FEDERAL REGISTER

VOLUME 35 • NUMBER 24

Wednesday, February 4, 1970 • Washington, D.C.

