and an aggregated basis for at least one full taxable period.

Because of the need for immediate guidance with respect to the provisions contained in this Treasury decision, it is found impracticable to issue it with notice and public procedure thereon under subsection (b) of section 553 of title 5 of the United States Code or subject to the effective date limitation of subsection (d) of that section.

(Secs. 4493(a)(1), 6426(b)(2), and 7805, 84 Stat. 244, 245 68A Stat. 917; 26 U.S.C. 4493(a)(1), 6426(b)(2), and 7805, of the Internal Revenue Code of 1954)

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

Approved: December 31, 1970.

JOHN S. NOLAN,
Acting Assistant Secretary of the Treasury.

[F.R. Doc. 71-165; Filed, Jan. 5, 1971; 8:51 a.m.]

Title 36—PARKS, FORESTS, AND MEMORIALS

Chapter I—National Park Service, Department of the Interior

PART 1—MISCELLANEOUS PROVISIONS

PART 12—NATIONAL CEMETERY REGULATIONS

PART 55—NATIONAL CEMETERY REGULATIONS

Visitor Use and Informational Guidelines

On pages 14995, 14996, and 14997 of the FEDERAL REGISTER of September 26, 1970, there was published a notice of proposed rule making to amend Part 1 of Title 36, to redesignate Part 55 of Title 36 as Part 12 of Title 36, and to revise the national cemetery regulations. Interested persons were given 30 days in which to submit written comments, suggestions, or objections regarding the proposed regulations.

No objections have been received. Therefore the proposed regulations are hereby adopted without change as set forth below and shall take effect 30 days following the date of publication in the FEDERAL REGISTER.

Dated: December 21, 1970.

GEORGE B. HARTZOG, Jr.,
Director, National Park Service.

1. Section 1.1(a) of Part 1 of Title 36 of the Code of Federal Regulations is amended to read as follows:

§ 1.1 Applicability and scope.

(a) The regulations contained in Parts 1 through 6 of this chapter shall apply to all persons entering, using, visiting, or who are otherwise within the boundaries of any federally owned or controlled areas administered by the National Park Service except: (1) Areas administered by the National Park Service in the District of Columbia and its environs to which Part 50 of this chapter is specifically applicable, and (2) national cemeteries to which Part 12 of this chapter is specifically applicable. The special regulations in Part 7 of this chapter also apply to all persons entering, using, or visiting the areas for which they are adopted. The regulations contained in Parts 1 through 7 of this chapter are hereby made and prescribed for the proper use, management, government and protection of, and maintenance of good order in the areas to which they apply.

* * * * *

2. Redesignated Part 55 is revised to read as follows:

VISITOR USE REGULATIONS

Sec.
12.1 Purpose.
12.2 Authority for national cemeteries.
12.3 Administration, control, and supervision.
12.4 Visitors.
12.5 Services and ceremonies.
12.6 Penalties.

INFORMATIONAL GUIDELINES

12.7 Interments and disinterments.
12.8 Headstones and markers.
12.9 Monuments and inscriptions at private expense.
12.10 Private memorials and commemorative tablets.
12.11 Cemetery maintenance.
12.12 Uses and display of flags.

AUTHORITY: The provisions of this Part 12 issued under R.S. 4881, as amended, sec. 1, 19 Stat. 99, as amended, secs. 1–3, 495, 496; 16 U.S.C. 1, 3, 231, 450o, 24 U.S.C. 278, 286. E.O. 6166, as amended, 5 U.S.C. 132 note; E.O. 8428, 5 F.R. 2131; and Proc. 2554, 7 F.R. 3143.

VISITOR USE REGULATIONS

§ 12.1 Purpose.

The following regulations apply to all persons entering, using, visiting, or who are otherwise within the boundaries of a national cemetery under the administration of the National Park Service, or within an area listed in § 12.3.

(a) The regulations in Parts 4 and 5 of this chapter and §§ 2.1, 2.3, 2.4, 2.6, 2.7, 2.8, 2.9, 2.10, 2.15, 2.16, 2.19, 2.21, 2.22, 2.24, and 2.29, of this chapter are incorporated by reference.

§ 12.2 Authority for national cemeteries.

Basic legal authority pertaining to national cemeteries is contained in the Act of February 22, 1867, ch. 61, 14 Stat. 400, as amended; 24 U.S.C. 271; the Act of August 25, 1916, ch. 408, 39 Stat. 535, as amended; 16 U.S.C. 1 and E.O. 6166, June 10, 1933, as amended; 5 U.S.C. 132 (note).

§ 12.3 Administration, control, and supervision.

The Director of the National Park Service, under the direction and control of the Secretary of the Interior, is responsible for the operation, maintenance, and administration of the national cemeteries below listed, and for the formulation of plans, policies, procedures, and regulations pertaining thereto.

Andrew Johnson National Monument.
Antietam (Sharpsburg), Md.
Battleground, District of Columbia.
Chalmette National Historical Park.
Custer Battlefield National Monument.
Fort Donelson (Dover), Tenn.
Fredericksburg, Va.
Gettysburg, Pa.
Poplar Grove (Petersburg), Va.
Shiloh (Pittsburgh Landing), Tenn.
Stones River (Murfreesboro), Tenn.
Vicksburg, Miss.
Yorktown, Va.

§ 12.4 Visitors.

(a) Visitors will be admitted during the hours the gates are open.

(b) The possession, destruction, injury, defacement, removal, or disturbance in any manner of any building, sign, equipment, monument, statue, marker,

or other structure, or of any animal or plant matter and direct or indirect products thereof, including but not limited to petrified wood, flower, cone or other fruit, egg, nest, or nesting site, or of any soil, rock, mineral formation, phenomenon of crystallization, artifact, relic, historic or prehistoric feature, or of any other public property of any kind, is prohibited.

(c) The use of a trap, seine, handthrown spear, net (except a landing net), firearm (including an air- or gas-powered pistol or rifle), blowgun, bow and arrow or crossbow, or any other implement designed to discharge missiles in the air or under the water which is capable of destroying animal life is prohibited, except that firearms may be used as part of an official ceremony.

(d) Camping, picnicking, fishing, and the kindling of any fire is prohibited.

(e) The use of national cemetery drives as public highways is prohibited. The speed of vehicles shall not exceed 25 miles per hour.

(f) Special advance plans may be developed, in anticipation of large crowds, to restrict the number of motor vehicles permitted to enter the cemetery area in order to relieve congestion and to promote public safety.

§ 12.5 Services and ceremonies.

(a) *General.* Patriotic organizations may, with proper permission, conduct services in national cemeteries. Requests for permission should be addressed to the cemetery superintendent who will assign an appropriate time and render assistance in carrying out the programs. No organization will be given exclusive permission to enter any cemetery or for any particular occasion. Where several requests are received for separate services, the superintendent will schedule each so as to avoid interference.

(b) *Special occasions.* Since many organizations regularly conduct such services on Memorial Day, Veteran's Day, Easter Sunday, national holidays, and other special occasions, the procedure governing such services will be essentially as above provided. When Memorial Day falls on Sunday the ceremonies may be scheduled for either Sunday or Monday.

§ 12.6 Penalties.

Any person who violates any provision of §§ 12.1–12.5, or as the same may be amended or supplemented, in regard to any national cemetery under the jurisdiction of the Secretary of the Interior shall be deemed guilty of a misdemeanor and upon conviction thereof shall be punished by a fine of not more than $500 or imprisonment for not exceeding 6 months, or both, and be adjudged to pay all costs of the proceedings (16 U.S.C. 3): *Provided*, That the penalties set out in § 1.3(b) of this chapter shall apply to violations which take place at Andrew Johnson National Monument and Chalmette National Historical Park.

INFORMATIONAL GUIDELINES

§ 12.7 Interments and disinterments.

(a) *Who may be interred.* Bural in a national cemetery is authorized in accordance with regulations prescribed by the Secretary of the Army.

(b) *Burial permits.* Burial permits, usually a part of the death certificate, are required for interments except those of cremated remains. In such cases burial permits will be required only where State law makes them mandatory. It is permissible to inter, prior to receipt of the burial permit, the remains of members of the Armed Forces who die on active duty.

(c) *Assignment of gravesites.* (1) Under present policy of the Department of the Army, only one gravesite is authorized for the burial of the service member and eligible members of his immediate family. This policy will be applied to all national cemeteries under the jurisdiction of the Department of the Interior, except in those cases in which the Director specifically determines this to be infeasible.

(2) Gravesites will not be reserved in cemeteries in which the one-gravesite-per-family-unit policy has been placed in effect.

(3) Gravesite reservations made in writing prior to the establishment of the one-gravesite-per-family-unit policy will remain in effect as long as the reservee remains eligible for burial in a national cemetery.

(4) Burial sections:

(i) Layout plans for burial sections in all national cemeteries will be approved by the Director. Sizes of gravesites will conform to dimensions designated by the Chief of Support Services, Department of the Army.

(ii) Until grave space is exhausted in sections that were in existence prior to January 1, 1947, burials may be made in accordance with procedures and policies in effect at the time such sections were established, provided, however, that no person otherwise eligible will be denied burial by reason of policies in existence prior to Januray 1, 1947, if burial space exists anywhere in the cemetery. In all burial sections established on or after January 1, 1947, burials will be made in accordance with policies or procedures in effect on or after January 1, 1947.

(iii) Burials will not be made in memorial sections.

(iv) As the need arises for the use of new sections for burials, such cases will be forwarded to the Director for approval. Plans and recommendations for resolving the situation will accompany the request for final decision.

(d) *Disinterments.* (1) Interments of eligible remains in national cemeteries are considered to be permanent and final and disinterments will not be permitted except upon approval of the Director. Disinterments and removal of remains from a national cemetery will be approved only when next of kin (includes the person who directed the initial interment if still living) give their consent and establish cogent reasons for the disinterment, or in recognition of a court order directing the disinterment.

(2) All requests for authority to disinter remains will be submitted to the Director, and must state the reason for desiring the disinterment and be accompanied by the following documents:

(i) Notarized affidavits by all close living relatives of the deceased, stating that they interpose no objection to the proposed disinterment. "Close relatives" are defined as surviving spouse, parents, adult brothers and sisters, and adult children and will include the person who directed the initial interment, if living, even though the legal relationship of such person to the decedent may have changed.

(ii) A sworn statement, by a person having knowledge thereof, that those who supplied such affidavits comprise all the living close relatives of the deceased, including the person who directed the initial interment.

(iii) In lieu of the documents required in this subparagraph (2), an order of a court of competent jurisdiction will be considered.

(iv) Any disinterment that may be authorized under this section must be accomplished without expense to the Government.

§ 12.8 Headstones and markers.

Headstones and markers, authorized to be furnished at Government expense, will be provided under rules and regulations promulgated by the Secretary of the Army.

§ 12.9 Monuments and inscriptions at private expense.

(a) The erection of markers and monuments at private expense to mark graves in lieu of Government headstones and markers requires prior approval of the Director and is permitted only in sections in existing national cemeteries in which private monuments and markers were authorized as of January 1, 1947. Such monuments will be simple in design, dignified, and appropriate to a military cemetery. The name of the person(s) or the name of an organization, fraternity, or society responsible for the purchase and erection of the marker will not be permitted on the marker or anywhere else in the cemetery.

(b) Where a headstone or monument has been erected to an individual interred in a national cemetery and the next of kin desires to inscribe thereon the name and appropriate data pertaining to a deceased spouse, parent, son, daughter, brother, or sister whose remains have not been recovered and who would have been eligible in their own right for burial in a national cemetery, such inscriptions may be incised on the headstone or monument at no expense to the Government with the prior written approval of the Director. The words "In Memoriam" or "In Memory Of" are mandatory elements of such inscriptions.

(c) Except as may be authorized for marking group burials, ledger monuments, monuments of free-standing cross design, narrow shafts, mausoleums, or overground vaults are prohibited. Underground vaults may be placed at private expense, if desired, at the time of interment.

§ 12.10 Private memorials and commemorative tablets.

(a) *Purpose.* (1) The purpose of this section is to implement the Act of August 27, 1954 (68 Stat. 880, as amended, 24 U.S.C. 279d), which provides that the Secretary of the Interior and the Secretary of the Army shall set aside, when available, suitable plots in the national cemeteries under their jurisdiction to honor the memory of members of the Armed Forces missing in action or who died or were killed while serving in such forces, and whose remains have not been identified, have been buried at sea, or have been determined to be nonrecoverable, and to permit the erection of appropriate markers thereon in honor of any such member or group of members. The regulations in this section govern the erection of private memorial markers in national cemeteries under the jurisdiction of the Department of the Interior, a list of which is set forth in § 12.3. The source of the regulations in this section is the "Joint Resolution" of the Secretary of the Interior and the Secretary of the Army, issued pursuant to the Act of August 27, 1954, supra, and effective January 26, 1956.

(b) *Scope*—(1) *Those who may be memorialized.* Those members of the Armed Forces of the United States whose deaths occurred during a period when the United States was at war or as a result of military operations; whose remains have not been identified, have been buried at sea, or have been determined officially to be nonrecoverable; and on whom there has been either:

(i) A report of missing in action and a subsequent official finding of death; or

(ii) An official report of death in action. "In action" as used in this paragraph characterizes the casualty status as having been the direct result of hostile action; sustained in combat and related thereto; or sustained going to or returning from a combat mission, provided the occurrence was directly related to hostile action.

(2) *Extent of memorialization.* The erection of a private marker may be authorized to memorialize a person or a group of persons. Only one individual marker will be authorized for the memorialization of a person; however, the erection of an individual marker to a person will not preclude the inscription of his name on a group marker.

(c) *Application for memorialization.* (1) Application for authority to erect a private memorial marker shall be submitted to the Director, whose approval should be obtained prior to fabrication of the marker, since erection will not be permitted except on compliance with the conditions specified in the regulations in this part.

(2) Application for permission to erect an individual marker must be submitted by the legal next of kin of the decedent or the authorized representative of the legal next of kin.

(3) Application for permission to erect a group marker may be submitted by a person, a group of persons, or an organization. Each group-marker application must be accompanied by (i) a list of names of the persons to be memorialized and other data desired for inscription on the marker; (ii) the written approval of the legal next of kin of each person whose name is to be inscribed on the marker; and (iii) a scale plan depicting the details of the design, materials, finish, carving, lettering, and arrangement of inscription.

(4) The Chief of Support Services, Department of the Army, will determine the eligibility of the persons or groups of persons to be memorialized.

(5) The Director will exercise approval authority and control over assignment of plots for and the design type, size, materials, inscription, and erection of the memorial markers. Approval for erection will be conditional upon the applicant's granting to the Department of the Interior the substantive right to remove and dispose of the marker, if the applicant fails to maintain it in a condition acceptable to the Department.

(d) *Markers which may be authorized.* (1) Memorial markers will conform to the type, size, materials, design, and specifications prescribed for the cemetery section in which the memorial marker is to be erected. The inscriptions will conform to those authorized to mark graves in national cemeteries and in addition will include the words "In Memoriam" or "In Memory Of" as mandatory elements. The inscription on a memorial marker may not include the name of the person or group of persons or the name or insignia of an organization, fraternity, or society responsible for the purchase and erection of the marker.

(e) *Cost and maintenance of memorials.* (1) The cost of the private memorial markers, transportation, and erection in the cemetery will be at no expense to the Government. The Department of the Interior will assume no liability or responsibility incident to the purchase, fabrication, delivery, erection, maintenance of, or damage to private memorial markers.

§ 12.11 Cemetery maintenance.

Cemetery maintenance will be performed generally in accordance with the methods and procedures described in chapter 5 of Department of the Army Technical Manual TM 10-287.

§ 12.12 Use and display of flag.

The flag will be used and displayed in accordance with regulations promulgated pursuant to law (56 Stat. 377, ch. 435; 36 U.S.C. 173-178).

[F.R. Doc. 71-117; Filed, Jan. 5, 1971; 8:47 a.m.]

PART 6—MISCELLANEOUS FEES

PART 7—SPECIAL REGULATIONS, AREAS OF THE NATIONAL PARK SYSTEM

Yosemite National Park, Calif.; Revocation of Special Truck Restrictions; Correction

The purpose of this amendment is to correct errors of format and citation appearing in the preamble of a notice of rule making deleting special provisions prohibiting operation of commercial trucks on Tioga Road, Yosemite National Park, Calif. The notice appeared at page 10658 of the FEDERAL REGISTER on July 1, 1970. The preamble is hereby amended as follows:

Pursuant to the authority contained in section 3 of the Act of August 25, 1916 (39 Stat. 535, as amended; 16 U.S.C. 3), section 2 of the Act of October 1, 1890 (26 Stat. 650, 16 U.S.C. 61), section 5 of the Act of June 2, 1920 (415 Stat. 731, 16 U.S.C. 57), 245 DM-1 (34 F.R. 13879, as amended), National Park Service Order No. 34 (31 F.R. 4255), and Regional Director, Western Region Order No. 4 (31 F.R. 5577); there is hereby revoked § 6.4 (c) (3) of Part 6, Chapter I and § 7.16(c) of Part 7, Chapter I, of Title 36 of the Code of Federal Regulations.

GEORGE B. HARTZOG, Jr.,
Director, National Park Service.

[F.R. Doc. 71-116; Filed, Jan. 5, 1971; 8:47 a.m.]

Chapter II—Forest Service, Department of Agriculture

PART 251—LAND USES

Assignability of Reservations

Section 251.17, Part 251 of Title 36, Code of Federal Regulations, is amended as follows:

§ 251.17 Grantor's right to occupy and use lands conveyed to the United States.

* * * * *

(a) Except when provided otherwise by statute, the reservation so created shall not be assigned, used, or occupied by anyone other than the grantor without the consent of the United States.

* * * * *

(e) Except when provided otherwise by statute, the reservation shall terminate (1) upon the expiration of the period named in the deed; (2) upon failure for a period of more than one calendar year to use and occupy the premises for the purposes named in the deed; (3) by use and occupancy for unlawful purposes or for purposes other than those specified in the deed; and (4) by voluntary written relinquishment by the owner.

* * * * *

(36 Stat. 961, as amended, 16 U.S.C. 513-518, 42 Stat. 465, as amended, 16 U.S.C. 485, 486, and 50 Stat. 525, as amended, 7 U.S.C. 1011, and 70 Stat. 1034, 7 U.S.C. 428a, 78 Stat. 890, 16 U.S.C. 1131-1136; 79 Stat. 843, 16 U.S.C. 460p—460p-5; 79 Stat. 1295, 16 U.S.C. 460q—460q-9; 80 Stat. 190, 16 U.S.C. 460r—460r-5; 82 Stat. 904, 16 U.S.C. 460v—460v-3; 82 Stat. 919, 16 U.S.C. 1241-1249 and 82 Stat. 906, 16 U.S.C. 1271-1287)

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

T. K. COWDEN,
Assistant Secretary of Agriculture.

DECEMBER 30, 1970.

[F.R. Doc. 71-132; Filed, Jan. 5, 1971; 8:49 a.m.]

Title 39—POSTAL SERVICE

Chapter I—Post Office Department

PART 171—MONEY ORDERS

Payments to Banks Through Federal Reserve System

In Part 171 § 171.9 is added, having been inadvertently omitted from the recent revision of Chapter I of Title 39, Code of Federal Regulations (35 F.R. 19399).

§ 171.9 Payments to banks through Federal Reserve System.

(a) *Presentation for payment.* Banks may present money orders for payment through the Federal Reserve System.

(b) *Definitions.* (1) "Money order" means a U.S. Postal Money Order.

(2) "Federal Reserve Bank" means a Federal Reserve Bank or branch thereof which presents a money order for payment by the Postmaster General.

(3) "Presenting bank" means a bank which presents a money order to and receives credit therefor from a Federal Reserve Bank.

(4) "Reclamation" means the action taken by the Postmaster General to obtain refund of the amounts of paid money orders.

(5) "Examination" includes examination of money orders for indicia of theft, forged endorsements, forged signatures or initials of issuing personnel, raised amounts, and other material defects by means of electronic methods and also visual inspection for discovery of defects which cannot be electronically discovered.

(6) "Stolen money order" means a U.S. Postal Money Order which has been stolen from a post office, classified or contract station, or branch or postal employee before it has been officially issued by the post office, classified or contract station, or branch or by a postal employee in the course of discharging his official duties.

(c) *Payment.* The Postmaster General has the usual right of a drawee to examine money orders presented for payment by banks through the Federal Reserve System and to refuse payment of money orders and shall have a reasonable time after presentation to make such examination. Provisional credit shall be given to the Federal Reserve Bank when it furnishes the money orders for payment by the Postmaster General. Money orders shall be deemed to be paid only after examination has been fully completed subject to the right of the Postmaster General to make reclamation as provided for in paragraph (e) of this section.

(d) *Endorsements.* The presenting bank and the endorser of a money order presented for payment are deemed to guarantee to the Postmaster General that all prior endorsements are genuine, whether or not an express guarantee to that effect has been placed on the money order. When an endorsement has been made by a person other than the payee personally, the presenting bank and the endorser are deemed to guarantee to the Postmaster General, in addition to other warranties, that the person who so endorsed had unqualified capacity and authority to endorse the money order on behalf of the payee.

(e) *Reclamation.* The Postmaster General shall have the right to demand refund from the presenting bank of the amount of a paid money order, if, after payment, the money order is found to have been stolen, or to bear a forged or unauthorized endorsement, or to contain any material defect or alteration which was not discovered upon examination. Such right includes, but is not limited to, the right to make reclamation of the amount by which a genuine money order bearing a proper and an authorized endorsement has been raised. Such right shall be exercised within a reasonable time after the Postmaster General discovers that the money order has been stolen, or bears a forged or unauthorized endorsement, or is otherwise defective. If refund is not made by the presenting bank within 60 days after demand, the Postmaster General shall take such action as may be necessary to protect the interests of the United States.

(5 U.S.C. 301, 39 U.S.C. 501, 5101)

DAVID A. NELSON,
General Counsel.

[F.R. Doc. 71-82; Filed, Jan. 5, 1971; 8:46 a.m.]

Title 41—PUBLIC CONTRACTS AND PROPERTY MANAGEMENT

Chapter 5A—Federal Supply Service, General Services Administration

MISCELLANEOUS AMENDMENTS TO CHAPTER

Chapter 5A of Title 41 is amended as follows:

PART 5A-2—PROCUREMENT BY FORMAL ADVERTISING

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

Section 5A-2.407-1(c) is revised to read as follows:

§ 5A-2.407-1 General.

* * * * *

(c) Preaward inquiries from bidders normally shall be directed to the Business Service Center in accordance with § 5-2.408(c) of this title. If the inquiry is about the status of an award and notice of award has not been issued, the Business Service Center personnel or the contracting personnel, as appropriate, shall normally limit their response to a statement that final award determination has not been made. This does not preclude advising a bidder, who is pressing for award status, that award will not be made to him, when such conclusion has been reached at the appropriate level required by the Delegations of Authority, nor does it preclude, when applicable, advising the bidder that his case has been referred to the Small Business Administration for consideration as to Certificate of Competency action and the reasons therefor. Any action or discussion which may create false impressions in the eyes of prospective contractors about any forthcoming award must be avoided. Bidders must clearly understand that until a formal notice of award is issued that no communication by the Government, whether written or oral, shall be interpreted as a promise that an award will be made. This includes, but is not limited to, requests for clarification of an offer, requests to extend the offer acceptance time, or requests for information for the purpose of verifying an offeror's ability to perform any resultant contract. In conformance with the foregoing, the following provision shall be included in all solicitations for offers:

AWARD

Until a formal notice of award is issued, no communication by the Government, whether written or oral, shall be interpreted as a promise that an award will be made.

PART 5A-8—TERMINATION OF CONTRACTS

Subpart 5A-8.7—Clauses

Section 5A-8.700-2 is revised to read as follows:

§ 5A-8.700-2 Applicability.

Pursuant to § 1-8.7 of this title, the following termination for convenience clauses shall be included in FSS contracts exceeding $2,500 in amount:

(a) For fixed-price supply contracts expected to exceed $2,500 but not expected to exceed $100,000, the short-form termination clause prescribed in § 1-8.705-1 of this title shall be used (article 46(a) of GSA Form 1424).

(b) For fixed-price supply contracts expected to exceed $100,000, the long-form clause prescribed in § 1-8.701 of this title shall be used (see article 46(b) of GSA Form 1424).

(c) For service contracts, the short-form termination clause prescribed in § 1-8.705-1 of this title shall be used (article 46(a) of GSA Form 1424), except where a determination is made under § 1-8.700-2(a)(2) of this title that the long-form clause should be used.

(d) For other types of contracts, see § 1-8.700-2 of this title for guidance.

PART 5A-16—PROCUREMENT FORMS

The table of contents for Part 5A-16 is amended to delete §§ 5A-16.950-102 (FL), 5A-16.950-1504(FM), and 5A-16.950-2313 and to include the following entries:

Sec.	
5A-16.950-102	GSA Form 102, Delinquent Contractor's Report of Orders Received.
5A-16.950-1504	GSA Form 1504, Letter—Review of Invitations and Solicitations.

Sec.
5A-16.950-1773 GSA Form 1773, Notice of Partial Small Business Set-Aside.
5A-16.950-1790 GSA Form 1790, Subcontracting Programs.

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

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

Dated: December 28, 1970.

L. E. SPANGLER,
Acting Commissioner,
Federal Supply Service.

[F.R. Doc. 71-162; Filed, Jan. 5, 1971; 8:51 a.m.]

Title 47—TELECOMMUNICATION

Chapter I—Federal Communications Commission

PART 0—COMMISSION ORGANIZATION

PART 97—AMATEUR RADIO SERVICE

Radio Operator Examination Points

Order. 1. The Commission has before it the desirability of amending § 0.485 showing the location of the Field Engineering Bureau's examination points for amateur and commercial radio operator licenses.

2. Authority for the amendment is contained in section 4(i) and 303(r) of the Communications Act of 1934, as amended, section 552 of the Administrative Procedure Act and § 0.261(a) of the Commission's rules. Because the amendment is procedural in nature, the prior notice and effective date provisions of section 553 of the Administrative Procedure Act do not apply.

3. *It is ordered,* That effective January 11, 1971, Parts 0 and 97 of the rules and regulations are amended as set forth below.

(Secs. 4, 303, 48 Stat., as amended, 1066, 1082; 47 U.S.C. 154, 303)

Adopted: December 29, 1970.

Released: December 30, 1970.

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

Section 0.485(c) is amended by adding in the appropriate alphabetical order, to the listing of semiannual examination points the cities of Juneau, Alaska, and Ketchikan, Alaska.

Appendix I, Part 97, is amended by adding in the appropriate alphabetical order to the listing of semiannual examination points the cities of Juneau, Alaska, and Ketchikan, Alaska.

[F.R. Doc. 71-119; Filed, Jan. 5, 1971; 8:48 a.m.]

Title 49—TRANSPORTATION

Chapter X—Interstate Commerce Commission

SUBCHAPTER A—GENERAL RULES AND REGULATIONS

[Ex Parte No. MC-19 (Sub-No. 4)]

PART 1056—TRANSPORTATION OF HOUSEHOLD GOODS IN INTERSTATE OR FOREIGN COMMERCE

Accessorial or Terminal Services; Effective Date

In the matter of amendment of § 1056.4 *General rules and regulations of motor carriers of household goods.*

Present: George M. Stafford, Chairman, to whom the matter which is the subject of this order has been assigned for action thereon.

Upon consideration of the record in the above-entitled proceeding, including the report and order of the Commission, 335 ICC 698, amending § 1056.4 of Title 49 of the Code of Federal Regulations (formerly numbered § 276.4 of that title), the order served October 29, 1970, modifying the original order to become effective on December 1, 1970, and the joint petition filed on November 23, 1970, by the California Household Goods Carriers' Bureau, and B. W. Carrington, Agent, seeking modification of the effective date; and good cause appearing therefor:

It is ordered, That the order in this proceeding served on October 29, 1970, be, and it is hereby, modified so as to become effective on February 1, 1971, without other change in the requirements of the said order. No further extensions are contemplated.

It is further ordered, That a copy of this order be delivered to the Director, Office of the Federal Register, for publication therein.

Dated at Washington, D.C., on this 30th day of November 1970.

By the Commission, Chairman Stafford.

[SEAL] ROBERT L. OSWALD,
Secretary.

[F.R. Doc. 71-131; Filed, Jan. 5, 1971; 8:49 a.m.]

Title 50—WILDLIFE AND FISHERIES

Chapter II—National Marine Fisheries Service, National Oceanic and Atmospheric Administration, Department of Commerce

PART 240—GROUNDFISH FISHERIES

A notice of proposed rule making which would amend the Groundfish Fisheries regulations (50 CFR Part 240) was published in the FEDERAL REGISTER on October 20, 1970. An alternative notice was subsequently published in the FEDERAL REGISTER on November 28, 1970. Both proposals were designed to implement the recommendations of the International Commission for the Northwest Atlantic Fisheries, concerning the catch of yellowtail flounder (Limanada ferruginea (Storer)) in Subarea 5. Interested persons were given 60 days from the date of the first publication to submit comment.

A public hearing was conducted at New Bedford, Mass., on December 14, 1970, to enable interested persons to participate in the rule making through the submission of comments, views, and data to appropriate Federal officials. Upon a review of the whole record, it has been concluded that the quarterly quota proposed on November 28, 1970 (35 F.R. 18202) within the annual catch limitation and an increased cod end mesh size would provide additional escapement of immature fish, thereby achieving the desired conservation objectives of the Commission.

Since many editorial changes are required to include yellowtail flounder as a regulated species, Part 240 has been redrafted.

Changes in this part which reflect the recommendation of the Commission concerning yellowtail flounder are as follows:

In §§ 240.1, 240.2 and 240.5 through 240.10, yellowtail flounder is added as a regulated species.

The word "license" in §§ 240.2 through 240.5 is used instead of "registration certificate" or "certificate" so that conforming language is used.

In § 240.3 a 4½-inch manila cod end mesh size is permitted to March 31, 1971, after which a minimum cod end mesh size of 5⅛-inch manila is in force. This will provide industry with sufficient time to make the necessary adjustments.

In § 240.5, exemptions for yellowtail flounder will be allowed on a trip basis during a closed season of 5,000 pounds or 10 percent by weight of all fish on board, whichever is greater, and for vessels engaged primarily in a mixed fishery a 12 months 10-percent exemption will be allowed while using meshes less than 4½ inches.

Section 240.6 accomplishes three objectives. It provides for the creation of two regulatory areas, one east and the other west of 69° west longitude. It further establishes quarterly quotas in each of the two areas. Finally, it permits the Director of the National Marine Fisheries Service to adjust each succeeding quarterly quota in both areas as may be required in light of the preceding quarterly catch rates.

Section 240.7 defines the dates for each quarter, and establishes the tentative quarterly allotments, as well as the authority of the Director to announce each quarterly closure.

Section 240.8 describes the criteria by which the closure is to occur.

Certain restrictions are described in § 240.9 which shall apply during the period when the yellowtail flounder

season is closed after the quarterly quota has been reached.

Section 240.10 contains reporting requirements which shall apply to all firms or corporations purchasing yellowtail flounder, and to the master or operator of any fishing vessel holding a license under these regulations.

All reference to the Bureau of Commercial Fisheries, Department of the Interior is changed to National Marine Fisheries Service, Department of Commerce.

Effective date. The season opens on January 1, and the regulations of ICNAF which these rules are intended to implement become effective January 7, 1971. Therefore, these amendments will be effective on the date of publication in the FEDERAL REGISTER.

These regulations are issued under the authority contained in the subsection (a) of section 7 of the Northwest Atlantic Fisheries Act of 1950 (64 Stat. 1069; U.S.C. 986) as modified by Reorganization Plan No. 4, effective October 3, 1970 (35 F.R. 16527).

Issued at Washington, D.C., and dated December 31, 1970.

WILLIAM M. TERRY,
Acting Director,
National Marine Fisheries Service.

Sec.

AUTHORITY: The provisions of this Part 240 issued under subsection (a) of section 7 of the Northwest Atlantic Fisheries Act of 1950 (64 Stat. 1069; U.S.C. 986) as modified by Reorganization Plan No. 4, effective Oct. 3, 1970 (35 F.R. 16527).

§ 240.1 Meaning of terms.

When used in this part, unless the context otherwise requires, terms shall have the meanings ascribed in this section.

(a) Convention area: The term "Convention area" means and includes all waters, except territorial waters, bounded by a line beginning at a point on the coast of Rhode Island in 71°40′ west longitude; thence due south to 39°00′ north latitude; thence due east to 42°00′ west longitude; thence due north to 50°00′ north latitude; thence due west to 44°00′ west longitude; thence due north to the coast of Greenland; thence along the west coast of Greenland to 78°10′ north latitude; thence southward to a point in 75°00′ north latitude and 73°30′ west longitude; thence along a rhumb line to a point in 69°00′ north latitude and 50°00′ west longitude; thence due south to 61°00′ north latitude; thence due west to 64°30′ west longitude; thence due south to the coast of Labrador; thence in a southerly direction along the coast of Labrador to the southern terminus of its boundary with Quebec; thence in a westerly direction along the coast of Quebec, and in an easterly and southerly direction along the coasts of New Brunswick, Nova Scotia, and Cape Breton Island, to Cabot Strait; thence along the coasts of Cape Breton Island, Nova Scotia, New Brunswick, Maine, New Hampshire, Massachusetts, and Rhode Island to the point of beginning.

(b) Regulatory area: The term "Regulatory area" means and includes the whole of those portions of the convention area which are separately described as follows:

(1) *Subarea 1.* The term "Subarea 1" means that portion of the Convention area, including all waters except territorial waters, which lies to the north and east of a rhumb line from a point in 75°00′ north latitude and 73°30′ west longitude to a point in 69°00′ north latitude and 59°00′ west longitude; east of 59°00′ west longitude; and to the north and east of a rhumb line from a point in 61°00′ north latitude and 59°00′ west longitude to a point in 52°15′ north latitude and 42°00′ west longitude.

(2) *Subarea 2.* The term "Subarea 2" means that portion of the Convention area, including all waters except territorial waters, lying to the south and west of Subarea 1 as defined in subparagraph (1) of this paragraph, and to the north of the parallel of 52°15′ north latitude.

(3) *Subarea 3.* The term "Subarea 3" means that portion of the Convention area, including all waters except territorial waters lying south of the parallel of 52°15′ north latitude; and to the east of a line extending due north from Cape Bauld on the north coast of Newfoundland to 52°15′ north latitude; to the north of the parallel of 39°00′ north latitude; and to the east and north of a rhumb line extending in a northwesterly direction which passes through a point in 42°30′ north latitude, 55°00′ west longitude, in the direction of a point in 47°50′ north latitude, 60°00′ west longitude, until it intersects a straight line connecting Cape Ray, on the coast of Newfoundland with Cape North on Cape Breton Island; thence in a northeasterly direction along said line to Cape Ray.

(4) *Subarea 4.* The term "Subarea 4" means that portion of the Convention area, including all waters except territorial waters, lying to the west of Subarea 3 as described in subparagraph (3) of this paragraph, and to the east of a line described as follows: Beginning at the terminus of the international boundary between the United States of America and Canada in Grand Manan Channel, at a point in 44°46′35.34″ north latitude, 66°54′11.23″ west longitude; thence due south to the parallel of 43°50′ north latitude; thence due west to the meridian of 67°40′ west longitude; thence due south to the parallel of 42°20′ north latitude; thence due east to a point in 66°00′ west longitude; thence along a rhumb line in a southeasterly direction to a point in 42°00′ north latitude, 65°40′ west longitude; thence due south to the parallel of 39°00′ north latitude.

(5) *Subarea 5.* The term "Subarea 5" means that portion of the Convention area, including all waters except territorial waters, bounded by a line beginning at the terminus of the international boundary between the United States of America and Canada in Grand Manan Channel at a point in 44°46′35.34″ north latitude, 66°54′11.23″ west longitude; thence due south to the parallel of 43°50′ north latitude; thence due west to the meridian of 67°40′ west longitude; thence due south to the parallel of 42°20′ north latitude; thence due east to a point in 66°00′ west longitude; thence along a rhumb line in a southeasterly direction to a point in 42°00′ north latitude, 65°40′ west longitude; thence due south to the parallel of 39°00′ north latitude; thence due west to the meridian of 71°40′ west longitude; thence due north to a point 3 miles off the coast of the State of Rhode Island; thence along the coasts of Rhode Island, Massachusetts, New Hampshire, and Maine at a distance of 3 miles to the point of beginning.

(c) The regulations in this part shall apply to the following species by the subareas they are included in and wherever in the regulations in this part the term regulated species is used it shall apply to those in this list.

(1) In Subarea 1:

(i) Cod (*Gadus morhua* (L.)).

(ii) Haddock (*Melanogrammus aeglefinus* (L.)).

(iii) Ocean perch (redfish) (*Sebastes*).

(iv) Halibut (*Hippoglossus hippoglossus* (L.)).

(v) Grey sole (witch) (*Glyptocephalus cynoglossus* (L.)).

(vi) Dab (American plaice) (*Hippoglossoides platessoides* (Fab.)).

(vii) Greenland halibut (*Reinhardrius hippoglossoides* (Walb.)).

(2) In Subarea 2:

(i) Cod (*Gadus morhua* (L.)).

(ii) Haddock (*Melanogrammus aeglefinus* (L.)).

(iii) Ocean perch (redfish) (*Sebastes*).

(iv) Halibut (*Hippoglossus hippoglossus* (L.)).

(v) Grey sole (witch) (*Glyptocephsius cynoglossus* (L.)).

(vi) Dab (American plaice) (*Hippoglossoides platessoides* (Fab.)).

(vii) Greenland halibut (*Reinhardtius hippoglossoides* (Walb.)).

(3) In Subarea 3:

(i) Cod (*Gadus morhua* (L.)).

(ii) Haddock (*Melanogrammus aeglefinus* (L.)).

(iii) In aggregate: ocean perch (redfish) (*Sebastes*), except in the statistical Division 3N, 3O, and 3P halibut (*Hippoglossus hippoglossus* (L.)) grey sole (witch) (*Glyptocephalus cynoglossus* (L.)) yellowtail flounder (*Limanda ferruginea* (Storer)) dab (American plaice) (*Hippoglossoides platessoides* (Fab.)) Greenland halibut (*Reinhardtius hippoglossoides* (Walb.)) pollock (saithe) (*Pollachius virens* (L.)) white hake (*Urophycis tenuis* (Mitch.)).

(4) In Subarea 4:

(i) Cod (*Gadus morhua* (L.)).

(ii) Haddock (*Melanogrammus aeglefinus* (L.)).

(iii) In aggregate: Flounders: grey sole (witch) (*Glyptocephalus cynoglossus*

(L.)) yellowtail flounder (*Limanda ferruginea* (Storer)) black back or lemon sole (winter flounder) (*Pseudopleuronectes americanus* (Walb)) dab (American plaice) (*Hippoglossoides platessoides* (Fab.)).

(5) In Subarea 5:

(i) Cod (*Gadus morhua* (L.)).

(ii) Haddock (*Melanogrammus seglefinus* (L.)).

(iii) Yellowtail Flounder (*Limanada ferruginea* (Storer)).

(d) Fishing: The word "fishing" means the catching, taking, or fishing for, or the attempted catching, taking, or fishing for any spcies of fish protected under the regulations in this part.

(e) Fishing vessel: The words "fishing vessel" denote every kind, type or description of watercraft subject to the jurisdiction of the United States used in or outfitted for catching or processing fish or transporting fish from fishing grounds.

(f) Trawl net: The words "trawl net" mean any large bag net dragged in the sea by a vessel or vessels for the purpose of taking fish.

(g) Cod end: The words "cod end" mean the bag-like extention attached to the after end of the belly of the trawl net and used to retain the catch.

(h) Convention: The International Convention for the Northwest Atlantic Fisheries signed at Washington, February 8, 1949.

(i) Commission: The International Commission for the Northwest Atlantic Fisheries established pursuant to the Convention.

(j) Contracting governments: Member governments of the Convention.

(k) Executive Secretary: The Executive Secretary of the International Commission for the Northwest Atlantic Fisheries.

(l) Service: The National Marine Fisheries Service, National Oceanic and Atmospheric Administration, U.S. Department of Commerce.

(m) Service Director: The Director of the National Marine Fisheries Service.

(n) Regional Director: The Regional Director, Northeast Region, National Marine Fisheries Service, Federal Building, 14 Elm Street, Gloucester, MA 01930. Telephone number: Area Code (617) 281–0640.

(o) Open season: The time during which haddock or yellowtail flounder may lawfully be captured and taken on board a fishing vessel without limitation on the quantity permitted to be retained during each fishing voyage except as provided under § 240.5.

(p) Closed season: The time during which haddock or yellowtail flounder in specified areas may not be taken in quantities exceeding the amounts as an incident to fishing for other species.

(q) Demersal species: Fishes living at the bottom of the sea.

(r) Person: Any owner, master or operator of a fishing vessel.

§ 240.2 License.

(a) The license and the logbook required under § 240.10(b) shall be issued without fee by authorized officers of the Government of the United States.

(b) Unless permitted to do so by § 240.5 no person shall engage in fishing for these species of fish mentioned in § 240.1(c) within the Convention area, nor shall any person possess, transport or deliver by means of any fishing vessel such species taken within such area except under a license issued and in force in conformity with the provisions of this part.

(1) The owner or operator of a fishing vessel may obtain without charge a license by furnishing, on a form to be supplied by the National Marine Fisheries Service, information specifying the names and addresses of the owner and operator of the vessel, the name, official number and home port of the vessel, and the period for which the license is desired. The form shall be submitted in duplicate to the Regional Director, National Marine Fisheries Service, Gloucester, Mass., who shall grant the license for the duration specified by the applicant in the form but in no event to extend beyond the end of the calendar year during which the license is issued. New licenses shall similarly be issued to replace expired, lost or mutilated licenses. An application for replacement of an expiring license shall be made in like manner as the original application not later than 10 days prior to the expiration date of the expiring license.

(2) The license issued by the National Marine Fisheries Service shall be carried at all times on board the vessel for which it is issued and such license, the vessel, its gear and equipment shall at all times be subject to inspection for the purposes of this part by officers authorized to enforce the provisions of this part.

(c) Licenses issued under this part may be revoked by the Regional Director for violations of this part.

§ 240.3 Restrictions on fishing gear.

(a) Minimum mesh sizes:

(1) In Subarea 1, no person shall use or attempt to use from any vessel for which a license is in force, a trawl net or nets, parts of nets, or netting of manilla or of the trade named twines under the chemical category of polypropylene having a mesh size as defined in this section, of less than 5⅛ inches (130 mm.), or a trawl net or nets, parts of nets, or netting of material other than manilla or polypropylene twine unless it shall have a selectivity equivalent to that of a 5⅛-inch (130 mm.) manilla trawl net.

(2) In Subareas 2, 3, 4, and 5, no person shall use or attempt to use from any vessel for which a license is in force a trawl net or nets, parts of nets, or netting of manilla or of the trade named twines under the chemical category of polypropylene having a mesh size as defined in this section of less than 4½ inches (114 mm.) or a trawl net or nets, or netting of material other than manilla or polypropylene twine unless it shall have a selectivity equivalent to that of a 4½-inch (114 mm.) manilla trawl net. No person shall possess at any time on board a vessel for which a license is in force a trawl net or nets, parts of nets, or netting having a mesh size less than that specified in this subparagraph for the appropriate fishery.

(3) Except as provided in subparagraph (4) of this paragraph, a minimum mesh size of 4½ inches (114 mm.) manilla as specified in subparagraph (2) of this paragraph shall apply to persons engaged in the yellowtail flounder fishery.

(4) Beginning April 1, 1971, in Subarea 5 no person engaged in the yellowtail flounder fishery shall use or attempt to use from any vessel for which a license is in force a cod end of manila or of the trade named twines under the chemical category of polypropylene having a mesh size as defined in this section of less than 5⅛ inches (130 mm.). No person shall possess at any time on board a vessel for which a license is in force a cod end having a mesh size less than that specified in this subparagraph.

(b) As used in this section, the term "mesh size" shall mean:

(1) With respect to any part of the net except the cod end; the average of the measurements of any 20 consecutive meshes in any row located at least 10 meshes from the side lacings measured when wet after use.

(2) With respect to the cod end, the average of the measurements of any 20 consecutive meshes running parallel to the long axis of the cod end, beginning at the after end of the cod end, and being at least 10 meshes from the side lacings or, the average of the measurements of the meshes in any series of consecutive meshes, running the full length of the cod end, parallel to the long axis of the cod end and located at least 10 meshes from the side lacings such measurements of the cod end to be made when wet after use, or, at the option of the user, a cod end for use in specified subareas, which, has been approved, in accordance with paragraph (e) of this section, by an authorized employee of the National Marine Fisheries Service as having a mesh size when dry before use equivalent to not less than that required by this section for such a cod end when measured wet after use.

(c) All measurements of meshes shall be made by the insertion into the meshes under a pressure or pull of 5.0 kilograms (11.0 pounds.) of a flat, wedge-shaped gauge having a taper of 2 centimeters in 8 centimeters and a thickness of 2.3 millimeters.

(d) Mesh size differentials to be used in determining the selectivity equivalent of different trawl net materials including both the body of the net and the cod end shall apply as follows:

(1) In Subarea 1 in relation to 5⅛-inch (130 mm.) mesh size:

(i) Such part of any trawl net as is made of cotton, hemp, polyamide (Nylon) or polyester (Dacron) fibers: 4¾ inches (120 mm.).

(ii) Such part of any trawl net as is made of manilla polypropylene (Ulstron, Courlene, Drumfil) or any other material

not mentioned above: 5⅛ inches (130 mm.).

(2) In Subareas 2, 3, 4, and 5 in relation to 4½-inch (114 mm.) mesh size:

(i) Such part of any trawl net as is made of cotton, hemp, polyamide (Nylon) or polyester (Dacron) fibers 4⅛ inches (105 mm.).

(ii) Such part of any trawl net as is made of manila polypropylene (Ulstron, Courlene, Drumfil) or any other material not mentioned above: 4½ inches (114 mm.).

(3) In Subarea 5 in relation to 5⅛-inch (130 mm.) mesh size:

(i) Cod end as is made of cotton, hemp, polyamide (Nylon) or polyester (Dacron) fibers: 4¾ inches (120 mm.).

(e) For the purpose of approving a dry cod end before use, as contemplated by paragraph (b) of this section, the average mesh size of such cod end shall be determined by measuring the length of any single row of meshes running the length of the cod end, parallel to the long axis of the cod end and located at least 10 meshes from the side lacings, when stretched under a tension of 200 pounds, and dividing the length by the number of meshes in such row: *Provided*, That not more than 10 percent of the meshes in such row shall be more than one-half inch (13 mm.) smaller when measured between knot centers than the average of the row. A cod end so measured which is constructed of one of the twines and is of not less than the average mesh size specified in the table below for such twine may be approved for fishing for the regulated species in Subareas 2, 3, 4, and 5 by any authorized employee of the National Marine Fisheries Service by the attachment to such cod end of an appropriate seal.

Types of twine	Manufacturer's specifications	Average mesh size
Manilla, double strand:		
4-ply 45-yard		5.625 inches (5⅝″).
4-ply 50-yard		5.625 inches (5⅝″).
4-ply 75-yard		5.625 inches (5⅝″).
4-ply 80-yard		5.500 inches (5½″).
Westerbeke No. 2 Nylon Braid, 100% Nylon Braid.	Linear density, 38.89 yards/lb. Picks/inch, 9.0. Carriers, 16. Ends/carrier, 3. Total ends, 48. 840 denier/140 filament 2 ply. 12.1 T.P.I. of "Z" twist in singles. 9.9 T.P.I. of "S" twist in 2 ply.	4.6875 inches (4 11/16″).

(f) The alteration, defacement, or reuse of any seal affixed to a cod end in accordance with this section is prohibited.

(g) The repair, alteration, or other modification of a cod end to which a seal has been affixed in accordance with this section shall invalidate such seal and such cod end shall not thereafter be deemed to be approved for fishing for the regulated species. Nothing contained in this paragraph shall preclude the continued use at the option of the user of a cod end having an invalidated seal affixed thereto if such cod end after repair, alteration, or other modification does not have a mesh size of less than that defined in paragraph (b) of this section for such a cod end when measured wet after use.

(h) The use in fishing for the regulated species within the regulatory area of any device or method which will obstruct the meshes of the trawl net of which otherwise will have the effect of diminishing the size of said meshes is prohibited: *Provided*, That a protective covering of canvas, netting, or other material may be attached to the underside of the cod end only of the net to reduce and prevent damage, and a rectangular piece or pieces of netting may be attached to the upper side of the cod end only of the net to reduce and prevent damage, so long as the netting attached to the upper side of the cod end conforms to the specifications of either the "ICNAF-type chafer," the "multiple flap-type chafer," or the "Polish-type chafer" as described below. For the purposes of this paragraph, the required mesh size when measured wet after use shall be deemed to be the average of the measurements of 20 consecutive meshes in a series across the netting, such measurements to be made as specified in paragraph (c) of this section. Within the regulatory area, the "ICNAF-type chafer" may be used in any subarea; the "multiple flap-type chafer" and the "Polish-type chafer" may be used in any subarea other than Subarea 5. Specifications of each type of chafer are as follows:

(1) *ICNAF (single piece) type chafer.* (i) The width of the netting shall be at least 1½ times the width of the area of the cod end which is covered, such widths to be measured at right angles to the long axis of the cod end.

(ii) Such netting may be fastened to the cod end of the trawl net only along the forward and lateral edges of the netting and at no other place in the netting.

(iii) On cod ends having a splitting strap, the netting shall be fastened in such a manner that it extends forward of the splitting strap no more than four meshes and ends not less than four meshes in front of the cod line mesh.

(iv) On cod ends not having a splitting strap, the netting shall not extend to more than one-third the length of the cod end measured from not less than four meshes in front of the cod line mesh.

(v) The netting shall not have a mesh size less than that specified in this section for the cod end to which it is attached.

(2) *Multiple flap-type chafer.* (i) Each piece of netting shall not exceed 10 meshes in length; each shall be at least the width of the cod end, such width being measured at right angles to the long axis of the cod end at the point of attachment; each shall be fastened by its forward edge only across the cod end at right angles to its long axis.

(ii) The aggregate length of all the pieces of netting shall not exceed two-thirds the length of the cod end.

(iii) The netting shall not have a mesh size less than that specified in this section for the cod end to which it is attached.

(3) *Polish-type chafer.* (i) The rectangular piece of netting attached to the upper side of the cod end shall have a mesh size at least twice as large as that specified in this section for the cod end to which it is attached and shall have a width the same as that for the cod end.

(ii) It shall be fastened to the cod end only along the forward, lateral, and rear edges of the netting so that the meshes exactly overlay the meshes of the cod end.

(iii) The netting shall be the same twine material and size as that of the cod end.

§ 240.4 Temporary suspension of licenses.

(a) The owner or operator of any fishing vessel which is proposed to be used in fishing beyond the limits of the regulatory area or is proposed to be used in fishing within such area for species of fish other than those indicated in § 240.1(c) may obtain a temporary suspension of the license issued for such vessel for the specified period during which such nonregulated fishing is to be conducted.

(b) Temporary suspension of license shall be granted upon oral or written request, specifying the period of suspension desired, by an authorized officer of the State of Maine or of the State of Massachusetts or by an authorized officer of any one of the following agencies: The National Marine Fisheries Service, Coast Guard, Bureau of Customs, Post Office Department. Such officer shall make appropriate endorsement on the license evidencing the duration of its suspension.

§ 240.5 Certain persons and vessels exempted.

Except as otherwise provided in this section, nothing contained in §§ 240.2(b) to 240.4 shall apply to the following: *Provided*, That during any closed period under § 240.8(a), the exemptions provided for haddock and yellowtail flounder under paragraphs (c) and (d) of this section shall automatically be suspended:

(a) Any person or vessel authorized by the Secretary of Commerce to engage in fishing for scientific purposes for those species listed in § 240.1(c).

(b) Any vessel permanently documented as a common carrier by the Government of the United States and engaged exclusively in the carriage of freight and passengers.

(c) Any person who in the course of fishing in Subareas 3, 4, or 5 for nonregulated species takes and possesses a

quantity of cod, haddock, yellowtail flounder, and of the other regulated species in aggregate, not to exceed 5,000 pounds for each or 10 percent by weight for each, whichever is the greater amount, of all fish on board the vessel taken in the subarea where fishing was conducted. The exemption provided in this paragraph shall apply separately in Subareas 3, 4, and 5.

(d) Any person who, while engaged in fishing for nonregulated species within Subareas 3, 4, or 5, does not take in any period of 12 months the regulated species in quantities in excess of 10 percent by weight for each of cod, haddock, yellowtail flounder, and the aggregate of the other listed species in § 240.1(c), of all the trawl-caught fish taken by such person within such period of 12 months in each subarea. Any such person desiring to avail himself of the exemption provided for this paragraph shall obtain a license for exemption and shall comply with the following conditions:

(1) The owner or operator of a fishing vessel proposed to be operated under the exemption authorized in this paragraph may obtain without charge an exemption by furnishing on a form to be supplied by the National Marine Fisheries Service information specifying the name and address of the owner and operator of the vessel and the name, official number, and the home port of the vessel. The application form shall be submitted, in duplicate, to the Regional Director, National Marine Fisheries Service, Gloucester, Mass., who shall grant an exemption valid for the calendar year. The exemption shall authorize during this period the use of the vessel for which issued, in the taking of the regulated species within the regulatory area without regard to restrictions on fishing gear imposed, respectively, by §§ 240.2 and 240.3 provided:

(i) The vessel and its fishing gear are not used to take the regulated species within Subareas 3, 4, or 5 in quantities in excess of 10 percent by weight for each of cod, haddock and yellowtail flounder and the aggregate of the other regulated species, of all the trawl-caught fish taken by means of such vessel during the period covered by the exemption.

(ii) The 10 percent exemption for each of cod, haddock, and yellowtail flounder and the aggregate of the other regulated species shall be computed separately for each subarea by the weight of all fish caught within the same subarea.

(2) Duplicate exemptions shall be issued to replace lost or mutilated exemptions.

(3) An application for renewal of an expiring exemption shall be made in like manner as the original application not later than 15 days prior to the expiration date of the expiring exemption.

(4) No renewal shall be granted if it is determined by said Regional Director that the fishing vessel for which a renewal is sought was used to take quantities of regulated species in excess of the allowable percentages during the period covered by the expiring exemption.

(5) The license issued by the National Marine Fisheries Service shall be carried at all times on board the vessel for which it is issued.

(6) The owner or operator of a fishing vessel for which a license is in force shall furnish on a form supplied by the National Marine Fisheries Service, immediately following the delivery or sale of a catch of fish made by means of such vessel, a report,[1] certified, to be correct by the owner or operator, listing separately by species and weight the total quantities of all fish sold or delivered. Failure to submit a certified report pertaining to the catches of fish as required by this subparagraph shall be cause for the Regional Director to revoke the license issued under this paragraph.

(7) The owner or operator of a fishing vessel for which an exemption is in force, who proposes to use such vessel in fishing primarily for the regulated species during any period of time within the period covered by the exemption may obtain a temporary suspension of such exemption in like manner as provided in § 240.4 and may make application to engage in fishing for the regulated species under a license as provided in § 240.2. Any of the regulated species taken by means of a vessel for which a license is in force and by means of fishing for the regulated species conducted in conformity with the restrictions on fishing gear prescribed by § 240.3, shall be excluded from the total of all trawl-caught fish taken during the applicable period when computing the ratio of the regulated species to the trawl-caught fish taken during such periods. For the purposes of computing the quantities of the regulated species so to be excluded, the owner or operator of a fishing vessel covered by a suspended exemption and taking the regulated species while operating under a license shall submit catch reports in like manner as provided in subparagraph (6) of this paragraph.

§ 240.6 Catch limits.

(a) An annual limitation is placed on the quantity of haddock permitted to be taken from Division 4X of Subarea 4 and Subarea 5 by the fishing vessels of all contracting governments participating in the fishery in each year during 1971 and 1972.

(1) The annual catch in Subarea 4, Division 4X, shall not exceed 18,000 metric tons (round, fresh weight).

(2) The annual catch in Subarea 5 shall not exceed 12,000 metric tons (round, fresh weight).

(b) An annual limitation of 29,000 metric tons (63,945,000 pounds) is placed on yellowtail flounder taken by fishing vessels of contracting governments in 1971.

(1) The annual catch (landings plus discards) of yellowtail flounder in Subarea 5 from the area east of 69°00′ west longitude shall not exceed 16,000 metric tons (35,280,000 pounds). For the purpose of the U.S. yellowtail flounder fishery, the following quarterly catch quotas will be effective:

January 1–March 31—1,900 metric tons.
April 1–June 30—3,800 metric tons.
July 1–September 30—4,400 metric tons.
October 1–December 31—1,200 metric tons.

(2) The annual catch (landings plus discards) of yellowtail flounder in Subarea 5 from the area west of 69°00′ west longitude shall not exceed 13,000 metric tons (23,665,000 pounds). For the purpose of the U.S. yellowtail flounder fishery, the following quarterly catch quotas will be effective:

January 1–March 31—2,600 metric tons.
April 1–June 30—1,400 metric tons.
July 1–September 30—1,850 metric tons.
October 1–December 31—1,000 metric tons.

(3) The Director by notice in the FEDERAL REGISTER may adjust by addition or subtraction the quotas for any of the quarters.

§ 240.7 Open season.

(a) The open season for haddock fishing in Division 4X of Subarea 4, and Subarea 5 shall begin annually at 0001 hours of the 1st day of January and terminate at a time and a date to be determined and announced as provided in § 240.8: *Provided*, That the areas described in § 240.8 shall be closed to the use of gear capable of catching demersal species including any otter trawl gear or similar devices, hook and line, or gill net, from 0001 hours, March 1, to 2400 hours April 30, during the years 1971 and 1972.

(b) The open season for yellowtail flounder fishing in Subarea 5 in 1971 shall begin at 0001 hours local time on the first day of January, April, July, and October, and terminate at a time and date to be determined. The Director of the National Marine Fisheries Service shall announce the time and date of each closure as provided in § 240.8(a)(4).

§ 240.8 Closed seasons and areas.

(a) The Executive Secretary of the International Commission for the Northwest Atlantic Fisheries maintains records of the catches of regulated species made in Division 4X of Subarea 4 and Subarea 5 during the open season by the vessels of all contracting governments participating in the fishery.

(1) He shall notify each contracting government of the date on which accumulative landings of haddock in Division 4X of Subarea 4 and Subarea 5 equal 80 percent of the catch limits described in § 240.6(a)(1) and (2).

(2) He shall notify each contracting government when the accumulative catch (landings plus discards) of yellowtail flounder in Subarea 5 in either the area east of 69°00′ west longitude or west of

[1] 18 U.S.C. 1001 provides that whoever, in any matter within the jurisdiction of any department or agency of the United States knowingly and willfully falsifies, conceals, or covers up by any trick, scheme, or device a material fact, or makes any false, fictitious, or fraudulent statements or representations, or makes or uses any false writing or document knowing the same to contain any false, fictitious, or fraudulent statement or entry, shall be fined not more than $10,000 or imprisoned not more than 5 years, or both.

69°00′ west longitude equal 80 percent of the annual catch limits for each such area, described in § 240.6(b)-(1) and (2).

(3) The Director of the National Marine Fisheries Service shall announce the closure date for the entire season within 10 days of the receipt of such notification from the Executive Secretary. Such announcement of the season closure dates shall be made by publication in the FEDERAL REGISTER. The closure date so announced shall be final except that if the Executive Secretary determines that the original notification has been affected by changed circumstances, he may substitute a further notification and the Service Director may in like manner announce a new season closure date.

(4) The Director of the National Marine Fisheries Service shall announce the closing time and date of the first, second, and third quarters when he has made a determination from catch data and catch rates that the accumulative catch (landings plus discards) of yellowtail flounder in Subarea 5 in either area (east or west of 69°00′ west longitude) will equal the quarterly quota as described in § 240.6(b)(1) and (2). Such announcement shall be made by publication in the FEDERAL REGISTER. Closure of the yellowtail flounder season when the total annual catch is reached will be in accordance with the procedures set forth in subparagraph (3) of this paragraph.

(b) It shall be unlawful for any fishing vessel to use, during the period from 0001 hours, March 1 to 2400 hours, April 30 in the years 1971, and 1972 fishing gear capable of catching demersal species, including any otter trawl gear or similar devices, hook and line, or gill net; in the following areas:

(1) Division 4X of Subarea 4. The area that lies between 42°00′ north latitude and 43°00′ north latitude and between 67°00′ west longitude and 64°30′ west longitude.

(2) Subarea 5, two areas bounded by lines connecting the following coordinates.

(i) 70°00′ west longitude, 42°10′ north latitude; 69°10′ west longitude, 41°10′ north latitude; 68°30′ west longitude, 41° 35′ north latitude; 69°20′ west longitude, 42°30′ north latitude.

(ii) 67°00′ west longitude, 42°20′ north latitude; 67°00′ west longitude, 41°15′ north latitude; 65°40′ west longitude, 41° 15′ north latitude; 65°40′ west longitude, 42°00′ north latitude; 66°00′ west longitude, 42°20′ north latitude.

(c) It shall be unlawful for any person to fish for or possess on board any fishing vessel red hake *Urophycis chuss* (Walb.) and silver hake. *Merluccius bilinearis* (Mitch.) during the period January 1 to March 31, 1971, and 1972, in the area bounded by the coordinates 69° 00′ west longitude and 71°40′ west longitude and 39°50′ north latitude and 40°20′ north latitude: *Provided*, That during this period vessels fishing for other species of fin fish, crustacea, or mollusks may take on each trip during which they fish in the said area red and silver hake in amounts not to exceed 10 percent each of the total catch by weight in the said area on each trip.

§ 240.9 Restrictions applicable to fishing vessels.

(a) Except as provided in paragraphs (b), (c), and (d) of this section, after the dates announced in the manner provided in § 240.8 for the closing of the haddock fishing seasons in Division 4X of Subarea 4 and Subarea 5, it shall be unlawful for any master or other person in charge of a fishing vessel to possess haddock on board such vessel in those areas or to land haddock taken in those areas in any port or place until the haddock fishing season reopens on January 1 next following the close of the season.

(b) Any master or other person in charge of a fishing vessel which has departed port to engage in haddock fishing prior to the date of closure of the haddock fishing season in Division 4X of Subarea 4 may continue to take and retain haddock in Division 4X of Subarea 4 without restriction as to quantity until the fishing voyage has been completed by unloading from such fishing vessel the whole or any part of the cargo of haddock or other groundfish, but in no case may the trip extend more than 10 days after the closure date.

(c) Any master or other person in charge of a fishing vessel which has departed port to engage in haddock fishing prior to the date of closure of the haddock fishing season in Subarea 5 may continue to take and retain haddock in Subarea 5 without restriction as to quantity until the fishing voyage has been completed by unloading from such fishing vessel the whole or any part of the cargo of haddock or other groundfish taken during such voyage; but in no case may the trip extend more than 10 days after the closure date.

(d) Any master or other person in charge of a fishing vessel which has departed port after the date of closure of the haddock season in Division 4X of Subarea 4 or Subarea 5 may possess on board such vessel and land in any port or place haddock taken as an incident to fishing for other species, but in no event shall the haddock permitted to be possessed or landed by such vessels exceed ten percent (10%) by weight, of all other fish on board.

(e) The limitation on the quantity of incidentally caught haddock specified in paragraph (d) of this section shall be applied to any fishing vessel irrespective of its arrival in port prior or subsequent to December 31, in every case where the catch of haddock has been made during a fishing voyage begun in the closed season.

(f) Except as provided in paragraphs (g) and (h) of this section, after the dates announced in the manner provided in § 240.8(a) for the closing of the yellowtail flounder fishing season or seasons, it shall be unlawful for any master or other person in charge of a fishing vessel to possess yellowtail flounder in the regulatory areas or to land yellowtail flounder taken in those areas in any port or place until the next succeeding open season for yellowtail flounder.

(g) Notwithstanding the provisions in paragraph (f) of this section, any master or other person in charge of a fishing vessel which has departed port to engage in the yellowtail flounder fishery prior to the date of closure of any yellowtail flounder fishing season in Subarea 5 may continue to take and retain yellowtail flounder without restriction as to quantity, but in no case may the trip extend more than 5 days after the closure date.

(h) Any master or other person in charge of a fishing vessel which has departed port after the date of closure of the yellowtail flounder season may possess and land in any port or place yellowtail flounder taken as incidental to fishing for other species, but in no event shall the yellowtail flounder permitted to be possessed or landed by such vessel to exceed not more than 5,000 pounds or 10 percent by weight, of all other fish on board caught in the closed area.

(i) Any master or other person in charge of a fishing vessel which has departed port after the date of closure in any quarter shall be limited to the quantity specified in paragraph (h) of this section regardless of the vessel's date of arrival in port.

(j) The limitation on the quantity of incidentally caught yellowtail flounder specified in paragraph (i) of this section shall be applied to any fishing vessel irrespective of its arrival in port prior or subsequent to December 31 in every case where the catch of yellowtail flounder has been made during a fishing voyage begun in the closed season.

§ 240.10 Reports and recordkeeping.

(a) All persons, firms, or corporations that shall buy from fishing vessels or from other U.S.-flag vessels or from a carrier licensed as a common carrier engaged in either interstate or intrastate commerce, haddock or yellowtail flounder or any other species of finfish taken within the Convention area by a fishing vessel of the United States, shall keep and shall furnish to an authorized officer of the National Marine Fisheries Service, within 72 hours of sale, records of each purchase.

(1) The statistical return must be full and correct in all respects.

(2) The possession by any person, firm or corporation of haddock or yellowtail flounder which such person, firm, or corporation knows to have been taken by a vessel of the United States without a valid license is prohibited.

(b) The master or operator of any fishing vessel holding a license under the regulations of this part shall keep on forms furnished by the Service an accurate log of fishing operations showing date, type, and size of mesh of otter trawl or gill net, locality fished, duration of fishing time or tow, and the estimated poundage of each specie taken at each retrieval of the fishing gear to be recorded once during each watch. Such logs shall be available for inspection by authorized officers of the Government of of the United States. At the conclusion of each fishing trip, the duplicate log

sheet shall be delivered to an authorized officer of the Government of the United States.

(c) For the purpose of inspection representatives of the Service, shall have at all times free and unobstructed access to any area on board a fishing vessel, transport vessel, or shore facility where fish are landed, handled, stored, or processed and to areas where fishing gear or parts of fishing gear are used, assembled, or stored.

[F.R. Doc. 71-134; Filed, Jan. 5, 1971; 8:49 a.m.]

Proposed Rule Making

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

[14 CFR Parts 71, 75]

[Airspace Docket No. 68-WA-3]

POSITIVE CONTROL AREA

Proposed Alteration; Supplemental Notice

On April 4, 1968 (33 F.R. 5366), the Federal Aviation Administration published a notice of proposed rule making that proposed to amend Parts 71 and 75 of the Federal Aviation Regulations to expand the positive control area from flight level 600 to 18,000 feet MSL in the north central and northwest portions of the United States and to revoke Jet Advisory Areas Nos. 32, 36, 38, 107, 500, 515, 532, 533, and 538.

Several comments received in response to the notice contended that expansion of the positive control area at that time would place an undue burden on the work force and that additional qualified air traffic controllers and additional equipment should be acquired prior to expanding the airspace to be controlled. The Department of the Air Force objected to the establishment of positive control area on the grounds that procedural separation of aircraft, without radar and the loss of prerogative to revert to VFR flight operations when delays are encountered, would have an undesirable impact on military operations. In view of the objections, issuance of the rule was deferred indefinitely.

While a radar environment, although desirable, has never been a requirement of positive control airspace, the Federal Aviation Administration has determined that it now has sufficient equipment and qualified personnel to provide positive control services as envisaged in the Notice. Accordingly, this supplemental notice of proposed rule making proposes to amend Parts 71 and 75 in the manner set out in the original notice (33 F.R. 5366).

Interested persons are invited to participate in the making of the proposed rule by submitting such written data, views, or arguments as they may desire. Communications should identify the airspace docket number and be submitted in triplicate to the Federal Aviation Administration, Office of the General Counsel, Attention: Rules Docket, 800 Independence Avenue SW., Washington, D.C. 20590. All communications received within 30 days after publication of this notice in the FEDERAL REGISTER will be considered by the Administrator before taking action on the proposed rule. The proposal contained in this notice may be changed in light of comments received. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons.

Area Positive Control (APC) is presently designated throughout most of the United States as that part of continental control area between flight level 240 and flight level 600. In a rule, adopted November 9, 1967, Airspace Docket No. 67-WA-16 (32 F.R. 13270), the vertical limits of the APC were lowered to 18,000 feet MSL in the northeast and part of north central United States.

In the notice of proposd rule making preceding the above rule (32 F.R. 7219), it was stated that "see and avoid" type separation as provided by pilots themselves while operating in accordance with Visual Flight Rules (VFR) is increasingly less effective as closure speeds increase since aircraft can now be upon each other before pilots can detect other aircraft and maneuver to avoid collision. Designation of this stratum as area positive control would largely replace "see and avoid" separation with detection and control by radar. This would eliminate the inherent limitations of the human eye and human reaction which limit application of "see and avoid" type separation.

It was further stated that separate actions to lower the floor of the positive control area in other sections of the country may be proposed as the FAA attains the capability to provide positive control service therein. The FAA has determined that it now has the capability to provide positive control service in the remaining north central and northwestern portions of the United States.

The requirement for Jet Advisory Areas Nos. 32, 36, 38, 107, 500, 515, 532, 533, and 538 would no longer exist as Jet Advisory Areas are not included in airspace designated as positive control area.

The action proposed herein would designate as positive control area that airspace within the continental control area from 18,000 feet MSL up to flight level 600 bounded by a line beginning on the United States/Canadian border at:

Lat. 49°00'00" N., long. 100°00'00" W.; thence along United States/Canadian border to lat. 47°40'40" N., long. 86°46'00" W.; thence to lat. 46°42'00" N., long. 89°45'00" W.; thence to lat. 47°35'30" N., long. 91°19'00" W.; thence to lat. 47°33'00" N., long. 92°19'00" W.; thence to lat. 46°27'30" N., long. 95°35'00" W.; thence to lat. 46°07'30" N., long. 96°47'30" W.; thence to lat. 45°40'20" N., long. 98°20'40" W.; thence to lat. 46°14'00" N., long. 100°00'00" W.; thence to point of beginning,

and designate as positive control area that airspace within the continental control area from 18,000 feet MSL to flight level 240 bounded by a line beginning at:

Lat. 48°30'00" N., long. 124°45'00" W.; thence along United States/Canadian border to lat. 49°00'00" N., long. 100°00'00" W.; thence to lat. 46°14'00" N., long. 100°00'00" W.; thence to lat. 45°40'20" N., long. 98°20'40" W.; thence to lat. 46°07'30" N., long. 96°47'30" W.; thence to lat. 46°27'30" N., long. 95°35'00" W.; thence to lat. 47°33'00" N., long. 92°19'00" W.; thence to lat. 47°35'30" N., long. 91°19'00" W.; thence to lat. 46°42'00" N., long. 89°45'00" W.; thence to lat. 47°40'40" N., long. 86°46'00" W.; thence along United States/Canadian border to lat. 43°52'00" N., long. 82°11'20" W.; thence to lat. 43°52'00" N., long. 84°10'00" W.; thence to lat. 44°04'00" N., long. 85°00'00" W.; thence to lat. 44°50'00" N., long. 88°00'00" W.; thence to lat. 45°10'00" N., long. 88°35'30" W.; thence to lat. 45°34'30" N., long. 89°18'00" W.; thence to lat. 44°57'45" N., long 90°01'30" W.; thence to lat. 46°17'45" N., long. 93°50'00" W.; thence to lat. 45°54'00" N., long. 95°29'00" W.; thence to lat. 43°04'30" N., long. 95°37'00" W.; thence to lat. 43°00'00" N., long. 96°43'00" W.; thence to lat. 43°16'30" N., long. 97°01'45" W.; thence to lat. 42°20'00" N., long. 98°34'00" W.; thence to lat. 42°08'15" N., long. 99°01'15" W.; thence to lat. 43°30'00" N., long. 99°00'00" W.; thence to lat. 43°30'00" N., long. 100°26'00" W.; thence to lat. 44°20'00" N., long. 101°00'00" W.; thence to lat. 44°37'00" N., long. 101°00'00" W.; thence to lat. 45°07'00" N., long. 104°15'00" W.; thence to lat. 45°14'15" N., long. 106°00'00" W.; thence to lat. 45°20'00" N., long. 107°45'00" W.; thence to lat. 45°20'00" N., long. 115°00'00" W.; thence to lat. 45°30'00" N., long. 115°00'00" W.; thence to lat. 45°30'00" N., long. 117°30'00" W.; thence to lat. 44°37'00" N., long. 119°21'00" W.; thence to lat. 44°28'00" N., long. 119°24'00" W.; thence to lat. 43°30'00" N., long. 119°35'00" W.; thence to lat. 42°40'00" N., long. 119°00'00" W.; thence to lat. 41°00'00" N., long. 119°30'00" W.; thence to lat. 41°00'00" N., long. 121°15'00" W.; thence to lat 41°20'00" N., long. 122°25'00" W.; thence to lat. 41°20'00" N., long. 123°30'00" W.; thence to lat. 41°19'30" N., long. 124°08'55" W.; thence via a line 3 nautical miles from the coastline to point of beginning.

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

Issued in Washington, D.C., on December 28, 1970.

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

[F.R. Doc. 71-142; Filed, Jan. 5, 1971; 8:49 a.m.]

National Highway Safety Bureau

[49 CFR Part 571]

[Docket No. 2–6; Notice 4]

ROOF INTRUSION PROTECTION FOR PASSENGER CARS

Proposed Motor Vehicle Safety Standard

The purpose of this notice is to propose a motor vehicle safety standard that would establish minimum strength requirements for a passenger car roof to reduce the likelihood of roof collapse in a rollover accident. An advance notice of rule making on the general subject of intrusion from exterior impact, including roof intrusion, was published on October 13, 1967 (32 F.R. 14278; Docket No. 2–6).

The strength of a vehicle's roof has an evident bearing on the integrity of the passenger compartment in a rollover-type accident and consequently on the safety of the occupants. When applied to 1969 accident data, the analysis developed in a recent study indicates that approximately 1,400 motor vehicle occupants were killed in that year by impact with roof structure in rollover accidents. Roof intrusion would have been sufficient in many of the cases for the roof to have struck the head of a properly restrained occupant. The benefits of occupant restraint are negated if the passenger compartment collapses in this fashion, and it is therefore important that minimum roof strength requirements be established.

The proposed standard would establish requirements for the forward portion of the roof. This is the area of the roof most likely to sustain severe damage, particularly for front-engine passenger cars. In addition, the front seats are more frequently occupied than the rear seats, and tend to be more dangerous in a crash.

The resistance of the roof to intrusion is determined by a static test, in which a force of 1½ times the empty weight of the vehicle or 5,000 pounds, whichever is less, is gradually applied to the roof in the vicinity of the "A" pillar. The force is applied by a flat test device at a 25° roll angle and 10° pitch angle to simulate the direction of forces that can be encountered in a rollover. During the test, the roof may show no more than 5 inches of intrusion, as measured by the movement of the test device.

Proposed effective date: January 1, 1973.

In consideration of the above, it is proposed that a standard on roof intrusion protection be issued as set forth below. Comments are invited on the proposal, particularly on the lead time required for compliance. Comments should identify the docket number and be submitted to: Docket Section, National Highway Safety Bureau, Room 4223, 400 Seventh Street SW., Washington, DC 20591. It is requested, but not required, that 10 copies be submitted.

All comments received before the close of business on April 5, 1971, will be considered, and will be available for examination in the Rules Docket at the above address both before and after the closing date. To the extent possible, comments filed after the above date will also be considered by the Bureau. However, the rule making action may proceed at any time after that date, and comments received after the closing date and too late for consideration in regard to the action will be treated as suggestions for future rule making. The Bureau will continue to file relevant material, as it becomes available, in the docket after the closing date, and it is recommended that interested persons continue to examine the docket for new materials.

This notice of proposed rule making is issued under the authority of sections 103 and 119 of the National Traffic and Motor Vehicle Safety Act of 1966, 15 U.S.C. 1392, 1407, and the delegations of authority at 49 CFR 1.51 (35 F.R. 4955) and 49 CFR 501.8 (35 F.R. 11126).

Issued on December 28, 1970.

RODOLFO A. DIAZ,
Acting Associate Director,
Motor Vehicle Programs.

§ 571.21 Federal motor vehicle safety standards.

* * * * *

ROOF INTRUSION PROTECTION—PASSENGER CARS

S1. *Scope.* This standard establishes strength requirements, under compressive forces such as those likely to be experienced in a rollover accident, for the forward portion of the passenger compartment roof.

S2. *Purpose.* The purpose of this standard is to reduce deaths and injuries due to the intrusion of the roof into the passenger compartment in rollover accidents.

S3. *Application.* This standard applies to passenger cars.

S4. *Requirements.* A test device as described in S5. shall not move more than 5 inches, measured in accordance with S6.4, when it is used to apply a force of 1½ times the empty weight of the vehicle or 5,000 pounds, whichever is less, to each side of a vehicle's roof in accordance with the procedures of S6.

S5. *Test device.* The test device is a rigid, unyielding block with its lower surface formed as a flat square 12 inches on a side, and padded to a uniform depth of 2 inches. The padding is of such a stiffness that when the center of the padded surface is statically depressed 1 inch by a rigid disc 4 inches in diameter, the resistance offered by the padding is between 675 and 725 pounds.

S6. *Test procedures.* Each vehicle shall meet the requirements of S4. when tested in accordance with the following procedure.

S6.1 Place the sills or the chassis frame of the vehicle on a rigid horizontal surface, fix the vehicle rigidly in position, and close and lock all doors.

S6.2 Orient the test device as shown in Figure 1, so that its lower surface—

(a) Is at a forward (side view) angle of 10° below the horizontal;

(b) Is at a lateral (front view) outboard angle of 25° below the horizontal;

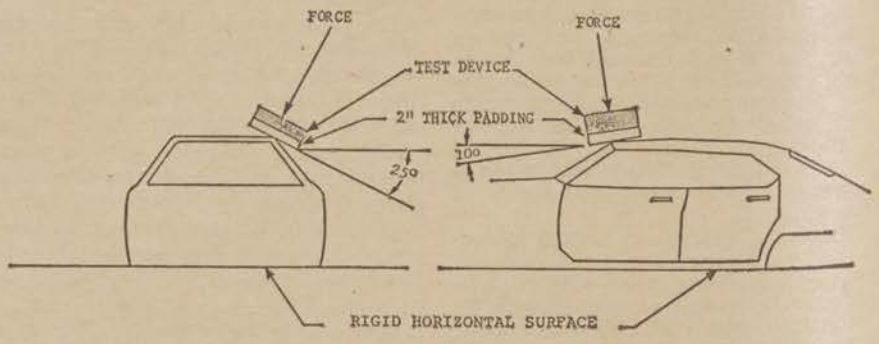
(c) Has two edges parallel to the vertical plane through the vehicle's longitudinal centerline; and

(d) At its center, is tangent to the surface of the vehicle.

S6.3 Apply force in a downward direction perpendicular to the rigid lower surface of the test device at a rate of not more than 200 pounds per second until reaching a force of 1½ times the empty weight of the tested vehicle or 5,000 pounds, whichever is less. Guide the test device so that throughout the test it moves in a straight line with its rigid lower surface oriented as shown in Figure 1.

S6.4 Measure the distance that the test device moves, i.e., the distance between the location of the rigid portion of the test device as the maximum force level is reached and its original location.

S6.5 Repeat the test on the other front corner of the roof of the vehicle.



TEST DEVICE LOCATION AND APPLICATION TO THE ROOF

FIGURE 1

[F.R. Doc. 71–7; Filed, Jan. 5, 1971; 8:45 a.m.]

DEPARTMENT OF THE INTERIOR

National Park Service

[36 CFR Part 2]

PUBLIC USE AND RECREATION

Scientific Specimens

Notice is hereby given that pursuant to the authority contained in section 3 of the Act of August 25, 1916 (39 Stat. 535, as amended; 16 U.S.C. 3), it is proposed to amend § 2.25 of Title 36 of the Code of Federal Regulations to add paragraph (a) as set forth below.

The purpose of the amendment is to implement the intent of section 3(a) and section 3(c) of Departmental regulations concerning preservation, use, and management of fish and wildlife resources (35 F.R. 14574, Sept. 17, 1970); to regulate the collection of renewable natural objects in conformity with other consumptive resource uses such as sport fishing and hunting; and to therefore insure that all collections of plant and animal specimens made pursuant to § 2.25 shall be in accordance with applicable State and Federal laws governing taking, possession and transportation of such specimens.

It is the policy of the Department of the Interior, whenever practicable to afford the public an opportunity to participate in the rulemaking process. Accordingly, interested persons may submit written comments, suggestions, or objections regarding the proposed amendment to the Director, National Park Service, Department of the Interior, Washington, D.C., within 30 days of the publication of this notice in the FEDERAL REGISTER.

Section 2.25 is amended to read as follows:

§ 2.25 **Scientific specimens.**

* * * * *

(e) The collection of plant and animal specimens, where permitted, shall be in conformity with all State and Federal laws governing the taking, possession and transportation of such specimens.

Dated: December 23, 1970.

GEORGE B. HARTZOG, JR.,
Director, National Park Service.

[F.R. Doc. 71-115; Filed, Jan. 5, 1971; 8:47 a.m.]

FEDERAL POWER COMMISSION

[18 CFR Part 154]

[Docket No. R-400]

LIMITATION ON PROVISIONS IN NATURAL GAS RATE SCHEDULES RELATING TO MINIMUM TAKE PROVISIONS

Notice of Postponement of Conference

DECEMBER 30, 1970.

On December 16, 1970, Southwest Gas Corp. filed a request that the conference set for January 6, 1971, by notice issued on December 7, 1970, be postponed.

Upon consideration, notice is hereby given that the conference in the above-designated matter is postponed until January 21, 1971, at 10 a.m. in Room 2043, in the Federal Power Commission, 441 G Street NW., Washington, DC.

KENNETH F. PLUMB,
Acting Secretary.

[F.R. Doc. 71-111; Filed, Jan. 5, 1971; 8:47 a.m.]

Notices

DEPARTMENT OF THE INTERIOR

National Park Service

ACADIA NATIONAL PARK

Notice of Intention To Negotiate Concession Permit

NOVEMBER 10, 1970.

Pursuant to the provisions of section 5 of the Act of October 9, 1965 (79 Stat. 969; U.S.C. 20), public notice is herby given that thirty (30) days after the date of publication of this notice, the Department of the Interior, through the Superintendent, Acadia National Park, Maine, proposes to negotiate a concession permit with Mr. William F. Tapley authorizing him to provide saddle horse and carriage hire service for the public at Acadia National Park, Maine, for the period of five (5) years from January 1, 1971, through December 31, 1975.

The foregoing concessioner has performed his obligations under the prior permit to the satisfaction of the National Park Service and, therefore, pursuant to the Act cited above, is entitled to be given preference in the negotiation of a new permit. However, under the Act cited above, the Secretary is also required to consider and evaluate all proposals received as a result of this notice. Any proposals to be considered and evaluated must be submitted within thirty (30) days of the publication date of this notice.

Interested parties should contact the Superintendent, Acadia National Park, Hulls Cove, ME 04644, for information concerning the requirements of the proposed permit.

Dated: November 10, 1970.

JOHN M. GOOD,
Superintendent.

[F.R. Doc. 71-29; Filed, Jan. 5, 1971; 8:45 a.m.]

GLACIER NATIONAL PARK

Notice of Intention To Issue Concession Permit

Pursuant to the provisions of section 5 of the Act of October 9, 1965 (79 Stat. 969; U.S.C. 20), public notice is hereby given that thirty (30) days after the date of publication of this notice, the Secretary of the Interior, through the Director of the National Park Service, proposes to issue a concession permit with the Whitefish Clinic authorizing it to provide concession facilities and services for the public at Glacier National Park, Mont., for a period of one (1) year from January 1, 1971 through December 31, 1971. The foregoing concessioner has performed its obligation under its current permit to the satisfaction of the National Park Service and, therefore, pursuant to the Act cited above is entitled to be given preference in the renewal of the permit and in the negotiation of a new permit. However, under the Act cited above, the Secretary is also required to consider and evaluate all proposals received as a result of this notice. Any proposal to be considered and evalauted must be submitted within thirty (30) days after the publication date of this notice.

Interested parties should contact the Superintendent, Glacier National Park, West Glacier, MT 59936 for information as to the requirements of the proposed permit.

Dated: December 1, 1970.

WILLIAM J. BRIGGLE,
Superintendent.

[F.R. Doc. 71-28; Filed, Jan. 5, 1971; 8:45 a.m.]

CERTAIN NATIONAL PARKS AND MONUMENTS

Notice of Intention To Extend Concession Contracts

Pursuant to the provisions of section 5 of the Act of October 9, 1965 (79 Stat. 969; 16 U.S.C. 20), public notice is hereby given that thirty (30) days after the date of publication of this notice, the Department of the Interior, through the Director of the National Park Service, proposes to extend the two concession contracts with Utah Parks Co., authorizing it to provide concession facilities and services for the public at Bryce Canyon, Grand Canyon (North Rim), and Zion National Parks, and Cedar Breaks National Monument, Utah and Arizona, for a period of one (1) year from January 1, 1971, through December 31, 1971. The foregoing concessioner has performed its obligations under the previous contracts to the satisfaction of the National Park Service, and therefore, pursuant to the Act cited above, is entitled to be given preference in the renewal of the contracts and in the negotiation of new contracts. However, under the Act cited above, the Secretary is also required to consider and evaluate all proposals received as a result of this notice. Any proposal to be considered and evaluated must be submitted within thirty (30) days after the publication date of this notice.

Interested parties should contact the Chief, Office of Concessions Management, National Park Service, Washington, D.C. 20240, for information as to the requirements of the proposed contracts.

THOMAS FLYNN,
Director, National Park Service.

[F.R. Doc. 71-114; Filed, Jan. 5, 1971; 8:47 a.m.]

NATIONAL REGISTER OF HISTORIC PLACES

Additions, Deletions, or Corrections

By notice in the FEDERAL REGISTER of February 3, 1970, Part II (pp. 2476-2496), there was published a list of the properties included in the National Register of Historic Places. This list has been amended by notices in the FEDERAL REGISTER on March 3 (pp. 4013-4014), April 7 (pp. 5635-5636), May 5 (pp. 7086-7087), June 3 (pp. 8600-8602), July 8 (pp. 10964-10966), August 4 (pp. 12416-12417), September 1 (pp. 13851-13852), October 6 (pp. 15653-15654), November 3 (pp. 16946-16947), and December 3 (pp. 18407-18409). Further notice is hereby given that certain amendments or revisions, in the nature of additions, deletions, or corrections to the previously published list are adopted as set out below.

It is the responsibility of all Federal agencies to take cognizance of the properties included in the National Register as herein amended and revised in accordance with section 106 of the National Historic Preservation Act of 1966, 80 Stat. 915, 16 U.S.C. 470.

The following boundary change has been made:

WASHINGTON

King County

Seattle, *Pike Place Market Historic District*, Bounded on the southwest by Western Avenue from the intersection of Pike Street to the northwesterly line of Lot 4, Block G; then northeast along this line to the centerline of Pike Place; then southeast along Pike Place to the northwesterly line of Lot 9, Block G; then northeast along this line and that of Lot 10 to 1st Avenue; then southeast on 1st Avenue to the southeasterly line of Lot 3, Block F; then southwest along this line to the alley in Block F; then northwest along the alley to the southeasterly line of Lot 1, Block F; then southwest to a line 83 feet northeast of and parallel to the center of Western Avenue then northwest along this line to the southeasterly line of Pike Street; then southwest along Pike Street to the beginning point.

The following properties have been added since December 3:

ALABAMA

Calhoun County

Jacksonville, *Francis, Dr. J. C., Office*, 100 Gayle Street.

Jefferson County

Birmingham, *Arlington (Mudd-Munger Home)*, 331 Cotton Avenue SW.

ARIZONA

Santa Cruz County

Tubac, *Old Tubac Schoolhouse.*
Tubac, *Tubac Presidio*, Broadway and River Road.

CALIFORNIA

Sacramento County

Sacramento, *California Governor's Mansion,* southwest corner of 16th and H Streets.

COLORADO

Clear Creek County

Georgetown and Silver Plume vicinity, *Georgetown Loop Railroad Roadbed,* between the city limits of Georgetown and Silver Plume.

Georgetown, *Toll House (Julius G. Pohle House),* south side of town adjacent to Interstate 70 right-of-way.

Jefferson County

Golden vicinity, *Mount Vernon House (Robert W. Steele House),* about 1 mile south of the Golden city limits at the junction of Interstate 70, Colorado 26, and Mount Vernon Canyon Road.

CONNECTICUT

New London County

New London, *Hempsted, Nathaniel, House (Old Huguenot House),* corner of Jay, Hempsted, Coit, and Truman Streets.

Windham County

Windham Center, *Hunt, Dr. Chester, Office,* Windham Center Road.

DELAWARE

Sussex County

Lewes, *Maull House,* 542 Pilottown Road.

GEORGIA

Fulton County

Atlanta, *Cyclorama of the Battle of Atlanta,* Cherokee Avenue, Grant Park.

Atlanta, *Smith, Tullie, House,* 3099 Andrews Drive NW.

ILLINOIS

Cook County

Chicago, *Monadnock Building,* 53 West Jackson Boulevard.

KANSAS

Doniphan County

Highland vicinity, *Iowa, Sac, and Fox Presbyterian Mission (Highland Presbyterian Mission),* 1.5 miles east of Highland on U.S. 36 and 0.2 mile north on K–136.

Geary County

Junction City vicinity, *First Territorial Capitol,* on K–18 in Fort Riley Military Reservation.

MINNESOTA

Chisago County

Taylors Falls, *Munch-Roos House,* 360 Bench Street.

Hennepin County

Minneapolis, *Atwater, Isaac, House,* 1607 South Fifth Street.

Morrison County

Little Falls vicinity, *Lindbergh, Charles A., State Park and Lindbergh House,* southwest of Little Falls on the Mississippi River.

Nicollet County

Fairfax, *Fort Ridgely,* Sec. 6, T. 113 N., R. 32 W.

St. Peter, *Cox, E. St. Julien, House,* 500 North Washington Avenue.

Winona County

Winona, *Winona County Courthouse,* Washington Street between Third and Fourth Streets.

MISSISSIPPI

Holmes County

Richland, *Eureka Masonic College,* on Mississippi 17.

MISSOURI

Cape Girardeau County

Oriole vicinity, *Trail of Tears State Park Archeological Site,* north of Oriole on the Mississippi River.

Cooper County

Wooldridge vicinity, *Wooldridge Archeological Site,* 0.5 mile northwest of Wooldridge.

Pemiscot County

Wardell vicinity, *Wallace, J. M., Archeological Site (Wardell Mounds),* 1 mile southwest of Wardell.

Saline County

Miami vicinity, *Guthrey Archeological Site,* 1.75 miles east-northeast of Miami.

Shelby County

Bethel, *Bethel Historic District,* Bounded on the north by a line parallel to and 322 feet north of Fourth Street; bounded on the east and west by lines parallel to and approximately equidistant (513 feet) from Main Street running south 1,930 feet to the southern boundary; bounded on the south by a line parallel to and 312 feet south of First Street.

Warren County

Marthasville vicinity, *Borgmann Mill,* 5 miles east of Marthasville on County Route D.

NEW JERSEY

Monmouth County

Highlands, *Twin Lights (Navesink Lighthouse),* south of New Jersey 36 on a promontory between the Navesink River and Sandy Hook Bay.

Morris County

Morristown, *Speedwell Village,* 333 Speedwell Avenue.

Somerset County

Somerville, *Wallace House,* 38 Washington Place.

NEW YORK

New York County

New York City, *New York Shakespeare Festival Public Theater (Astor Library),* 425 Lafayette Street.

Orange County

Newburgh, *Dutch Reformed Church,* northeast corner of Grand and Third Streets.

Rensselaer County

Troy, *Ilium Building,* northeast corner of Fulton and Fourth Streets.

NORTH CAROLINA

Beaufort County

Bath, *St. Thomas Episcopal Church,* Craven Street.

Wake County

Raleigh, *St. Mary's Chapel,* 900 Hillsborough Street.

OHIO

Auglaize County

Wapakoneta vicinity, *Fort Amanda Site,* 9 miles northwest of Wapakoneta on Ohio 198.

Brown County

Ripley, *Rankin, John, House.*

Carroll County

Carrollton, *McCook, Daniel, House,* Public Square.

Carrollton vicinity, *Petersburg Mill,* 4.3 miles south of Carrollton on Ohio 322.

Darke County

Fort Jefferson, *Fort Jefferson Site,* Ohio 121.

Fairfield County

Tarlton vicinity, *Tarlton Cross Mound,* 1 mile north of Tarlton off Ohio 159.

Franklin County

Columbus, *Campbell Mound,* McKinley Avenue, 0.5 mile south of Trabue Road.

Westerville, *Hanby House,* 160 West Main Street.

Gallia County

Gallipolis, *Our House,* 434 First Avenue.

Hamilton County

Cincinnati, *Stowe House,* 2950 Gilbert Avenue.

Montgomery, *Universalist Church Historic District,* Montgomery Road from 9433 north to Remington Avenue.

Mount Nebo, *William Henry Harrison Tomb,* Ohio 128.

Highland County

Hillsboro vicinity, *Fort Hill,* 18 miles southeast of Hillsboro on Ohio 41.

Jackson County

Coalton vicinity, *Leo Petroglyph,* 4 miles northwest of Coalton off U.S. 35.

Jackson vicinity, *Buckeye Furnace,* 10 miles east of Jackson on Township Road 167, Milton Township.

Jefferson County

Mount Pleasant, *Friends Meetinghouse,* near Ohio 150.

Licking County

Hopewell Township, *Flint Ridge,* 2 miles north of Ohio 40 on County Route 668.

Meigs County

Pomeroy vicinity, *Buffington Island,* 20 miles east of Pomeroy on Ohio 124, Lebanon Township.

Mercer County

Fort Recovery Site, Fort Recovery on Ohio 49.

Montgomery County

Miamisburg vicinity, *Miamisburg Mound,* 1 mile southeast of Miamisburg on Ohio 725.

Morgan County

Stockport vicinity, *Big Bottom,* 1 mile southeast of Stockport on Ohio 266.

Preble County

Eaton vicinity, *Fort St. Clair Site,* 1 mile west of Eaton.

Ross County

Bainbridge vicinity, *Seip Mound,* 3 miles east of Bainbridge on U.S. 50.

Scioto Township, *Adena,* Allen Avenue extended.

Stark County

Canton, *William McKinley Tomb,* Seventh Street NW.

Summit County

Akron, *Fort Island Works,* approximately 600 feet west of the west end of Fort Island Drive.

Tuscarawas County

Bolivar vicinity, *Fort Laurens Site,* 0.5 mile south of Bolivar near Ohio 212.

Gnadenhutten vicinity, *Gnadenhutten Massacre Site,* 1 mile south of Gnadenhutten.

New Philadelphia, *Schoenbrunn Site,* U.S. 250.

Warren County

Lebanon, *Glendower*, U.S. 42.

Washington County

Marietta, *Ohio Company Land Office*, Campus Martius Museum, corner of Second and Washington Streets.
Marietta, *Putnam, Rufus, House*, Campus Martius Museum, corner of Second and Washington Streets.
Marietta, *W. P. Snyder, Jr.* (steamboat), Sacra Via.

Wyandot County

Upper Sandusky vicinity, *Indian Mill*, 3.5 miles northeast of Upper Sandusky on Crane Township Road.

PENNSYLVANIA

Delaware County

Broomall, *Massey, Thomas, House*, Lawrence Road, opposite Springhouse Road.
Prospect Park, *Morton Homestead*, 100 Lincoln Avenue.

Luzerne County

Forty Fort, *Denison House*, 35 Denison Street.

Montgomery County

Evansburg vicinity, *Skippack Bridge*, east of Evansburg on Pennsylvania 422.

Philadelphia County

Philadelphia, *St. Clement's Protestant Episcopal Church*, southwest corner of 20th and Cherry Streets.

York County

York, *Billmeyer House*, East Market Street.

RHODE ISLAND

Newport County

Newport, *Newport Casino*, 194 Bellevue Avenue.

Providence County

Lincoln, *Arnold, Israel, House*, Great Road.
Lincoln, *Blackstone Canal* (*Paul Ronci Memorial Park*), from Front Street north Ashton Dam.
Providence, *College Hill Historic District*, bounded on the north by Olney Street, on the south by Cohan Boulevard, on the east by Hope Street, and on the west by the Providence and Moshassuck rivers.

SOUTH CAROLINA

Beaufort County

Gardens Corner vicinity, *Sheldon Church Ruins*, northwest of Gardens Corner on U.S. 21.
Hiltonhead vicinity, *Skull Creek* (*Hilton Head*), north of Hiltonhead off Hickory Bluff-Mount Calvary Church Road.

Charleston County

Charleston, *Stuart, Colonel John, House*, 104–106 Tradd Street.
Charleston, *Sword Gates House*, 32 Legare Street, 111 Tradd Street.
Rockville vicinity, *Horse Island*, 1 mile south of Rockville on Seabrook Island.

Greenville County

Tigerville vicinity, *Poinsett Bridge*, about 4 miles north of Tigerville on County Route 42.

Pickens County

Clemson, *St. Julien-Ravenel House* (*Hanover House*), Clemson University campus.

Richland County

Columbia, *Washington Street United Methodist Church*, 1401 Washington Street.

Spartanburg County

Spartanburg, *Foster's Tavern*, 191 Cedar Spring Road.

UTAH

Wasatch County

Heber City, *Wasatch Stake Tabernacle and Heber Amusement Hall*, Main Street at 100 North Street and 100 West Street corners.

VERMONT

Windsor County

Plymouth, *Plymouth Historic District*, the entire village of Plymouth; bounded on the east by East Mountain on the south by Blueberry Hill and Soltudus Mountain, on the west by Mount Tom, and on the north by Wood Peak.

VIRGINIA

Charlottesville (independent city)

University of Virginia Historic District, bounded on the north by University Avenue, on the south by Jefferson Park Avenue, on the east by Hospital Road, and on the west by McCormick Road.

WASHINGTON

King County

Redmond vicinity, *Marymoor Prehistoric Indian Site*, 6046 West Lake Sammamish Parkway NE.

WEST VIRGINIA

Kanawha County

Dunbar, *Dutch Hollow Wine Cellars*, Dutch Hollow Road.

Mineral County

Fort Ashby, *Fort Ashby*, South Street.

Ohio County

Wheeling, *Shepherd Hall* (*Monument Place*), Monument Place and Kruger Street.

ERNEST ALLEN CONNALLY,
Chief, Office of Archeology and Historic Preservation.

[F.R. Doc. 71–118; Filed, Jan. 5, 1971; 8:47 a.m.]

Office of the Secretary

GUIDEVILLE RANCHERIA IN CALIFORNIA AND INDIVIDUAL MEMBERS THEREOF

Notice of Termination of Federal Supervision Over Property

Notice is hereby given deleting the name of the following dependent member of the immediate family of distributees from those listed in the August 30, 1965 approved Notice of Termination of Federal Supervision Over the Property of the Guideville Rancheria in California and Individual Members Thereof.

Deletion of dependent family member	Date of birth	Address	Relationship to distributee	Distributee
Keith Pike	2-24-51	Post Office Box 143, Talmage, Calif.	Son	Minerva Pike (Lawrence Pike, father).

The father, Lawrence Pike, of the above-named dependent family member is a nonterminated member of the Manchester Band of Pomo Indians. This notice, with respect to the above-named dependent family member only, rescinds pro tanto, and as of September 3, 1965, the Notice of Termination approved August 30, 1965, which became effective on publication on September 3, 1965, FEDERAL REGISTER, Volume 30, Number 171. This notice becomes effective as of the date of publication in the FEDERAL REGISTER.

FRED J. RUSSELL,
Under Secretary of the Interior.

DECEMBER 29, 1970.

[F.R. Doc. 71–161; Filed, Jan. 5, 1971; 8:51 a.m.]

DEPARTMENT OF AGRICULTURE

Agricultural Stabilization and Conservation Service

RICE

Notice of Marketing Quota Referendum for 1971 Crop

Marketing quotas for the crop of rice to be produced in 1971 have been duly proclaimed pursuant to provisions of the Agricultural Adjustment Act of 1938, as amended. Said act requires a referendum to be conducted within 30 days after the date of the issuance of said proclamation of farmers who were engaged in the production of rice in 1970 to determine whether such farmers are in favor of or opposed to such quotas. Prior to establishing the date for the referendum on the 1971 crop rice, public notice (35 F.R. 14620) was given in accordance with 5 U.S.C. 553. Data, views, and recommendations were submitted pursuant to such notice. They have been considered to the extent permitted by law. It is hereby determined that the rice marketing quota referendum under said act for the 1971 crop of rice shall be held during the period January 18 to 22, 1971, each inclusive by mail ballot in accordance with Part 717 of this chapter (33 F.R. 18345).

Signed at Washington, D.C., on December 30, 1970.

CARROLL G. BRUNTHAVER,
Acting Administrator, Agricultural Stabilization and Conservation Service.

[F.R. Doc. 70–17655; Filed, Dec. 30, 1970; 4:44 p.m.]

DEPARTMENT OF COMMERCE

Bureau of Domestic Commerce

ILLINOIS STATE UNIVERSITY 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, Bureau of Domestic Commerce, 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. 71-00299-33-46070. Applicant: Illinois State University, Normal, IL 61761. Article: Scanning electron microscope, Model Mark IIA. Manufacturer: Cambridge Instrument Co., Ltd., United Kingdom. Intended use of article: The article will be used for studies involving seed, pollen, and leaves, fungus mycelium and spores, other microbiological specimens, cuticular surface features of insects, insect eggs, and various invertebrate parasites. Investigations will also include the study of freeze-etched surfaces of cells, cell membranes and cell organelles. The application of scanning electron microscopy will be taught to graduate students. Application received by Commissioner of Customs: December 9, 1970.

Docket No. 71-00301-65-46040. Applicant: University of Connecticut, Institute of Materials Science, Storrs, CT 06268. Article: Electron microscope, Model HU-200F. Manufacturer: Hitachi, Ltd., Japan. Intended use of article: The article will be used for studies on dislocation structures and subboundary structures formed in high temperature alloys during fatigue and creep; for a study of stacking faults and antiphase boundaries in nickel-base superalloys; and for studies on oral biological materials and on polymeric materials. Application received by Commissioner of Customs: December 14, 1970.

Docket No. 71-00302-33-46040. Applicant: University of Southern California, 2025 Zonal Avenue, Los Angeles, CA 90033. Article: Electron microscope, Model EM 300. Manufacturer: Philips Electronics NVD, The Netherlands. Intended use of article: The article will be used for ultrastructural studies on cell membranes and membrane components. A continuing project concerns red blood cell membranes, another study is on viruses and virus components, and other research is planned on Australian anitgen (hepatitis) and the structure of myxo-virus such as influenza. Application received by Commissioner of Customs: December 14, 1970.

Docket No. 71-00303-33-46040. Applicant: Mayo Foundation, 200 First Street SW., Rochester, MN 55901. Article: Electron microscope, Model HU-12. Manufacturer: Hitachi, Ltd., Japan. Intended use of article: The article will be used to study peripheral nerve tissue from animals with experimental neuropathy, as well as from healthy man and from patients. The investigation particularly relates to the macromolecular organization of various diseases of nerves occurring in man and produced experimentally in animals. Application received by Commissioner of Customs: December 14, 1970.

Docket No. 71-00304-00-46040. Applicant: The University of Texas at Austin, Box 7306, University Station, Austin, TX 78712. Article: Plate changing device with airlock. Manufacturer: Siemens A.G., West Germany. Intended use of article: The article is an accessory for an existing Elmiskop I electron microscope used for basic and applied research. Application received by Commissioner of Customs: December 14, 1970.

Docket No. 71-00305-65-25100. Applicant: University of Missouri—Rolla, General Services Building, Purchasing Department, Rolla, MO 65401. Article: Boron carbide motar and pestle. Manufacturer: The Carborundum Co., Ltd., United Kingdom. Intended use of article: The article will be used for grinding oxides and metal alloys to extremely fine powders for X-ray analyses at low temperatures. Application received by Commissioner of Customs: December 14, 1970.

Docket No. 71-00308-33-46500. Applicant: Louisiana State University Medical Center, Department of Anatomy, 1542 Tulane Avenue, New Orleans, LA 70112. Article: Ultramicrotome, Model OmU2. Manufacturer: C. Reichert Optische Werke A.G., Austria. Intended use of article: The article will be used for sectioning tissues for studies to view connections between cells during organogenesis. Other projects involve the study of crystalline material in hard tissues in normal and abnormal cartilage; and the use of tissues from animals treated with radioisotopes. Application received by Commissioner of Customs: December 14, 1970.

CHARLEY M. DENTON,
Bureau of Domestic Commerce.

[F.R. Doc. 71-16; Filed, Jan. 5, 1971; 8:45 a.m.]

DEPARTMENT OF TRANSPORTATION

National Transportation Safety Board

[Docket No. SS-P-7]

PIPELINE ACCIDENT IN FRANKLIN COUNTY, MO.

Notice of Investigation Hearing

In the matter of the investigation of a products pipeline accident in Franklin County, Mo., on December 9, 1970, involving a pipeline owned and operated by the Phillips Pipe Line Co.

Notice is hereby given that an Accident Investigation Hearing on the above matter will be held commencing at 9 a.m., on Tuesday, February 2, 1971, in the Ballroom of Stouffer's Riverfront Inn at 200 South Fourth Street, St. Louis, MO.

Dated this 29th day of December 1970.

FRANCIS H. MCADAMS,
Chairman, Board of Inquiry.

[F.R. Doc. 71-163; Filed, Jan. 5, 1971; 8:51 a.m.]

ATOMIC ENERGY COMMISSION

[Docket No. 50-255]

CONSUMERS POWER CO.

Order Extending Provisional Construction Permit Completion Date

DECEMBER 29, 1970.

By application dated December 18, 1970, Consumers Power Co. requested an extension of the latest completion date specified in Provisional Construction Permit No. CPPR-25. The permit authorizes Consumers Power Co. to construct a pressurized water nuclear reactor, designated as the Palisades Plant, on the applicant's site in Covert Township, Van Buren County, Mich.

Good cause having been shown for this extension pursuant to section 185 of the Atomic Energy Act of 1954, as amended, and § 50.55(b) of 10 CFR Part 50 of the Commission's regulations: *It is hereby ordered*, That the latest completion date specified in Provisional Construction Permit No. CPPR-25 is extended from December 31, 1970 to June 30, 1971.

Dated at Bethesda, Md., this 29th day of December 1970.

For the Atomic Energy Commission.

FRANK SCHROEDER, Jr.,
Acting Director,
Division of Reactor Licensing.

[F.R. Doc. 71-104; Filed, Jan. 5, 1971; 8:46 a.m.]

[Docket Nos. 50-250, 50-251]

FLORIDA POWER & LIGHT CO.

Notice of Availability of Draft Detailed Statement and Applicant's Environmental Report and Request for Comments From State and Local Agencies

Pursuant to the National Environmental Policy Act of 1969 and the Atomic

Energy Commission's regulations in Appendix D to 10 CFR Part 50, notice is hereby given that the Florida Power & Light Co. has submitted an environmental report, dated November 15, 1970, which discusses environmental considerations relating to the proposed operation of the Turkey Point Plant Units Nos. 3 and 4. The Commission's regulatory staff has prepared a draft detailed statement dated December 23, 1970. A copy of both the report and draft statement have been placed in the Commission's Public Document Room, 1717 H Street NW., Washington, DC, and in the Office of the County Manager of Dade County, Fla. The Florida Power & Light Co. has applied for an operating license for the Turkey Point Plant Unit No. 3 which is located on its site at Turkey Point in Dade County, Fla.

The Commission hereby requests comments on the proposed action, the draft statement, and the reports from State and local agencies of any affected State (with respect to matters within their jurisdiction), which are authorized to develop and enforce environmental standards. If the Commission is not provided with comments by any State or local agency within 60 days of the publication of this notice in the FEDERAL REGISTER, the Commission will presume that the agency has no comments to make.

Copies of the Florida Power & Light Co.'s report dated November 15, 1970, the draft statement dated December 23, 1970, and available comments thereon of Federal agencies (whose comments are being separately requested by the Commission) will be supplied to such State and local agencies upon request addressed to the Director, Division of Reactor Licensing, U.S. Atomic Energy Commission, Washington, D.C. 20545.

Dated at Bethesda, Md., this 24th day of December 1970.

For the Atomic Energy Commission.

PETER A. MORRIS,
Director,
Division of Reactor Licensing.

[F.R. Doc. 71-103; Filed, Jan. 5, 1971; 8:46 a.m.]

[Docket No. 50-322]

LONG ISLAND LIGHTING CO.

Schedule for Hearing

In the matter of Long Island Lighting Co. (Shoreham Nuclear Power Station Unit No. 1).

The hearing in the captioned matter will be continued on Tuesday, January 12, 1971, at 10 a.m., local time, in the Holiday Inn, 4089 Nesconset, Port Jefferson Highway, Centereach, NY 11720.

Dated: December 30, 1970.

ATOMIC SAFETY AND LICENSING BOARD,
JACK M. CAMPBELL,
Chairman.

[F.R. Doc. 71-121; Filed, Jan. 5, 1971; 8:48 a.m.]

[Docket No. 50-322]

LONG ISLAND LIGHTING CO.

Notice of Substitution of Presiding Officer

On February 25, 1970, a Notice of Hearing on Application for Provisional Construction Permit was published in the FEDERAL REGISTER (35 F.R. 3693) in the matter of Long Island Lighting Co., Shoreham Nuclear Power Station, Unit 1. That notice designated the Atomic Safety and Licensing Board (ASLB) to conduct the hearing. Jack M. Campbell, Esq., Santa Fe, N. Mex., was designated ASLB Chairman; and James P. Gleason, Esq., Washington, D.C., was designated as an alternate qualified in the conduct of administrative proceedings.

The public hearing commenced on September 21, 1970, and has not been completed. The most recent hearing session was held on December 17, 1970, and on December 30, 1970, the ASLB issued an order to reconvene the hearing on January 12, 1970.

Chairman Campbell, due to compelling personal reasons, will be unavailable to serve as a member of the ASLB designated to conduct the hearing after January 12, 1971. James P. Gleason, Esq., Chairman Campbell's designated alternate, is also unavailable to serve due to the responsibilities of the public office he has assumed subsequent to the Notice of Hearing referred to above.

In view of the foregoing, pursuant to § 2.704(d) of the Commission's rules of practice, 10 CFR 2.704(d): *It is ordered,* That James R. Yore, Esq., Washington, D.C. a member of the Atomic Safety and Licensing Board Panel, is designated Chairman of the Atomic Safety and Licensing Board effective January 13, 1971.

Dated at Washington, D.C., on this 31st day of December 1970.

By the Commission.

F. T. HOBBS,
Acting Secretary
of the Commission.

[F.R. Doc. 71-122; Filed, Jan. 5, 1971; 8:48 a.m.]

[Docket No. 50-344]

PORTLAND GENERAL ELECTRIC CO. ET AL.

Notice of Receipt of Application for Construction Permit and Operating License; Time for Submission of Views on Antitrust Matter

The Portland General Electric Co., 621 Southwest Alder Street, Portland, OR; The City of Eugene, Eugene Water & Electric Board, 500 East Fourth Street, Eugene, OR; and Pacific Power & Light Co., 920 Southwest Sixth Avenue, Portland, OR, pursuant to the Atomic Energy Act of 1954, as amended, filed an application, dated June 25, 1969, for a permit to construct and a license to operate a pressurized water nuclear power reactor at the Trojan Nuclear Plant, an approximately 623-acre site on the west bank of the Columbia River, about 31 miles north of Portland, Oreg., 4 miles south-southeast of Rainier, Oreg., and 3 miles northwest of Kalama, Wash., in Columbia County, Oreg.

In amendments to its application, the Portland General Electric Co. and the City of Eugene, Oreg., acting by and through the Eugene Water & Electric Board and the Pacific Power & Light Co. will be coowners of the proposed Trojan Nuclear Plant. Portland General Electric Co. will act as representative of the owners with respect to design, construction and operation of the facility.

The proposed reactor, designated as the Trojan Nuclear Plant, is designed for initial operation at approximately 3,423 thermal megawatts with a net electrical output of approximately 1,106 megawatts.

Any person who wishes to have his views on the antitrust aspects of the application presented to the Attorney General for consideration shall submit such views within sixty (60) days from date of publication of this notice in the FEDERAL REGISTER.

A copy of the application and the amendments thereto are available for public inspection at the Commission's Public Document Room, 1717 H Street NW., Washington, D.C., and at the Law Library, Columbia County Circuit Court, St. Helens, Oreg.

Dated at Bethesda, Md., this 30th day of December 1970.

For the Atomic Energy Commission.

FRANK SCHROEDER,
Acting Director,
Division of Reactor Licensing.

[F.R. Doc. 71-144; Filed, Jan. 5, 1971; 8:49 a.m.]

[Dockets Nos. 50-338, 50-339]

VIRGINIA ELECTRIC & POWER CO.

Notice of Application for Construction Permit and Operating License

Virginia Electric & Power Co., 700 East Franklin Street, Richmond, Va., pursuant to the Atomic Energy Act of 1954, as amended, has filed an application, dated March 21, 1969, for permits to construct and licenses to operate two pressurized water nuclear power reactors, designated as the North Anna Power Station, Units Nos. 1 and 2, at a 1,075-acre site adjacent to the North Anna River in Louisa County, Va., about 24 miles southwest of Fredericksburg, Va.

Each of the proposed reactors is designed for initial operation at approximately 2,652 thermal megawatts with a gross electrical output of approximately 892 megawatts.

Any person who wishes to have his views on the antitrust aspects of the application presented to the Attorney General for consideration shall submit such views to the Commission within 60 days after December 31, 1970.

A copy of the application and the amendments thereto are available for

public inspection at the Commission's Public Document Room, 1717 H Street NW., Washington, D.C., and at the offices of the County Board of Supervisors, Louisa County Courthouse, Louisa, Va.

For the Atomic Energy Commission.

Dated at Bethesda, Md., this 24th day of December 1970.

PETER A. MORRIS,
Director,
Division of Reactor Licensing.

[F.R. Doc. 70-17504; Filed, Dec. 29, 1970; 8:45 a.m.]

CIVIL AERONAUTICS BOARD

[Dockets Nos. 22956, 22600; Order 70-12-150]

AMERICAN AIRLINES, INC.

Order Regarding Chicago-Acapulco Nonstop Service Investigation

Adopted by the Civil Aeronautics Board at its office in Washington, D.C., on the 29th day of December 1970.

On August 1, 1970, the United States concluded amendments to a bilateral Air Transport Agreement with the Mexican Government authorizing, inter alia, nonstop air service between Chicago and Acapulco by a designated U.S.-flag carrier. At present there is direct service between Chicago and Acapulco provided by Braniff and America[1] and Aeronaves de Mexico presently offers Chicago-Acapulco nonstop service.

On July 31, August 3 and 12, Braniff,[2] American,[3] and Eastern,[4] respectively, filed applications for Chicago-Acapulco nonstop authority. American further filed an application[5] for exemption authority to operate Chicago-Acapulco nonstop service pendente lite. In support of its application, American relies primarily on overcrowded flights in the Chicago-Acapulco/Mexico City markets, which condition American argues would be alleviated considerably with the addition of a single daily nonstop flight between Chicago and Acapulco.

Braniff filed an answer in opposition to American's exemption request and American filed a reply to Braniff's answer.

Upon consideration of the foregoing pleadings and the relevant facts, we have decided (1) to institute an investigation into the need for U.S.-flag Chicago-Acapulco nonstop service, pursuant to the amended United States-Mexico Bilateral Air Transport Agreement, and (2) to deny the request of American for an exemption pendente lite for Chicago-Acapulco nonstop authority.

We are not persuaded that this is an appropriate situation for the exercise of the Board's extraordinary exemption powers. Both American and Braniff presently provide one-stop service between Chicago and Acapulco. It seems clear that nonstop service by American would divert traffic from Braniff and we are not persuaded that there has been a showing of lack of capacity in the market.[6] American has not established that enforcement of the Act would be an undue burden on it and not in the public interest.

Accordingly, it is ordered, That:

1. An investigation designated the Chicago-Acapulco Nonstop Service Investigation, be and it hereby is instituted in Docket 22956 pursuant to sections 204(a) and 401(g) of the Federal Aviation Act of 1958, as amended, to consider the need for authorization of U.S.-flag service between Chicago and Acapulco on a nonstop basis;

2. The following applications are hereby consolidated with the above investigation: American Airlines, Inc., Docket 22429; and Braniff Airways, Inc., Docket 22417; [7]

3. Applications and motions to consolidate and motions or petitions seeking modification or reconsideration of this order shall be filed no later than 20 days after the service of this order, and answers to such pleadings shall be filed within 15 days thereafter;

4. This proceeding shall be set for hearing at a time and place to be designated hereafter;

5. The application of American Airlines, Inc., for exemption, Docket 22600, be and it hereby is denied; and

6. A copy of this order shall be served upon American Airlines, Inc., Eastern Air Lines, Inc., Braniff Airways, Inc., and each carrier and civic party designated for service in Docket 22600.

This order shall be published in the FEDERAL REGISTER.

By the Civil Aeronautics Board.

[SEAL] HARRY J. ZINK,
Secretary.

[F.R. Doc. 71-84; Filed, Jan. 5, 1971; 8:46 a.m.]

[Docket No. 22590; Order 70-12-141]

BUCKEYE AIR SERVICE, INC.

Order To Show Cause

Issued under delegated authority December 24, 1970.

A final service mail rate for the transportation of mail by aircraft, established by Order 70-10-130, dated October 28, 1970, is currently in effect for the above-captioned air taxi, operating under 14 CFR Part 298. This rate is based on five round trips per week between Youngstown, Canton/Akron, and Columbus, Ohio.

The Postmaster General filed a petition on December 10, 1970, stating that the present rate of 67 cents per great circle aircraft mile applicable to this route was based upon a mail load requirement of 1,600 pounds; that the mail load has recently increased to 2,500 pounds; and that the use of larger aircraft to accommodate such increased volume of mail is required. The Postmaster General asserts that the air taxi will provide service with a modified Beechcraft C-45 aircraft capable of carrying a 2,500-pound mail load, and that he and the carrier have agreed that the proposed rate of 75 cents per great circle aircraft mile is the fair and reasonable rate for these services.

The Board finds it in the public interest to fix and determine the fair and reasonable rate of compensation to be paid by the Postmaster General for the transportation of mail by aircraft between the aforesaid points. Upon consideration of the petition and other matters officially noticed, it is proposed to issue an order[1] to include the following findings and conclusions:

1. The fair and reasonable final service mail rate to be paid on and after December 10, 1970, to Buckeye Air Service, Inc., pursuant to section 406 of the Act for the transportation of mail by aircraft, the facilities used and useful therefor, and the services connected therewith, shall be 75 cents per great circle aircraft mile between Youngstown, Canton/Akron, and Columbus, Ohio.

2. This final rate, to be paid entirely by the Postmaster General, is based on five round trips per week flown with a modified Beechcraft C-45 aircraft capable of carrying a 2,500-pound mail load.

Accordingly, pursuant to the Federal Aviation Act of 1958 and particularly sections 204(a) and 406 thereof, and the Board's regulations 14 CFR Part 302, 14 CFR Part 298 and the authority duly delegated by the Board in its organization regulations 14 CFR 385.14(f):

It is ordered, That:

1. Buckeye Air Service, Inc., the Postmaster General, Allegheny Airlines, Inc., Eastern Air Lines, Inc., United Air Lines, Inc., and all other interested persons are directed to show cause why the Board should not adopt the foregoing proposed findings and conclusions and fix, determine, and publish the final rate for the transportation of mail by aircraft, the facilities used and useful therefor, and the services connected therewith, as the fair and reasonable rate of compensation to be paid to Buckeye Air Service, Inc.;

2. Further procedures herein shall be in accordance with 14 CFR Part 302, as specified below; and

3. This order shall be served upon Buckeye Air Service, Inc., the Postmaster

[1] Braniff is authorized to operate via San Antonio and American to operate via Mexico City or Dallas/Fort Worth.
[2] Docket 22417.
[3] Docket 22429.
[4] Docket 22467.
[5] Docket 22600.

[6] Braniff points out that much of the "overcrowding" in the Chicago-Acapulco market could be handled with the addition of extra sections during peak seasons.

[7] Because Eastern's application includes other authority which may be heard in separate proceedings, we will not consolidate its application as framed; the carrier is, however, free to move consolidation of an application conforming to the scope of this proceeding in accordance with ordering paragraph 3.

[1] As this order to show cause is not a final action, it is not regarded as subject to the review provisions of 14 CFR Part 385. These provisions will apply to final action taken by the staff under authority delegated in § 385.16(g).

General, Allegheny Airlines, Inc., Eastern Air Lines, Inc., and United Air Lines, Inc.

This order will be published in the FEDERAL REGISTER.

[SEAL] HARRY J. ZINK,
Secretary.

1. Further procedures related to the attached order shall be in accordance with 14 CFR Part 302, and notice of any objection to the rate or to the other findings and conclusions proposed therein, shall be filed within 10 days, and if notice is filed, written answer and supporting documents shall be filed within 30 days after service of this order;

2. If notice of objection is not filed within 10 days after service of this order, or if notice is filed and answer is not filed within 30 days after service of this order, all persons shall be deemed to have waived the right to a hearing and all other procedural steps short of a final decision by the Board, and the Board may enter an order incorporating the findings and conclusions proposed therein and fix and determine the final rate specified therein;

3. If answer is filed presenting issues for hearing, the issues involved in determining the fair and reasonable final rate shall be limited to those specifically raised by the answer, except insofar as other issues are raised in accordance with Rule 307 of the rules of practice (14 CFR 302.307).

[F.R. Doc. 71-83; Filed, Jan. 5, 1971; 8:46 a.m.]

[Docket No. 22962; Order 70-12-154]

EMERY AIR FREIGHT CORP.

Order of Investigation and Suspension

Adopted by the Civil Aeronautics Board, at its office in Washington, D.C., on the 30th day of December 1970.

By tariff[1] bearing the posting date of November 27, and marked to become effective January 3, 1971, Emery Air Freight Corp. (Emery) proposes to establish airport-to-airport general commodity charges on shipments weighing 9 pounds or less, subject to an expiration date of December 31, 1971. The proposed charges would be the same for various sized shipments between numerous points on Emery's system regardless of length of haul and are as follows: For a shipment of 5 pounds or less, $7.47; 6 pounds, $8.52; 7 pounds, $9.57; 8 pounds, $10.61; and 9 pounds, $11.66.[2]

The charges would apply only when one or more shipments of the foregoing sizes are tendered by a shipper at one address at one time in a total tender of five or more shipments of any size to one or more consignees at one or more destinations. The proposal would result in reductions below the charges for singly tendered shipments ranging from 25 percent for a shipment of 1-5 pounds to 4 percent for a 9-pound shipment. The charges would not apply in connection with shipments accorded assembly service, distribution service, special handling service, person-to-person signature service, or armed surveillance service.

A complaint requesting suspension and investigation of the proposal was filed by REA Express, Inc. (REA). The complaint asserts, inter alia, that the proposed charges are not adequately supported by the proponent, and would be uncompensatory and discriminatory.

In support of its proposal and in answer to the complaint, Emery states that (1) the proposed reductions are intended to attract small shipments now moving by surface transport and air parcel post, and meet the competitive threat of new post office small package air service and REA; (2) the added traffic would raise load factors for direct carriers; (3) the additional traffic would incur little added cost since it would be handled in the same containers or consolidations with other traffic; (4) the limitation of the reductions to multiple shipments is intended to prevent dilution of revenues; (5) forwarders are exempt from the requirement to provide cost figures in support of tariff proposals; (6) REA's protest of the proposed reduction is inconsistent with the company's recent rate reductions; (7) discount rates limited to certain traffic are common for direct carriers, such as specific commodity rates for certain markets and reduced fares for groups, families, youths, etc.; and (8) no shipper has filed a complaint against its proposal.

Upon consideration of all relevant matters, the Board finds that Emery's proposal may be unjust, unreasonable, unjustly discriminatory, unduly preferential, or unduly prejudicial, or otherwise unlawful, and should be suspended pending investigation.

Emery's proposal would make the availability of a reduced charge on a shipment dependent upon the tender of other shipments in the same or other markets. Thus, two identical shipments between the same two points receiving the same service would be assessed different charges because one of the shippers can tender sufficient additional shipments to the same or other points.

Emery's contentions for savings essentially are upon the basis that the larger traffic volume to be developed from rate reductions will provide lower unit costs through greater utilization of resources. Savings of this nature, however, would occur to the same extent by a simple reduction of rates to the levels proposed, without conditioning their availability to the multiple shipment requirement. This points to the principle that rates must be based upon a unit of traffic, i.e., single shipment.[3]

Our action herein is consistent with previous Board rulings that aggregate rates, similar to those in the current proposal, are unlawful, Aggregate Weight Rule Proposed by Shulman, Inc. Investigation, Order 68-11-32. In the Multi-charter Cargo Rates Investigation, Order E-25936, the Board ruled that lower charter rates for several charters than for single charters would also be unjustly discriminatory.

In view of the serious questions of discrimination, the Board will not permit the proposal to go into effect without investigation.

Accordingly, pursuant to the Federal Aviation Act of 1958, and particularly sections 204(a) and 1002 thereof:

It is ordered, That:

1. An investigation be instituted to determine whether the rates, charges and provisions in Emery Air Freight Corporation's CAB No. 50 and rules, regulations or practices affecting such rates, charges and provisions are, or will be, unjust, unreasonable, unjustly discriminatory, unduly preferential, unduly prejudicial, or otherwise unlawful, and if found to be unlawful, to determine and prescribe the lawful rates, charges and provisions, and rules, regulations, or practices affecting such rates, charges, and provisions;

2. Pending hearing and decision by the Board, the rates, charges and provisions in Emery Air Freight Corporation's CAB No. 50 (except rates, charges and provisions applying to Canadian points) are suspended and their use deferred to and including April 2, 1971, unless otherwise ordered by the Board, and that no changes be made therein during the period of suspension, except by order or special permission of the Board;

3. The proceeding herein be assigned for hearing before an examiner of the Board, at a time and place hereafter to be designated;

4. The complaint of REA Express, Inc., in Docket No. 22867, is dismissed, except to the extent granted herein; and

5. Copies of this order shall be filed with the tariffs and served upon Emery Air Freight Corp. and REA Express, Inc., which are hereby made parties to this proceeding.

This order will be published in the FEDERAL REGISTER.

By the Civil Aeronautics Board.

[SEAL] HARRY J. ZINK,
Secretary.

[F.R. Doc. 71-85; Filed, Jan. 5, 1971; 8:46 a.m.]

[Docket No. 20993; Order 70-12-138]

INTERNATIONAL AIR TRANSPORT ASSOCIATION

Order Regarding Specific Commodity Rates

Issued under delegated authority December 24, 1970.

An agreement has been filed with the Board pursuant to section 412(a) of the Federal Aviation Act of 1958 (the Act) and Part 261 of the Board's Economic Regulations, between various air carriers, foreign air carriers, and other carriers, embodied in the resolutions of the Joint Conferences of the International Air

[1] Emery Multiple Small Shipment Tariff No. 2 CAB 50.

[2] Emery's tariff also contains proposed exception ratings for certain live animals and other commodities. The ratings range between 150 and 250 percent of the foregoing charges.

[3] The model rules for assembly and distribution service define a shipment as consisting of a single consignment of one or more pieces, from one consignor at one time at one address, receipted for in one lot, and moving on one airbill to one consignee at one destination address. 12 CAB 337.

Transport Association (IATA), and adopted pursuant to the provisions of Resolution 590 dealing with specific commodity rates.

The agreement, adopted pursuant to unprotested notices to the carriers and promulgated in IATA letters dated December 1, 4, 7, and 16, 1970, names additional specific commodity rates under an existing description and specifies rates under a number of new descriptions, as set forth in the attachment hereto.[1] These rates reflect significant reductions from the general cargo rates.

Pursuant to authority duly delegated by the Board in the Board's regulations, 14 CFR 385.14, it is not found, on a tentative basis, that the subject agreement is adverse to the public interest or in violation of the Act, provided that tentative approval thereof is conditioned as hereinafter ordered.

Accordingly, it is ordered, That:

Action on Agreement CAB 22096, R–1 through R–6, be and hereby is deferred with a view toward eventual approval, provided that approval shall not constitute approval of the specific commodity descriptions contained therein for purposes of tariff publication; provided further that, insofar as air transportation as defined by the Act is concerned, tariff filings shall not be made to implement the agreement prior to eventual approval, and such tariff filings shall be marked to become effective on not less than 30 days' notice from the date of filing.

Persons entitled to petition the Board for review of this order, pursuant to the Board's regulations, 14 CFR 385.50, may, within 10 days after the date of service of this order, file such petitions in support of or in opposition to our proposed action herein.

This order will be published in the FEDERAL REGISTER.

[SEAL] HARRY J. ZINK,
Secretary.

[F.R. Doc. 71–86; Filed, Jan. 5, 1971; 8:46 a.m.]

CIVIL SERVICE COMMISSION

DEPARTMENT OF THE ARMY

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 Army to fill by noncareer executive assignment in the excepted service the position of Principal Deputy General Counsel, Office of the General Counsel of the Army.

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

[F.R. Doc. 71–147; Filed, Jan. 5, 1971; 8:50 a.m.]

[1] Attachment filed as part of original document.

DEPARTMENT OF THE ARMY

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 the Army to fill by noncareer executive assignment in the excepted service the position of Deputy General Counsel, Office of the General Counsel of the Army.

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

[F.R. Doc. 71–148; Filed, Jan. 5, 1971; 8:50 a.m.]

DEPARTMENT OF COMMERCE

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 Commerce to fill by noncareer executive assignment in the excepted service the position of Deputy Administrator for Legislative Implementation, Maritime Administration, Office of the Maritime Administrator.

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

[F.R. Doc. 71–150; Filed, Jan. 5, 1971; 8:50 a.m.]

DEPARTMENT OF COMMERCE

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 Commerce to fill by noncareer executive assignment in the excepted service the position of Deputy Assistant Secretary for Environmental Affairs.

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

[F.R. Doc. 71–151; Filed, Jan. 5, 1971; 8:50 a.m.]

DEPARTMENT OF COMMERCE

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 Commerce to fill by noncareer executive assignment in the excepted service the position of Deputy Administrator, Business and Defense Services Administration, Assistant Secretary for Domestic and International Business.

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

[F.R. Doc. 71–149; Filed, Jan. 5, 1971; 8:50 a.m.]

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Notice of Grant of Authority To Make Noncareer Executive Assignment

Under authority of § 9.20 of Civil Service Rule IX (5 CFR 9.20), the Civil Service Commission authorizes the Department of Health, Education, and Welfare to fill by noncareer executive assignment in the excepted service the position of Executive Deputy Commissioner of Education.

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

[F.R. Doc. 71–155; Filed, Jan. 5, 1971; 8:50 a.m.]

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

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 Health, Education, and Welfare to fill by noncareer executive assignment in the excepted service the position of Executive Assistant to the Secretary, Office of the Secretary, Immediate Office.

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

[F.R. Doc. 71–156; Filed, Jan. 5, 1971; 8:50 a.m.]

DEPARTMENT OF THE INTERIOR

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 the Interior to fill by noncareer executive assignment in the excepted service the position of Assistant to the Commissioner for Program Review.

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

[F.R. Doc. 71–157; Filed, Jan. 5, 1971; 8:50 a.m.]

GENERAL SERVICES ADMINISTRATION

Notice of Title Change in Noncareer Executive Assignment

By notice of December 17, 1969, F.R. Doc. 69-14929, the Civil Service Commission authorized the General Services Administration to fill by noncareer executive assignment the position of Chairman, GSA Board of Contract Appeals. This is notice that the title of this position is now being changed to Assistant to the Administrator and Chairman, GSA Board of Contract Appeals.

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

[F.R. Doc. 71-154; Filed, Jan. 5, 1971; 8:50 a.m.]

OFFICE OF ECONOMIC OPPORTUNITY

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 authorized the Office of Economic Opportunity to fill by noncareer executive assignment in the excepted service the position of Deputy Assistant Director for Program Development, Office of Program Development.

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

[F.R. Doc. 71-152; Filed, Jan. 5, 1971; 8:50 a.m.]

OFFICE OF ECONOMIC OPPORTUNITY

Notice of Revocation of Authority To Make Noncareer Executive Assignment

Under authority of § 9.20 of Civil Service Commission revokes the authority of the Office of Economic Opportunity to fill by noncareer executive assignment in the excepted service the position of Director, Community Development Division, Office of Program Development.

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

[F.R. Doc. 71-153; Filed, Jan. 5, 1971; 8:50 a.m.]

FEDERAL COMMUNICATIONS COMMISSION

[Report 524]

COMMON CARRIER SERVICES INFORMATION [1]

Domestic Public Radio Services Applications Accepted for Filing [2]

DECEMBER 28, 1970.

Pursuant to §§ 1.227(b)(3) and 21.30(b) of the Commission's rules, an application, in order to be considered with any domestic public radio services application appearing on the list below, must be substantially complete and tendered for filing by whichever date is earlier: (a) The close of business 1 business day preceding the day on which the Commission takes action on the previously filed application; or (b) within 60 days after the date of the public notice listing the first prior filed application (with which subsequent applications are in conflict) as having been accepted for filing. An application which is subsequently amended by a major change will be considered to be a newly filed application. It is to be noted that the cutoff dates are set forth in the alternative—applications will be entitled to consideration with those listed below if filed by the end of the 60-day period, only if the Commission has not acted upon the application by that time pursuant to the first alternative earlier date. The mutual exclusivity rights of a new application are governed by the earliest action with respect to any one of the earlier filed conflicting applications.

The attention of any party in interest desiring to file pleadings pursuant to section 309 of the Communications Act of 1934, as amended, concerning any domestic public radio services application accepted for filing, is directed to § 21.27 of the Commission's rules for provisions governing the time for filing and other requirements relating to such pleadings.

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

[1] All applications listed below are subject to further consideration and review and may be returned and/or dismissed if not found to be in accordance with the Commission's rules, regulations, and other requirements.

[2] The above alternative cutoff rules apply to those applications listed below as having been accepted in Domestic Public Land Mobile Radio, Rural Radio, Point-to-Point Microwave Radio, and Local Television Transmission Services (Part 21 of the rules).

APPLICATIONS ACCEPTED FOR FILING

DOMESTIC PUBLIC LAND MOBILE RADIO SERVICE

File No., applicant, call sign, and nature of application

3232-C2-P-71—Skyline Telephone Secretarial Service Inc. (New), C.P. for a new 2-way station to be located at 2117 South Ash Street, Denver, CO, to operate on frequency 152.06 MHz.

3233-C2-P-71—Northwestern Bell Telephone Co. (KAA813), C.P. to add frequency 152.72 MHz base and 157.98 MHz test at station located at 604 Ninth Street, Des Moines, IA, and change the antenna system.

3243-C2-P-(3)71—Pacific Northwest Bell Telephone Co. (KOA612), C.P. to add frequencies 152.66 MHz and 35.26 MHz base and 157.92 and 157.83 MHz test and change the antenna system located at 2.2 miles south-southwest of Eugene, Oreg.

RURAL RADIO SERVICE

3238-C1-P/L-71—The Mountain States Telephone & Telegraph Co. (New), C.P. and license for a new rural subscriber station to be located at 21 miles northeast of Bagdad, Ariz., to operate on frequency 157.95 MHz communicating with Station KOP304, Williams, Ariz.

3247-C1-P-71—The Western Union Telegraph Co. (KSG95), C.P. to add 6034.2 and 6152.8

3245-C1-P-71—The Western Union Telegraph Co. (New), C.P. for a new fixed station. Frequencies: 6226.9, 6256.5, 6345.5, and 6375.2 MHz. Location: 1 mile west of Sylvan Lake, Ill.

3246-C1-P-71—The Western Union Telegraph Co. (New), C.P. for a new fixed station. Frequencies: 5945.2, 6063.8, 11,015, and 11,175 MHz. Location: Hartland, 5 miles southwest of Hebron, Ill.

3247-C1-P-71—The Western Union Telegraph Co. (KSG95), C.P. to add 6034.2 and 6152.8 MHz directed toward Sylvan Lake, Ill., at its station located Board of Trade Building, Chicago, IL.

American Telephone & Telegraph Co. C.P.'s (36) to construct two additional pairs of Type TD-3 telephone channels between Faulkner, Md., Missouri Branch, W. Va., and Arkabutla, Miss.

3248-C1-P-71—American Telephone & Telegraph Co. (KGN87), Add frequencies 3930 and 4010 MHz toward Stafford, Va., at 0.5 mile southwest of Faulkner, Md.

3249-C1-P-71—American Telephone & Telegraph Co. (KYJ83), Add 3890 and 3970 MHz directed toward Faulkner, Md., and Rhoadesville, Va., at 4 miles west of Stafford, Va.

3250-C1-P-71—American Telephone & Telegraph Co. (KYJ84), Add 3930 and 4010 MHz directed toward Stafford and Advance Mills, Va., at 1.2 miles east-southeast of Rhoadesville, Va.

RURAL RADIO SERVICE—continued

3251–C1–P–71—American Telephone & Telegraph Co. (KYJ85), Add 3890 and 3970 MHz directed toward Rhoadesville and Afton, Va., at Advance Mills, 4.8 miles southwest of Ruckersville, Va.

3252–C1–P–71—American Telephone & Telegraph Co. (KYJ86), Add 3930 and 4010 MHz directed toward Advance Mills and McKinley, Va., at 2.8 miles west-southwest of Afton, Va.

3253–C1–P–71—American Telephone & Telegraph Co. (KYJ87), C.P. to add frequencies 3890 and 3970 MHz directed toward Afton and Warm Springs, Va., at its station located McKinley, 3.5 miles southeast of Craigsville, Va.

3254–C1–P–71—American Telephone & Telegraph Co. (KYJ88), C.P. add 3930 and 4010 MHz toward McKinley, Va., and Anthony, W. Va. at 1 mile south-southeast of Warm Springs, Va.

3255–C1–P–71—American Telephone & Telegraph Co. (KYJ89), C.P. add 3890 and 3970 MHz toward Warm Springs, Va., and Springdale, W. Va., at Anthony, 4.3 miles east-northeast of Woodman, W. Va.

3256–C1–P–71—American Telephone & Telegraph Co. (KYJ90), C.P. add 3930 and 4010 MHz toward Anthony and Flat Top, W. Va. at 1.7 miles northeast of Springdale, W. Va.

3257–C1–P–71—American Telephone & Telegraph Co. (KYJ91), C.P. add 3890 and 3970 MHz toward Springdale and Kopperston, W. Va. at 0.1 mile north of Flat Top, W. Va.

3258–C1–P–71—American Telephone & Telegraph Co. (KYJ92), C.P. add 3930 and 4010 MHz toward Flat Top and Holden, W. Va., at Kopperston, 5.2 miles west-southwest of Arnett, W. Va.

3259–C1–P–71—American Telephone & Telegraph Co. (KYJ93), C.P. add 3890 and 3970 MHz toward Kopperston and Missouri Branch, W. Va. at 3.7 miles southwest of Holden, W. Va.

3260–C1–P–71—American Telephone & Telegraph Co. (KYJ94), C.P. add 3930 and 4010 MHz toward Holden, W. Va. and Paintsville, Ky., at Missouri Branch, 5.1 miles east-northeast of Webb, W. Va.

3261–C1–P–71—American Telephone & Telegraph Co. (KYJ95), C.P. add 3890 and 3970 MHz toward Missouri Branch, W. Va. and Seitz, Ky., at 2 miles south-southeast of Paintsville, Ky.

3262–C1–P–71—American Telephone & Telegraph Co. (KYJ96), C.P. add 3930 and 4010 MHz toward Paintsville and Cowcreek, Ky., at 4.7 miles west-southwest of Seitz, Ky.

3263–C1–P–71—American Telephone & Telegraph Co. (KYJ97), C.P. add 3890 and 3970 MHz toward Seitz and Annville, Ky., at 4.5 miles east-southeast of Cowcreek, Ky.

3264–C1–P–71—American Telephone & Telegraph Co. (KYJ98), C.P. add frequencies 3930 and 4010 MHz directed toward Cowcreek and Mount Victory, Ky., at its station located 3.4 miles northwest of Annville, Ky.

3265–C1–P–71—American Telephone & Telegraph Co. (KYJ99), C.P. add 3890 and 3970 MHz toward Annville and Monticello, Ky., at 2.7 miles north-northeast of Mount Victory, Ky.

3266–C1–P–71—American Telephone & Telegraph Co. (KYC99), Add 3830 and 4010 MHz toward Mount Victory and add 3890 and 3970 MHz toward Ida, Ky., at 5 miles east-northeast of Monticello, Ky.

3267–C1–P–71—American Telephone & Telegraph Co. (KYM98), Add 3930 and 4010 MHz toward Monticello, Ky., and Allons, Tenn., at 1.4 miles north-northwest of Ida, Ky.

3268–C1–P–71—American Telephone & Telegraph Co. (KYM99), Add 3890 and 3970 MHz toward Ida, Ky., and Algood, Tenn., at 1.8 miles north-northwest of Allons, Tenn.

3269–C1–P–71—American Telephone & Telegraph Co. (KYN20), Add 3930 and 4010 MHz toward Allons and Cassville, Tenn., at 1.4 miles east of Algood, Tenn.

3270–C1–P–71—American Telephone & Telegraph Co. (KYN21), Add 3890 and 3970 MHz toward Algood and Centertown, Tenn., at 1.8 miles west-northwest of Cassville, Tenn.

3271–C1–P–71—American Telephone & Telegraph Co. (KYN22), Add 3930 and 4010 MHz toward Cassville and Wartrace, Tenn., at 0.9 mile northwest of Centertown, Tenn.

3272–C1–P–71—American Telephone & Telegraph Co. (KYN23), Add 3890 and 3970 MHz toward Centertown and Farmington, Tenn., at 4.5 miles east of Wartrace, Tenn.

3273–C1–P–71—American Telephone & Telegraph Co. (KIA60), Add 3930 and 4010 MHz toward Wartrace and add 3870 and 3950 MHz toward Culleoka, Tenn., at 0.7 mile northeast of Farmington, Tenn.

3274–C1–P–71—American Telephone & Telegraph Co. (KYN24), Add 3910 and 3990 MHz toward Farmington and Brace, Tenn., at 2.4 miles west-northwest of Culleoka, Tenn.

3275–C1–P–71—American Telephone & Telegraph Co. (KYN25), C.P. for add frequencies 3870 and 3950 MHz directed toward Culleoka and Waynesboro, Tenn., at its station located 2.5 miles west-southwest of Brace, Tenn.

RURAL RADIO SERVICE—continued

3276–C1–P–71—American Telephone & Telegraph Co. (KYN26), Add 3910 and 3990 MHz toward Brace and Olivehill, Tenn., at 3.7 miles east of Waynesboro, Tenn.

3277–C1–P–71—American Telephone & Telegraph Co. (KYN27), Add 3870 and 3950 MHz toward Waynesboro and Michie, Tenn., at 4.9 miles south-southwest of Olivehill, Tenn.

3278–C1–P–71—American Telephone & Telegraph Co. (KYN28), Add 3910 and 3990 MHz toward Olivehill and Pocahontas, Tenn., at 1 mile east-northeast of Michie, Tenn.

3279–C1–P–71—American Telephone & Telegraph Co. (KYN29), Add 3870 and 3950 MHz toward Michie and Saulsbury, Tenn., at 1.7 miles east-northeast of Pocahontas, Tenn.

3280–C1–P–71—American Telephone & Telegraph Co. (KYN30), Add 3910 and 3990 MHz toward Pocahontas and Slayden at 1.7 miles west-northwest of Saulsbury, Tenn.

3281–C1–P–71—American Telephone & Telegraph Co. (KYN31), Add 3870 and 3950 MHz toward Saulsbury and Cockrum at 4.3 miles west of Slayden, Miss.

3282–C1–P–71—American Telephone & Telegraph Co. (KYN32), Add 3910 and 3990 MHz toward Slayden and Arkabutla at 1 mile west-northwest of Cockrum, Miss.

3283–C1–P–71—American Telephone & Telegraph Co. (KTG40), Add 3870 and 3950 MHz toward Cockrum, Miss., at 1 mile southwest of Arkabutla, Miss.

3284–C1–P–71—The Western Union Telegraph Co. (KQN43), C.P. to add 5974.9 and 6093.5 MHz directed toward Shawnee Land, Va., at its station 3 miles southeast of Romney, W. Va.

3285–C1–P–71—The Western Union Telegraph Co. (New), C.P. for a new fixed station. Frequencies: 6226.9, 6256.5, 6345.5, and 6375.1 MHz. Location: Shawnee Land, 5.9 miles northeast of Capon Springs, Va.

3286–C1–P–71—The Western Union Telegraph Co. (New), C.P. for a new fixed station. Frequencies: 6004.5 and 6123.1 MHz. Location: 0.9 mile southwest of Middletown, Va.

Major Amendments

5623–C1–P–70—Western Union Telegraph Co. (KQG35), Change frequencies 6004.5 and 6123.1 MHz toward Belleview, Ky., to 5945.2 and 6063.8 MHz. Station location: Fifth and Vine Streets, Cincinnati, OH.

5624–C1–P–71—Western Union Telegraph Co. (KJJ52), Change frequencies 6256.4 and 6375.1 MHz toward Cincinnati, Ohio, to 6226.9 and 6345.5 MHz; change frequencies 6197.2 and 6315.8 MHz toward Wheatley, Ky., to 6256.5 and 6375.2 MHz. Station location: Belleview, 2.5 miles northeast of Grant, Ky.

5625–C1–P–71—Western Union Telegraph Co. (KJJ24), Change frequencies 5974.9 and 6093.5 MHz toward Belleview, Ky., to 6034.2 and 6152.8 MHz. Station location: Wheatley, 1.5 miles west of New Liberty, Ky. All other particulars same as reported in Public Notice dated Apr. 6, 1970 and Nov. 23, 1970.

(Informative: Western Union proposes to delete original request for additional facilities at the above station and in lieu of, proposes to replace licensed RCA, Type MM–600–A–6 600–A–6 transmitters with Raytheon KTR–3A transmitters, which will operate on frequencies presently licensed for the above stations.)

POINT-TO-POINT MICROWAVE RADIO SERVICE (NONTELEPHONE)

3234–C1–AL–(3)–71—Cablecom-General, Inc. Consent to assignment of license from Cablecom-General, Inc., Assignor, to Microvideo, Inc., Assignee. Stations: (KLH35), Silverton, Tex.; (KLH36), Memphis, Tex.; (KLU60), Childress, Tex.

Major Amendment

2649–C1–MP–71—American Microwave & Communications, Inc. (KQM44), Application amended to the following proposal: Modification of C.P. (4709–C1–P–70) To (1) change frequencies 6160.2 and 6100.9 MHz to 6137.9 and 5960.0 MHz respectively; (2) change license frequency 6035.0 MHz to 6019.3 MHz toward Elmira, Mich., on azimuth 356°07′, Mount Tom, Mich., on azimuth 70°04′, and Leetsville, Mich., on azimuth 313°00′; and (3) power split 6137.9 MHz toward a new point of communication at Kalkaska, Mich., on azimuth 311°30′. (Informative: Applicant proposes to provide the television signal of Station WJRT–TV of Flint, Mich., to Northern Entertainment, Inc.; the proposed operator of a new UHF television broadcast station at Traverse City, Mich.) Previously listed in Public Notice dated Nov. 23, 1970.

[F.R. Doc. 71–39; Filed, Jan. 5, 1971; 8:45 a.m.]

MEXICAN STANDARD BROADCAST STATIONS

Notification List

DECEMBER 23, 1970.

List of new stations, proposed changes in existing stations, deletions, and corrections in assignments of Mexican standard broadcast stations modifying the assignments of Mexican broadcast stations contained in the appendix to the recommendations of the North American Regional Broadcasting Agreement Engineering Meeting, January 30, 1941.

Call letters	Location	Power watts	Antenna radiation mv/m/kw	Schedule	Class	Antenna height (feet)	Ground system		Proposed date of change or commencement of operation
							Number radials	Length (feet)	
		860 kHz							
XEUN	Mexico, D.F.	45kwD/25kwN	DA-2	U	II				

FCC NOTE: Notification of basic information in a notification list has not been received as of this issue date. Supplementary information was transmitted by letter of Nov. 21, 1970, in accordance with privisional procedures for exchange of notifications established in a memorandum of understanding between the delegations of the United States and Mexico signed in Washington on Nov. 27, 1968.

Issued: December 23, 1970.

[SEAL]

FEDERAL COMMUNICATIONS COMMISSION,
WALLACE E. JOHNSON,
Assistant Chief, Broadcast Bureau.

[F.R. Doc. 71-40; Filed, Jan. 5, 1971; 8:45 a.m.]

[Dockets Nos. 18845-18849; FCC 70R-456]

LAMAR LIFE BROADCASTING CO. ET AL.

Memorandum Opinion and Order Enlarging Issues

In regard applications of Lamar Life Broadcasting Co., Jackson, Miss., Docket No. 18845, Files Nos. BPCT-4320, BRCT-326; Civic Communications Corp., Jackson, Miss., Docket No. 18846, File No. BPCT-4305; Dixie National Broadcasting Corp., Jackson, Miss., Docket No. 18847, File No. BPCT-4317; Jackson Television, Inc., Jackson, Miss., Docket No. 18848, File No. BPCT-4318; and Channel 3, Inc., Jackson, Miss., Docket No. 18849, File No. BPCT-4319; for a construction permit.

1. By Order (FCC 70-462, 25 FCC 2d 101 (35 F.R. 7205), released May 4, 1970, reconsideration denied 24 FCC 2d 618, 19 RR 2d 851, released Aug. 3, 1970), the Commission designated the above-captioned applications for authority to operate a television broadcast station on Channel 3, Jackson, Miss., for consolidated hearing on specified issues.[1] Now before the Review Board is a petition to enlarge issues, filed May 22, 1970, by Civic Communications Corp., (hereinafter "Civic"). Petitioner seeks to have certain issues specified against three of the four competing applicants (viz., Lamar, Dixie National Broadcasting Corp. (hereinafter "Dixie"), and Jackson Television, Inc. (hereinafter "Jackson")), and to include a comparative programing evaluation in this proceeding.[2] The Board will dispose of the requested issues in the order in which they have been raised against the various competing applicants. Because a comparative programing evaluation would affect all of the applicants in this proceeding, the Board will dispose of that request separately.

Issues requested against Lamar. 2. Civic petitions the Review Board to add the following issues against Lamar:

(a) To determine whether during the years 1961-64 Station WLBT-TV, Jackson, Miss., afforded reasonable opportunity for the discussion of conflicting views on issues of public importance;

(b) To determine whether Station WLBT-TV, Jackson, Miss., during the years 1961-64 afforded reasonable opportunity for the use of its broadcasting facilities by the significant groups comprising the community of its service area;

(c) To determine whether Station WLBT-TV, Jackson, Miss., during the years 1961-64 acted in good faith with respect to the presentation of programs dealing with the issues of racial discrimination, and, particularly, whether it misrepresented to the public or to the Commission with respect to the presentation of such programing;

(d) To determine whether Lamar Life Broadcasting Co. and/or Lamar Life Insurance Co. have engaged in conduct effecting transfer of control of Station WLBT-TV without obtaining consent of the Commission in violation of section 310(b) of the Communications Act of 1934, as amended;

(e) To determine whether Lamar Life Broadcasting Co. and/or Lamar Life Insurance Co. have misrepresented to the Commission the nature of the ownership and control of Station WLBT-TV, Jackson, Miss.

(f) To determine whether in light of all the evidence adduced with respect to the foregoing issues a grant of the application of Lamar Life Broadcasting Co. is qualified to be a licensee of the Commission. [Sic]

Petitioner indicates that requested issues (a), (b), and (c) had previously been specified against Lamar by the Commission in its Order (3 FCC 2d 784, 7 RR 2d 445, released May 26, 1966), designating Lamar's renewal application for hearing. Civic explains that the Commission specified the above issues pursuant to the remand order of the United States Court of Appeals for the District of Columbia Circuit in Office of Communication of the United Church of Christ v. FCC, —— U.S. App. D.C. ——, 359 F. 2d 994, 7 RR 2d 2001 (1966), which directed that an evidentiary hearing be held on Lamar's renewal application for Station WLBT. Thereafter, relates petitioner, the Hearing Examiner found Lamar qualified to be a Commission licensee and ordered the regular renewal of WLBT's license; he concluded that, on the basis of the record before him, none of the serious charges against the station had been corroborated or substantiated.

[1] On June 20, 1969, the U.S. Court of Appeals for the District of Columbia Circuit reversed the Commission's Decision (14 FCC 2d 431, 13 RR 2d 769, released June 28, 1968), which had granted Lamar Life Broadcasting Co. (hereinafter "Lamar") renewal of its license to operate Station WLBT on Channel 3. Office of Communications of the United Church of Christ v. FCC, —— U.S. App. D.C. ——, 425 F. 2d 543, 16 RR 2d 2095, rehearing en banc denied Sept. 5, 1969, 425 F. 2d 551, 17 RR 2d 2001. In vacating the grant of Lamar's renewal application, the Court remanded the proceeding to the Commission and directed the latter to invite the filing of new applications for the Jackson facility; however, the Court refrained from holding that Lamar is disqualified from filing a new application in the absence of an appropriate Commission determination of that question.

[2] Also before the Board are: (a) Opposition to petition to enlarge issues, filed June 4, 1970, by Lamar; (b) opposition to petition to enlarge issues, filed June 16, 1970, by Dixie; (c) opposition to petition to enlarge issues, filed June 16, 1970, by Jackson; (d) opposition to petition to enlarge issues, filed June 16, 1970, by Channel 3, Inc.; (e) comments re: petition to enlarge issues, filed June 16, 1970, by the Broadcast Bureau; (f) supplement to opposition, filed June 19, 1970, by Jackson; (g) reply to opposition of Lamar, filed June 19, 1970, by Civic; (h) reply to opposition of Dixie, filed June 29, 1970, by Civic; (i) reply to opposition of Jackson, filed June 29, 1970, by Civic; (j) reply to opposition of Channel 3, Inc., filed June 29, 1970, by Civic; and (k) response to comments of Broadcast Bureau, filed June 29, 1970, by Civic.

Lamar Life Insurance Co., 14 FCC 2d 495, 11 RR 2d 457 (1967).[3]

3. Petitioner adds that the Commission subsequently sustained the Hearing Examiner's determination that the Lamar renewal application should be granted and agreed with the Examiner that the preponderance of the evidence of record established that WLBT had provided reasonable opportunity for the discussion of controversial issues and had complied with the Commission's 1960 Programing Statement (FCC 60–970, 20 RR 1901). See 14 FCC 2d 431, 13 RR 2d 769 (1968). In subsequent appellate litigation, however, records Civic, the Court of Appeals vacated the Commission's grant of renewal. See note 1, supra. In directing the Commission to invite new applications for the Channel 3 facility, emphasizes petitioner, the Court expressed its "profound concern" over the Commission's disposition of the case, and stated that: "[t]he administrative conduct reflected in this record is beyond repair." 425 F. 2d at 550, 16 RR 2d at 2106. Consequently, reasons Civic, the issues originally designated by the Commission against Lamar in the 1966 hearing proceeding are as unresolved today as they were at the moment of designation and since they have never been explored in a proper evidentiary proceeding, the Board should specify similar issues in the instant proceeding to determine Lamar's basic qualifications to be a licensee.[4]

4. Lamar opposes petitioner's request and observes initially that issues (a), (b), and (c) are virtually a repetition of the first three issues specified against Lamar by the Commission in the earlier renewal hearing.[5] Thereafter, Lamar submits that, as a threshold matter, the pendency of various questions before the Commission and the Court of Appeals[6] renders premature any Review Board action on the instant petition. Lamar explains that its collateral pleadings and appeal argue for the recognition of its "rightful and lawful status" in the current proceeding as a pending renewal applicant under section 307(d) of the Communications Act and section 558(c) of the Administrative Procedure Act.[7] If it is ultimately accorded standing as a renewal applicant, submits Lamar, then it can rely affirmatively upon its past record of operation, at least up to December 5, 1969 (the date of the vacating of the Commission's prior grant of renewal), or, possibly, up to May 4, 1970 (the date of designation of the instant proceeding). In any event, Lamar asserts that the scope of the requested issues cannot be appropriately limited to the period, 1961–1964, since it is entitled to rely upon a "past record compiled under prior lawful authority" in the same manner as any other new applicant. Moreover, Lamar contends that if the Commission and/or the Court decline to accord it the status of a pending renewal applicant, the burden of going forward with the evidence and the ultimate burden of proof as to requested issues (a), (b), and (c) should fall upon Civic, not Lamar. In this regard, Lamar also points out that none of Civic's allegations in support of issues (a), (b), and (c) is based upon an affidavit of someone with personal knowledge of the facts, as is required by § 1.229(c) of the rules and that only Weyman Walker, the president of Civic, has offered an affidavit in support of the factual allegations contained in the petition to enlarge issues. Consequently, reasons Lamar, Civic's petition fails to comply with § 1.229(c) of the rules and should be denied for that reason alone. In conclusion, Lamar argues that Board action on Civic's petition would be premature and improper, but that, in the event the Board decided to add requested issues (a), (b), and (c), the burdens of going forward and of ultimate proof should both be clearly assigned to Civic, and Lamar should be given the right to adduce evidence of its past record of operation, not solely for the period from 1961 until 1964, but from 1961 to at least December 5, 1969, or, alternatively, until May 4, 1970.[8]

5. In reply to Lamar's opposition, Civic asserts that the results of Lamar's pending collateral pleadings and appeals would have no bearing on the Board's consideration of Civic's instant petition since requested issues (a), (b), and (c) relate to the basic qualifications of Lamar to be a Commission licensee and must be resolved regardless of Lamar's status during hearing and regardless of who receives interim authority to operate Channel 3. See note 6, supra. Moreover, maintains Civic, Lamar's posture in the instant proceeding would be of little consequence in regard to the burdens of proceeding and proof under the requested issues since Civic is willing to accept the Board's apportionment of the evidentiary burdens as determined by applicable precedent and since, in any event, the Board can be moved to correct the misplacement of an evidentiary burden should Lamar's current posture change. Civic counters Lamar's further objection that the former's allegations are not supported by proper affidavit with the rejoinder that "official notice" may be taken of the specific facts alleged by petitioner in support of its request, as provided for in § 1.229(c) of the rules. In this regard, Civic notes that the facts alleged in regard to Lamar's 1961–64 programing were contained within both the Commission's Memorandum Opinion and Order (38 FCC 1143, 5 RR 2d 205) granting Lamar a 1-year renewal of its license in 1965, and the Commission's order (3 FCC 2d 784, 7 RR 2d 445), designating Lamar's renewal application for hearing in 1966. Petitioner asserts that even though the facts alleged by it were "found" by the Commission and resulted in the specification of "substantially similar issues" against Lamar, the question concerning Lamar's basic qualifications have never been properly resolved. Finally, Civic dismisses Lamar's contention that the period of investigation

[3] Civic notes that the designation Order changed the licensee's name to Lamar Life Insurance Co. to reflect a prior transfer of control. Subsequently, reports Civic, the name of the licensee was changed back to Lamar Life Broadcasting Co.

[4] The factual allegations adduced by Civic in support of its requested issues are essentially an elaboration of the Commission's summary description of the pleadings before it when, in May of 1966, it designated similar issues. The Commission there stated that "the substantial issues raised relate to charges that the programing presented by applicant [Lamar] has been unfair to various groups, particularly Negro groups, within the service area, and has discriminatorily denied such groups the opportunity for local expression over the facilities of applicant's station." (Footnote omitted) 3 FCC 2d at 786, 7 RR 2d at 448. The issues specified by the Commission in 1966 are the same as those now requested by Civic except for the petitioner's injection of the years "1961–1964."

[5] Lamar indicates that the petitioner here would restrict the scope of the inquiry under the requested issues to the years "1961–1964" or the period immediately preceding the filing of Lamar's 1964 renewal application, against which petitions to deny were filed.

[6] Lamar refers to its petition for reconsideration of the Commission's May 4, 1970, designation order and to its petitions to deny the applications of Channel 3, of Jackson, and of the Communications Improvement, Inc., for interim authority to operate Station WLBT during the comparative hearing. Lamar also notes its appeal to the U.S. Court of Appeals for the District of Columbia in Cases Nos. 23,920 and 23,953 from the Commission actions vacating the grant of Lamar's renewal application and inviting the filing of new applications (20 FCC 2d 635, released Dec. 5, 1969) and denying Lamar's petition for reconsideration thereof (21 FCC 2d 277, 18 RR 2d 274, released Feb. 2, 1970). As indicated in paragraph 1, supra, Lamar's petition for reconsideration of the designation order herein was denied. In addition, by Memorandum Opinion and Order, FCC 70–957, 20 RR 2d 167, released September 8, 1970, the Commission granted the application of Communications Improvement, Inc. to operate the Channel 3 facility of an interim basis and denied the competing applications of Channel 3 of Jackson and of Lamar (who had filed an interim application although it considered that no interim authorization could be issued by the Commission). Lamar has filed a notice of appeal of the Commission's action granting an interim authorization.

[7] Lamar explains that its Court appeal (note 6, supra) is grounded upon the contention that the Commission erroneously directed it to file a "new" application and refused to recognize its rightful status as a hold-over renewal applicant "even though the Commission has repeatedly recognized that Lamar's renewal application is, in fact, still pending without final disposition." Lamar further asserts that since it has always operated Station WLBT under lawful authority, its record of operation thereunder is "valid, relevant and admissible," citing Consolidated Nine, Inc. v. FCC, 131 U.S. App. D.C. 179, 403 F. 2d 585, 14 RR 2d 2006 (1968).

[8] The Broadcast Bureau also opposes the addition of requested issues (a), (b), and (c). It is the Bureau's position that Civic's request for disqualifying issues is premised on the same specific facts which were before the Commission when, following the Court of Appeals' action in 1969 (note 1, supra), it determined that such matters should be inquired into on a comparative basis only. The Bureau, citing Atlantic Broadcasting Company (WUST), 5 FCC 2d 717, 8 RR 2d 991 (1966), contends that the Board should deny enlargement since no new factual allegations have been presented by Civic.

under the requested issues should include the years from 1961 until 1969 as "procedurally out of place" and inconsistent with Lamar's claim to renewal applicant status. As a renewal applicant, explains Civic, Lamar would not be permitted to adduce evidence as to improved program service after the filing of a petition to deny.[9]

6. In response to the Broadcast Bureau's comments, Civic argues that the Court of Appeals, by refusing to find Lamar disqualified to be a new applicant for Channel 3, did not thereby determine that Lamar was, in fact, qualified to be a licensee; therefore, Civic asserts, the Commission cannot conclude, sub silentio, that Lamar is qualified to continue as a licensee without further hearing or the adduction of additional evidence. According to the petitioner, the Bureau cannot urge that the Commission is capable of making the determination contemplated by the Court through reliance on facts adduced in a hearing which has produced a record the Court termed incapable of rehabilitation. It is Civic's position that since the requested issues have never been properly considered nor finally resolved, the Commission must now decide the question of "whether Lamar's stewardship of WLBT (TV) during the 1961–64 license period disqualifies it from continuing as licensee of that station."

7. The historical background of this proceeding, which has been referred to in summary fashion by the petitioner and respondents, is both long and complicated, and, to the extent possible, the Board will refrain from an undue recitation of well-known facts. As an initial point of departure and in order to give proper perspective to our ultimate ruling, however, we must take note of the evolution of the issues now requested by Civic. Similar issues—not specifically limited to the period from 1961 to 1964—were designated by the Commission against Lamar in 1966 pursuant to the Court of Appeals' holding that the Commission had erred in its 1965 grant of renewal of the WLBT license for a 1-year period and the court's directive that the circumstances surrounding the station's programing practices required inquiry in an evidentiary hearing under section 309(e) of the Communications Act, which also permitted public intervention. In its Order (3 FCC 2d 784, 7 RR 2d 445 (1966), designating Lamar's renewal application for hearing, the Commission noted that substantial questions had been raised as a result of charges that WLBT's programing had been unfair to various groups, particularly Negro groups, within the station's service area and that WLBT had discriminatorily denied such groups the opportunity for local expression over its facilities; accordingly, the Commission specified issues similar to those now requested by Civic.[10] The burden of proof under these factual issues was allocated to the intervenors and the Broadcast Bureau by the Commission while the burden of proof under the ultimate conclusory issue was placed on Lamar. After hearing on the specified issues, the Commission agreed with the Hearing Examiner's evaluation that the intervenors had failed to prove their charges against Lamar and concluded that "* * * the preponderance of the evidence before us establishes that Station WLBT has afforded reasonable opportunity for the use of its facilities by the significant community groups comprising its service area." 14 FCC 2d at 437–38, 13 RR 2d at 777. In deciding to grant a regular renewal of the WLBT license, however, the Commission did note the fact that the record of the proceeding would not support a conclusion that WLBT's performance during the period in question had been above reproach.

8. Upon appeal of the Commission's 1968 Decision, the Court of Appeals reversed and remanded for further proceedings, holding that the Commission action was not supported by "substantial evidence." In effect, the court found that both the Examiner and the Commission had erroneously placed the burden of proof under the factual issues on the intervenors, which resulted in the subsequent rejection of testimonial evidence offered by the intervenors as mere "allegations"; that the Commission had a duty to conduct an affirmative and objective investigation of the matters at issue, especially since the Commission itself had earlier found the licensee wanting; and that, as a result, the administrative conduct reflected in the record was "beyond repair." The court also directed the Commission to invite the filing of new applications for the Channel 3 facility and stated:

> We do refrain, however, from holding that the licensee be declared disqualified from filing a new application; the conduct of the hearing was not primarily the licensee's responsibility, although as the applicant it had the burden of proof. Moreover, the Commission necessarily did not address itself to the precise question of WLBT's qualifications to be an applicant in the new proceeding now ordered and we hesitate to pass on this subject not considered by the Commission. 425 F. 2d at 550, 16 RR 2d at 2106.

Subsequently, in a per curiam order of September 5, 1969 (425 F. 2d 551, 17 RR 2d 2001), the Court denied requests for rehearing of the case. In a statement accompanying the order, Judges McGowan and Tamm explained that although Lamar had not in over 6 years established its right to renewal of the WLBT license, the Court had refrained from declaring the license ineligible to seek new authority to use the channel since the Commission had erred in the administrative proceeding involving the renewal application; however, they also noted that Lamar was no more than "a licensee in name only" and that, in such light, Lamar would take its place among the competing applicants for Channel 3. Thereafter, the Commission designated the competing applications for hearing on air menace issues against Dixie, Jackson and Channel 3 and on the standard comparative issue and, in regard to Lamar's status, stated:

> To assure that Lamar compete "* * * on even terms as nearly may be, with any other applicant," United Church of Christ v. FCC, Case No. 19,409, order denying rehearing, p. 2, we wish to make clear that Lamar will be judged on its basic application (BPCT–4320). The grant or denial of the pending renewal application (BRCT–326) for station WLBT (TV) will rest on the determination made with respect to BPCT–4320. In accordance with the Court's above-described direction, no preference will be based on the Lamar WLBT(TV) past record, since to do so would be preferential to Lamar, the only applicant which would have had the opportunity to obtain a preference in this respect. The past record of the Lamar WLBT(TV) operation can of course be examined for defects significant to the public interest judgment, with Lamar afforded the full opportunity to establish in rebuttal that its operation does not warrant any demerit. In all other respects (e.g., the operation of WJDX (AM & FM) to the extent appropriate), the Policy Statement on Comparative Broadcast Hearings, 1 FCC 2d 393 (1965), is applicable. As previously stated, the recent Policy Statement on Comparative Hearings Involving Regular Renewal Applicants, 35 F.R. 822 (1970), is inapplicable to this proceeding. 25 FCC 2d at 101–02.

There was no discussion of the relevance of the issues previously specified against Lamar in the designation order although the Commission did circumscribe the past record factor of the comparative issue to insure that no preference would accrue to Lamar. In denying reconsideration of its designation order, the Commission refused to permit Lamar to show that its past record from 1964 to 1969 was above average and that it was therefore entitled to a comparative preference; the Commission reasoned that to allow such a showing would contravene the Court's directive that Lamar compete on equal terms with the other applicants and would be inconsistent with the Commission's previous finding that Lamar's pre-1964 record did not justify a full 3-year renewal and with the Court's ruling that the hearing held on Lamar's past performance up to 1967 did not support a renewal of the WLBT license. 24 FCC 2d at 619–20, 19 RR 2d at 853–54.

9. In light of the Court's specific disclaimer in its 1969 Decision to the effect that it was not passing on Lamar's quali-

[9] Civic refers to the Commission's Policy Statement on Comparative Hearings Involving Regular Renewal Applicants, 22 FCC 2d 424, 18 RR 2d 1901 (1970).

[10] Petitions to deny Lamar's 1964 renewal application had been filed by the Mississippi AFL–CIO and by the United Church of Christ, together with certain individuals, alleging the licensee's noncompliance with the Fairness Doctrine. In granting short-term renewals of the licenses of Lamar's Stations WJDX, WJDX–FM, and WLBT, the Commission conceded that serious questions had been presented concerning the licensee's operations and its compliance with the requirements of the Fairness Doctrine; however, the Commission concluded that renewal grants conditioned on, inter alia, Lamar's strict compliance with the Fairness Doctrine, represented a more appropriate resolution of the matters raised by the petitions to deny and the Commission's own investigation than did a hearing on the renewal applications. See 38 FCC at 1153–55, 5 RR 2d at 219–21.

fications to be a "new" applicant for the Channel 3 facility, but was leaving that determination up to the Commission in the first instance in the context of the comparative hearing to be ordered, and in the absence of any specific discussion by the Commission in its designation Order as to the relevance of the issues previously specified against Lamar to the question of its qualifications to be a "new" licensee, the Board is not persuaded by the Bureau's argument that the Atlantic rationale applies here. Moreover, the Board agrees with Civic's contention that the Court of Appeals, in effect, has held that there has not been a proper resolution of the issues originally specified by the Commission in 1966 on a disqualifying basis because of the procedural infirmities inherent in the administrative hearing held on Lamar's renewal application. Therefore, it is appropriate that such issues should be specified in this proceeding since the matters involved are relevant to Lamar's qualifications to receive a construction permit and since these matters could be expected to be developed under the comparative factor of past broadcast record in any event. Our decision to inject these issues in this comparative hearing is reinforced by our recognition of an apparent anomaly which could result if Lamar were ultimately to be preferred in this proceeding and the Commission were required to rule on the accompanying renewal application without the benefit of a record under the same qualifications issues which were specified earlier.[11] Unlike Lamar, we can see nothing wrong with Civic's reliance on official notice of the factual allegations which underly its request since those same facts formed the basis for the Commission's prior specification of issues and since there has not been a proper litigation or resolution of those issues as contemplated by the Court.

10. We will not entertain Lamar's suggestion that the scope of the issues requested by Civic be expanded to include the period from 1961 to either 1969 or 1970 in order to enable Lamar to rely upon a "past record compiled under prior lawful authority." The Board fails to see the relevance and materiality of Lamar's post-1964 record under the issues to be specified. In this regard, we note that the suggestion runs counter to the Commission's attempt to limit the scope of the evidence to be received under the past broadcast record criterion, as noted above. Since Lamar's performance at WLBT has been in issue since at least 1964 and since its pre-1964 record has been found wanting by both the Commission and the Court, we are not convinced that Lamar, as a "new" applicant, should be permitted to use its post-1964 record to cure any serious inadequacies that may be developed under the issues. Immaculate Conception Church of Los Angeles v. FCC, 116 U.S. App. D.C. 73, 320 F. 2d 795 (1963), cert. denied 375 U.S. 904. However, under the specified issues, Lamar may be permitted to introduce evidence to show that claimed deficiencies did not exist or were counterbalanced by its overall performance in the particular area under consideration. Finally, contrary to Lamar's further suggestions, we will split the evidentiary burdens under the issues to be specified so that Civic will assume the burden of going forward with the introduction of evidence and Lamar will assume the ultimate burden of proof under the issues and will be required to demonstrate its qualifications to be a Commission licensee. Such an allocation appears to be in keeping with the Court of Appeals' 1969 Decision and with Lamar's status as a "new" applicant.[12]

Unauthorized transfer of control and misrepresentation issues. 11. Civic also requests the addition of issues to determine whether Lamar Life Broadcasting Co. and/or Lamar Life Insurance Co. engaged in conduct affecting the unauthorized transfer of control of Station WLBT and whether either or both have misrepresented to the Commission the real ownership and control of WLBT. In support of its request, Civic recites factual allegations based upon the Commission's 1965 Memorandum Opinion and Order (1 FCC 2d 1484, 6 RR 2d 308) approving a transfer of control of the station from Lamar Life Broadcasting Co. to Lamar Life Insurance Co. More specifically, the petitioner notes that, in the original 1952 application for WLBT, the Commission was advised that the broadcasting company was a wholly owned subsidiary of the insurance company; that, in 1953, the application was amended to show that the insurance company had sold all of its stock in the broadcasting company to several individuals who were either employees, directors or stockholders of the broadcasting or insurance companies; that the Commission then granted a construction permit to the broadcasting company; and that, shortly thereafter, the broadcasting company executed an option, which was periodically renewed, whereby the insurance company acquired the right to repurchase the stock of the broadcasting company from the individual stockholders for $10,000. Contrary to the Commission's finding that "there was clearly no deliberate plan here to effect an unauthorized transfer of control, accompanied or compounded by misrepresentations to the Commission",[13] Civic contends that, during the period in which the broadcasting company's stock was held by several individuals (1953 to 1965), actual control of WLBT resided with the insurance company. In support of this contention, Civic refers to an announcement by the president of the insurance company, which was broadcast by WLBT in October of 1962, to the effect: "I am president of Lamar Life Insurance Co., which in turn owns this station."[14] Petitioner also relies on the dissenting statement of Commissioner Cox in regard to the Commission's 1965 transfer of control action for the proposition that, prior to 1965, the indicia of true control resided with the insurance company. Civic urges that the pre-1965 disclosures to the Commission in various filings by Lamar of the close relationship between the insurance and broadcasting companies do not satisfy the "stringent and explicit" requirements of section 310(b) of the Act, and that the present proceeding presents another opportunity for investigation of WLBT's ownership between 1953 and 1965. In addition, the petitioner asserts that more recent ownership reports bear scrutiny because, although prior to 1968 the insurance company reported that various companies and individuals (including members of the Murchison family) held interests therein, it was not revealed, until the filing of an ownership report, dated November 19, 1968, that the Murchison family's aggregate holdings amounted to more than 50 percent. Since this shift in ownership represented a change in the control of WLBT and since no transfer of control application has been filed in regard thereto, as required by section 310(b), Civic contends that inquiry into this matter is also necessary.

12. In its opposition, Lamar distinguishes between its alleged conduct before 1965 and that which is urged by Civic to have occurred thereafter. Charges relating to the period before December of 1965, submits Lamar, are merely a recapitulation of allegations which were considered and rejected by the Commission in its previous decision, approving the 1965 transfer of control applications; therefore, Lamar contends that that portion of Civic's request which pertains to Lamar's pre-1965 conduct is clearly res adjudicata and cannot properly be raised in the instant hearing. As to matters occurring after December of 1965, and not previously considered by the Commission, Lamar asserts that Civic's allegations are not only unsupported but are wholly groundless as well. In this regard, Lamar notes that the November 19, 1968, ownership report disclosed that John D. Murchison and C. W. Murchison, Jr. had increased the percentage of stock held in their individual names from 44.8 percent to 50.6 percent and that the additional stock had been obtained from the A. B. Frank Company (an organization controlled by the Murchison brothers), which had held the stock as collateral security for a loan. Pledge of the Murchisons' stock to the A. B. Frank Co., urges Lamar, was disclosed to the Commission in Exhibit 12 of the 1965 transfer of control application (FCC File No. BTC-4842), and Table I of BTC-4842 had reported that

[11] We do not find that Lamar's pending appeals (see note 6, supra) concerning its status in this proceeding prevent our consideration of Civic's instant request. The matters raised by Civic relate to Lamar's basic qualifications and, as such, are relevant to Lamar's status as either a "new" applicant or a renewal applicant.

[12] If any further change in Lamar's posture in this proceeding should require modification of our action, an appropriate petition can be filed with the Board. We do not mean to imply, however, that a change in Lamar's status will necessarily affect other aspects of this proceeding, including the allocations of the evidentiary burdens under the issue.

[13] 1 FCC 2d at 1486, 6 RR 2d at 312.

[14] 1 FCC 2d at 1486, 6 RR 2d at 311.

the Murchison family interests amounted to 47.701 percent, while that of the A. B. Frank Co. amounted to 6.41 percent. Moreover, notes Lamar, Exhibit 12 recited that the Murchison brothers controlled the A. B. Frank Co., which, along with other companies, held specified shares of the Murchisons' stock in the insurance company as pledges for loans. Therefore, reasons Lamar, the 1965 transfer of control application made full and complete disclosure of the ultimate ownership of the Lamar Life Insurance Co., and, in fact, Exhibit 13 of the application noted specifically that the Murchisons or their pledges held, in the aggregate, 513,485 shares out of the 998,250 shares outstanding or in excess of 50 percent. Lamar argues that to contend, as Civic does, that a new transfer application was necessary when the Murchisons' controlled company thereafter released back to the Murchisons the relatively few shares held by it as a collateral pledge is "to elevate form over substance." Accordingly, urges Lamar, Civic's request for unauthorized transfer of control and misrepresentation issues should be denied.[15]

13. Civic replies to Lamar's opposition by insisting that mere disclosure of information concerning licensee control—either through ownership reports or through other "indirect" filings—does not satisfy the mandate of section 310(b) of the Communications Act. Civic asserts that a licensee is affirmatively bound to file for Commission approval prior to any transfer of control (whether it be de jure or de facto) and that the Commission is not relieved of its responsibility to investigate the transfer solely because the licensee has not attempted to conceal matters. In response to the Broadcast Bureau's comments, Civic denounces its position as a "transparent ploy" to enable the Commission to dodge the basic issue of licensee fitness. Civic reasserts, moreover, that the 1965 transfer of control matter was never properly investigated by the Commission in an adversarial and evidentiary proceedings.

14. Insofar as Civic would have us specify issues against Lamar based on the period prior to 1965, the Board will deny that portion of its request. Examination of the Commission's 1965 decision in Lamar Life Broadcasting Co., 1 FCC 2d 1484, 6 RR 2d 308, has persuaded the Board that petitioner's allegations here were previously considered and disposed of favorably to Lamar. The Commission specifically found that there was no deliberate plan to effect an unauthorized transfer of control or to misrepresent the actual ownership situation to the Commission. Since the matter has already been fully considered by the Commission and since petitioner has pleaded no new facts in regard thereto, the Board is precluded from granting the relief requested. See Atlantic Broadcasting Co., supra, 5 FCC 2d at 720–21, 8 RR 2d at 996. Insofar as Civic would have us specify the same issues against Lamar based on the period between 1965 and 1968, the Review Board will also deny that portion of petitioner's request. Initially, we note that Lamar's earlier transfer of control application (granted in December of 1965) disclosed in Table I, that Clint W. Murchison held 6.658 percent of the insurance company's stock, C. W. Murchison, Jr., 13.95 percent, and John D. Murchison, 27.093 percent. The Murchison family's direct interest was thus listed as 47.701 percent of the outstanding stock. Table I also indicated that the A. B. Frank Co. held 6.41 percent of the insurance company's stock, and Exhibit 12 of Lamar's transfer application further revealed that the A. B. Frank Co. was controlled by the Murchison brothers. Moreover, Exhibit 13 of Lamar's 1965 transfer application indicated that, of the 998,250 shares of stock outstanding, the Murchison brothers (or their pledgees) owned 513,485 shares, or in excess of 50 percent of the insurance company's stock. In these circumstances, the Board is of the opinion that the description of the Murchisons' interests in the insurance company, both direct and indirect, contained within the 1965 transfer application constituted adequate disclosure of the fact that the insurance company, the proposed transferee, was controlled by the Murchisons. The effect of such disclosure was not invalidated or undermined by the A. B. Frank Co.'s subsequent reconveyance to the Murchisons (John D. and C. W. Murchison Jr.) of the insurance company's stock held as loan collateral. In the Board's view, the release of the stock held under the pledge by a company which was disclosed to be controlled by the Murchisons does not raise a question concerning either a de jure or de facto change in corporate control, nor does it present a serious question about the disclosures made to the Commission as to WLBT's ownership or control. Cf. Lawrence County Broadcasting Corp., 15 FCC 2d 910, 15 RR 2d 482 (1969). Civic's request will therefore be denied in its entirety.[16]

"Section 1.65 issue". 15. Civic requests that the Board specify a disqualifying issue to determine whether Dixie National Broadcasting Corp. has violated the provisions of § 1.65 of the Commission's rules. In support of its request, petitioner alleges that Dixie failed to disclose in section II of its application that Rubel L. Phillips, the corporate applicant's Chairman of the Board and 5 percent stockholder, was, prior to his resignation in 1967, Secretary of Dixie National Insurance Co. The insurance company, notes petitioner, holds 40 percent of Dixie's stock and Mr. Phillips served as its Secretary from the date of its inception until his resignation in 1967. Civic concludes that Dixie has failed to file a complete and accurate application; that the application has remained uncorrected from the date of filing until the present; and that, therefore, an issue is warranted to determine whether Dixie has violated the provisions of § 1.65 of the Commission's rules and, if so, the effect thereof upon its qualifications to be a Commission licensee.

16. In opposition, Dixie initially notes that Civic has misconstrued its requested relief. Rule 1.65, explains Dixie, is directed to an applicant's failure to apprise the Commission of significant changes in its application; therefore, it it Dixie's position that petitioner has mistakenly invoked Rule 1.65 to support its charge that Dixie's application failed to make full disclosure of its principal's business interests ab initio. In any event, continues Dixie, an issue is not warranted, for the facts alleged could not support a finding of misrepresentation. In this regard, Dixie attaches an affidavit of Rubel L. Phillips, which, it alleges, demonstrates both the bona fides of Dixie's efforts to comply with Commission requirements and the absence of any intent to withhold information from the Commission. In his affidavit, Mr. Phillips, a practicing attorney in Jackson, Miss., attests that, on April 3, 1965, he was one of sixteen incorporators of Modern Dixie Life Insurance Co. (now Dixie National Life Insurance Co.);[17] that he served as Secretary of the company from April 3, 1965, until June 10, 1967, but that, other than serving as legal counsel, he has never been active in the management of the company; that, on August 8, 1966, he was one of nine incorporators of Modern Dixie Corp. (now Dixie National Corp.); and that he served as its Vice President from the date of incorporation until October 31, 1969, but that he was never compensated for his services as an officer of Dixie National Corp. and attended meetings of the board of directors in his compensated capacity as legal counsel. Mr. Phillips explains that, in preparing the biographical information required by FCC Form 301, section II, he did not disclose his association with either Dixie National Life Insurance Co. or with Dixie

[15] The Broadcast Bureau also opposes the addition of requested issues (d) and (e), pointing out that the entire matter of unauthorized transfer of control has been adjudicated by the Commission and that Civic has not alleged new facts. However, the Bureau notes the Commission's critical language in approving the 1965 transfer of control and suggests that the matter could be raised on a comparative basis if the Board concludes that the transfer situation is relevant to Lamar's past broadcast record.

[16] Since both the Commission and the Board have concluded that no substantial questions have been raised concerning claimed unauthorized transfers of control, we see no reason to inject these matters in the instant proceeding under the comparative criterion of Lamar's past broadcast record, as the Bureau suggests. The Board would also observe that recent Commission action would permit a change in the Murchison brothers' ownership position in Lamar Life Insurance Co. from de jure to de facto control. See Public Notice of December 3, 1970 (Report No. 9520). The Commission noted further that if, as anticipated, Lamar Life Insurance Co. repurchased a significant portion of shares held by the Murchison brothers, the latter's holdings would be reduced from in excess of, to less than, 50 percent of the total issued and outstanding stock.

[17] Dixie National Corp. now owns approximately 43 percent of Dixie National Life Insurance Co., according to Mr. Phillips.

National Corp.[18] because he did not consider his participation in either party to have been of any great significance. In this regard, Mr. Phillips notes that, of the 460,000 shares of Dixie National Life Insurance Co. outstanding at the time of the filing of Dixie's application, he owned 1,920 (less than 0.5 percent) and that, of the 445,285 shares of Dixie National Corp. then outstanding, he owned 4,833 (slightly more than 1 percent). Dixie itself concludes that the purported omissions concerning Mr. Phillips' associations can have "no conceivable relevance" to the instant proceeding, citing, inter alia, Terre Haute Broadcasting Corp., 17 FCC 2d 815, 16 RR 2d 303 (1969).

17. In its comments, the Broadcast Bureau asserts that Rubel L. Phillips' association with Dixie National Life Insurance Co. is clearly a matter which, because of that company's holdings in Dixie, ought to have been brought to the Commission's attention. The Bureau urges addition of the requested § 1.65 issue in the absence of an adequate explanation by Dixie. In the event the Board is of the opinion that the violation represents an "inadvertent omission", the Bureau would support the specification of only a comparative § 1.65 issue. In its reply to Dixie's opposition, Civic contends that Mr. Phillips' relationship with two entities so closely related to the applicant corporation should have been revealed either originally in Dixie's application or by amendment thereto. Dixie's initial failure to disclose, its subsequent neglect to amend, and its complete inability here to explain its prior nonfeasance, charges petitioner, militate for specification of a disqualifying § 1.65 issue.

18. Although the Review Board must observe preliminarily that, in asking for a § 1.65 issue upon the facts here alleged,[19] Dixie has used the "wrong writ", the Board will nonetheless specify an issue inquiring into Dixie's failure to disclose, ab initio, Mr. Phillips' associations with Dixie National Life Insurance Co., Dixie National Corp. and other companies. Rubel L. Phillips' explanation that he did not believe the application form required him to disclose his relationships with corporations in which he had no substantial investment and no active part in the management, other than in his capacity as compensated counsel, is unconvincing to the Board. Despite assertions to the contrary, it is difficult to understand how Mr. Phillips, a Dixie principal and practicing attorney, could have misunderstood the Commission's precise and detailed instructions regarding disclosure of a principal's other business interests contained in Table II of section II of FCC Form 301. The Board's doubt in this regard is reinforced when the affiliation between the corporate applicant and the Dixie National Life Insurance Co. and Dixie National Corp. and the official capacities in which Phillips functioned at the latter two companies are noted. Omission of information concerning Phillips' associations with these and other corporations cannot be viewed as inadvertent on the basis of the pleadings before us, and, in view of the circumstances surrounding the nondisclosures, cannot be accepted as mere error in judgment. Compare Sunset Broadcasting Corp., 15 FCC 2d 276, 14 RR 2d 705 (1968). An issue will therefore be added to permit inquiry into Dixie's apparent failure to provide financial information required by the Commission's application form and the effect of such nondisclosure on the applicant's qualifications to be a licensee. North American Broadcasting Co., Inc., 15 FCC 2d 984, 15 RR 2d 367 (1969). Dixie, of course, will have the opportunity to counter any unfavorable inference or to mitigate any adverse conclusion.[20]

Interrelated applicants issue. 19. Civic also requests that the Board specify an issue to determine whether, on the basis of business interrelationships, Dixie and Jackson are, in fact, independent applicants, and in light thereof, whether they are qualified to be Commission licensees. In support of requested issue (i), Civic initially refers to the fact that both applicants rely on the same bank (Deposit Guarantee National Bank of Jackson, Miss.) for much of their financing. Petitioner points out that the relationship between the applicants and the bank extends beyond mere financing arrangements. For example, Civic notes that three important stockholders of Jackson and two of Dixie are associated with the bank: Alvin Flannes, president, chairman of the board and 14 percent stockholder of Jackson, is a member of the bank's advisory board; Robert Guyton, Treasurer and 6 percent stockholder of Jackson, is a vice president and less than 1 percent stockholder of the bank; Stuart Irby, 8 percent stockholder of Jackson, is a director of the bank; W. D. Mounger, president and 40 percent stockholder of Dixie, is a vice president, director, and less than 10 percent stockholder of the bank; and James Roland, vice president and 1 percent stockholder of Dixie, is an officer of the bank. Moreover, submits Civic, both applicants, through their principals, are also represented on the boards o fdirectors of the First Mississippi Corp. and the Mississippi Chemical Corp. The petitioner specifies in some detail the nature of that representation and enumerates several other instances of the applicants' mutual representation in various institutions in a less than controlling capacity. Since the executive officers of both applicants are related by their association with the same local bank that is supplying the financing for both applicants and since stockholders with a 40 percent ownership in Jackson have common business interests with stockholders holding over a 44 percent ownership in Dixie, Civic contends that this community of interest raises a serious question as to whether Dixie and Jackson are independent applicants.

20. In opposition, Dixie seeks to refute any adverse inferences drawn by Civic from Dixie's purported relationships with Jackson, the bank, and the other corporations listed by Civic. Dixie sets out at length, in attached affidavits, the memberships of the boards of directors of the bank, First Mississippi Corp., Mississippi Chemical Corp., Coastal Chemical Corp.,[21] and the other entities mentioned by petitioner. Dixie indicates that since W. D. Mounger resigned as vice president of the bank, as of December 31, 1969,[22] he has not been active in its management and that only James S. Roland, vice president of Dixie and 1 percent stockholder therein, is still actively serving at the bank as assistant vice president in the Real Estate Department. Other than 2 percent stockholder Owen Cooper, asserts Dixie, no person connected with Dixie has "any connection whatever" with First Mississippi Corp., Mississippi Chemical Corp., Triad Chemical Corp., or Miscoa. As for the other companies described by petitioner as sharing certain directors of both Dixie and Jackson, Dixie urges that no significance should attach thereto for "[i]t is not uncommon in Mississippi for various business leaders to serve on the boards of many companies." Specifically addressing itself to Civic's allegation concerning the bank's loan commitment letter, Dixie submits that comparison of the credit commitments extended to Dixie by the bank with the other credit arrangements relied on in this proceeding discloses no irregularity and demonstrates conclusively that no economic advantage can accrue to Dixie.

21. Jackson, in opposition, suggests that Civic's request be summarily dismissed as without merit. In general, Jackson demurs to Civic's assertion that Dixie and Jackson experience an overlap of business interests; however, Jackson disagrees with Civic's characterization of the magnitude of the overlap, asserting that the actual degree of cross-ownership in other businesses is no more than 1 percent. Moreover, submits Jackson, none of the organizations are "closed corporations" from which an inference of intimate interconnection can be drawn, but rather all are large institutions, having from 11 to 40 directors. In addition, Jackson submits the affi-

[18] Affiant also states that he did not list his associations with "numerous other companies which I have represented as counsel and of which I might have served as an officer or director during the formative stages."

[19] While Civic alleges also that Dixie has never corrected its application through amendment, the thrust of its charge concerns Dixie's failure to file complete and accurate responses in the first instance.

[20] Since we have concluded that the information about Rubel L. Phillips' business associations should have been filed with the Dixie application, an amendment comporting with the requirements of Table II of section II of the application form would seem appropriate.

[21] Dixie explains that Coastal Chemical Corp. is linked with Mississippi Chemical Corp. in a partnership called Miscoa and that Miscoa is an equal partner with First Mississippi Corp. in Triad Chemical Corp.

[22] Dixie points out that Mr. Mounger's resignation was disclosed to the Commission and that Mr. Mounger remains a director and stockholder of the bank.

davit of its president, Alvin P. Flannes, to the effect that, regardless of Jackson's and Dixie's mutual interests in third corporations, their applications are being pursued at arm's length and in an entirely adversary manner. According to Jackson, Commission precedent establishes that interrelation of applicants through outside business interests does not, absent some indication of cross-ownership or control, hold any significance; the fact that both Jackson and Dixie propose to be financed by the same bank is likewise immaterial, Jackson urges, citing Veterans Broadcasting Company, Inc., FCC 62-131, 22 RR 949 1962). Since the principle enunciated in the Veterans case applies here with identical effect, Jackson contends that Civic's request should be summarily dismissed.

22. The Broadcast Bureau also opposes Civic's request and submits that petitioner has not alleged circumstances which would give rise to a "substantial question concerning the bona fides or actual, separate control of the Jackson TV and Dixie applications." (Footnote omitted.) In this regard, the Bureau notes that Civic has not indicated relationships which suggest that majority control of the stock, proxy vote authorizations, or directorships in one applicant is held by a group controlling directly, or through a third entity, another applicant. Referring to the three Jackson principals who own less than 1 percent of the bank's stock and a total of 28 percent of Jackson's stock and the two Dixie principals who hold less than 10 percent of the bank's stock and less than 41 percent of Dixie's stock, the Bureau points out that five individuals hold, among themselves, less than 11 percent of the bank's stock and that no one holds majority control of either applicant or of the bank.[23] Nor do the five individual stockholders, estimates the Bureau, represent a majority of the officers or directors of either applicant or of the bank. For these reasons and since Civic has not raised any new facts, the Bureau opposes addition of the requested issue.

23. In response to the Bureau's comments, Civic emphasizes that, to the extent members of the boards of directors of Jackson and Dixie are represented in the directorship of the bank, they share a common purpose in that a substantial question exists as to the bona fides of the competition between the applicants if such competition will have an adverse impact upon the bank. Moreover, advances petitioner, the Bureau incorrectly equates de facto control of a corporation with de jure control. That principals of Jackson and Dixie together control only 11 percent of the bank's stock does not, according to petitioner, indicate that these principals cannot control either of the applicants (or the bank) through voting their shares as a block. Civic also stresses the fact that several of the applicants' shareholders are directors of the bank (as well as of their respective applicants), and that therefore the question of de facto cross-control is magnified. In reply to Dixie's opposition, Civic reasserts the importance of its distinction between de jure and de facto control insofar as cross-ownership is concerned and renews its contention that a community of business interests exists between Jackson and Dixie which raises an unresolved question of whether Jackson and Dixie are, in fact, bona fide competing applicants. In response to Jackson's opposition, petitioner submits that Jackson's citations to precedent are inapposite since each dealt with relationship between an applicant and an existing broadcasters not involved in the same proceeding, whereas its own allegations are directed at interrelationships between two applicants purportedly competing for the same facility. Civic contends that Veterans Broadcasting Company, Inc., supra, did not treat of relationships comparable with those here, nor was the procedural stance identical; in Veterans, the allegations were designed to effect the dismissal of an application before hearing whereas petitioner here requests full examination of allegations at hearing. Asserting that the interrelationships here are of far greater magnitude than were those in Jefferson Standard Broadcasting Company, 33 FCC 471, 24 RR 319 (1962), Civic concludes that an enlargement of issues to examine the matter is definitely warranted.

24. The Review Board is of the opinion that Civic has failed to demonstrate the alleged interrelationship between the Jackson and Dixie applications. Absent some indication that principals and/or directors of one applicant are in a position to influence or control the other applicant through interests in third entities, no unfavorable implications can be drawn from interests of individual principals of the applicants in third entities. The fact that stockholders representing 40 percent of Jackson's ownership, may have "common business interests" with stockholders representing 44 percent of Dixie's ownership, is not, in itself, significant or, without more, suggestive of improper interdependence and control. Nowhere is de jure control of either applicant or a third entity by Jackson and/or Dixie principals alleged; nowhere can de facto control by specific Jackson and/or Dixie principals be discerned. Civic indicates that stockholders representing 28 percent of Jackson's ownership and less than 41 percent of Dixie's ownership are associated with the bank which is provided each of the applicants with financing. Yet, as the Broadcast Bureau indicates, the five named individuals account for less than 11 percent of the bank's stock ownership and do not represent a majority of the officers or directors of the bank.[24] Jackson and Dixie stockholders are therefore apparently incapable of exercising majority control (either directly or indirectly) of the applicants or of the bank.[25] Furthermore, "[n]o showing has been made by petitioner herein that the loan arrangements with the banking institution would create anything other than the usual debtor-creditor relationship between the bank and the applicant[s] * * *" (Veterans Broadcasting Company, Inc., supra, 22 RR at 950), or that the bank would be in a position to control either applicant. Civic does not contend, nor do any factual allegations suggest, that the bank's employees and officers who hold stock in Dixie or Jackson are acting in anything other than their individual capacities, or that they are in any way acting as agents for any undisclosed principal, such as the bank. Veterans Broadcasting Company, Inc., supra. Jackson's and Dixie's alleged representation in other business ventures[26] (via the selected participation of individual principals) is so diffuse and remote as to negate any inference that Jackson and Dixie show a community of business interests which compromises their independence and impugns the bona fides of their competitive applications. In summary, then, the Review Board does not find petitioner's allegations specific enough, substantial enough or serious enough to warrant addition of the requested interrelationship issue.[27]

25. *Comparative programing issue.* Civic requests the specification of an issue to determine whether significant differences characterize the means by which each of the instant applicants would meet the ascertained needs of its service area. Petitioner submits that, in comparison with the programing proposed by the other applicants in this proceeding, its projected program schedule reveals a superiority "beyond ordinary differences in judgment" and "demonstrates a superior devotion to public service." Civic claims that its superiority rests upon "more and better programs designed and scheduled to serve the ascertained needs and interests of the entire area served by Channel 3, Jackson, Miss." [28] and that the superiority of its proposal is evident in each

[23] The Bureau explains that although one of Dixie's principals owns 40 percent of the applicant's stock, Dixie National Insurance Co. also owns 40 percent of Dixie's stock.

[24] Nor do the five named individuals represent a majority of the officers or directors of either applicant.

[25] Civic's further suggestion that the stock which Jackson and Dixie principals hold may well assure them aggregate de facto control of either applicant or of the bank is wholly unsupported. Moreover, the charge is apparently without substance—in the case of the bank—in light of that institution's relatively large size and wide directorship.

[26] E.g., First Mississippi Corp., Mississippi Chemical Corp., Triad Chemical Corp.

[27] Sections 1.518 and 1.520 of the rules prohibit the filing of inconsistent, conflicting or multiple applications by the same applicants.

[28] Civic asserts that it conducted a superior survey by interviewing more (240) community leaders in more (30) of the 37 counties attributed by the American Research Bureau to the Area of Dominant Influence of Channel 3 than did any other of the five competing applicants. Civic further claims that its "exhaustive" survey included 300 members of the listening public throughout its service area.

category of programing, citing Chapman Radio and Television Company, 7 FCC 2d 213, 9 RR 2d 635 (1967). In support of this claim, petitioner provides the following weekly comparison of its programing proposal with those of its competitors:

	News	Public affairs	Other
Civic	21:35(17.2%)	9:05(7.3%)	21:05(16.7%)
Lamar	13:05(10.5%)	5:12(4.2%)	12:08(9.8%)
Channel 3	11:55(9.5%)	5:47(4.6%)	19:29(15.5%)
Jackson TV	15:47(12.3%)	7:15(5.7%)	17:58(14.0%)
Dixie	6:37(5%)	2:55(2%)	6:37(5%)

Civic also compares its proposal for local programing with those of the other applicants:

	8 a.m.–6 p.m.	6 p.m.–11 p.m.	All other hours	Total
Civic	16:00	9:45	7:15	33:00
Lamar	10:45	5:15	3:10	19:10
Channel 3	12:30	7:00	7:20	26:50
Jackson TV	15:55	6:30	3:40	26:05
Dixie	9:30	4:30	6:50	20:50

Civic contends that its local programing proposal evidences superior devotion to public service because it assures "the greatest amount of locally produced and locally oriented programs during the period of greatest potential audience." Civic also indicates that, having ascertained a need for quality news programs dealing thoroughly and equitably with local events and issues, it has proposed a concentration (75 percent) of locally produced news programs on matters of purely local concern. In this regard, petitioner emphasizes that it proposes 13:55 hours per week of locally produced news programing whereas Lamar plans but 7:21 hours; Jackson, 8:45 hours; and Dixie and Channel 3, lesser amounts of time each.[29]

26. Civic also stresses its pre-eminence in public affairs programing, which proposal arose out of its having detected a need to explore such localized and contemporary topics as race relations, school desegregation and busing, black political representation, welfare measures, pollution and industrialization. Civic emphasizes that, on a weekly basis, it has projected 8:35 hours of locally produced public affairs programing whereas Lamar has projected only 4 hours; Channel 3, 8:15 hours; Jackson, 7 hours; and Dixie, 2 hours. Moreover, it has scheduled its locally produced public affairs program so as to reach the maximum potential audience and to effect maximum public service; in prime time, it proposes 4 hours a week compared with Lamar's 0:10 hour; Channel 3's 2:25 hours; Jackson's 2:30 hours; and Dixie's 1 hour. On this basis, Civic asserts that not only has it proposed to broadcast more public affairs programing, but it has planned more locally produced programing and more locally produced programing in prime time. The petitioner also claims that a superior devotion to public service is apparent in its "other" programing since it has proposed more religious, agricultural, and instructional programing than any of its competitors. Civic concludes its request with the contention that the "substantial differences" which establish its superior devotion to public service (in the areas of news, public affairs, and "other" programing) require a comparative investigation of the applicants' proposed programing.[30]

27. Jackson, in opposition to the instant request, characterizes Civic's showing as an artificial proposal designed to gain a hearing preference rather than to serve ascertained community needs and, in support of this assertion, points to the fact that Civic amended its programing proposal subsequent to the filing of the mutually exclusive applications. Jackson also urges that Civic proposes an unrealistic amount of local programing in order to support a comparative preference and notes that the Commission has in the past assessed a slight demerit to an applicant which it found to have proposed unrealistic local programing, citing WHDH, Inc., 16 FCC 2d 1, 15 RR 2d 411 (1969). Moreover, indicates Jackson, the Commission, in WHDH, stated that there is no assumption that an unusually high percentage of time to be devoted to local or other types of programing is necessarily to be preferred. 16 FCC 2d at 15, 15 RR 2d at 430. Dixie also urges the Board to deny Civic's request for a comparative programing issue. Dixie reminds the Board that the Commission's designation order in this proceeding found that each of the applicants had complied in satisfactory fashion with the tentative standards concerning ascertainment of community needs set forth in the Notice of Inquiry in Docket No. 18774, 20 FCC 2d 880 (1969). It is Dixie's position that Civic has not met the standard of "substantial disparity" in programing proposals which has been enunciated by the Commission in Chapman Radio and Television Company, supra, and that, moreover, Civic's amended (as of April 1970) application is highly questionable in that Civic therein indicates its intention to devote 17.20 percent of its programing to news, 7.28 percent to public affairs, and 16.72 percent to "other" programing (exclusive of entertainment and sports) without altering its staffing proposal of 64 employees. Dixie questions Civic's ability to effectuate its amended programing proposal with this staff proposal and also suggests that Civic's representation to devote more than 41 percent of its total broadcast time (excluding commercial matter) to news, public affairs, and "other" programing is extravagant. In conclusion Dixie asserts that its own programing proposals[31] derive from its good faith effort to identify various community needs and problems, and that examination of both its ascertainment efforts and its programing proposals precludes any conclusion of a substantial disparity between its proposal and Civic's. In opposition, Channel 3 terms Civic's alleged programing superiority the result of an "11th hour amendment" and of an unimpressive survey, which does not reveal a "superior devotion to public service in terms of better programing," but does disclose unrealistic proposals and extravagant promises. Moreover, Channel 3 notes that Civic's vaunted superiority in local public affairs programing is actually but 20 minutes more of such programing a week than Channel 3's proposal. Although Channel 3 is confident that its own programing proposals would merit preference under a comparative inquiry, it nonetheless requests the Board not to burden the record with material not of decisional significance.

28. In its comments, the Broadcast Bureau endorses Civic's request. The Bureau asserts that Civic has submitted a prima facie showing of "substantial disparity" between its programing proposal and that of each of the other applicants in two significant areas: Local news programing and public affairs programing. As to the former, the Bureau notes that Civic has ascertained in its survey the need for more discussion of local events and issues and that Civic, in response thereto, proposes to devote 75 percent of its locally produced news programing to local events and issues; that Civic proposes 5 hours more per week of locally produced news programing than any other applicant; and that it proposes a 14-man, nontechnical news staff which would easily be the largest proposed by any of the applicants. In the Bureau's view, Civic's proposal shows a need for locally produced programing directed to local news and issues and displays a greater dedication thereto in terms of time, effort, and resources than does any other proposal. As to public affairs programing, the Bureau points out that Civic has ascertained a need to promote racial communication and cooperation and to investigate economic problems throughout the station's service area and that, in response thereto, Civic has proposed public affairs programing directed to various aspects of the racial, educational, and economic problems ascertained. In addition, the Bureau stresses that petitioner proposes more time for locally produced public affairs programing than any other applicant, and more of it during prime time than any other applicant. Thus, concludes the Bureau,

[29] Civic submits that Dixie's and Channel 3's applications indicate that they propose, respectively, 6:37 and 11:55 hours per week for total news presentations. Dixie, according to Civic, further proposes that 45 percent of its total news time will be devoted to local and regional news while Channel 3 has announced its intention to devote 60 percent of news time to local or regional broadcasts.

[30] Lamar, even though refusing to concede Civic's purportedly superior programing proposal, does not address itself to the particulars of Civic's request. Instead, Lamar adverts to its own petition to enlarge issues, in which Lamar requested both a comparative efforts issue and a comparative programing issue. Lamar, therefore, while disputing the evidentiary basis for Civic's request, does not oppose addition of a comparative programing issue per se.

[31] Dixie points out that petitioner has apparently overlooked an amendment tendered by Dixie on Mar. 9, 19[7]0, wherein the following programing proposals were made: News—10 percent; public affairs—2.7 percent; and other programing—8.0 percent.

Civic displays in this area also a willingness to expend greater effort and resources so as to comply with standards set forth in Chapman Radio and Television Company, supra, and referred to in WPIX, Inc., 23 FCC 2d 245, 19 RR 2d 182 (1970).

29. In reply to Jackson's opposition, Civic insists that its present public affairs programing is, in every significant respect, identical with that submitted in its original application in March of 1969. Civic explains that its April 6, 1970, amendment would have reduced the amount of public affairs programing by 25 minutes per week but for the addition of the previously omitted 30-minute weekly show, "Meet the Press". In petitioner's view, its amended proposal reflects a de minimis increase of 5 minutes per week. In "Other Programing", submits petitioner, the great bulk of the difference between its original and amended proposals is accounted for by Civic's decision to substitute the hour-long show, "Sesame Street" for the 30-minute show, "Television School." With some reclassification of programing, the difference, calculates petitioner, amounts to 3½ hours of programing per week. On this basis, Civic argues that its programing amendment was not an attempt to upgrade its application in response to competing applications but, rather, was a reflective response to "continuing and emerging community needs ascertained as a result of additional surveys." Replying to Channel 3's opposition, Civic submits, not only that its proposal is realistic, but that it is prophetic in view of the recent Commission pronouncements restricting network prime time programing. Civic refers to its reply to Jackson's opposition in answer to Channel 3's allegations that petitioner attempted an eleventh-hour upgrading of its programing proposal. Moreover, Civic asesrts that its survey efforts had been amplified long before the Commission advised petitioner that its original survey efforts lacked certain items enumerated in the Commission's Primer on Ascertainment of Community Problems by Broadcast Applicants, 20 FCC 2d 880, 34 FR 20282 (1969). In reply to Dixie, petitioner argues that minor differences in ascertainment are not material to a comparison of program proposals and reminds the Board that Dixie has, despite its March 9, 1970, programing amendment, proposed the least amount of public service programing. It is Civic's position that, inasmuch as Dixie did not question the ability of petitioner's proposed staff to implement its original programing proposal, the amended programing proposal is certainly unimpeachable from a staffing and effectuation point of view; in this regard, Civic also points to its financial amendment of April 28, 1970, which included a proposed monthly operating statement (Exhibit B), providing for 81 employees and five trainees.

30. The Review Board, pursuant to Civic's request, will specify a comparative programing issue. Petitioner has submitted the requisite prima facie showing that there are significant differences in the programing proposed by the applicants and that its claimed substantial superiority in program planning is related to ascertained community needs. Chapman Radio and Television Company, supra, 7 FCC 2d at 215, 9 RR 2d at 638. While the Board is mindful that no assumption exists whereby an unusually high percentage of time to be devoted to local or other specific types of programs is necessarily to be preferred, Civic has nonetheless presented us with particular community needs which its ascertainment efforts have unearthed and which its programing proposal would attempt to meet through an emphasis on locally produced news, public affairs and other programing. More specifically, Civic has presented tabular comparisons of the applicants' proposals to demonstrate its superiority—both absolutely and proportionately—in the amounts of time to be devoted to news, public affairs, and other programing. Civic also promises more locally produced news programs, especially during prime time hours, than any other applicant, and asserts that 75 percent of such programs will deal with matters of local concern in order to meet the community's need for quality local news.[32] Civic proposes more locally produced public affairs programing than any other applicant and more of it during prime time hours in an attempt to explore topics of local concern such as race relations, school desegregation, etc. Although the other applicants approach Civic's programing proposals to varying degrees—Jackson and Channel 3 more closely and often than Dixie and Lamar—none matches the petitioner's emphasis on the ascertained need for locally produced news and public affairs programing. Contrary to some assertions, Civic's proposals are not, on their face, unrealistic or extravagant, nor do they reflect a deliberate attempt to secure only a comparative preference. Compare WHDH, Inc., supra, 16 FCC 2d at 16, 15 RR 2d at 430–31. Unlike WHDH, Inc., supra, Civic has proposed, not 36.3 percent local live programing, but only 26 percent (or 33 hours per week); moreover, petitioner's proposal in this regard does not represent an "extraordinary percentage" in view of the proposals advanced by Channel 3 and Jackson, i.e., 26:50 and 26:05 hours, respectively. In addition, Civic's amended staffing proposal adequately answers the claim that its programing proposal cannot be effectuated. Since the Board perceives, in Civic's showing, the indicia of an applicant's unusual attention to local community matters, an inquiry is warranted to determine the significant differences among the applicants with respect to the means by which each proposes to meet the ascertained needs of the service area.[33] WPIX, Inc., supra.

31. *Accordingly, it is ordered,* That the petition to enlarge issues, filed May 22, 1970, by Civic Communications Corporation, is granted to the extent herein indicated and is denied in all other respects; and that the issues in this proceeding are enlarged to include the following issues:

(a) To determine whether, during the years 1961–64 Station WLBT afforded reasonable opportunity for the discussion of conflicting views on issues of public importance;

(b) To determine whether, during the years 1961–64, Station WLBT afforded reasonable opportunity for the use of its broadcasting facilities by the significant groups comprising the community of its service area;

(c) To determine whether, during the years 1961–64, Station WLBT acted in good faith with respect to the presentation of programs dealing with the issue of racial discrimination, and, particularly, whether it misrepresented to the public or the Commission with respect to the presentation of such programing;

(d) To determine whether, in light of the evidence adduced pursuant to the foregoing issues, Lamar Life Broadcasting Co. is qualified to be a licensee of the Commission;

(e) To determine whether Dixie National Broadcasting Corp. failed to make full disclosure of the business interests of one of its principals as required by FCC Form 301 (Table II of section II) and, if so, the effect thereof on the requisite and/or comparative qualifications of Dixie National Broadcasting Corp. to be a Commission licensee;

(f) To determine whether, on a comparative basis, there are significant differences among the applicants with respect to the means by which each proposes to meet the ascertained needs of the area to be served.

32. *It is further ordered,* That the burden of proceeding with the introduction of evidence under issues (a) through (e) added herein shall be upon Civic Communications Corp.; that the burden of proof under issues (a) through (d) shall be upon Lamar Life Broadcasting Co.; and that the burden of proof under issue (e) shall be upon Dixie National Broadcasting Corp.

Adopted: December 28, 1970.

Released: December 31, 1970.

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

[F.R. Doc. 71–120; Filed, Jan. 5, 1971; 8:48 a.m.]

[32] In this regard, we note that Civic has proposed the largest (14) nontechnical news staff of any applicant, and that this dedication of resources lends credence to the petitioner's programing proposal. WPIX, Inc., supra, 23 FCC 2d at 259, 19 RR 2d at 197.

[33] The fact that the Commission, in its designation order herein, found that all applicants had complied with announced Suburban requirements does not preclude our consideration and grant of Civic's request for a comparative programing issue. See Jay Sadow (WRIF), 26 FCC 2d 131, 132, 20 RR 2d 538, 541 (1970).

FEDERAL MARITIME COMMISSION

[Independent Ocean Freight Forwarder License 248]

COMPARATO AIR CARGO EXPRESS

Order of Revocation

By letter dated November 5, 1970, Comparato Air Cargo Express of 66 West 38th Street, New York, NY 10018, was advised by the Federal Maritime Commission that Independent Ocean Freight Forwarder License No. 248 would be automatically revoked or suspended unless a valid surety bond was filed with the Commission on or before November 20, 1970.

Section 44(c), Shipping Act, 1916, provides that no independent ocean freight forwarder license shall remain in force unless a valid bond is in effect and on file with the Commission. Rule 510.9 of Federal Maritime Commission General Order 4, further provides that a license will be automatically revoked or suspended for failure of a licensee to maintain a valid bond on file.

Comparato Air Cargo Express has failed to respond to our certified letter.

By virtue of authority vested in me by the Federal Maritme Commission as set forth in Manual of Orders, Commission Order No. 1 (revised) § 7.04(g) (dated Sept. 29, 1970):

It is ordered, That the Independent Ocean Freight Forwarder License No. 248 of Comparato Air Cargo Express be and is hereby revoked effective November 20, 1970.

It is further ordered, That a copy of this order be published in the FEDERAL REGISTER and served upon Comparato Air Cargo Express.

AARON W. REESE,
Managing Director.

[F.R. Doc. 71-74; Filed, Jan. 5, 1971; 8:46 a.m.]

[Independent Ocean Freight Forwarder License 719]

AUGUSTO A. NAZARIO

Order of Revocation

By letter dated November 5, 1970, Augusto A. Nazario, Twenty-One West Street, Suite 2507, New York, NY 10006, was advised by the Federal Maritime Commission that Independent Ocean Freight Forwarder License No. 719 would be automatically revoked or suspended unless a valid surety bond was filed with the Commission on or before December 3, 1970.

Section 44(c), Shipping Act, 1916, provides that no independent ocean freight forwarder license shall remain in force unless a valid bond is in effect and on file with the Commission. Rule 510.9 of Federal Maritime Commission General Order 4, further provides that a license will be automatically revoked or suspended for failure of a licensee to maintain a valid bond on file.

Augusto A. Nazario has failed to furnish a surety bond.

By virtue of authority vested in me by the Federal Maritime Commission as set forth in Manual of Orders, Commission Order No. 1 (revised) § 7.04(g) (dated Sept. 29, 1970):

It is ordered, That the Independent Ocean Freight Forwarder License of Augusto A. Nazario be and is hereby revoked effective December 3, 1970.

It is further ordered, That a copy of this order be published in the FEDERAL REGISTER and served upon Augusto A, Nazario c/o Carlos A. Nazario.

AARON W. REESE,
Managing Director.

[F.R. Doc. 71-75; Filed, Jan. 5, 1971; 8:46 a.m.]

AUSTRALIA, NEW ZEALAND, AND SOUTH SEA ISLANDS PACIFIC COAST CONFERENCE

Notice of Agreement Filed

Notice is hereby given that the following agreement has been filed with the Commission for approval pursuant to section 15 of the Shipping Act, 1916, as amended (39 Stat. 733, 75 Stat. 763, 46 U.S.C. 814).

Interested parties may inspect and obtain a copy of the agreement at the Washington office of the Federal Maritime Commission, 1405 I Street NW., Room 1202; or may inspect the agreement at the Field Offices located at New York, N.Y., New Orleans, La., and San Francisco, Calif. Comments on such agreements, including requests for hearing, may be submitted to the Secretary, Federal Maritime Commission, Washington, D.C. 20573, within 20 days after publication of this notice in the FEDERAL REGISTER. Any person desiring a hearing on the proposed agreement shall provide a clear and concise statement of the matters upon which they desire to adduce evidence. An allegation of discrimination or unfairness shall be accompanied by a statement describing the discrimination or unfairness with particularity. If a violation of the Act or detriment to the commerce of the United States is alleged, the statement shall set forth with particularity the acts and circumstances said to constitute such violation or detriment to commerce.

A copy of any such statement should also be forwarded to the party filing the agreement (as indicated hereinafter) and the statement should indicate that this has been done.

Notice of agreement filed by:

Mr. J. R. Harper, Secretary, Australia, New Zealand, and South Sea Islands Pacific Coast Conference, 635 Sacramento Street, San Francisco, Calif. 94111.

Agreement No. 7580-12 is a modification of the Australia, New Zealand, and South Sea Islands Pacific Coast Conference's basic agreement which has been filed in an effort to comply with the Federal Maritime Commission's requirements concerning Self-Policing Systems, General Order 7 (Revised) as published in the FEDERAL REGISTER of October 28, 1970 (35 F.R. 16679).

Dated: December 31, 1970.

By order of the Federal Maritime Commission.

FRANCIS C. HURNEY,
Secretary.

[F.R. Doc. 71-124; Filed, Jan. 5, 1971; 8:48 a.m.]

AUSTRALIA, NEW ZEALAND, AND SOUTH SEA ISLANDS PACIFIC COAST CONFERENCE

Notice of Petition Filed

Notice is hereby given that the following petition has been filed with the Commission for approval pursuant to section 14b of the Shipping Act, 1916, as amended (75 Stat. 762, 46 U.S.C. 814).

Interested parties may inspect a copy of the proposed contract form and of the petition at the Washington office of the Federal Maritime Commission, 1405 I Street NW., Room 1202; or at the field offices located at New York, N.Y., New Orleans, La., and San Francisco, Calif. Comments with reference to the proposed contract form and the petition including a request for hearing, if desired, may be submitted to the Secretary, Federal Maritime Commission, 1405 I Street NW., Washington, D.C. 20573, within 20 days after publication of this notice in the FEDERAL REGISTER. Any person desiring a hearing on the proposed contract system shall provide a clear and concise statement of the matters upon which they desire to adduce evidence. An allegation of discrimination or unfairness shall be accompanied by a statement describing the discrimination or unfairness with particularity. If a violation of the Act or detriment to the commerce of the United States is alleged, the statement shall set forth with particularity the acts and circumstances said to constitute such violation or detriment to commerce.

A copy of any such statement should also be forwarded to the party filing the proposed contract form and the petition (as indicated hereinafter), and the statement should indicate that this has been done.

Notice of application to institute an exclusive patronage (dual rate) system filed by:

Mr. J. R. Harper, Secretary, Australia, New Zealand, and South Sea Islands Pacific Coast Conference, 635 Sacramento Street, San Francisco, Calif. 94111.

Notice is given that the member lines of the Australia, New Zealand, and South Sea Islands Pacific Coast Conference have filed an application to institute an exclusive patronage contract system pursuant to section 14(b) of the Shipping Act, 1916. The contract would encompass the range of Australian ports only from Port Pirie (South Australia) easterly to Cairns (Queensland) and Tasmania to Pacific Coast ports of the United States and Canada. Nonsignatory shippers would be assessed rates of

freight ten percent (10 percent) more than those accorded contract shippers.

Dated: December 31, 1970.

By order of the Federal Maritime Commission.

FRANCIS C. HURNEY,
Secretary.

[F.R. Doc. 71-125; Filed, Jan. 5, 1971; 8:48 a.m.]

EVANS PRODUCTS CO. AND RETLA STEAMSHIP CO.

Notice of Agreement Filed

Notice is hereby given that the following agreement has been filed with the Commission for approval pursuant to section 15 of the Shipping Act, 1916, as amended (39 Stat. 733, 75 Stat. 763, 46 U.S.C. 814).

Interested parties may inspect and obtain a copy of the agreement at the Washington office of the Federal Maritime Commission, 1405 I Street NW., Room 1202; or may inspect the agreement at the Field Offices located at New York, N.Y., New Orleans, La., and San Francisco, Calif. Comments on such agreements, including requests for hearing, may be submitted to the Secretary, Federal Maritime Commission, Washington, D.C. 20573, within 20 days after publication of this notice in the FEDERAL REGISTER. Any person desiring a hearing on the proposed agreement shall provide a clear and concise statement of the matters upon which they desire to adduce evidence. An allegation of discrimination or unfairness shall be accompanied by a statement describing the discrimination or unfairness with particularity. If a violation of the Act or detriment to the commerce of the United States is alleged, the statement shall set forth with particularity the acts and circumstances said to constitute such violation or detriment to commerce.

A copy of any such statement should also be forwarded to the party filing the agreement (as indicated hereinafter) and the statement should indicate that this has been done.

Notice of agreement filed by:

Amy Scupi, Esq., Galland, Kharasch, Calkins & Brown, Canal Square, 1054 31st Street NW., Washington, D.C. 20007.

Agreement No. 9549-6, between the carriers noted above, expands the term "Evans" as a party to the arrangement to include Evans Products Co.'s subsidiaries, including Evans International Trading Co.

Dated: December 31, 1970.

By order of the Federal Maritime Commission.

FRANCIS C. HURNEY,
Secretary.

[F.R. Doc. 71-126; Filed, Jan. 5, 1971; 8:48 a.m.]

INDIA, PAKISTAN, BURMA & CEYLON/ WEST COAST UNITED STATES & CANADA RATE AGREEMENT

Notice of Agreement Filed

Notice is hereby given that the following agreement has been filed with the Commission for approval pursuant to section 15 of the Shipping Act, 1916, as amended (39 Stat. 733, 75 Stat. 763, 46 U.S.C. 814).

Interested parties may inspect and obtain a copy of the agreement at the Washington office of the Federal Maritime Commission, 1405 I Street NW., Room 1202; or may inspect the agreement at the Field Offices located at New York, N.Y., New Orleans, La., and San Francisco, Calif. Comments on such agreements, including requests for hearing, may be submitted to the Secretary, Federal Maritime Commission, Washington, D.C. 20573, within 20 days after publication of this notice in the FEDERAL REGISTER. Any person desiring a hearing on the proposed agreement shall provide a clear and concise statement of the matters upon which they desire to adduce evidence. An allegation of discrimination or unfairness shall be accompanied by a statement describing the discrimination or unfairness with particularity. If a violation of the Act or detriment to the commerce of the United States is alleged, the statement shall set forth with particularity the acts and circumstances said to constitute such violation or detriment to commerce.

A copy of any such statement should also be forwarded to the party filing the agreement (as indicated hereinafter) and the statement should indicate that this has been done.

Notice of agreement filed by:

H. P. Blok, Secretary, India, Pakistan, Burma & Ceylon/West Coast United States & Canada Rate Agreement, 417 Montgomery Street, San Francisco, CA 94104.

Agreement No. 9247-3, among the members to the India, Pakistan, Burma & Ceylon/West Coast United States & Canada Rate Agreement, amends their basic agreement to (1) clarify the understanding that action by the parties with respect to their individually published tariffs shall also include "rules and regulations" in addition to rates, charges, classifications, practices, and related tariff matters; and (2) update the terms of the self-policing procedures to conform to the requirements of the Commission's General Order 7 (Revised).

Dated: December 31, 1970.

By order of the Federal Maritime Commission.

FRANCIS C. HURNEY,
Secretary.

[F.R. Doc. 71-127; Filed, Jan. 5, 1971; 8:48 a.m.]

PACIFIC COAST AUSTRALASIAN TARIFF BUREAU

Notice of Agreement Filed

Notice is hereby given that the following agreement has been filed with the Commission for approval pursuant to section 15 of the Shipping Act, 1916, as amended (39 Stat. 733, 75 Stat. 763, 46 U.S.C. 814).

Interested parties may inspect and obtain a copy of the agreement at the Washington office of the Federal Maritime Commission, 1405 I Street NW., Room 1202; or may inspect the agreement at the Field Offices located at New York, N.Y., New Orleans, La., and San Francisco, Calif. Comments on such agreements, including requests for hearing, may be submitted to the Secretary, Federal Maritime Commission, Washington, D.C. 20573, within 20 days after publication of this notice in the FEDERAL REGISTER. Any person desiring a hearing on the proposed agreement shall provide a clear and concise statement of the matters upon which they desire to adduce evidence. An allegation of discrimination or unfairness shall be accompanied by a statement describing the discrimination or unfairness with particularity. If a violation of the Act or detriment to the commerce of the United States is alleged, the statement shall set forth with particularity the acts and circumstances said to constitute such violation or detriment to commerce.

A copy of any such statement should also be forwarded to the party filing the agreement (as indicated hereinafter) and the statement should indicate that this has been done.

Notice of agreement filed by:

Mr. J. R. Harper, Secretary, Pacific Coast Australasian Tariff Bureau, 635 Sacramento Street, San Francisco, CA 94111.

Agreement No. 50-21 is a modification to the Pacific Coast Australasian Tariff Bureau's basic agreement which has been filed in an effort to comply with the Federal Maritime Commission's requirements concerning Self-Policing Systems, General Order 7 (Revised) as published in the FEDERAL REGISTER of October 28, 1970 (35 F.R. 16679).

Dated: December 31, 1970.

By order of the Federal Maritime Commission.

FRANCIS C. HURNEY,
Secretary.

[F.R. Doc. 71-128; Filed, Jan. 5, 1971; 8:48 a.m.]

U.S. ATLANTIC & GULF/AUSTRALIA-NEW ZEALAND CONFERENCE

Notice of Agreement Filed

Notice is hereby given that the following agreement has been filed with

the Commission for approval pursuant to section 15 of the Shipping Act, 1916, as amended (39 Stat. 733, 75 Stat. 763, 46 U.S.C. 814).

Interested parties may inspect and obtain a copy of the agreement at the Washington office of the Federal Maritime Commission, 1405 I Street NW., Room 1202; or may inspect the agreement at the Field Offices located at New York, N.Y., New Orleans, La., and San Francisco, Calif. Comments on such agreements, including requests for hearing, may be submitted to the Secretary, Federal Maritime Commission, Washington, D.C. 20573, within 20 days after publication of this notice in the FEDERAL REGISTER. Any person desiring a hearing on the proposed agreement shall provide a clear and concise statement of the matters upon which they desire to adduce evidence. An allegation of discrimination or unfairness shall be accompanied by a statement describing the discrimination or unfairness with particularity. If a violation of the Act or detriment to the commerce of the United States is alleged, the statement shall set forth with particularity the acts and circumstances said to constitute such violation or detriment to commerce.

A copy of any such statement should also be forwarded to the party filing the agreement (as indicated hereinafter) and the statement should indicate that this has been done.

Notice of agreement filed by:

Mr. Edward F. Reardon, Assistant Secretary, U.S. Atlantic & Gulf/Australia-New Zealand Conference, 17 Battery Place, New York, NY 10004.

Agreement No. 6200-16 is a modification to the U.S. Atlantic & Gulf/Australia-New Zealand Conference's basic agreement which has been filed in an effort to comply with the Federal Maritime Commission's requirements concerning Self-Policing Systems, General Order 7 (Revised) as published in the FEDERAL REGISTER of October 28, 1970 (35 F.R. 16679).

Dated: December 31, 1970.

By order of the Federal Maritime Commission.

FRANCIS C. HURNEY,
Secretary.

[F.R. Doc. 71-129; Filed, Jan. 5, 1971; 8:48 a.m.]

FEDERAL RESERVE SYSTEM

FIRST FLORIDA BANCORPORATION

Notice of Application for Approval of Acquisition of Shares of Bank

Notice is hereby given that application has been made, pursuant to section 3(a)(3) of the Bank Holding Company Act of 1956 (12 U.S.C. 1842(a)(3)), by First Florida Bancorporation, which is a bank holding company located in Tempa, Fla., for prior approval by the Board of Governors of the acquisition by applicant of 80 percent or more of the voting shares of Bank of Tavares, Tavares, Fla.

Section 3(c) of the Act provides that the Board shall not approve:

(1) Any acquisition or merger or consolidation under section 3 which would result in a monopoly, or which would be in furtherance of any combination or conspiracy to monopolize or to attempt to monopolize the business of banking in any part of the United States, or

(2) Any other proposed acquisition or merger or consolidation under section 3 whose effect in any section of the country may be substantially to lessen competition, or to tend to create a monopoly, or which in any other manner would be in restraint of trade, unless the Board finds that the anticompetitive effects of the proposed transaction are clearly outweighed in the public interest by the probable effect of the transaction in meeting the convenience and needs of the community to be served.

Section 3(c) further provides that, in every case, the Board shall take into consideration the financial and managerial resources and future prospects of the company or companies and the banks concerned, and the convenience and needs of the community to be served.

Not later than thirty (30) days after the publication of this notice in the FEDERAL REGISTER, comments and views regarding the proposed acquisition may be filed with the Board. Communications should be addressed to the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551. The application may be inspected at the office of the Board of Governors or the Federal Reserve Bank of Atlanta.

By order of the Board of Governors, December 30, 1970.

[SEAL] KENNETH A. KENYON,
Deputy Secretary.

[F.R. Doc. 71-112; Filed, Jan. 5, 1971; 8:47 a.m.]

FIRST UNION, INC.

Notice of Application for Approval of Acquisition of Shares of Bank

Notice is hereby given that application has been made, pursuant to section 3(a)(3) of the Bank Holding Company Act of 1956 (12 U.S.C. 1842(a)(3)), by First Union, Inc., which is a bank holding company located in St. Louis, Mo., for prior approval by the Board of Governors of the acquisition by applicant of 80 percent or more of the voting shares of Rolla State Bank, Rolla, Mo.

Section 3(c) of the Act provides that the Board shall not approve:

(1) Any acquisition or merger or consolidation under section 3 which would result in a monopoly, or which would be in furtherance of any combination or conspiracy to monopolize or to attempt to monopolize the business of banking in any part of the United States, or

(2) Any other proposed acquisition or merger or consolidation under section 3 whose effect in any section of the country may be substantially to lessen competition, or to tend to create a monopoly, or which in any other manner would be in restraint of trade, unless the Board finds that the anticompetitive effects of the proposed transaction are clearly outweighed in the public interest by the probable effect of the transaction in meeting the convenience and needs of the community to be served.

Section 3(c) further provides that, in every case, the Board shall take into consideration the financial and managerial resources and future prospects of the company or companies and the banks concerned, and the convenience and needs of the community to be served.

Not later than thirty (30) days after the publication of this notice in the FEDERAL REGISTER, comments and views regarding the proposed acquisition may be filed with the Board. Communications should be addressed to the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551. The application may be inspected at the office of the Board of Governors or the Federal Reserve Bank of St. Louis.

By order of the Board of Governors, December 30, 1970.

[SEAL] KENNETH A. KENYON,
Deputy Secretary.

[F.R. Doc. 71-113; Filed, Jan. 5, 1971; 8:47 a.m.]

INTERAGENCY TEXTILE ADMINISTRATIVE COMMITTEE

CERTAIN COTTON TEXTILES AND COTTON TEXTILE PRODUCTS PRODUCED OR MANUFACTURED IN THE REPUBLIC OF CHINA

Entry or Withdrawal From Warehouse for Consumption

DECEMBER 29, 1970.

On October 12, 1967, the Government of the United States, in furtherance of the objectives of, and under the terms of, the Long-Term Arrangement Regarding International Trade in Cotton Textiles done at Geneva on February 9, 1962, concluded a new comprehensive bilateral cotton textile agreement with the Government of the Republic of China concerning exports of cotton textiles and cotton textile products from the Republic of China to the United States. The agreement provides annual limitations on exports of all cotton textiles and cotton textile products from the Republic of China to the United States. Among the provisions of the agreement are those applying specific export limitations to Categories 5, 6, 9, 15, 18/19, 22/23, 24/25, 26, 28, 30, 32, 34, 35, 41/42, 44, 45, 46, 47, 50, 51, 52, 53, 54, 57, 59, 60, 62, 63, and 64.

On December 22, 1970, the two Governments exchanged notes amending the agreement and extending its term through June 30, 1971.

Accordingly, there is published below a letter of December 29, 1970, from the Chairman of the President's Cabinet Textile Advisory Committee to the Commissioner of Customs, directing that the amounts of cotton textiles and cotton

textile products in the above Categories, produced or manufactured in the Republic of China, which may be entered or withdrawn from warehouse for consumption for the 6-month period beginning January 1, 1971, and extending through June 30, 1971, be limited to the designated levels. This letter and the actions pursuant thereto are not designed to implement all of the provisions of the bilateral agreement, as amended, but are designed to assist only in the implementation of certain of its provisions.

STANLEY NEHMER,
Chairman, Interagency Textile Administrative Committee, and Deputy Assistant Secretary for Resources.

THE SECRETARY OF COMMERCE

PRESIDENT'S CABINET TEXTILE ADVISORY COMMITTEE

COMMISSIONER OF CUSTOMS,
Department of the Treasury, Washington, D.C. 20226.

DECEMBER 29, 1970.

DEAR MR. COMMISSIONER: Under the terms of the Long-Term Arrangement Regarding International Trade in Cotton Textiles done at Geneva on February 9, 1962, pursuant to the bilateral cotton textile agreement of October 12, 1967 between the Governments of the United States and the Republic of China, as amended and extended, and in accordance with the procedures outlined in Executive Order 11052 of September 28, 1962, as amended by Executive Order 11214 of April 7, 1965, you are directed, effective January 1, 1971, and for the 6-month period extending through June 30, 1971, to prohibit entry into the United States for consumption and withdrawal from warehouse for consumption, of cotton textiles and cotton textile products in Categories 5, 6, 9, 15, 18/19, 22/23, 24/25, 26 28, 30, 32, 34, 35, 41/42, 44, 45, 46, 47, 50, 51, 53, 54, 57, 59, 60, 62, 63, and 64 produced or manufactured in the Republic of China, in excess of the following levels of restraint:

Category	*6-Month level of restraint*
5	642,570 square yards.
6	407,054 square yards.
9	12,109,858 square yards.
15	356,173 square yards.
18/19	667,824 square yards.
22/23	1,324,541 square yards.
24/25	1,292,236 square yards.
26	2,179,775 square yards. (of which not more than 1,292,236 square yards may be duck [1]).
28	605,493 pieces.
30	1,068,518 pieces.
32	159,268 dozen.
34	72,204 pieces.
35	48,063 pieces.
41/42	55,349 dozen.
44	10,686 dozen.
45	6,412 dozen.
46	160,278 dozen.
47	17,809 dozen.
50	86,907 dozen.
51	139,620 dozen.
52	89,044 dozen.
53	7,123 dozen.
54	14,960 dozen.
57	71,235 dozen.
59	17,809 dozen.
60	13,463 dozen.
62	16,735 pounds.
63	89,044 pounds.
64	84,254 pounds.

[1] The T.S.U.S.A. Nos. for duck are:
320.--01 through 04, 06, 08
321.--01 through 04, 06, 08
322.--01 through 04, 06, 08
326.--01 through 04, 06, 08
327.--01 through 04, 06, 08
328.--01 through 04, 06, 08

In carrying out this directive, entries of cotton textiles and cotton textile products in the above-categories, produced or manufactured in the Republic of China and which have been exported from the Republic of China prior to January 1, 1971, shall not be subject to this directive.

Cotton textile products which have been released from the custody of the Bureau of Customs under the provisions of 19 U.S.C. 1448(b) prior to the effective date of this directive shall not be denied entry under this directive.

The levels of restraint set forth above are subject to adjustment pursuant to the provisions of the bilateral agreement of October 12, 1967, as amended and extended, between the Governments of the United States and the Republic of China which provide, in part, that within the aggregate and applicable group limits, limits on certain categories may be exceeded by not more than 5 percent; for the limited carryover of short falls in certain categories to the next agreement year; and for administrative arrangements. Any appropriate adjustments pursuant to the provisions of the bilateral agreement referred to above, will be made to you by letter from the Chairman of the Interagency Textile Administrative Committee.

A detailed description of the Categories in terms of T.S.U.S.A. numbers was published in the FEDERAL REGISTER on January 17, 1968 (33 F.R. 582), and amendments thereto on March 15, 1968 (33 F.R. 4600).

In carrying out the above directions, entry into the United States for consumption shall be construed to include entry for consumption into the Commonwealth of Puerto Rico.

The actions taken with respect to the Government of the Republic of China and with respect to imports of cotton textiles and cotton textile products from the Republic of China have been determined by the President's Cabinet Textile Advisory Committee to involve foreign affairs functions of the United States. Therefore, the directions to the Commissioner of Customs, being necessary to the implementation of such actions, fall within the foreign affairs exception to the notice provisions of 5 U.S.C. 553 (Supp. V, 1965–69). This letter will be published in the FEDERAL REGISTER.

Sincerely,

ROCCO C. SICILIANO,
Acting Secretary of Commerce, Chairman, President's Cabinet Textile Advisory Committee.

[F.R. Doc. 71-12; Filed, Jan. 5, 1971; 8:45 a.m.]

SECURITIES AND EXCHANGE COMMISSION

[812-2834]

ISL VARIABLE ANNUITY FUND A AND INVESTORS SYNDICATE LIFE INSURANCE AND ANNUITY CO.

Notice of Application for Exemption

DECEMBER 30, 1970.

Notice is hereby given that ISL Variable Annuity Fund A (Variable Fund A), and Investors' Syndicate Life Insurance and Annuity Co. (Investors Life), (herein collectively referred to as "Applicants"), Eighth Street at Marquette Avenue, Minneapolis, MN, have filed an application pursuant to section 6(c) of the Investment Company Act of 1940 (Act), for an order exempting Applicants from the provisions of section 22(d) of the Act to the extent described below. Variable Fund A is an open-end diversified management investment company registered under the Act. Investors Life established Variable Fund A on May 10, 1968, under Minnesota law as a separate account through which it will set aside and invest payments accruing from the sale of variable annuity contracts offered by Investors Life. All interested persons are referred to the application on file with the Commission for a statement of the representations contained therein, which are summarized below.

Applicants state that they presently offer three types of individual variable annuity contracts: (1) Installment purchase payment deferred annuity contracts; (2) single purchase payment deferred annuity contracts; and (3) single purchase payment immediate annuity contracts. Applicants state that they are in the process of revising these contracts to include combination features which would allow payments under the contracts to be allocated to the purchase of a variable or fixed annuity or both, and to provide transfer provisions between the two portions.

In connection with the sale of variable annuity contracts, charges are deducted from payments to pay sales and administrative expenses. Applicants request exemption from section 22(d) of the Act to the extent necessary to permit the following.

1. Applicants request the elimination of charges for sales and administrative expenses when the cash surrender values under certain fixed-dollar annuity contracts of Investors Life's are transferred from such annuity to purchase Applicants' variable annuity contracts. Applicants state that the sales and administrative charges paid on fixed annuities are identical to the sales and administrative charges which would have been paid had the annuitant initially applied that amount toward the purchase of variable annuity contracts. Applicants assert that since the deduction from purchase payments under the fixed and variable contracts are identical, to require an investor to incur duplicate loading charges would be unjust and inconsistent with the protection of investors. Applicants state that the transfer of accumulated amounts from fixed to variable accounts will be limited to one transfer each year per participant.

2. Applicants request exemption to permit an investor who desires to transfer accumulated amounts from the fixed account to the variable account to be treated in regard to future payments as if the sales and administrative charges paid on fixed annuities and attributable to transferred amounts were paid upon the purchase of variable annuities. Ap-

plicants state that on installment purchase payment contracts the deduction for sales and administrative charges is 20 percent of payments for the first year, 18 percent for the second and third contract years, 7 percent for the fourth year, and 4 percent for payments for every year thereafter. Applicants represent that these decreasing charges necessitate the requested procedure if investors are to be treated fairly since the charges paid upon the purchase of the fixed annuities to which the requested exemption would apply are identical to those paid upon the purchase of variable annuities, and that there is no justification for charging a prior year's sales charge.

3. Applicants request exemption to permit the usual decreasing sales and administrative charges on purchase of variable annuities to apply regardless of whether prior purchase payments under combination contracts were allocated to variable annuities or the fixed account. Applicants state that in order to treat shareholders in a uniform and equitable manner, it is necessary to consider the sales and administrative charges paid on fixed annuities which are purchased under combination contracts and have charges identical to those made upon the purchase of variable annuities as if they had been paid upon the purchase of variable annuities since the contracts provide for decreasing sales and administrative charges. Applicants represent, by way of example, that an investor holding a combination contract under which he makes yearly payments of $1,000 and who during the first year has allocated the entire amount to the variable portion of the contract, but who during the second and third years has allocated the entire amount to the fixed portion, should be required to pay only a 7 percent charge on any payment made during the fourth year to the variable portion even though that would be only the second year in which payments were made directly to the variable portion of the contract.

4. Applicants request exemption to permit the beneficiary of a contract purchaser to elect to have the proceeds payable upon the death of the annuitant, including those not derived from the separate account, applied to a variable annuity in lieu of a lump sum payment without deduction of a sales or administrative charge. Applicants represent that since in all cases a sales and administrative charge would have been paid by the original contract purchaser, this exemption, if granted, would avoid any cumulating of sales charges.

Section 22(d) of the Act provides, in pertinent part, that no registered investment company shall sell any redeemable security issued by it to any person except at a current public offering price described in the prospectus. Because the above described securities may be sold at an offering price which varies from that described in the prospectus, the exemption is requested.

Section 6(c) of the Act provides that the Commission may, by order upon application, conditionally or unconditionally exempt any person from any provision of the Act or of any rule or regulation thereunder, if and to the extent that such exemption is necessary or appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act.

Notice is further given that any interested person may, not later than January 20, 1971, at 5:30 p.m., submit to the Commission in writing a request for a hearing on the matter accompanied by a statement as to the nature of his interest, the reason for such request, and the issues of fact or law proposed to be controverted, or he may request that he be notified if the Commission shall order a hearing thereon. Any such communication should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request shall be served personally or by mail (airmail if the person being served is located more than 500 miles from the point of mailing) upon Applicants at the address set forth above. Proof of such service (by affidavit or in case of an attorney at law by certificate) shall be filed contemporaneously with the request. At any time after said date, as provided by Rule 0–5 of the rules and regulations under the Act, an order disposing of the application herein may be issued by the Commission upon the basis of the information stated in the application, unless an order for hearing upon the application shall be issued upon request or upon the Commission's own motion. Persons who request a hearing or advice as to whether a hearing is ordered will receive notice of further developments in this matter including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Corporate Regulation, pursuant to delegated authority.

[SEAL] ORVAL L. DUBOIS,
Secretary.

[F.R. Doc. 71–135; Filed, Jan. 5, 1971; 8:49 a.m.]

[812–2835]

ISL VARIABLE ANNUITY FUND B AND INVESTORS SYNDICATE LIFE INSURANCE AND ANNUITY CO.

Notice of Application for Exemption

DECEMBER 30, 1970.

Notice is hereby given that ISL Variable Annuity Fund B (Variable Fund B), and Investors' Syndicate Life Insurance and Annuity Co. (Investors Life) (herein collectively referred to as "Applicants"), Eighth Street at Marquette Avenue, Minneapolis, MN, have filed an application pursuant to section 6(c) of the Investment Company Act of 1940 (Act), for an order exempting Applicants from the provisions of section 22(d) of the Act to the extent described below. Variable Fund B is an open-end diversified management investment company registered under the Act. Investors Life established Variable Fund on June 10, 1969, under Minnesota law as a separate account through which it will set aside and invest payments accruing from the sale of individual, tax deferred variable annuity contracts offered by Investors Life. All interested persons are referred to the application on file with the Commission for a statement of the representations contained therein, which are summarized below.

Applicants state that they presently offer three types of individual variable annuity contracts: (1) Installment purchase payment deferred annuity contracts; (2) single purchase payment deferred annuity contracts; and (3) single purchase payment immediate annuity contracts. Applicants state that they are in the process of revising these contracts to include combination features which would allow payments under the contracts to be allocated to the purchase of a variable or fixed annuity or both, and to provide transfer provisions between the two portions.

In connection with the sale of variable annuity contracts, charges are deducted from payments to pay sales and administrative expenses. Applicants request exemption from section 22(d) of the Act to the extent necessary to permit the following.

1. Applicants request the elimination of charges for sales and administrative expenses when the cash surrender values under certain of Investors Life's fixed-dollar annuity contracts are transferred from such annuity to purchase Applicants' variable annuity contracts both during the accumulation period and upon the commencement of the annuity payout period. Applicants state that the sales and administrative charges paid on fixed-dollar annuities are identical to the sales and administrative charges which would have been paid had the annuitant initially applied that amount toward the purchase of variable annuity contracts. Applicants assert that since the deduction from purchase payments under the fixed and variable contracts are identical, to require an investor to incur duplicate loading charges would be unjust and inconsistent with the protection of investors. Applicants state that the transfer of accumulated amounts from fixed to variable accounts will be limited to one transfer each year per participant.

2. Applicants request exemption to permit an investor who desires to transfer accumulated amounts from the fixed account to the variable account to be treated in regard to future payments as if the sales and administrative charges paid on fixed annuities and attributable to transferred amounts were paid upon the purchase of variable annuities. Applicants state that on installment purchase payment contracts, the deduction for sales and administrative charges is 20 percent of the first $1,000 of purchase payments received and 4 percent of all purchase payments in excess of $1,000. Applicants represent that this decreasing scale necessitates the requested procedure if investors are to be treated fairly since the charges paid upon the purchase of the fixed annuities to which the requested exemption would apply are iden-

tical to those paid upon the purchase of variable annuities, and that there is no justification for charging the higher load again.

3. Applicants request exemption to permit the usual decreasing sales and administrative charges on purchases of variable annuities to apply regardless of whether prior purchase payments under combination contracts were allocated to variable annuities or the fixed account. Applicants state that in order to treat shareholders in a uniform and equitable manner, it is necessary to consider the sales and administrative charges paid on fixed annuities which are purchased under combination contracts and have charges identical to those made upon the purchase of variable annuities as if they had been paid upon the purchase of variable annuities since the contracts provide for decreasing sales and administrative charges. Applicants represent, by way of example, that an investor holding a combination contract who makes an initial payment of $1,000 and who allocates $500 to the variable portion of the contract, and $500 to the fixed portion, and who on his second payment again allocates the amount equally between the variable and fixed portion of the contract should be required to pay only a 4 percent charge on the second payment even though the amount allocated to the variable portion is not in excess of $1,000.

4. Applicants request exemption to permit the beneficiary of a contract purchaser to elect to have the proceeds payable upon the death of the annuitant, including those not derived from the separate account, applied to a variable annuity in lieu of a lump sum payment without deduction of a sales or administrative charge. Applicants represent that since in all cases a sales and administrative charge would have been paid by the original contract purchaser, this exemption, if granted, would avoid any cumulating of sales charges.

Section 22(d) of the Act provides, in pertinent part, that no registered investment company shall sell any redeemable security issued by it to any person except at a current public offering price described in the prospectus. Because the above-described securities may be sold at a load which varies from that described in the prospectus, the exemption is requested.

Section 6(c) of the Act provides that the Commission may, by order upon application, conditionally or unconditionally exempt any person from any provision of the Act or of any rule or regulation thereunder, if and to the extent that such exemption is necessary or appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act.

Notice is further given that any interested person may, not later than January 20, 1971, at 5:30 p.m., submit to the Commission in writing a request for a hearing on the matter accompanied by a statement as to the nature of his interest, the reason for such request, and the issues of fact or law proposed to be controverted, or he may request that he be notified if the Commission shall order a hearing thereon. Any such communication should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request shall be served personally or by mail (airmail if the person being served is located more than 500 miles from the point of mailing) upon Applicants at the address set forth above. Proof of such service (by affidavit or in case of an attorney at law by certificate) shall be filed contemporaneously with the request. At any time after said date, as provided by Rule 0–5 of the rules and regulations under the Act, an order disposing of the application herein may be issued by the Commission upon the basis of the information stated in the application, unless an order for hearing upon the application shall be issued upon request or upon the Commission's own motion. Persons who request a hearing or advice as to whether a hearing is ordered will receive notice of further developments in this matter including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Corporate Regulation, pursuant to delegated authority.

[SEAL] ORVAL L. DUBOIS, *Secretary.*

[F.R. Doc. 71–136; Filed, Jan. 5, 1971; 8:49 a.m.]

[70–4908]

PENNSYLVANIA ELECTRIC CO.

Notice of Posteffective Amendment Regarding Proposed Issue and Sale of Short-Term Promissory Notes to Banks

DECEMBER 30, 1970.

Notice is hereby given that Pennsylvania Electric Co. (Penelec), 1001 Broad Street, Johnstown, PA 15907, an electric utility subsidiary company of General Public Utilities Corp., a registered holding company, has filed with this Commission a posteffective amendment to its application in this proceeding pursuant to section 6(b) of the Public Utility Holding Company Act of 1935 (Act) regarding the following proposed transactions. All interested persons are referred to the application, as now amended, which is summarized below, for a complete statement of the proposed transactions.

By order dated September 21, 1970 (Holding Company Act Release No. 16837), the Commission granted Penelec's application requesting that, for the period ending on December 31, 1971, the exemption from the provisions of section 6(a) of the Act afforded to it by the first sentence of section 6(b) of the Act relating to the issue and sale of short-term notes be increased from 5 percent to approximately 9.3 percent of the principal amount and par value of other securities of Penelec at the time outstanding. Penelec proposed to have outstanding at any one time not in excess of an aggregate of $50 million of short-term notes to banks.

Penelec now proposes that said section 6(b) exception be increased so that it may have outstanding at any one time not in excess of an aggregate of $58 million of short-term notes to a group of 56 banks, which amount is approximately 10.3 percent of the principal amount and par value of other securities of Penelec at the time outstanding. It is further proposed that Penelec not be required to reduce the maximum amount of indebtedness which it may incur pursuant to the application by the amount of the net proceeds of any permanent debt financing. In all other respects, the proposed transactions remain the same.

It is represented that no State commission and no Federal commission, other than this Commission, has jurisdiction over the proposed transactions.

Notice is further given that any interested person may, not later than January 18, 1971, request in writing that a hearing be held on such matter, stating the nature of his interest, the reasons for such request, and the issues of fact or law raised by said posteffective amendment to the application which he desires to controvert; or he may request that he be notified if the Commission should order a hearing thereon. Any such request should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request should be served personally or by mail (airmail if the person being served is located more than 500 miles from the point of mailing) upon the applicant at the above-stated address, and proof of service (by affidavit or, in case of an attorney at law, by certificate) should be filed with the request. At any time after said date, the application, as now amended or as it may be further amended, may be granted as provided in Rule 23 of the general rules and regulations promulgated under the Act, or the Commission may grant exemption from such rules as provided in Rules 20(a) and 100 thereof or take such other action as it may deem appropriate. Persons who request a hearing or advice as to whether a hearing is ordered will receive notice of further developments in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Corporate Regulation, pursuant to delegated authority.

[SEAL] ORVAL L. DUBOIS, *Secretary.*

[F.R. Doc. 71–137; Filed, Jan. 5, 1971; 8:49 a.m.]

FEDERAL POWER COMMISSION

[Docket No. E-7564]

CAROLINA POWER & LIGHT CO.

Order Suspending Tendered Rate Schedules, Granting Waiver of Notice Requirements, Providing for Hearings; and Granting Intervention

DECEMBER 23, 1970.

This order suspends for 5 months the operation of tendered rate schedules, orders a public hearing to be held on the lawfulness of those schedules, grants waiver of notice requirements, permits intervention in this proceeding, and orders a hearing on a motion to reject the tendered rate schedule filing.

Carolina Power and Light Co. (CP&L), a public utility subject to the jurisdiction of this Commission, filed on September 30, 1970, changes in rates for sales to municipalities, investor-owned utilities and rural electric cooperatives. CP&L proposes to change its existing wholesale for resale rate schedules, Schedules RS-5A and RS-4. The proposed rate schedule supplements are identified in Appendix A set forth below. The filings were initially proposed to become effective December 1, 1970.

The proposed rate, the terms of which are detailed in Appendix B set forth below, will provide increased revenues of $7,911,780 (32 percent) based upon projections of sales and revenues for the 12 months immediately preceding and $8,823,971 (32 percent) based upon projections of sales and revenues for the 12 months immediately succeeding December 1, 1970.

CP&L contends that the proposed increase is necessary because of the general increases in the cost of capital and the more rapidly growing resale requirements of the municipalities, private companies and cooperatives, thus rendering the company's rate of return inadequate.

CP&L initially proposed an effective date for the present filings of December 1, 1970. However, the original filing was deficient and was not completed until November 27, 1970, whereupon CP&L requested a waiver of the 60-day notice requirement of § 35.13(b)(4) of the Commission's regulations in order for the filing to become effective on December 28, 1970, 30 days after completion of the filing. We will grant waiver of that notice requirement subject to the provisions of this order.

Notice of the filing was given by publication in the FEDERAL REGISTER on October 14, 1970 (35 F.R. 16115), stating that any person desiring to be heard or to make any protest with reference to said application should on or before October 30, 1970, file with the Federal Power Commission, Washington, D.C. 20426, petitions to intervene or protests in accordance with the requirements of the Commission's rules of practice and procedure. In reply the Commission has received protests from the Towns of Southport, Fremont, and Selma, N.C., requesting denial of the proposed rate increase, and petitions to intervene from: (1) The State of North Carolina; (2) the North Carolina Electric Membership Corp. (N.C.E.M.C.) and the Jones-Onslow EMC; (3) the ElectriCities of North Carolina and the municipalities of New Bern, N.C., Camden, and Bennettsville, S.C.; and (4) Haywood Electric Membership Corp. All the petitions to intervene requested: (a) Intervention, (b) a full hearing, and (c) the maximum suspension period for the filings. In addition, petitions (1) and (3) above requested a full investigation of the matter and that the Commission deny CP&L any deviation from the filing requirements. Petitions (2) and (4) also asked that the Commission dismiss and deny the proposed rate increase.

In view of the magnitude of the rate increase and the protests and petitions of CP&L's customers and the State of North Carolina, suspension of the proffered rate schedules is appropriate. No answers to these petitions have been received.

On November 18, 1970, a "Motion to Reject Rate Filing and Dismiss; or, in the Alternative, to Reject Rate Filing and Convert the Filing into a section 206 Proceeding" was filed with the Commission by the N.C.E.M.C.[1] and the Jones-Onslow Electric Membership Corp. The grounds for the motion of this intervenor are: (1) The presently applicable Resale Service Schedules RS-4 constitutes a contracted rate under the CP&L-EMC Excess Power and Energy Contract and also under the quadri-contract power supply arrangement;[2] and such rate cannot legally be increased unilaterally by CP&L until and unless the Government-Customer contract (one of the other contracts under the quadri-contract agreement) is terminated; (2) all parties to the quadri-contract power supply agreement were in agreement with the terms set forth in the quadri-contract, and to permit CP&L unilaterally to abandon the RS-4 rate and to impose a new rate enormously higher would be to ignore the substantial considerations moving to CP&L in the quadri-contract power supply arrangement and impair the EMCs contract rights, resulting in irreparable, monumental, and irremedial damage to the affected EMCs; (3) the EMCs have foregone and waived their rights to certain beneficial entitlements as preference customers under the prefeference clause in exchange for, among other things, the Resale Service Schedule RS-4 rate and the term of duration applying to that contract; (4) by its own filing CP&L acknowledges that it is receiving a rate of return of at least 4.3606 percent from the EMCs under the RS-4 rate—without taking into account any beneficial values to CP&L derived from the quadri-contract power supply arrangement. Such action is claimed to be contrary to the holdings in Federal Power Commission v. Sierra Pacific Power Company, 350 U.S. 348; 18 FPC 15 (1957); 267 F. 2d 165 (1959); United Gas Pipe Line Co. v. Mobile Gas Service Corp.; 350 U.S. 322 (1957).

Movants also claim that two EMCs which do not purchase power pursuant to the quadri-contract nevertheless purchase power from CP&L pursuant to a contracted rate.

On December 8, 1970, CP&L filed an answer requesting that the intervenor's motion be denied in its entirety. CP&L claims, inter alia, that the Government-Customer contract by its terms expired June 30, 1966, and that consequently the CP&L-EMC Excess Power and Energy contract by its terms also expired on that date, thus leaving CP&L free to file a rate increase. In a response to that answer filed December 14, 1970, the EMCs allege, inter alia, that the CP&L-EMC Excess Power and Energy contract is not tied to the term of the Government-Customer contract, but to the mere effectiveness of that contract.

The motion, answer thereto and the movants' response to the answer raise complex questions of fact and law which we believe can best be resolved through a hearing. We are therefore reserving decision on the motion pending a hearing to be held promptly before a hearing Examiner of this Commission. It is our intention that the hearing on the motion to reject be concluded within the 5-month period of suspension of the subject rate schedules.

The Commission further finds:

(1) The tendered rate schedule filings designated in Appendix A attached hereto may be unjust, unreasonable, unduly discriminatory, or preferential, or otherwise unlawful under the Federal Power Act.

(2) Good cause has been shown to grant CP&L's request for waiver of the 60-day provision of § 35.13(b)(4) of the Commission's regulations under the Federal Power Act.

(3) It is necessary and appropriate for the purposes of the Federal Power Act, particularly sections 205, 206, 301, 307, 308, and 309 thereof, that the Commission enter upon a hearing concerning the lawfulness of the tendered filings and that the tendered filings be suspended and the use thereof be deferred and a public hearing be initiated in accordance with the procedures set forth below, all as hereinafter provided.

(4) It is necessary and appropriate for the purposes of the Federal Power Act, particularly sections 205, 206, 301, 307,

[1] Consisting of the following electric membership corporations: Pitt & Greene, Randolph, South River, Tri-County, Wake, Carteret-Craven, Central, Four County, French Broad, Halifax, Harkers Island, Jones-Onslow, Lumbee River Pamlico-Beaufort, Pee Dee, Brunswick, and Piedmont (EMCs).

[2] The quadri-contract arrangement consists of the following:

(1) Contract between Southeastern Power Administration (SEPA) and CP&L (Government-Company contract).

(2) Contract between SEPA and the EMCs (Government-Customer contract).

(3) Contract for deficiency energy between CP&L and the EMCs (CP&L-EMC Deficiency Energy contract).

(4) Contract for excess power and energy between CP&L and EMCs (CP&L-EMC Excess Power and Energy contract).

308, and 309 thereof, that the Commission enter upon a hearing concerning the issues raised in the motion to reject filed by the N.C.E.M.C. and the Jones-Onslow EMC, the answer thereto and the response to the answer.

(5) Participation by the aforementioned petitioners for intervention in this proceeding may be in the public interest.

(6) The period of public notice given in this matter is reasonable.

The Commission orders:

(A) CP&L's request for waiver of the 60-day provision of § 35.13(b)(4) of the Commission's regulations under the Federal Power Act is hereby granted to permit the tendered filing to take effect 5 months after completion of the filing, subject to the provisions of this order.

(B) Pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Power Commission by the Federal Power Act and pursuant to the Commission's rules of practice and procedure, a public hearing shall be convened at the offices of the Federal Power Commission in Washington, D.C. at a date and time to be set by the hearing examiner of the Commission designated to preside over these proceedings, concerning the lawfulness of CP&L's rate schedules identified in Appendix A below.

(C) Pending such hearing and decision thereon, the tendered rate schedules designated in Appendix A set forth below are hereby suspended and the use thereof deferred until May 28, 1971. On that day those filings shall take effect in the manner prescribed by the Federal Power Act, and CP&L, subject to further orders of the Commission, shall charge and collect the increased rates and charges set forth in those filings for all power sold and delivered thereunder.

(D) CP&L shall file with the Commission and serve on all parties, on or before March 26, 1971, its case-in-chief in support of the subject rate schedules including testimony of witnesses and exhibits. The parties may submit to the Presiding Examiner, on or before April 19, 1971, proposed dates for commencement of cross-examination of the company's witnesses. If any party believes that a prehearing conference would serve to expedite the proceeding, he may file with the Chief Examiner or the designated Presiding Examiner, on or before April 19, 1971, a motion for a prehearing conference, including a statement of how the proceeding would be expedited thereby and a proposed agenda for the conference. All further procedural dates shall be as ordered by the Presiding Examiner.

(E) CP&L shall refund at such times and in such manner as may be required by final order of the Commission the portion of the increased rates and charges found by the Commission in this proceeding not justified, together with interest at the New York prime rate on May 28, 1971, from the date of payment until refunded; shall bear all costs of any such refunding; shall keep accurate accounts in detail of all the amounts received by reason of the increased rates and charges effective as of May 28, 1971, for each billing period; and shall report (original and one copy) in writing and under oath, to the Commission monthly, for each billing period, the billing determinants of electric energy sold and delivered under the subject rate schedules, and the revenues resulting therefrom as computed under the rates in effect immediately prior to May 28, 1971, and under the rates and charges made effective by this order, together with the differences in the revenues so computed.

(F) The State of North Carolina, The North Carolina Electric Membership Corp. and Jones-Onslow EMC and Haywood Electric Membership Corp., the ElectriCities of North Carolina and the municipalities of New Bern, N.C., and Camden and Bennettsville, S.C., are hereby permitted to intervene in this proceeding subject to the rules and regulations of the Commission: *Provided, however,* That participation of such interveners shall be limited to the matters affecting asserted rights and interests specifically set forth in the petitions to intervene: *And provided further,* That the admission of such interveners shall not be construed as recognition by the Commission that they or any of them might be aggrieved by any orders entered in this proceeding.

(G) Unless otherwise ordered by the Commission, CP&L shall not change the terms or provisions of the subject rate schedules or of its presently effective rate schedules until this proceeding has been terminated or until the period of suspension has expired.

(H) Pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Power Commission by the Federal Power Act and pursuant to the Commission's rules of practice and procedure, a public hearing shall be convened at the offices of the Federal Power Commission in Washington, D.C. on January 18, 1971, concerning the issues raised in the motion to reject filed November 18, 1970, by the N.C.E.M.C. and the Jones-Onslow EMC, the answer thereto, and the response to that answer. On that date, the parties shall be prepared with their witnesses to present evidence on these issues.

(I) Notices of intervention and petitions to intervene may be filed with the Federal Power Commission, Washington, D.C. 20426, on or before January 15, 1971, in accordance with the Commission's rules of practice and procedure (18 CFR 1.8 or 1.37).

By the Commission.

[SEAL] KENNETH F. PLUMB,
Acting Secretary.

APPENDIX A

Rate Schedule Designations

CAROLINA POWER & LIGHT COMPANY

Filed: Sept. 30, 1970, completed Nov. 27, 1970.
Instrument: Resale Service Schedule R-7 Undated.

Supplement No.	Supersedes supplement No.	Rate schedule FPC No.	Customer
	PRIVATE UTILITIES		
3	2	51	Laurel Hill Electric Co.
3	1	69	Pinehurst Inc.
	MUNICIPALITIES		
4	2	49	City of Bennettsville.
3	2	50	City of Camden.
3	2	68	Town of Louisburg.
3	2	70	Town of Laurinburg.
3	2	71	City of Lumberton.
4	2	72	Town of Apex.
2	1	73	Town of Benson.
3	1	74	Town of Clayton.
4	3	75	Town of Farmville.
3	1st Revised Sheet No. 17	76	City of Kingston.
3	1	77	Town of Red Springs.
3	2	78	Town of Selma.
4	2	79	Town of Southport.
2	1	81	Town of Fremont.
2	1	82	Town of Hookerton.
3	1	83	Town of LaGrange.
3	1	84	City of New Bern.
2	1	85	Town of Pikeville.
4	1	87	Town of Smithfield.
2	1	88	Town of Wake Forest.
3	1	89	Town of Waynesville.
3	2	90	Town of Wilson.
1	Resale Service Schedule 5-B	93	City of Fayetteville.
1	do	94	City of Rocky Mount.

ELECTRIC MEMBERSHIP CORPORATION

Supplement No.	Supersedes supplement No.	Rate schedule FPC No.	Customer
7	Exhibit B	47	French Broad EMC.
1	do	48	Four County EMC.
3	do	52	Brunswick EMC.
5	do	53	Carteret-Craven EMC.
2	do	54	Central EMC.
1	do	55	Halifax EMC.
2	do	56	Harker's Island EMC.
1	do	57	Haywood EMC.
10	do	58	Jones-Onslow EMC.
4	do	59	Lumbee River EMC.
6	do	60	Pamlico-Beaufort EMC.
7	do	61	Pee Dee EMC.
3	do	62	Piedmont EMC.
2	do	63	Pitt & Greene EMC.
5	do	64	Randolph EMC.
11	do	65	South River EMC.
4	do	66	Tri-County EMC.
11	do	67	Wake EMC.

APPENDIX B

CAROLINA POWER & LIGHT CO.

Proposed Rates

Wholesale Service to Cooperatives, Municipals and Private Utilities.

Schedule R7

Monthly rate:

$50 plus $2.04 per kW of demand. Includes 200 hours use per kW.
Next 220 kWh per kW.
First 220,000 kWh—1.02 cents per kWh.
Next 1,320,000 kWh—0.97 cent per kWh.
Over 1,540,000 kWh—0.92 cent per kWh.
Over 420 Wh per kW—0.57 cent per kWh.

Billing demand:

Monthly 15-minute maximum demand, ratcheted to 95 percent of the maximum use established during months of June through September.

Power factor:

Power factor is not to be less than 85 percent and RKVA demand is not to be more than 62 percent of maximum demand established in any month.

Excess power and energy service:

For cooperative customers receiving SEPA allotments the monthly metered demand and energy quantities are to be reduced by such SEPA allotment.

Term:

The agreement is to be effective for 7 years and may be terminated at the end of that period or any subsequent period upon 3 years written notice.

[F.R. Doc. 71-34; Filed, Jan. 5, 1971; 8:45 a.m.]

[Docket No. RP71-51]

CASCADE NATURAL GAS CORP.

Order Permitting Rate Increase Filing To Become Effective Without Suspension

DECEMBER 30, 1970.

On December 1, 1970, Cascade Natural Gas Corp. (Cascade) tendered for filing a proposed change to its FPC Gas Tariff, Rate Schedule No. 1, to be effective as of January 1, 1971. The filing, which is submitted under the periodic price increase provision of Article IV of the contract between Cascade and its sole jurisdictional customer, Mountain Fuel Supply Co., increases the level of the rate from 21 cents per Mcf to 22 cents.

In support of its filing Cascade states that the filing is in accordance with its contracts dated September 3, 1965, and certificate authorizations and is necessary to defray increased purchased gas costs which will be experienced beginning January 1, 1971, as well as certain other operating costs. The company requests that in view of the indicated deficiency in earnings, after the proposed increase rate, the filing be permitted to become effective without suspension.

Notice of the proposed change was issued by the Commission on December 8, 1970 and no protests or petitions to intervene have been received.

Analysis of the cost of service and revenue data submitted with the filing indicates that the proposed increase has been supported and is appropriate. Accordingly, we find that the aforementioned filing should be permitted to become effective as requested.

The Commission orders:

(A) Cascade's rate increase filed December 1, 1970, to implement the periodic price increase provision of Article IV of its contract dated September 4, 1965, on file as its Rate Schedule No. 1, is accepted for filing to be effective as of January 1, 1971.

(B) This order is without prejudice to any findings or orders which have been or may hereafter be made by this Commission in any proceeding now pending or hereafter instituted by or against Cascade or any other persons affected by the rates permitted to be effective.

By the Commission.

[SEAL] KENNETH F. PLUMB,
Acting Secretary.

[F.R. Doc. 71-108; Filed, Jan. 5, 1971; 8:47 a.m.]

[Docket No. CP66-226]

CITIES SERVICE GAS CO.

Notice of Extension of Time

DECEMBER 23, 1970.

On December 22, 1970, Pan American Petroleum Corp. filed a request for an extension of time within which to file protests or petitions to intervene in the above-designated matter. The request states that Cities Service Gas Co. has no objection to the extension of time.

Upon consideration, notice is hereby given that the time is extended to and including January 18, 1971, within which protests or petitions to intervene may be filed in the above-designated matter. The notice of petition to amend issued on December 8, 1970, is amended accordingly.

KENNETH F. PLUMB,
Acting Secretary.

[F.R. Doc. 71-110; Filed, Jan. 5, 1971; 8:47 a.m.]

[Docket No. RP71-31]

TRANSCONTINENTAL GAS PIPE LINE CORP.

Order Approving Rate Increase Without Suspension and Granting Petitions To Intervene

DECEMBER 30, 1970.

On November 2, 1970, Transcontinental Gas Pipe Line Corp. (Transco) proposed changes in its FPC Gas Tariff, Original Volume Nos. 1 and 2. Transco proposed that its revised sheets take effect on January 1, 1971, without suspension.[1] The proposed rate changes, which are set forth in Transco's document, "Agreement as to Rates", appended hereto, would increase charges for jurisdictional sales and service by approximately $10.6 million annually, based on sales for the 12 months ended March 31, 1970, as adjusted.

Transco asserts that the proposed rate increase is required to offset increased and increasing costs, especially the increased cost of debt, and to improve Transco's return. The cost of service data, filed with this application, utilizes a 7.88 percent rate of return and reflects a return on common equity of 12.739 percent, which Transco states is at the lower end of the just and reasonable scale for a company with Transco's capitalization.[2]

[1] On Nov. 9, 1970, Transco filed three tariff sheets, numbers 24th Revised Sheet No. 28-P of Original Volume No. 1, and Eighth Revised Sheet No. 52 and Fourth Revised Sheet No. 321 of Original Volume No. 2, to correct errors in corresponding tariff sheets filed on Nov. 2, 1970. These changes did not affect the rate levels contained in those sheets filed on Nov. 2, 1970.

[2] Transco's capitalization as of Mar. 31, 1970, as adjusted for changes during the following 9 months:

	Amount	Percent of capitalization	Cost	Weighted cost
		Percent	*Percent*	*Percent*
Long-term debt	$809,342,000	68.944	6.736	4.644
Preferred stock	128,529,000	10.949	6.599	0.722
Accumulated deferred taxes	4,187,842	0.356		
Common equity	231,858,814	19.751	12.739	2.516
Total	1,173,917,656	100.000		7.882

Transco states that in the absence of the rate relief sought therein, it will have to borrow by the end of 1971, the full extent of long-term debt permitted by its mortgages and debenture indentures plus approximately $109 million of short-term money in order to meet the growing requirements of its customers.

Transco requests that the increase be permitted to become effective on January 1, 1971, without suspension because Transco's indentures provide that whenever a determination of coverages is made for the issuance of additional debt securities, increased revenues resulting from a rate of return greater than that last allowed by the Commission, which are subject to refund, are excluded. Granting Transco the rate relief which it seeks on January 1, 1971, will provide an opportunity for Transco to issue additional long-term debt in 1971, will permit a reduction in short-term borrowing, and will produce greater flexibility for future financing.

Transco's document, "Agreement as to Rates", consists of conditions it would accept as part of an order approving its proposed changes without suspension. This document contains, inter alia, a provision for tracking supplier increases and decreases in rates charged Transco, a provision for flow-through of supplier refunds, and a moratorium provision under which Transco agrees, subject to exception for changes in tax laws, not to place into effect any rate increase prior to January 1, 1972, after full suspension under the Natural Gas Act.

Transco states that because of the nature of this filing Statement F(5), Schedules I–1 through I–6, and Statements J, K, and P have been omitted. Transco requests waiver of the regulations under the Natural Gas Act, which require such exhibits, and waiver of § 154.63(e)(2).[3]

Transco also requests permission to amortize by uniform annual amounts over a 14-year period commencing January 1, 1971, the balance in Account 282, in lieu of the vintage-year basis method authorized by Commission order issued August 12, 1966, in Docket No. RP67–3.[4] Transco proposes for the present to remain on flow-through accounting with respect to liberalized depreciation.

Transco states that advance copies of the cost of service and revenue data supporting the proposed rates have been furnished to the staff, customers, and those interested parties who desired such information. Thus all parties were able to evaluate Transco's filing and determine whether any objections should be raised. Petitions to Intervene and a notice of intervention have been filed.[5] No objection has been made to the change proposed.

Our Staff received the cost of service and revenue data supporting the proposed rates in August 1970, and, in addition to thoroughly reviewing that material, the Staff conducted a field investigation in Transco's offices in Houston, Tex., in September. Because Transco's system is, for all practical purposes, entirely jurisdictional, no allocation problems were involved nor were any issues raised by Staff or others on matters of rate design. Based upon its review of the instant filing, the material submitted in advance, and its field investigation, the Staff concludes that there is no basis for any significant adjustment to the cost of service presented by Transco.

While we are of the view that a 7.882 percent overall rate of return for Transco is fair and proper, we note that the resulting return on equity is 13.07 percent, adjusting Transco's cost of long term debt to reflect the discounts on acquisition of Transco's own bonds and preferred stocks and to reflect the premiums paid for the call of preferred stock prior to maturity, in accordance with our Opinion No. 583, The Manufacturers Light and Heat Company, et al., issued August 17, 1970. The capitalization set forth below reflects $25 million of preferred stock which was issued in September 1970, at the actual cost of 10.60 percent in lieu of the estimated cost of 10.30 percent used by Transco in this filing.[6]

We find that the rates proposed by Transco are just and reasonable. Accordingly, they should be permitted to go into effect as requested on January 1, 1971, without suspension. We are able to reach this conclusion because, due to Transco's advance submission of data to its customers and to our Staff, interested parties have had an opportunity to thoroughly review and evaluate Transco's presentation and they do not take issue with such presentation.

The Commission orders:

(A) The rates proposed by Transcontinental Gas Pipe Line Corp. are approved and the revised tariff sheets contained in the application, as amended by Transco on November 9, 1970, are permitted to go into effect, subject to the terms and conditions in the appended document, "Agreement as to Rates."[7]

(B) The requirements of § 154.63 of the regulations under the Natural Gas Act that Statement F(5), Schedules I-1 through I–6, and Statements J, K, and P be included as part of a major rate increase application and § 154.63(e)(2) are waived in this docket.

(C) The Petitioners hereinabove set forth are permitted to intervene in these proceedings subject to the rules and regulations of the Commission: *Provided, however,* That the participation of such interveners shall be limited to matters affecting asserted rights and interests as specifically set forth in their respective petitions to intervene: *And provided, further,* That the admission of said interveners shall not be construed as recognition by the Commission that they might be aggrieved, because of any order or orders of the Commission entered in these proceedings.

By the Commission.

[SEAL] KENNETH F. PLUMB, *Acting Secretary.*

[F.R. Doc. 71–107; Filed, Jan. 5, 1971; 8:47 a.m.]

[3] Section 154.63(e)(2) requires, inter alia, that the last day of the 12 months of actual experience be not more than four months prior to the date of filing the proposed changes in rates and charges.

[4] The 14 years is the same period remaining under the vintage-year method of amortization presently utilized.

[5] Petitions to intervene have been filed by: Commonwealth Natural Gas Corp., Consolidated Edison Company of New York, Inc., Elizabethtown Gas Co., Long Island Lighting Co., Piedmont Natural Gas Co., Inc., South Jersey Gas Co., and Washington Gas Light Co. A notice of intervention was filed by the Public Service Commission of the State of New York.

[6] Transco's capitalization reflecting the Commission's adjustments:

	Percent of capitalization	Cost	Weighted cost
	Percent	*Percent*	*Percent*
Long-term debt	68.944	6.623	4.566
Preferred stocks	10.949	6.698	0.733
Accumulated deferred taxes	0.356		
Common equity	19.751	13.078	2.583
Total	100.000		7.882

[7] Filed as part of the original document.

[Docket No. RP71–29]

UNITED GAS PIPE LINE CO.

Order Regarding Settlement Proposal and Postponement of Hearing

DECEMBER 29, 1970.

The record made to date in the above captioned proceeding has been certified to us by the Presiding Examiner. An interim compromise settlement proposal made by United Gas Pipe Line Co. (United) appears in the record. The record contains the views of the parties to the proceeding with respect to such proposal and shows all parties generally concurring in the proposal except for Monsanto Chemical Corp. (Monsanto), which objects to the proposal. The Presiding Examiner ordered a postponement of the hearing until January 12, 1971. The record shows that Monsanto agreed to the postponement.

On the basis of the record before us, we approve the settlement proposal.

We also affirm the Presiding Examiner's ruling adjourning the hearing until January 12, 1971. We authorize the hearing to proceed at such dates and upon such procedures as the Presiding Examiner may direct.

The Commission finds:

The issuance of an order in this proceeding is required by the public convenience and necessity and is appropriate in carrying out the provisions of the Natural Gas Act, particularly sections 4, 5, 7, and 16.

The Commission orders:

The interim compromise settlement as reflected in the record of December 22, 1970, is approved.

By the Commission.

[SEAL] KENNETH F. PLUMB, *Acting Secretary.*

[F.R. Doc. 71-109; Filed, Jan. 5, 1971; 8:47 a.m.]

INTERSTATE COMMERCE COMMISSION

[Notice 220]

MOTOR CARRIER TEMPORARY AUTHORITY APPLICATIONS

DECEMBER 29, 1970.

The following are notices of filing of applications for temporary authority under section 210a(a) of the Interstate Commerce Act provided for under the new rules of Ex Parte No. MC-67 (49 CFR Part 1131), published in the FEDERAL REGISTER, issue of April 27, 1965, effective July 1, 1965. These rules provide that protests to the granting of an application must be filed with the field official named in the FEDERAL REGISTER publication, within 15 calendar days after the date of notice of the filing of the application is published in the FEDERAL REGISTER. One copy of such protests must be served on the applicant, or its authorized representative, if any, and the protests must certify that such service has been made. The protests must be specific as to the service which such protestant can and will offer, and must consist of a signed original and 6 copies.

A copy of the application is on file, and can be examined at the Office of the Secretary, Interstate Commerce Commission, Washington, D.C., and also in field office to which protests are to be transmitted.

MOTOR CARRIERS OF PROPERTY

No. MC 40915 (Sub-No. 43 TA), filed December 23, 1970. Applicant: BOAT TRANSIT, INC., Post Office Box 1403, Newport Beach, CA 92663. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Carpeting*, from Anaheim, Calif., to Dalton, Ga., for 150 days. Supporting shipper: Ozite Corp., 1755 Butterfield Road, Libertyville, IL 60048. Send protests to: Philip Yallowitz, District Supervisor, Bureau of Operations, Interstate Commerce Commission, Room 7708, Federal Building, 300 North Los Angeles Street, Los Angeles, CA 90012.

No. MC 113009 (Sub-No. 4 TA), filed December 23, 1970. Applicant: L. J. BEAL & SON, INC., 212 S. Main Street, Brooklyn, MI 49230. Applicant's representative: Martin J. Leavitt, 1800 Buhl Building, Detroit, MI 48226. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Foundry sand additives, including binding or treating ingredients*, in bulk, in pneumatic equipment, from Albion, Mich., to points in Indiana and Ohio, for 180 days. NOTE: No interlining or tacking intended. Supporting shipper: American Colloid Co., 5100 Suffield Court, Skokie, IL 60076. Send protests to: C. R. Flemming, District Supervisor, Interstate Commerce Commission, Bureau of Operations, Federal Building, Room 225, Lansing, MI 48933.

No. MC 114194 (Sub-No. 159 TA) filed December 23, 1970. Applicant: KREIDER TRUCK SERVICE, INC., 8003 Collinsville Road, East St. Louis, IL 62201. Applicant's representative: Gene Kreider (same address as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Flour*, in bulk, from St. Louis, Mo., to points in Illinois, Indiana, and Michigan, for 180 days. Supporting shipper: The Pillsbury Co., 608 Second Avenue South, Minneapolis, MN 55402. Send protests to: Harold Jolliff, District Supervisor, Interstate Commerce Commission, Bureau of Operations, Room 476, 325 West Adams Street, Springfield, IL 62704.

No. MC 123233 (Sub-No. 31 TA) (Correction) filed December 1, 1970 published FEDERAL REGISTER issue of December 10, 1970, and republished in part as corrected this issue. Applicant: PROVOST CARTAGE INC., 7887 Second Avenue, Ville D'Anjou 437, PQ, Canada. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Liquid asphalt, fuel oils and gasoline*, in bulk, in tank vehicles, from ports of entry on the U.S.A./Canada boundary lines at or near Alexandria Bay, Ogdensburg, Rooseveltown, Trout River, and Champlain, N.Y., Highgate Springs, Derby Line, and Norton, Vt., *to* points in New York, Vermont, New Hampshire, Massachusetts, Connecticut, and Rhode Island, for 180 days. NOTE: The purpose of this republication is to redescribe the territorial description as pertains to the destination territory by including the word *to*, which word was inadvertently omitted from the previous publication. The rest of application remains as previously published.

No. MC 124154 (Sub-No. 42 TA) filed December 21, 1970. Appliacnt: WINGATE TRUCKING COMPANY, INC., Post Office Box 645, Albany, GA 31702. Applicant's representative: Sol H. Proctor, 2501 Gulf Life Tower, Jacksonville, FL 32207. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Agricultural chemicals and agricultural chemical materials*, from McIntosh, Ala., to points in Indiana, Ohio, Minnesota, Illinois, Iowa, Nebraska, Missouri, Kansas, North Dakota, South Dakota, Michigan, and Wisconsin, for 180 days. Supporting shipper: Ciba-Geigy Corp., Ardsley, N.Y. 10502. Send protest to: District Supervisor G. H. Fauss, Jr., Bureau of Operations, Interstate Commerce Commission, Box 35008, 400 West Bay Street, Jacksonville, FL 32202.

No. MC 125362 (Sub-No. 3 TA) filed December 21, 1970. Applicant: THOMAS P. SMITH, 10045 East Michigan Avenue, Parma, MI 49269. Applicant's representative: Karl L. Gotting, 1200 Bank of Lansing Building, Lansing, MI 48933. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: (1) *Malt beverages*, from Lacrosse and Sheboygan, Wis., and South Bend, Ind., to Jackson, Mich., and (2) *Wine*, from Chicago, Ill., to Jackson, Mich., for 180 days. NOTE: No tacking or interlining intended. Supporting shipper: Stadelman Distributing Co., 4915 West Michigan Avenue, Jackson, MI 49201 (by John G. Stadelman, President). Send protests to: C. R. Flemming, District Supervisor, Bureau of Operations, Interstate Commerce Commission, Federal Building, Room 225, Lansing, MI 48933.

No. MC 126548 (Sub-No. 7 TA), filed December 23, 1970. Applicant: ELMER A. FEHRLE, doing business as FEHRLE TRUCKING, 2329 18th Street SW., Cedar Rapids, IA 52404. Applicant's representative: Kenneth F. Dudley, 611 Church Street, P.O. Box 279, Ottumwa, IA 52501. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Lumber, raggle boards, pallets, skids, wood chips and sawdust*, from Belle Plaine, Iowa to points in Alabama, Georgia, Maryland, South Carolina, Virginia, and West Virginia, for 180 days. Supporting shipper: Belle Plaine Sawmill, Inc., Belle Plaine, Iowa 52208. Send protests to: Ellis L. Annett, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 332 Federal Building, Davenport, IA 52801.

No. MC 135187 (Sub-No. 1 TA), filed December 21, 1970. Applicant: ALLAN L. WHITCOMB, Route 1, Box 1, Deary, ID 83823. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Scrap automobiles and parts and used automobile parts*, from points in Montana west of the Continental Divide, points in Idaho and points in Asotin County, Wash., to Spokane, Wash., for 150 days. Supporting shipper: A American By Products Co., East 6203 Mission Avenue Mail: Post Office Box 437, Parkwater Station, Spokane, WA 99211. Send protests to: Interstate Commerce Commission, Bureau of Operations, 401 U.S. Post Office, Spokane, WA 99201.

By the Commission.

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

[F.R. Doc. 71-78; Filed, Jan. 5, 1971; 8:46 a.m.]

[Notice 631A]

MOTOR CARRIER TRANSFER PROCEEDINGS

DECEMBER 28, 1970.

Application filed for temporary authority under section 210(a)(b) in connection with transfer application under section 212(b) and Transfer Rules, 49 CFR Part 1132:

No. MC–FC–72574. By application filed December 22, 1970. J. DERENZO COMPANY, doing business as CIVIL EQUIP., 85 Wexford Street, Needham, MA 02194, seeks temporary authority to lease the operating rights of PELOSO, INC., 1074 Plainfield Street, Johnston, RI, under section 210a(b). The transfer to J. DERENZO COMPANY, doing business as CIVIL EQUIP., of the operating rights of PELOSO, INC., is presently pending.

By the Commission.

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

[F.R. Doc. 71–79; Filed, Jan. 5, 1971; 8:46 a.m.]

FOURTH SECTION APPLICATION FOR RELIEF

DECEMBER 29, 1970.

Protests to the granting of an application must be prepared in accordance with Rule 1100.40 of the general rules of practice (49 CFR 1100.40) and filed within 15 days from the date of publication of this notice in the FEDERAL REGISTER.

LONG-AND-SHORT HAUL

FSA No. 42100—*Grain and grain products with in the southwest.* Filed by Southwestern Freight Bureau, agent (No. B–203), for interested rail carriers. Rates on grain (not popcorn), grain sorghums, and products related thereto as described in the application, from points in Oklahoma and Texas, also State Line, Okla.-Kans. to points in Arkansas on the Graysonia, Nashville & Ashdown Railroad Co.

Grounds for relief—Motortruck competition and rate relationship.

Tariffs—Supplements 4 and 122 to Southwestern Freight Bureau, agent, tariffs ICC 4927 and 4516, respectively.

By the Commission.

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

[F.R. Doc. 71–174; Filed, Jan. 5, 1971; 8:52 a.m.]

[Notice 32]

MOTOR CARRIER ALTERNATE ROUTE DEVIATION NOTICES

DECEMBER 31, 1970.

The following letter-notices of proposals to operate over deviation routes for operating convenience only have been filed with the Interstate Commerce Commission under the Commission's Revised Deviation Rules—Motor Carriers of Passengers, 1969 (49 CFR 1042.2(c)(9)) and notice thereof to all interested persons is hereby given as provided in such rules (49 CFR 1042.2(c)(9)).

Protests against the use of any proposed deviation route herein described may be filed with the Interstate Commerce Commission in the manner and form provided in such rules (49 CFR 1042.2(c)(9)) at any time, but will not operate to stay commencement of the proposed operations unless filed within 30 days from the date of publication.

Successively filed letter-notices of the same carrier under the Commission's Revised Deviation Rules—Motor Carriers of Property, 1969, will be numbered consecutively for convenience in identification and protests, if any, should refer to such letter-notices by number.

MOTOR CARRIERS OF PASSENGERS

No. MC–1515 (Deviation No. 573) (Cancels Deviation No. 484), GREYHOUND LINES, INC. (Eastern Division), 1400 West Third Street, Cleveland, OH 44113, filed December 22, 1970. Carrier proposes to operate as a *common carrier*, by motor vehicle, of *passengers and their baggage, and express and newspapers* in the same vehicle with passengers, over deviation routes as follows: (1) From Lafayette, La., over Interstate Highway 10 to Lake Charles, La.; (2) from Duson, La., over Louisiana Highway 95 to junction Interstate Highway 10; (3) from Rayne, La., over Louisiana Highway 35 to junction Interstate Highway 10; (4) from Crowley, La., over Louisiana Highway 13 to junction Interstate Highway 10; (5) from junction U.S. Highway 90 and Louisiana Highway 97 over Louisiana Highway 97 to junction Interstate Highway 10; (6) from junction U.S. Highway 90 and Louisiana Highway 26 over Louisiana Highway 26 to junction Interstate Highway 10; (7) from junction U.S. Highways 90 and 165 over U.S. Highway 165 to junction Interstate Highway 10; (8) from junction U.S. Highway 61 and Interstate Highway 10, southeast of Baton Rouge, La., over Interstate Highway 10 to junction Louisiana Highway 415, thence over Louisiana Highway 415 to junction U.S. Highway 190; and (9) from New Orleans, La., over Interstate Highway 10 to junction Louisiana Highway 49, thence over Louisiana Highway 49 to Kenner, La., and return over the same routes, for operating convenience only. The notice indicates that the carrier is presently authorized to transport passengers and the same property, over pertinent service routes as follows: (1) From Broussard, La., over Louisiana Highway 192 to Lafayette, La., thence over U.S. Highway 90 to Lake Charles, La.; (2) from Natchez, Miss., over U.S. Highway 61 via Scotlandville, La., to New Orleans, La.; and (3) from junction U.S. Highways 90 and 190 east of Slidell, La., over U.S. Highway 190 via Slidell to Opelousas, La., and return over the same routes.

No. MC–13300 (Deviation No. 16) (Cancels Deviation No. 8), CAROLINA COACH COMPANY, 1201 South Blount Street, Post Office Box 1591, Raleigh, NC 27602, filed December 21, 1970. Carrier's representative: James E. Wilson, 1735 K Street NW., Washington, DC 20006. Carrier proposes to operate as a *common carrier*, by motor vehicle, of *passengers and their baggage, and express and newspaper* in the same vehicle with passengers, over a deviation route as follows: From Petersburg, Va., over Interstate Highway 85 to junction U.S. Highway 1 near Henderson, N.C., thence over U.S. Highway 1 to junction U.S. Highway 401, and return over the same route, for operating convenience only. The notice indicates that the carrier is presently authorized to transport passengers and the same property, over pertinent service route as follows: (1) From Richmond, Va., over combined U.S. Highways 1 and 301 to Petersburg, Va., thence over U.S. Highway 301 to Pleasant Hill, N.C., thence over North Carolina Highway 48 to Roanoke Rapids, N.C.; (2) from Raleigh, N.C., over U.S. Highway 401 via Louisburg, N.C., to Warrenton, N.C.; (3) from Louisburg, N.C., over North Carolina Highway 561 via Centerville and Brinkleyville, N.C., to Halifax, N.C.; and (4) from Brinkleyville, N.C., over North Carolina Highway 48 to Roanoke Rapids, N.C., and return over the same routes.

No. MC–58719 (Sub-No. 1) Deviation No. 2), INGRAM BUS LINES, INC., 313 Jordon Avenue, Tallassee, AL 36078, filed December 23, 1970. Carrier's representative: J. Douglas Harris, 409–412 Bell Building, Montgomery, AL 36104. Carrier proposes to operate as a *common carrier*, by motor vehicle of *passengers and their baggage, and express and newspapers* in the same vehicle with passengers, over a deviation route as follows: From Heflin, Ala., over Alabama Highway 9 (an access road) to junction Interstate Highway 20, thence over Interstate Highway 20 to junction U.S. Highway 431, thence over U.S. Highway 431 (an access road) to Anniston, Ala., and return over the same route, for operating convenience only. The notice indicates that the carrier is presently authorized to transport passengers and the same property, over a pertinent service route as follows: from Opelika, Ala., over U.S. Highway 431 to junction Alabama Highway 9, thence over Alabama Highway 9 to Heflin, Ala., thence over U.S. Highway 78 to junction U.S. Highway 431, thence over U.S. Highway 431 to Anniston, Ala., and return over the same route.

By the Commission.

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

[F.R. Doc. 71–168; Filed, Jan. 5, 1971; 8:51 a.m.]

[Notice 41]

MOTOR CARRIER ALTERNATE ROUTE DEVIATION NOTICES

DECEMBER 31, 1970.

The following letter-notices of proposals to operate over deviation routes for operating convenience only have been filed with the Interstate Commerce Commission under the Commission's Revised

Deviation Rules—Motor Carriers of Property, 1969 (49 CFR 1042.4(d)(11)) and notice thereof to all interested persons is hereby given as provided in such rules (49 CFR 1042.4(d)(11)).

Protests against the use of any proposed deviation route herein described may be filed with the Interstate Commerce Commission in the manner and form provided in such rules (49 CFR 1042.4(d)(12)) at any time, but will not operate to stay commencement of the proposed operations unless filed within 30 days from the date of publication.

Successively filed letter-notices of the same carrier under the Commission's Revised Deviation Rules—Motor Carriers of Property, 1969, will be numbered consecutively for convenience in identification and protests, if any, should refer to such letter-notices by number.

MOTOR CARRIERS OF PROPERTY

No. MC-60580 (Deviation No. 2), HIGHWAY EXPRESS LINES, INC., 1314 North Irving Street, Allentown, PA 18103, filed December 11, 1970, amended December 21, 1970. Carrier proposes to operate as a *common carrier*, by motor vehicle, of *general commodities*, with certain exceptions, over a deviation route as follows: From Philadelphia, Pa., over U.S. Highway 611 to Scranton, Pa., thence over U.S. Highway 11 to Syracuse, N.Y., and return over the same route, for operating convenience only. The notice indicates that the carrier is presently authorized to transport the same commodities, over pertinent service routes as follows: (1) From Philadelphia, Pa., over U.S. Highway 1 to Jersey City, N.J., thence over New Jersey Highway 17 the New Jersey-New York State line, thence over New York Highway 17 to junction New York Highway 32 near Harriman, N.Y., thence over New York Highway 32 to Newburgh, N.Y., thence over U.S. Highway 9W to Albany, N.Y., thence over New York Highway 5 to Syracuse, N.Y.; and (2) from Palatine Bridge, N.Y., over New York Highway 10 to Canajoharie, N.Y., thence over New York Highway 5S to Sprakers, N.Y., thence over New York Highway 162 to Sloansville, N.Y., thence over New York Highway 30A via Central Bridge, N.Y., to junction New York Highway 7, thence over New York Highway 7 to junction New York Highway 30, thence over New York Highway 30 to Middleburg, N.Y., thence over New York Highway 145 to Catskill, N.Y., and return over the same routes.

No. MC-109533 (Deviation No. 6), OVERNITE TRANSPORTATION COMPANY, 1100 Commerce Road, Richmond, VA 23224, filed December 22, 1970. Carrier proposes to operate as a *common carrier*, by motor vehicle, of *general commodities*, with certain exceptions, over a deviation route as follows: From Bristol, Va.-Tenn., over U.S. Highway 11W to Tate Springs, Tenn., thence over U.S. Highway 25E to Corbin, Ky., thence over access road to junction Interstate Highway 75, thence over Interstate Highway 75 to Lexington, Ky., and return over the same route, for operating convenience only. The notice indicates that the carrier is presently authorized to transport the same commodities, over pertinent service routes as follows: (1) From Bristol, Va.-Tenn., over U.S. Highway 23 to Norton, Va.; (2) from Norton, Va., over U.S. Highway 23 to Pound, Va.; and (3) from Jenkins, Ky., over U.S. Highway 119 to Whitesburg, Ky., thence over Kentucky Highway 15 to Winchester, Ky., thence over U.S. Highway 60 to Lexington, Ky., and return over the same routes.

No. MC-112713 (Deviation No. 16), YELLOW FREIGHT SYSTEM, INC., Post Office Box 8462, 92d at State Line, Kansas City, MO 64114, filed December 23, 1970. Carrier proposes to operate as a *common carrier*, by motor vehicle, of *general commodities*, with certain exceptions, over a deviation route as follows: From Pittsburgh, Pa., over U.S. Highway 22 and Alternate U.S. Highway 22 via Weirton, W. Va., to junction Interstate Highway 77, thence over Interstate Highway 77 to junction Interstate Highway 70, thence over Interstate Highway 70 to junction U.S. Highway 42, thence over U.S. Highway 42 (an access road) to junction U.S. Highway 40, and return over the same route, for operating convenience only. The notice indicates that the carrier is presently authorized to transport the same commodities, over pertinent service routes as follows: (1) From Pittsburgh, Pa., over Pennsylvania Highway 65 to Rochester, Pa., thence over Pennsylvania Highway 18 to New Castle, Pa.; (2) from Beaver Falls, Pa., over unnumbered highway to junction Pennsylvania Highway 51, thence over Pennsylvania Highway 51 to the Pennsylvania-Ohio State line, thence over Ohio Highway 14 to Salem, Ohio; (3) from Akron, Ohio, over U.S. Highway 224 to Deerfield, Ohio, thence over Ohio Highway 14A to Salem, Ohio, thence over U.S. Highway 62 to Canton, Ohio; (4) from Upper Sandusky, Ohio, over U.S. Highway 30N to Mansfield, Ohio, thence over U.S. Highway 30 to Canton, Ohio; (5) from Springfield, Ohio, over U.S. Highway 40 to junction U.S. Highway 42, thence over U.S. Highway 42 to Mansfield, Ohio; and (6) from Indianapolis, Ind., over U.S. Highway 40 to Columbus, Ohio, and return over the same routes.

By the Commission.

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

[F.R. Doc. 71-169; Filed, Jan. 5, 1971; 8:51 a.m.]

[Notice 120]

MOTOR CARRIER APPLICATIONS AND CERTAIN OTHER PROCEEDINGS

DECEMBER 31, 1970.

The following publications are governed by the new Special Rule 247 of the Commission's rules of practice, published in the FEDERAL REGISTER, issue of December 3, 1963, which became effective January 1, 1964.

The publications hereinafter set forth reflect the scope of the applications as filed by applicant, and may include descriptions, restrictions, or limitations which are not in a form acceptable to the Commission. Authority which ultimately may be granted as a result of the applications here noticed will not necessarily reflect the phraseology set forth in the application as filed, but also will eliminate any restrictions which are not acceptable to the Commission

MOTOR CARRIERS OF PROPERTY

No. MC 113267 (Sub-No. 236) (Republication), filed April 24, 1970, published in the FEDERAL REGISTER issue of June 4, 1970, and republished this issue. Applicant: CENTRAL & SOUTHERN TRUCK LINES, INC., 312 West Morris Street, Caseyville, IL 62232. Applicant's representative: Lawrence A. Fischer (same address as applicant). The modified procedure has been followed in this proceeding and a report and order of the Commission, Operating Rights Board, dated November 30, 1970, and served December 28, 1970, finds; that the present and future public convenience and necessity require operation by applicant, in interstate or foreign commerce, as a common carrier by motor vehicle, over irregular routes, of meat, meat products, meat byproducts, and articles distributed by meat packinghouses, as described in sections A and C of appendix I to the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209 and 766 (except hides) from the plantsites and storage facilities of Swift & Co. at St. Louis, Mo., to Charleston, Huntington, and Parkersburg, W. Va., to points in Allegany and Garrett Counties, Md., to those points in that part of Somerset County, Pa., east of U.S. Highway No. 219 and on and south of Pennsylvania Highway No. 53 and U.S. Highway No. 30, and to those points in that part of Bedford County, Pa., on and south of U.S. Highway No. 30 and U.S. Interstate Highway No. 70, restricted to the transportation of traffic originating at said plantsite and storage facilities and destined to the indicated destination point. Because it is possible that other persons, who have relied upon the notice of the application as published, may have an interest in and would be prejudiced by the lack of proper notice of the authority granted herein, a notice of the authority actually granted will be published in the FEDERAL REGISTER and issuance of a certificate in this proceeding will be withheld for a period of 30 days from the date of such publication during which period any proper party in interest may file a petition to reopen the proceeding, or for other appropriate relief setting forth in detail the precise manner in which it has been so prejudiced.

No. MC 134541 (Republication) filed April 20, 1970, published in the FEDERAL REGISTER issue of May 28, 1970, and republished this issue. Applicant: TERMINAL TRANSFER, INC., 3601 Northwest Yeon, Portland, OR 97210. Applicant's representative: Richard J. Kathrens (same address as above). The modified procedure has been followed in this proceeding and a supplemental order of the Commission, Operating Rights

Board, dated November 20, 1970, and served December 4, 1970, finds; (1) that the present and future public convenience and necessity require operation by applicant, in interstate or foreign commerce, as a *common carrier*, by motor vehicle, over irregular routes, of general commodities (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), between points in Washington, Multnomah, and Clackamas Counties, Oreg., and Clark County, Wash., in retail delivery service, restricted to the transportation of traffic originating at or destined to retail stores and storage facilities of Montgomery Ward Co., Inc.; that applicant is fit, willing, and able properly to perform such service and to conform to the requirements of the Interstate Commerce Act and the Commission's rules and regulations thereunder, and (2) that the authority granted in this order and applicant's existing authority that it duplicates, shall be constructed as conferring only a single operating right. Because it is possible that other persons who have relied upon the notice of the application as published, may have an interest in and would be prejudiced by the lack of proper notice of the authority described in the findings in this order a notice of authority actually granted will be published in the FEDERAL REGISTER and issuance of a certificate in this proceeding will be withheld for a period of 30 days from the date of such publication, during which period any proper party in interest may file a petition to reopen or for other appropriate relief setting forth in detail the precise manner in which it has been so prejudiced.

No. MC 134651 (Republication), filed May 25, 1970, published in the FEDERAL REGISTER issue of June 25, 1970, and republished this issue. Applicant: GIBSCO TRANSPORT LIMITED, 2111 Lakeshore Road East, Clarkson, ON, Canada. Applicant's representative: William J. Hirsch, 43 Niagara Street, Buffalo, NY 14202. The modified procedure has been followed in this proceeding and an order of the Commission, Operating Rights Board, dated November 30, 1970, served December 28, 1970, finds; that the present and future public convenience and necessity require operation by applicant, in interstate or foreign commerce, as a common carrier by motor vehicle, of cement, from those ports of entry on the international boundary line between the United States and Canada located on the Niagara River, to Buffalo, N.Y., and of returned shipments, on return, that applicant is fit, willing, and able properly to perform such service and to conform to the requirements of the Interstate Commerce Act and the Commission's rules and regulations thereunder. Because it is possible that other persons, who have relied upon the notice of the application as published, may have an interest in and would be prejudiced by the lack of proper notice of the authority described in the findings in this order, a notice of the authority actually granted will be published in the FEDERAL REGISTER and issuance of a certificate in this proceeding will be withheld for a period of 30 days from the date of such publication, during which period any proper party in interest may file a petition to reopen or for other appropriate relief setting forth in detail the precise manner in which it has been so prejudiced.

NOTICE OF FILING OF PETITIONS

Nos. MC 7768 (Sub-No. 4) and MC 119968 (Notice of Filing of Petition for Reopening and Modification of Certificate), filed December 8, 1970. Petitioner: A. J. WEIGAND, INC., 1008 North Tuscarawas Avenue, Dover, OH 44622. Petitioner's representatives: Beery & Pemberton, 88 East Broad Street, Columbus, OH 43215. Petitioner, as herein pertinent, seeks reopening of the above-entitled proceedings and modification of the certificate issued in MC 119968, and states substantially as follows: "1. Petitioner is a common carrier, by motor vehicle, operating in interstate commerce by virtue of authority granted to Petitioner in Docket No. MC–119968 which, as pertinent herein, authorizes Petitioner to transport: (a) *Such commodities* as are manufactured and sold by chemical manufacturing plans (except petroleum products, in bulk, in tank trucks), and *returned empty containers* for such commodities, when moving to or from warehouses or other facilities of chemical manufacturing plants, between Dover, Ohio, on the one hand, and, on the other, points in Illinois, Indiana, Kentucky, Ohio, West Virginia, New York, Pennsylvania, Massachusetts, Rhode Island, Connecticut, New Jersey, Delaware, Maryland, and the southern peninsula of Michigan. (b) *Machinery, equipment, materials,* and *supplies* used in the business mentioned immediately above, from points in the States named immediately above to Dover, Ohio. 2. The foregoing authority was originally issued to Petitioner in an application proceeding in Docket No. MC–7768 Sub 4 and was reissued in the form of the present certificate in Docket No. MC–7768 Sub 11. 3. As filed, the application in Docket No. MC–7768 Sub 4 requested authority to operate as a contract carrier by motor vehicle, over irregular routes, as follows:

"(a) *Fatty acids of vegetable, animal, fish or sea animal oils; wood or coal tar derivatives; chemicals; acids; petroleum or petroleum products; alcohol,* other than alcoholic liquors, in containers or in bulk in tank trucks, between Dover, Ohio, on the one hand, and, on the other, points and places in Illinois, the southern peninsula of Michigan, Indiana, Kentucky, Ohio, West Virginia, New York, Pennsylvania, Massachusetts, Rhode Island, Connecticut, New Jersey, Delaware and Maryland. (b) *Machinery, equipment, materials* and *supplies* used in the manufacture, processing, packing or shipping of fatty acids of vegetable, animal, fish or sea animal oils; wood or coal tar derivatives; chemicals; acids; petroleum or petroleum products; alcohol, other than alcoholic liquors from points and places in Illinois, the southern peninsula of Michigan, Indiana, Kentucky, Ohio, West Virginia, New York, Pennsylvania, Massachusetts, Rhode Island, Connecticut, New Jersey, Delaware and Maryland, to Dover, Ohio. 4. At the hearing held June 23, 1948, the first part of the commodity description in the Sub 4 application was amended as follows: (a) *Fatty acids of vegetable, animal, fish or sea animal oils; wood or coal tar derivatives; chemicals; acids; petroleum or petroleum* products; alcohol, other than alcoholic liquors, in containers, and (b) *Fatty acids or vegetable and animal, fish or sea animal oils; wood or coal tar derivatives; chemicals; acids, alcohol* or other than alcoholic liquors in bulk in tank trucks. The purpose for which the amendment was submitted was to eliminate from the authority requested the right to transport petroleum or petroleum products in bulk in tank trucks. 5. The Sub 4 application was the subject of a Report and Order served October 19, 1948 wherein the authority was redescribed in the manner now set forth in Certificate No. MC–119968. 6. Since receiving the authority granted in the Sub 4 application, Petitioner has conducted substantial and continuous operations in interstate commerce in the transportation of chemicals and acids as well as the other commodities contained in the Sub 4 application, in bulk, in tank vehicles, between points in its authorized territory. Petitioner has conducted such operations in the belief that the Sub 4 authority authorizes Petitioner to transport such commodities without regard to the deviation or chemical composition of such commodities so long as the limitations set forth by the Commission in its decision in *Maxwell Co., Extension—Addyson,* 63 M.C.C. 677 are observed. Petitioner has not engaged in the transportation of petroleum or petroleum products, in bulk, in tank trucks.

"7. On or about July 8, 1970 a formal complaint against Petitioner was filed with the Commission alleging that Petitioner has been and is engaged in the transportation of certain liquid chemicals, in bulk, in tank vehicles, without proper operating authority from this Commission. By Order of the Commission served July 23, 1970, the Commission docketed the complaint as Docket No. MC–C–6900 and assigned the complaint for handling under the Commission's rules governing modified procedure. 8. On or about September 17, 1970, the complainants and certain intervenors in the Docket No. MC–C–6900 proceeding filed opening statements of fact and argument in support of the complaint. In their argument in that proceeding, complainants cite certain decisions of this Commission which, if applied to Petitioner's certificate, would substantially impair, if not eliminate, Petitioner's authority to transport chemicals and acids under that portion of Petitioner's certificate originally granted in the Sub 4 proceeding. All of the cases relied upon by complainants in the Docket No. MC–C–6900 proceeding relate to the effect, if any, of the exception contained

therein on Petitioner's right to transport chemicals. All of such cases were decided long after Petitioner's Sub 4 authority was granted. Among the cases cited and relied upon the complainants in the complaint proceeding are *Everts Commercial Transport, Inc.—Extension—Methanol*, 67 M.C.C. 707 and *Refiners Transport & Terminal Corporation, Extension—Painesville, Ohio*, 88 M.C.C. 611.

"9. Petitioner has invested substantial moneys in equipment and property in developing its service to the public in the transportation of liquid chemicals, in bulk, in tank vehicles. As of June 12, 1970, Petitioner had invested $946,427.79 in tractors and $568,949.32 in tank trailers utilized in the transportation of liquid chemicals, in bulk, and other liquid bulk commodities transported by Petitioner under its certificate. More than 80% of Petitioner's total chemical traffic would have to be discontinued if the interpretation of Petitioner's authority urged by complainants in the Docket No. MC–C–6900 proceeding is applied to Petitioner's authority and the shipping public served by Petitioner would be deprived of the substantial service provided by Petitioner. 10. The record of the proceeding in Docket No. MC–7768 Sub 4 clearly supports Petitioner's position that the exception contained in Petitioner's certificate was never intended to modify or in any way limit Petitioner's authority to transport liquid chemicals but was inserted only for the purpose of eliminating from the authority granted in the Sub 4 proceeding petroleum or petroleum products in bulk, in tank trucks, in conformity with the amendment to the Sub 4 application submitted at the hearing on June 23, 1948. By the instant petition, Petitioner requests that the proceedings in Docket Nos. MC–7768 Sub 4 and MC–119968 be reopened and the certificate in MC–119968 be modified so as to eliminate the exception contained in that portion originally granted in the Docket No. MC–7768 Sub 4 proceeding or, in the alternative, to restate that portion of the authority granted in the Docket No. MC–7768 Sub 4 proceeding relating to Petitioner's authority to transport liquid bulk commodities, in tank vehicles, so as to accurately reflect the amendment to the Sub 4 application submitted at the hearing in that proceeding." Any interested person desiring to participate in this proceeding may file an original and six copies of his written representations, views or arguments in support of or against the petition within 30 days from the date of publication in the FEDERAL REGISTER.

No. MC 59640 (Sub-No. 19) (Notice of Filing of Petition To Modify Permit by Adding North Haven, Conn., as an Origin Point), filed December 17, 1970. Petitioner: PAULS TRUCKING CORPORATION, 3 Commerce Drive, Cranford, NJ 07016. Petitioner's representative: Charles J. Williams, 47 Lincoln Park, Newark, NJ 07102. Petitioner, as here pertinent, states it holds authority in Permit No. MC 59640 (Sub-No. 19), as a contract carrier, over irregular routes, in the transportation of (1) *such merchandise* as is dealt in by wholesale, retail, and chain grocery and food business houses, and in connection therewith, *equipment, materials, and supplies* used in the conduct of such business, between points in Woodbridge Township, N.J., on the one hand, and, on the other, points in Berks County, Pa.; and (2) from Waterbury, Conn., to points in Woodbridge Township, N.J., with no transportation for compensation on return except as otherwise authorized. Restriction: The operations authorized herein are limited to a transportation service to be performed, under a continuing contract, or contracts, with Supermarkets General Corp. of Cranford, N.J. By the instant petition, petitioner seeks to amend only the second territorial paragraph of the above-described permit by adding North Haven, Conn., as an origin point. If granted, the amendment would permit petitioner to originate traffic from both Waterbury and North Haven, Conn., to points in Woodbridge Township, N.J. No duplicating authority is sought, and there would be no change in the contracting shipper or destination territory. Any interested person desiring to participate may file an original and six copies of his written representations, views, or argument in support of, or against the petition within 30 days from the date of publication in the FEDERAL REGISTER.

No. MC 114132 (Notice of Filing of Petition for Modification of Certificate), filed November 16, 1970. Petitioner: CHURN'S TRUCK LINE, New Brunswick, NJ. Petitioner's representative: Alexandria Markowitz, Post Office Box 793, Vineland, NJ 08360. Petitioner holds Certificate No. MC–114132, authorizing, as pertinent, the transportation of general commodities, (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, commodities requiring special equipment, and those injurious or contaminating to other lading), between Baltimore, Md., Philadelphia, Pa., and New York, N.Y., on the one hand, and, on the other, Cape Charles, Va., and points within 15 miles of Cape Charles, in Virginia. By the instant petition, petitioner requests individual consideration, pursuant to the procedure described in the Sixth Supplemental Report in *Commercial Zones and Terminal Areas*, 54 M.C.C. 21, at page 58, of its terminal area at New York, N.Y., to permit terminal area service from and to all points in New Jersey within 5 miles of New York, N.Y., including those points within the 5-mile radius not within the "exempt" zone as defined in *New York, N.Y., Commercial Zone*, 112 M.C.C. 203. In effect, the relief sought would constitute a modification of petitioner's certificate, and the petition therefore will be treated as a petition for the modification of petitioner's certificate No. MC 114132. No oral hearing is contemplated in this procedure, and any interested person desiring to participate may file an original and seven copies of written representations, views, or arguments in support of or against the petition on or before February 1, 1971. A copy of each such statement must be served on petitioner's representative.

APPLICATIONS FOR CERTIFICATES OR PERMITS WHICH ARE TO BE PROCESSED CONCURRENTLY WITH APPLICATIONS UNDER SECTION 5 GOVERNED BY SPECIAL RULE 240 TO THE EXTENT APPLICABLE

No. MC 120526 (Sub-No. 2), filed December 7, 1970. Applicant: GRIGGS TRUCKING COMPANY, a corporation, Ruby, SC 29741. Applicant's representative: Harry C. Ames, Jr., Suite 705, 666 11th Street NW., Washington, DC 20001. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *General commodities* (except petroleum products in bulk, in tank trucks, high explosives and other dangerous commodities and household goods as defined in Motor Freight Tariff 8–A, SCPSC. MF. No. 26 and revisions thereto and except cotton in bales and canning factory building materials, machinery, equipment supplies, parts, materials, and products from South Carolina Canneries); (a) between points in Chesterfield, Dillon, Florence, Kershaw, Lancaster, Lee, Marion, Marlboro, Orangeburg, Sumter, and Williamsburg Counties, S.C.; and (b) between points in (a) above and points in South Carolina, (2) *cotton in bales*, between points in South Carolina; and (3) *canning factory building materials, machinery, equipment, supplies, parts, materials, and products* for South Carolina Canneries between points in South Carolina. NOTE: Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Charlotte, N.C. The instant application is a matter directly related to No. MC–F–11043 published in the FEDERAL REGISTER issue of December 16, 1970.

APPLICATIONS UNDER SECTIONS 5 AND 210a(b)

The following applications are governed by the Interstate Commerce Commission's special rules governing notice of filing of applications by motor carriers of property or passengers under sections 5(a) and 210a(b) of the Interstate Commerce Act and certain other proceedings with respect thereto (49 CFR 1.240).

MOTOR CARRIERS OF PASSENGERS

No. MC–F–11055. Authority sought for purchase by PRICE HILL COACH LINE, INC., 520 North Finley Street, Cleves, OH 45002, of a portion of the operating rights of GREYHOUND LINES, INC., 1400 West Third Street, Cleveland, OH 44113, and for acquisition by JERALD R. ROBBINS, also of Cleves, Ohio 45002, of control of such rights through the purchase. Applicants' attorneys: Langdon D. Bell, 218 East State Street, Columbus, OH, and Barrett Elkins, 1400 West Third Street, Cleveland, OH 44113. Operating rights sought to be transferred: Passengers and their baggage and express and newspapers in the same vehicle with passengers, as a common carrier, over regular routes, between Cincinnati, Ohio, and Bedford, Ind., between Elizabeth-

town, Ohio, and Lawrenceburg, Ind., between Cleves, Ohio, and Elizabethtown, Ohio; serving all intermediate points, this route is described in certificate No. MC–1501 Sub 104, pages 1 and 2, issued to Greyhound Lines' predecessor in interest and assigned No. MC–1515 Sub 8, and is presently pending before the Commission. Vendee holds no authority from this Commission. However, it is affiliated with OHIO BUS LINE, INC., 130 Main Street, Hamilton, OH 45013, which is authorized to operate as a common carrier in Ohio, Indiana, Illinois, Kentucky, Michigan, Pennsylvania, Tennessee, Virginia, and West Virginia. Application has not been filed for temporary authority under section 210a(b). NOTE: Docket No. MC–1515 Sub-No. 162 is a matter directly related.

MOTOR CARRIERS OF PROPERTY

No. MC–F–11045 (Correction) (AMERICAN VAN & STORAGE, INC.—Purchase — SMITH TRANSFER & STORAGE, INC.), published in the December 16, 1970, issue of the FEDERAL REGISTER, on page 19048. This correction to show correct docket number should have read *MC–F–11045*, in lieu of *MC–F–10945*.

No. MC–F–11056. Authority sought for purchase by FRIEDMAN'S EXPRESS, INC., 635 North Pennsylvania Avenue, Wilkes-Barre, PA 18703, of a portion of the operating rights of DALEY'S BLUE LINE TRANSFER CO. Eugene Drive, Plains Township, Wilkes-Barre, PA 18703, and for acquisition by HARRY FRIEDMAN 635 North Pennsylvania Avenue, Wilkes-Barre, PA 18703; ARTHUR FRANK, STANLEY FRANK, and MORTON J. FRANK all of 55–80 47th Street, Maspeth, NY, of control of such rights through the purchase. Applicants' representatives: Edward L. Nehez, 10 East 40th Street, New York, NY 10016, and Charles Burke, Eugene Drive, Plains Township, Wilkes-Barre, PA 18703. Operating rights sought to be transferred: *general commodities*, excepting among others, classes A and B explosives and household goods, as a *common carrier*, over regular routes, between Reading, Pa., and Allentown, Pa., over U.S. Highway 222, between Allentown, Pa., and Reading, Pa., from Allentown over Pennsylvania Highway 29 to Hereford, Pa., thence over Pennsylvania Highway 100 to Pottstown, Pa., thence over U.S. Highway 422 to Reading, and return over the same route, serving all intermediate points on both routes. Vendee is authorized to operate as a *common carrier* in New York, New Jersey, and Pennsylvania. Application has been filed for temporary authority under section 210a(b).

No. MC–F–11057. Application under section 5(1) of the Interstate Commerce Act for approval of an agreement between common carriers for the pooling of traffic. Applicants: PACIFIC INTERMOUNTAIN EXPRESS CO., 1417 Clay Street, Post Office Box 958, Oakland, CA 94604 (MC–730), CROUSE CARTAGE COMPANY, Post Office Box 151, Carroll, IA 51401 (MC–123389), seeks to enter into an agreement for the pooling of traffic consisting of general commodities moving in interstate commerce between Omaha, Nebr., and Chicago, Ill., and certain specified points in Iowa. Attorney: W. S. Pilling, 1417 Clay Street, Post Office Box 958, Oakland, CA 94604. NOTE: PACIFIC INTERMOUNTAIN EXPRESS CO. holds authority from this Commission to operate from coast to coast.

No. MC–F–11058. Authority sought for control by DIXIE TRANSPORT CO. OF TEXAS, Post Office Box 5447 (3840 I.S.10 S), Beaumont, TX 77706, of WESTERN LINES, INC., Post Office Box 1145 (3523 McCarty Avenue), Houston, TX 77001, and for acquisition by DIXIE CARRIERS, INC., 1616 West Loop, South Houston, TX 77027, and KIRBY INDUSTRIES, INC., First City National Bank Building, Houston, TX 77001, of control of WESTERN LINES, INC., through the acquisition by DIXIE TRANSPORT CO. OF TEXAS. Applicants' attorney: Austin L. Hatchell, 1102 Perry Brooks Building, Austin, TX 78701. Operating rights sought to be controlled: *Steel articles and such materials as are used or useful on highway construction projects* (except cement, rock, sand, and gravel), as a *common carrier*, over irregular routes, from Houston, Tex., to points in Arkansas, Louisiana, and Oklahoma within 400 miles of Houston, Tex.; *refused, rejected, or damaged shipments* of the above-specified commodities, from points in Arkansas, Louisiana, and Oklahoma within 400 miles of Houston, Tex., to Houston, Tex.; *lumber*, from points in Louisiana and New Mexico, to points in Texas, from points in Louisiana and Texas, to points in New Mexico, Oklahoma, and Louisiana (except from Texarkana, Tex., to points in that part of New Mexico on and north of U.S. Highway 66); *wooden farm implement parts*, from Acadia, La., to Memphis, Tenn.; *rough and dressed lumber*, from points in that part of Texas on, east and south of a line beginning at Galveston, Tex., and extending along U.S. Highway 75 to Dallas, Tex., and thence along U.S. Highway 67 to the Texas-Arkansas State line, points in that part of Arkansas on and south of U.S. Highway 70, and points in that part of Mississippi on and south of U.S. Highway 78, to Acadia, La.;

Finished lumber, from Ada, Heflin, Danville, and Hunt, La., to points in that part of Texas on, east, and south of a line beginning at Galveston, Tex., and extending along U.S. Highway 75 to Dallas, Tex., and thence along U.S. Highway 67 to the Texas-Arkansas State line, points in that part of Arkansas south of U.S. Highway 70, and points in that part of Mississippi on and south of U.S. Highway 78, from Danville and Hunt, La., to points in Shelby County, Tenn.; *rough or dressed lumber*, from Ada, Heflin, Danville, and Hunt, La., to points in that part of Texas west and north of a line beginning at Galveston, Tex., and extending along U.S. Highway 75 to Dallas, Tex., and thence along U.S. Highway 67 to the Texas-Arkansas State line; *iron and steel articles* (except oil field pipe as described in *T. E. Mercer and G. E. Mercer Extension—Oil Field Commodities*, 74 M.C.C. 459), between Greenville, Natchez, and Vicksburg, Miss., on the one hand, and, on the other, points in Louisiana, Oklahoma, and Texas; with restrictions. DIXIE TRANSPORT CO. OF TEXAS is authorized to operate as a *common carrier* in Texas, Louisiana, Alabama, Arkansas, Colorado, Kansas, Kentucky, Mississippi, Missouri, New Mexico, Oklahoma, and Tennessee. Application has been filed for temporary authority under section 210a(b).

No. MC–F–11059. Authority sought for purchase by T & T TRUCKING & TRANSPORTATION CO., INC., 43–06 54th Road, Maspeth, NY 11378, of the operating rights of JAMES P. TUCCINARDI, doing business as T. & T. TRUCKING & TRANSPORTATION CO., 43–06 54th Road, Maspeth, NY 11378, and for acquisition by JAMES P. TUCCINARDI, also of Maspeth, N.Y., of control of such rights through the purchase. Applicants' attorney: Morton E. Kiel, 140 Cedar Street, New York, NY 10006. Operating rights sought to be transferred: *Glue and materials* used in the manufacture thereof, *printed advertising matter, hats, shirts, and pajamas*, as a *common carrier*, over irregular routes, between New York, N.Y., on the one hand, and, on the other, Newark and Elizabeth, N.J.; *store fixtures*, between New York, N.Y., on the one hand, and, on the other, Newark, N.J., and Westport, Conn.; *shoes*, between New York, N.Y., and Elizabeth, N.J. Vendee holds no authority from this Commission. However, it is affiliated with J & M CARRIERS CORP., also of Maspeth, N.Y., which is authorized to operate as a *contract carrier* in New York, New Jersey, Connecticut, Delaware, Pennsylvania, and Maryland. Application has not been filed for temporary authority under section 210a(b).

By the Commission.

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

[F.R. Doc. 71–167; Filed, Jan. 5, 1971; 8:51 a.m.]

[Notice 221]

MOTOR CARRIER TEMPORARY AUTHORITY APPLICATIONS

DECEMBER 30, 1970.

The following are notices of filing of applications for temporary authority under section 210a(a) of the Interstate Commerce Act provided for under the new rules of Ex Parte No. MC–67 (49 CFR Part 1131), published in the FEDERAL REGISTER, issue of April 27, 1965, effective July 1, 1965. These rules provide that protests to the granting of an application must be filed with the field official named in the Federal Register publication, within 15 calendar days after the date of notice of the filing of the application is published in the FEDERAL REGISTER. One copy of such protests must be served on the applicant, or its authorized representative, if any, and

the protests must certify that such service has been made. The protests must be specific as to the service which such protestant can and will offer, and must consist of a signed original and six copies.

A copy of the application is on file, and can be examined at the Office of the Secretary, Interstate Commerce Commission, Washington, D.C., and also in field office to which protests are to be transmitted.

MOTOR CARRIERS OF PROPERTY

No. MC 80428 (Sub-No. 75 TA) (Correction), filed November 19, 1970, and published FEDERAL REGISTER issue November 28, 1970, and republished in part as corrected this issue. Applicant: McBRIDE TRANSPORTATION, INC., 289 West Main Street, Post Office Box 430, Goshen, NY 10924. NOTE: The purpose of this partial republication is to include the State of Connecticut in the destination territory, which was inadvertently omitted in the previous publication. The rest of publication remains as previously published.

No. MC 107496 (Sub-No. 795 TA), filed December 23, 1970. Applicant: RUAN TRANSPORT CORPORATION, Third and Keosauqua Way, Des Moines, IA 50309. Applicant's representative: H. L. Fabritz (same address as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Plastic pellets*, in bulk, in tank vehicles, having a prior out-of-State movement by rail, from Savage, Minn., to Fairmont, Minn., for 150 days. Supporting shipper: Rexene Polymers Co., 1800 North 30th Avenue, Melrose Park, IL 60160. Send protests to: Ellis L. Annett, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 677 Federal Building, Des Moines, IA 50309.

No. MC 112617 (Sub-No. 284 TA) (Correction), filed December 9, 1970, and published FEDERAL REGISTER issue December 22, 1970, and republished in part as corrected this issue. Applicant: LIQUID TRANSPORTERS, INC., Post Office Box 21395, 1292 Fern Valley Road, 40219, Louisville, KY 40221. Applicant's representative: Charles R. Dunford (same address as above). NOTE: The purpose of this partial republication is to add the State of Mississippi as a destination State, which was inadvertently omitted in previous publication. The rest of publication remains as previously published.

No. MC 112822 (Sub-No. 176 TA), filed December 21, 1970. Applicant: BRAY LINES INCORPORATED, Post Office Box 1191, 1401 North Little Street, Cushing, OK 74032. Applicant's representative: Joe W. Ballard, Post Office Box 1191, Cushing, OK 74032. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Animal litter and pet supplies*, from Houston, Tex., to points in Arkansas, Louisiana, Mississippi, New Mexico, and Oklahoma and from Kansas City, Kans.-Mo. commercial zone to Boston, Mass.; Jersey City, Bayonne, and Camden N.J.; Baltimore, Md.; Charlotte, N.C.; Tampa, Fla.; Atlanta, Ga.; Houston, Tex.; Cleveland, Ohio; Chicago, Ill.; Oakland and Glendale, Calif.; and (2) *animal litter and pet supplies, bleaching, cleaning, laundry and scouring compounds, and materials and supplies*, except commodities in bulk, in tank vehicles, from Atlanta, Ga., to points in Arkansas, Kansas, Louisiana, Missouri, New Mexico, Oklahoma, and Texas, for 180 days. Supporting shipper: The Clorox Co., G. W. Juninger, Traffic Manager, Post Office Box 24305, Oakland, CA 94632. Send protests to: C. L. Phillips, District Supervisor, Interstate Commerce Commission, Bureau of Operations, Room 240, Old Post Office Building, 215 Northwest Third, Oklahoma City, OK 73102.

No. MC 115826 (Sub-No. 210 TA), filed December 23, 1970. Applicant: W. J. DIGBY, INC., 1960 31st Street, Post Office Box 5088, Terminal Annex, Denver, CO 80217. Applicant's representative: Ezekial Gomez (same address as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Meats, meat products, meat byproducts and articles distributed by meat packinghouses*, as described in section A of appendix 1, from Grand Island, Nebr., and Glenwood, Iowa, to points in Georgia, North Carolina, South Carolina, and Tennessee, for 150 days. Supporting shipper: Swift Fresh Meats Co., 115 West Jackson Boulevard, Chicago, IL 60604. Send protests to: District Supervisor Herbert C. Ruoff, Interstate Commerce Commission, Bureau of Operations, 2022 Federal Building, Denver, CO 80202.

No. MC 118806 (Sub-No. 16 TA), filed December 23, 1970. Applicant: ARNOLD BROS. TRANSPORT, LTD., 1101 Dawson Road, Winnipeg 6, MB Canada. Applicant's representative: Charles W. Singer, Suite 1625, 33 North Dearborn Street, Chicago, IL 60602. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Motor graders*, from the ports of entry on the international boundary of the United States and Canada at or near Buffalo, N.Y., and Port Huron, Mich., to points in New York, Michigan, Kansas, Texas, Georgia, Wisconsin, Minnesota, and North Dakota, restricted to traffic originating at the plantsite and warehouse facilities of The Dominion Road Machinery Co., Ltd., at or near Goderich, Ontario, Canada, for 180 days. Supporting shipper: Cleveland Equipment Division, The Old Dominion Road Machinery Corp., 1300 Rickett Road, Post Office Box 29, Brighton, MI. Send protests to: J. H. Ambs, District Supervisor, Interstate Commerce Commission, Bureau of Operations, Post Office Box 2340, Fargo, ND 58102.

No. MC 126111 (Sub-No. 3 TA), filed December 23, 1970. Applicant: LYLE W. SCHAETZEL, doing business as SCHAETZEK TRUCKING COMPANY, 2436 Algoma Boulevard, Oshkosh, WI 54901. Applicant's representative: William C. Dineen, 412 Empire Building, 710 North Plankington Avenue, Milwaukee, WI 53203. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Candace*, in bulk, in tank vehicles, from Fond du Lac, Wis., to Sulphur Springs, Tex., and Centralia, Ill., for the account of The Borden Co. Inc., doing business as Galloway-West Co., for 150 days. Supporting shipper: Galloway-West Co., Post Office Box 987, Fond du Lac, Wis. 54935 (Mr. John H. Look, Vice President). Send protests to: District Supervisor, Lyle D. Helfer, Interstate Commerce Commission, Bureau of Operations, 135 West Wells Street, Room 807, Milwaukee, WI 53203.

No. MC 133478 (Sub-No. 2 TA), filed December 23, 1970. Applicant: HEARING FOREST INDUSTRIES, INC., doing business as, HEARING TRANSPORTATION CO., Post Office Box 25387, 4854 Scholls Ferry Road, Portland, OR 97225. Applicant's representative: Nick I. Goyak, 710 Oregon National Building, 610 Southwest Alder Street, Portland, OR 97205. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: (1) *Prefinished paneling and similar wood and plywood materials*, from Beaverton, Oreg., to points in Oregon, Washington, California, Idaho, Montana, North Dakota, South Dakota, Minnesota, Wisconsin, Colorado, Utah, Nebraska, Kansas, Oklahoma, Texas, Arkansas, Tennessee, Kentucky, Louisiana, Missouri, Iowa, Illinois, Indiana, Michigan, Ohio, Nevada, Arizona, Alabama, Pennsylvania, New Mexico; and (2) *plywood paneling stock, paint, mill machinery, and materials*, used in connection with manufacturing of wood and plywood products, from Torrance, Los Angeles, Riverside, San Francisco, and San Diego, Calif., and Tacoma, Wash., to Beaverton, Oreg., the services herein applied for to be performed for the account of Hearing Products, Inc., an Oregon corporation, for 180 days. Supporting shipper: Hearing Products, Inc., Post Office Box 25387, Portland, OR 97225. Send protests to: District Supervisor W. J. Huetig, Interstate Commerce Commission, Bureau of Operations, 450 Multnomah Building, 120 Southwest Fourth Avenue, Portland, OR 97204.

No. MC 135088 (Sub-No. 1 TA) (Correction) filed December 9, 1970, and published FEDERAL REGISTER issue December 22, 1970, and republished in part as corrected this issue. Applicant: STREETER MOVING & STORAGE CO. INC., 1051 Market Road, Columbia, SC 29201. Applicant's representative: Monty Schumacher, Suite 310, Bankers Fidelity Life Building, 2045 Peachtree Road NE., Atlanta, GA 30309. NOTE: The purpose of this partial republication is to include the duration of days (180 days) which was inadvertently omitted in previous publication. The rest of application remains as previously published.

No. MC 135146 (Sub-No. 1 TA), filed December 21, 1970. Applicant: TIMMER TRANSFER, INC., Rural Route 1, Box 129, Beecher, IL 60401. Applicant's representative: Donald S. Mullins, 4704 West Irving Park Road, Chicago, IL 60641. Authority sought to operate as a

contract carrier, by motor vehicle, over irregular routes, transporting: *Hair goods*, human or imitation human hair, between the plant and warehouse facilities of Normandy Hall at or near Worth, Ill., on the one hand, and, on the other, points in the States of Alabama, Arkansas, Colorado, Connecticut, Delaware, Florida, Georgia, Indiana, Iowa, Kansas, Kentucky, Louisiana, Maryland, Massachusetts, Michigan, Minnesota, Mississippi, Missouri, Montana, Nebraska, New Jersey, New York, North Carolina, North Dakota, Ohio, Oklahoma, Pennsylvania, South Carolina, South Dakota, Tennessee, Texas, Virginia, West Virginia, Wisconsin, and Wyoming, for 180 days. Supporting shipper: Normandy Hall, 11731 South Austin Avenue, Worth, IL 60482. Send protests to: Robert G. Anderson, District Supervisor, Bureau of Operations, Interstate Commerce Commission, Everett McKinley Dirksen Building, 219 South Dearborn Street, Room 1086, Chicago, IL 60604.

No. MC 135189 TA, filed December 23, 1970. Applicant: G. WYLIE BLUM, Post Office Box 197, Richardson Avenue, Negley, OH 44441. Applicant's representative: Jerome Solomon, 704 Grant Building, Pittsburgh, PA 15219. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: (1) *Clay and carbonaceous materials*, from Middleton Township, Columbiana County, Ohio, to points in Allegheny County, Pa., under a continuing contract with Negley Refractories Division of Metropolitan Industries, Inc.; (2) *limestone*, from Hillsville, Lawrence County, Pa., to Middleton Township, Columbiana County, Ohio, under a continuing contract with Negley Refractories Division of Metropolitan Industries, Inc.; (3) *clay and carbonaceous materials*, from Middleton Township, Columbiana County, Ohio, to River Rogue, Mich.; Buffalo, N.Y.; Aliquippa, Butler, Duquesne, Farrell, Homestead, Johnstown, Midland, and Pittsburgh, Pa.; and Weirton, W. Va.; under a continuing contract with Stroh-Butler Co. for 180 days. Supporting shippers: Negley Refractories Division, Metropolitan Industries, Inc., 306 Market Avenue North, Canton, OH 44702; The Stroh-Butler Co., Inc., 1310 Central Tower Building, Youngstown, OH 44503. Send protests to: District Supervisor, Joseph A. Niggemyer, Bureau of Operations, Interstate Commerce Commission, 531 Hawley Building, Wheeling, WV 26003.

By the Commission.

[SEAL] ROBERT L. OSWALD,
Secretary.

[F.R. Doc. 71-171; Filed, Jan. 5, 1971; 8:51 a.m.]

[Notice 222]

MOTOR CARRIER TEMPORARY AUTHORITY APPLICATIONS

DECEMBER 31, 1970.

The following are notices of filing of applications for temporary authority under section 210a(a) of the Interstate Commerce Act provided for under the new rules of Ex Parte No. MC-67 (49 CFR Part 1131), published in the FEDERAL REGISTER, issue of April 27, 1965, effective July 1, 1965. These rules provide that protests to the granting of an application must be filed with the field official named in the FEDERAL REGISTER publication, within 15 calendar days after the date of notice of the filing of the application is published in the FEDERAL REGISTER. One copy of such protests must be served on the applicant, or its authorized representative, if any, and the protests must certify that such service has been made. The protests must be specific as to the service which such protestant can and will offer, and must consist of a signed original and six copies.

A copy of the application is on file, and can be examined at the Office of the Secretary, Interstate Commerce Commission, Washington, D.C., and also in field office to which protests are to be transmitted.

MOTOR CARRIERS OF PROPERTY

No. MC 20858 (Sub-No. 13 TA), filed December 23, 1970. Applicant: J. P. HUNTER TRANSPORTATION CO., INC., Post Office Box 304, Elmira, NY 14902. Applicant's representative: J. Phillip Hunter, Jr., 415 East Water Street, Elmira, NY 14901. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Leather bends, sole leather, rough and finished shoulders, bellies and heads*, from Elkland, Pa., to points in Massachusetts and in New Hampshire within 60 miles of Boston, Mass. NOTE: Applicant intends to tack the authority sought in MC 20858 and Subs 2, 6, 10, and 12, for 180 days. Supporting shippers: J. F. McElwain Co., Division Melville Shoe Corp., 12 Murphy Drive, Nashua, NH 03060; Elkland Leather Co., Inc., Elkland (Tioga County) PA 16920. Send protests to: Morris H. Gross, District Supervisor, Interstate Commerce Commission, Bureau of Operations, Room 104, 301 Erie Boulevard, West Syracuse, NY 13202.

No. MC 60169 (Sub-No. 26 TA), filed December 28, 1970. Applicant: FREEDMAN MOTOR SERVICE, INC., Vineyard Road, Post Office Box 280, Edison, NJ 08817. Applicant's representative: Alexander Markowitz, 1619 Woodcrest Avenue, Vineland, NJ 08360. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Fomaldehyde*, in bulk, in tank vehicles, from plantsite or warehouse facilities E. I. du Pont de Nemours & Co., at Grasselli, N.J., within 200 miles of Grasselli, N.J., to points in Connecticut, Delaware, the District of Columbia, Maryland, Massachusetts, New York, Pennsylvania, Rhode Island, and to Wilton, N.H., for 180 days. Supporting shipper: E. I. du Pont de Nemours & Co., Wilmington, DE 19898. Send protests to: District Supervisor Robert S. H. Vance, Bureau of Operations, Interstate Commerce Commission, 970 Broad Street, Newark, NJ 07102.

No. MC 129427 (Sub-No. 2 TA), filed December 28, 1970. Applicant: JOSEPH GEORGIANA, 26 Lafayette Street, Somerset, NJ 08823. Applicant's representative: William J. Augello, Jr., 103 Fort Salonga Road, Northport, NY 11768. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Cigar boxes, books and book slipcases, records record albums, corrugated containers and pulp board boxes*, from New Brunswick and Bloomfield, N.J., to Indianapolis and Crawfordsville, Ind., and Clermont and Owensboro, Ky., for 180 days. Supporting shipper: Alexander Ungar, Inc., 15 Industrial Drive, New Brunswick, NJ 08903. Send protests to: Robert S. H. Vance, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 970 Broad Street, Newark, NJ 07102.

No. MC 129600 (Sub-No. 2 TA), filed December 28, 1970. Applicant: POLAR TRANSPORT, INC., 11 Holly Street, Hingham, MA 02043. Business Address: 575 Pond Street, Post Office Box 273, Braintree, MA 02184. Applicant's representative: Frank J. Weiner, 6 Beacon Street, Boston, MA 02108. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: (1) *Foodstuffs, restaurant supplies and equipment*, except in bulk, from New York, N.Y., and Secaucus, N.J., to Los Angeles, Calif.; Miami, Fla.; Atlanta and East Point, Ga.; Chicago, Ill.; Arlington, Dallas, and Houston, Tex.; and points in Connecticut, Maine, Maryland, Massachusetts, Michigan, New Hampshire, New Jersey, New York, Ohio, Pennsylvania, Rhode Island, and Vermont; (2) *frozen bakery products*, from Bedford, Pa., to Chicago, Ill.; Cleveland, Ohio; Baltimore, Md.; Brockton, Mass.; Atlanta and East Point, Ga.; Arlington, Dallas, and Houston, Tex.; and Los Angeles, Calif.; (3) *carbonated beverages*, except in bulk, from Garfield, N.J., to Brockton, Mass.; (4) *ice cream*, from Baltimore, Md., to Bedford, Pa., and New York, N.Y.; *returned and rejected shipments* of the above-described commodities in (1), (2), (3), and (4), from the above-named respective destination points, to the above-named respective origin points, *pallets*, between New York, N.Y., Secaucus, N.J., and points in Massachusetts. Restriction: The operations sought herein are limited to a transportation service to be performed, under a continuing contract or contracts, with Haward D. Johnson Co., of New York, N.Y. NOTE: No duplicating authority is sought for 180 days. Supporting shipper: Howard D. Johnson Co., of New York, Braintree, MA 02184. Send protests to: John B. Thomas, Bureau of Operations, Interstate Commerce Commission, J. F. Kennedy Building, Room 2211-B, Government Center, Boston, MA 02203.

No. MC 133737 (Sub-No. 4 TA), filed December 28, 1970. Applicant: ROBERT CRAWFORD, doing business as CRAWFORD TRUCKING COMPANY, 8998 L Street, Suite 231, Omaha, NE. Applicant's representative: Donald L. Stern, 630 City National Bank Building, Omaha, NE 68102. Authority sought to operate as

a *contract carrier*, by motor vehicle, over irregular routes, transporting: (1) *Frozen macaroni products;* and (2) *dry macaroni products*, when moving in mixed loads with frozen macaroni products, from Omaha, Nebr., to points in Alabama, Arizona, Arkansas, California, Colorado, Georgia, Illinois, Indiana, Iowa, Kansas, Kentucky, Louisiana, Michigan, Minnesota, Mississippi, Missouri, North Carolina, New Mexico, Ohio, Oklahoma, South Carolina, South Dakota, Tennessee, Texas, Virginia, Washington, Wisconsin, and West Virginia; and (3) *corrugated cartons, cellophane, polyethylene paper, dry macaroni products, and sack flour*, from the above-named destination States to Omaha, Nebr., all under a continuing contract with Skinner Macaroni Co., for 150 days. Supporting shipper: Skinner Macaroni Co., 6848 F Street, Omaha, NE 68117. Send protests to: Carroll Russell, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 705 Federal Building, Omaha, NE 68102.

No. MC 134129 (Sub-No. 3 TA), filed December 28, 1970. Applicant: WILLIAM A. LONG, Bealeton, VA 22712. Applicant's representative: Daniel B. Johnson, Perpetual Building, Washington, DC 20004. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Culvert pipe, culvert sectional plate, couplings and coating* for culvert pipe and sections: (1) from Bealeton, Va., to points in North Carolina and West Virginia; (2) from Cessna, Pa., to points in North Carolina; and (3) from Ashland, Ky., to Bealeton, Va., and points in West Virginia, restricted to service to be performed under a continuing contract with Lane Juniata, Inc., of Bedford, Pa., and its affiliate, Lane-Penncarva, Inc., of Bealeton, Va., for 180 days. Supporting shipper: Lane-Penncarva, Inc., Post Office Box 67, Bealeton, VA. Send protests to: Robert D. Caldwell, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 12th and Constitution Avenue, NW., Washington, DC 20423.

No. MC 134264 (Sub-No. 7 TA), filed December 28, 1970. Applicant: OCKENFEL'S TRANSFER, INC., 732 Rundell Street, Post Office Box 3, Iowa City, IA 52240. Applicant's representative: Kenneth F. Dudley, 611 Church Street, Post Office Box 279, Ottumwa, IA 52501. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Corrugated plastic drainage tubing and related articles, accessories, and supplies*, from Rowland, N.C., to points in Georgia, South Carolina, and Virginia, for 180 days. Supporting shipper: Advanced Drainage Systems, Post Office Box 912, Iowa City, IA 52240. Send protests to: Ellis L. Annett, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 332 Federal Building, Davenport, IA 52801.

No. MC 134300 (Sub-No. 8 TA), filed December 28, 1970. Applicant: PELHAM PRODUCE CARRIERS, INC., 649 Pelham Boulevard, St. Paul, MN 55114. Applicant's representative: Val M. Higgins, 1000 First National Bank Building, Minneapolis, MN 55402. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Meats, meat products, packinghouse products* (except hides and commodities in bulk), as set forth in sections A and C to the report in *Description in Motor Carrier Certificates*, 61 M.C.C. 209 and 766 from the plantsite and warehouse facilities of the Rod Barnes Packing Co. and Flanery Meat Co. at or near Huron, S. Dak., to points in Virginia and West Virginia, for 150 days. Supporting shipper: Geo. A. Hormel & Co., Austin, Minn. Send protests to: District Supervisor A. E. Rathert, Interstate Commerce Commission, Bureau of Operations, 448 Federal Building and U.S. Courthouse, 110 South Fourth Street, Minneapolis, MN 55401.

No. MC 134336 (Sub-No. 2 TA), filed December 21, 1970. Applicant: TOM BOWEN, INC., Box 689, Sturgis, SD 57785. Applicant's representative: Tom Bowen (same address as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Lumber and lumber products*, from Sturgis, S. Dak., and 1-mile radius thereof, to points in Iowa; for 180 days. NOTE: Applicant intends to tack the authority held in MC 134336. Supporting shipper: J. U. Dickson Sawmills, Box 269, Sturgis, SD 57785, James U. Dickson. Send protests to: J. L. Hammond, District Supervisor, Bureau of Operations, Interstate Commerce Commission, Room 369, Federal Building, Pierre, SD 57501.

No. MC 135107 (Sub-No. 1 TA), filed December 28, 1970. Applicant: HIGHWAY DUMP HAULERS, INC., 70 Shamburger Lane, Post Office Box 3172, Little Rock, AR 72203. Applicant's representative: D. R. Partney, 35 Glenmere Drive, Little Rock, AR 72204. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Coal*, in bulk, in dump vehicles, from Huntington, Ark., and points within 10 miles thereof to ports on the Arkansas River at Fort Smith and Van Buren, Ark. NOTE: Applicable on traffic having a subsequent out-of-State movement, for 150 days. Supporting shipper: Farrell Mining Co., 65 Union Avenue, Suite 414, Memphis, TN 38103. Send protests to: William H. Land, Jr., District Supervisor, Interstate Commerce Commission, Bureau of Operations, 2519 Federal Office Building, 700 West Capitol, Little Rock, AR 72201.

No. MC 135191 TA, filed December 28, 1970. Applicant: MEDFORD MOVING & STORAGE, INC., 201 West Barnett Street, Medford, OR 97501. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Household goods*, from points in Jackson County, Oreg., to within Jackson County, Josephine County, and Douglas County, Oreg., and Siskiyou County, Calif., for 180 days. Supporting shipper: Department of the Air Force, 4788th Air Base Group (ADC) Kingsley Field, OR 97601. Send protests to: District Supervisor A. E. Odoms, Bureau of Operations, Interstate Commerce Commission, 450 Multnomah Building, Portland, OR 97204.

No. MC 135194 TA, filed December 28, 1970. Applicant: HARRY WANN, doing business as TWIN CITY DRAYAGE, Route 3, De Soto, MO 63020. Applicant's representative: B. W. LaTourette, Jr., 850 Railway Exchange Building, 611 Olive Street, St. Louis, MO 63101. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Nuclear materials*, from Oak Ridge, Tenn., to Hematite, Mo., for 150 days. Supporting shipper: United Nuclear Corp., Commercial Products Division, Route 21A, Hematite, MO 63047. Send protests to: District Supervisor J. P. Werthmann, Interstate Commerce Commission, Room 1465, 210 North 12th Street, St. Louis, MO 63101.

By the Commission.

[SEAL] ROBERT L. OSWALD,
Secretary.

[F.R. Doc. 71-170; Filed, Jan. 5, 1971; 8:51 a.m.]

[Notice 631]

MOTOR CARRIER TRANSFER PROCEEDINGS

DECEMBER 28, 1970.

Synopses of orders entered pursuant to section 212(b) of the Interstate Commerce Act, and rules and regulations prescribed thereunder (49 CFR Part 1132), appear below:

As provided in the Commission's special rules of practice any interested person may file a petition seeking reconsideration of the following numbered proceedings within 20 days from the date of publication of this notice. Pursuant to section 17(8) of the Interstate Commerce Act, the filing of such a petition will postpone the effective date of the order in that proceeding pending its disposition. The matters relied upon by petitioners must be specified in their petitions with particularity.

No. MC-FC-72423. By order of December 17, 1970, the Motor Carrier Board approved the transfer to Martin Crowley, doing business as Martin A. Crowley Trucking, Franklin, NH, of the operating rights in certificate No. MC-30754 issued April 22, 1941, to John Reidy, South Boston, Mass., authorizing the transportation of machinery, electrical goods and refrigerators between Boston, Mass., on the one hand, and, on the other points in Massachusetts. Thomas F. August, 341 Broadway Street, Cambridge, MA, attorney for transferor. Mary E. Kelley, 11 Riverside Avenue, Medford, MA 02155, attorney for transferee.

No. MC-FC-72484. By order of December 15, 1970, the Motor Carrier Board approved the transfer to D. R. Burgher, Inc., Fifth Avenue North, Audubon, IA 50025, of certificates Nos. MC-92723 and MC-92723 (Sub-No. 3) issued to Fred Scarlett, Jr., Adair, IA 50002, authorizing the transportation of: Various commodities of a general commodity nature, between specified points in Illinois and Iowa.

No. MC–FC–72490. By order of December 16, 1970, the Motor Carrier Board approved the transfer to E & E Transportation, Inc., Somerville, Mass., of the certificate of registration in No. MC–13558 (Sub-No. 2) issued December 8, 1969, to Edward J. Enright, doing business as Wellesley Freight Lines, Inc., Wellesley, Mass., evidencing a right to engage in transportation in interstate or foreign commerce solely within the State of Massachusetts. Frederick T. O'Sullivan, 372 Granite Avenue, Milton, MA 02186, attorney for applicants.

No. MC–FC–72528. By order of December 14, 1970, the Motor Carrier Board approved the transfer to Telluride Transfer Co., Telluride, Colo., of certificate No. MC–79148 and certificate of registration No. MC–79148 (Sub-No. 2) both issued April 23, 1970, covering the transportation of: General commodities, with exceptions, between specified points in Colorado. John H. Lewis, The 1650 Grant Bldg., Denver, CO 80203, attorney for applicants.

[SEAL] ROBERT L. OSWALD,
Secretary.

[F.R. Doc. 71–172; Filed, Jan. 5, 1971; 8:52 a.m.]

[Notice 632]

MOTOR CARRIER TRANSFER PROCEEDINGS

DECEMBER 31, 1970.

Synopses of orders entered pursuant to section 212(b) of the Interstate Commerce Act, and rules and regulations prescribed thereunder (49 CFR Part 1132), appear below:

As provided in the Commission's special rules of practice any interested person may file a petition seeking reconsideration of the following numbered proceedings within 20 days from the date of publication of this notice. Pursuant to section 17(8) of the Interstate Commerce Act, the filing of such a petition will postpone the effective date of the order in that proceeding pending its disposition. The matters relied upon by petitioners must be specified in their petitions with particularity.

No. MC–FC–72371. By order of December 29, 1970, the Motor Carrier Board approved the transfer to Lesser Transportation, Inc., Palmyra, Mo., of the operating rights in certificates Nos. MC–123245 (Sub-No. 1) and MC–123245 (Sub-No. 3), issued June 1, 1966, and June 10, 1968, respectively, to Stauffer Truck Service, Inc., Taylor, Mo., authorizing the transportation of ammonium nitrate, urea, fertilizer materials, and fertilizer ingredients, other than liquid, from the plantsite of American Cyanamid Co. at South River (Marion County), Mo., to points in Arkansas, Illinois, Indiana, Iowa, Kansas, Michigan, Minnesota, Missouri, Nebraska, North Dakota, Oklahoma, South Dakota, Texas, and Wisconsin; and anhydrous ammonia, from the said plantsite at South River, Mo., to points in Illinois, Indiana, Iowa, Kansas, Kentucky, Michigan, Minnesota, Nebraska, Ohio, South Dakota, and Wisconsin. Leonard A. Jaskiewicz, Suite 501, 1730 M Street NW., Washington, DC 20036, and Robert L. Hawkins, Jr., 312 East Capitol Avenue, Jefferson City, MO 65101, attorneys for applicants.

No. MC–FC–72480. By order of December 29, 1970, the Motor Carrier Board approved the transfer to Skinner Transfer Corp., Reedsburg, Wis., of the operating rights in certificates Nos. MC–109376, MC–109376 (Sub-No. 2), MC–109376 (Sub-No. 5), and MC–109376 (Sub-No. 8) issued December 8, 1949, March 20, 1961, February 10, 1967, and April 30, 1968, to E. R. Skinner, doing business as E. R. Skinner Transfer, Reedsburg, Wis., authorizing the transportation of poultry, eggs, butter, canned goods, and agricultural commodities, over a regular route between Reedsburg, Wis., and Chicago, Ill., lumber, empty cans, and containers, sugar, salt, and farm machinery, from Chicago to Reedsburg; petroleum products, in containers, mill feed and commercial fertilizer, farm implements, livestock and agricultural commodities, and empty beer containers, from, to, and between points as specified in Illinois, Iowa, Minnesota, and Wisconsin; household goods, between Reedsburg, Wis., and points within 25 miles thereof, on the one hand, and on the other, points in Minnesota, Iowa, and Illinois; rough lumber, from points as specified in Wisconsin to specified points in Illinois and points in Indiana within the Chicago, Ill., commercial zone as defined by the Commission; logs and rough lumber, from specified points in Wisconsin to points in Gogebic County, Mich., and cans and can ends, from Loves Park, Ill., to Reedsburg and Sauk City, Wis. John L. Bruemmer, 121 West Doty Street, Madison, WI 53703, attorney for applicants.

No. MC–FC–72481. By order of December 29, 1970, the Motor Carrier Board approved the transfer to Skinner Transfer Corp., Reedsburg, Wis., of the operating rights in certificate No. MC–119754 issued May 24, 1961, to Stanley A. Westgor, doing business as Westgor Trucking Co., Wittenberg, Wis., authorizing the transportation of cedar posts and poles, between points in Wisconsin, the Upper Peninsula of Michigan, that part of Illinois on and north of Illinois Highway 9, and that part of Minnesota on and east of a line beginning at the Minnesota-Iowa State line and extending along U.S. Highway 169 to junction U.S. Highway 53, north of Virginia, Minn., and thence along U.S. Highway 53 to International Falls, Minn., including International Falls, Minneapolis, and St. Paul, Minn., and points within 5 miles of Minneapolis and St. Paul, Minn.; and lumber and charcoal from and to specified points in the Upper Peninsula of Michigan, Wisconsin, and Illinois. John L. Bruemmer, 121 West Doty Street, Madison, WI 53703, attorney for applicants.

No. MC–FC–72503. By order of December 16, 1970, the Motor Carrier Board approved the transfer to Edward Schwabler, doing business as Eddie's Moving & Messenger Service, Elmont, N.Y., of the operating rights in certificate No. MC–67603 issued September 15, 1953, to Weeks Moving & Storage Corp., Rockville Centre, N.Y., authorizing the transportation of household goods between New York, N.Y., and points in Nassau and Suffolk Counties, N.Y., on the one hand, and, on the other, points in New York, New Jersey, and Connecticut, and between points in Nassau and Suffolk Counties, N.Y., on the one hand, and, on the other, points in Delaware, Maryland, and the District of Columbia, Alexandria, Va., and a described area of Pennsylvania. Jerome G. Greenspan, 404 Clarendon Road, Uniondale, NY 11553, attorney for applicants.

No. MC–FC–72531. By order of December 16, 1970, the Motor Carrier Board approved the transfer to Bullock's Inc., 1008 East Platt, Maquoketa, IA 52060, of the operating rights in certificate No. 125386 issued April 9, 1964, to Dwight Bullock, doing business as Bullock's, 1008 East Platt, Maquoketa, IA 52060, authorizing the transportation of bulk and bag commercial livestock feed, from Burlington, Wis., to Maquoketa, Iowa.

No. MC–FC–72540. By order of December 22, 1970, the Motor Carrier Board approved the transfer to Erskine Trucking, Inc., Lowellville, Ohio, of the operating rights in certificates Nos. MC–79550 and MC–79550 (Sub-No. 2) authorizing the transportation of iron and steel products, pile-driving caps and machinery, and roofing cement, from Youngstown, Ohio, to points in that part of New York west of a line extending from Oswego, N.Y., along New York Highway 57 to Syracuse, thence along U.S. Highway 11 to the New York-Pennsylvania State line, those points in Pennsylvania west of U.S. Highway 219, via Bradford, Dubois, Griffiths, Kane, Wilcox, Ridgway, Brockaway, Edensburg, Somerset, Brotherton, Berlin, and Garrett, Pa., and those in West Virginia west of a line extending from the West Virginia-Ohio State line along U.S. Highway 21 to Charleston, W. Va., and north of a line from Charleston, W. Va., along U.S. Highway 60 via St. Albans, Hurricane, and Milton, W. Va., to the West Virginia-Kentucky State line, including points on the indicated portions of the highways specified, and steel, structured or fabricated, from Portsmouth, Ohio, to specified points in Pennsylvania, and from Pittsburgh, Pa., to Georgetown and Youngstown, Ohio. Richard H. Brandon, 79 East State Street, Columbus, OH 43215, attorney for applicants.

No. MC–FC–72543. By order of December 23, 1970, the Motor Carrier Board approved the transfer to George A. Grogan and DeRoy Grogan, a partnership, doing business as Grogan Bros. Moving & Storage Co., Pittsburgh, Pa., of that portion of the operating rights in certificate No. MC–47720, issued June 11, 1942, to Hubert Transfer & Storage Co., Inc., Pittsburgh, Pa., authorizing the transportation of household goods, office furniture and equipment and store fixtures between points in Pennsylvania, on the one hand, and, on the other, points in West Virginia, Connecticut, Indiana, Massachusetts, Illinois, Delaware, Virginia, Kentucky, Tennessee, Missouri, Rhode

Island, and the District of Columbia. Arthur J. Diskin, Esq., 806 Frick Building, Pittsburgh, PA 15219, attorney for applicants.

No. MC–FC–72545. By order of December 23, 1970, the Motor Carrier Board approved the transfer to Joseph Ribaul Transfer Co., Inc., Gretna, La., of the operating rights in corrected permit No. 133594, issued May 13, 1970, to Intracoastal Transfer Line, Inc., Harvey, La., authorizing the transportation of gypsum and other specified commodities from Westwego, La., to points in Mississippi, Alabama, and a specified part of Florida. Daniel Lund, 806 National Bank of Commerce Building, New Orleans, LA 70112, attorney for applicants.

No. MC–FC–72554. By order of December 23, 1970, the Motor Carrier Board approved the transfer to David A. White, Raphine, Va., of the operating rights in certificate No. MC–124868, issued April 9, 1963, to W. J. Landes, doing business as Landes' Garage, Staunton, Va., authorizing the transportation of wrecked and disabled motor vehicles and replacement vehicles therefor, by use of wrecker equipment only, in truckaway service, between points in Virginia; between points in Virginia on the one hand, and, on the other, points in Delaware, Georgia, Maryland, New Jersey, New York, North Carolina, Pennsylvania, South Carolina, Tennessee, Vermont, West Virginia, and the District of Columbia. Harry J. Jordan, Esquire, Macdonald & McInerny, 1000 16th Street NW., Washington, DC 20036, attorney for applicants.

[SEAL] ROBERT L. OSWALD,
Secretary.

[F.R. Doc. 71–173; Filed, Jan. 5, 1971; 8:52 a.m.]

CUMULATIVE LIST OF PARTS AFFECTED—JANUARY

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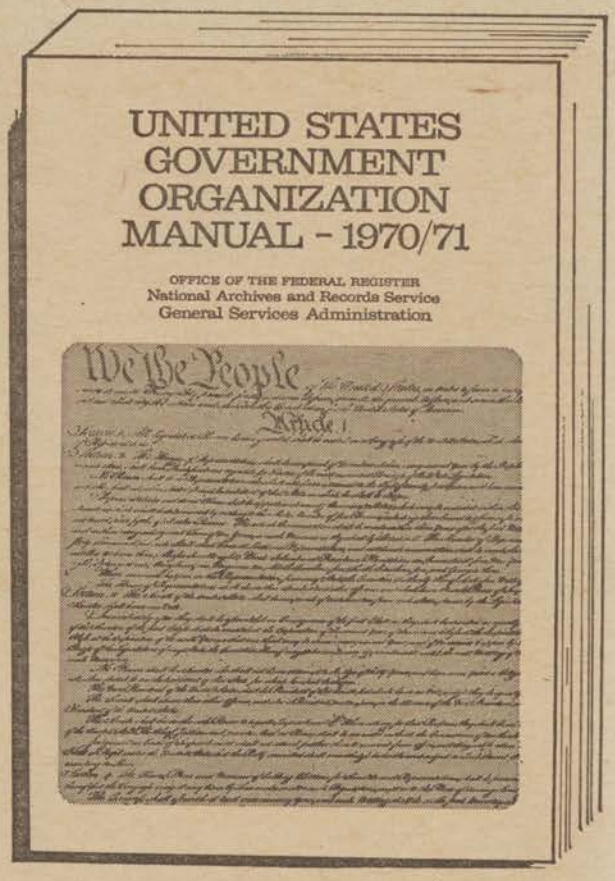

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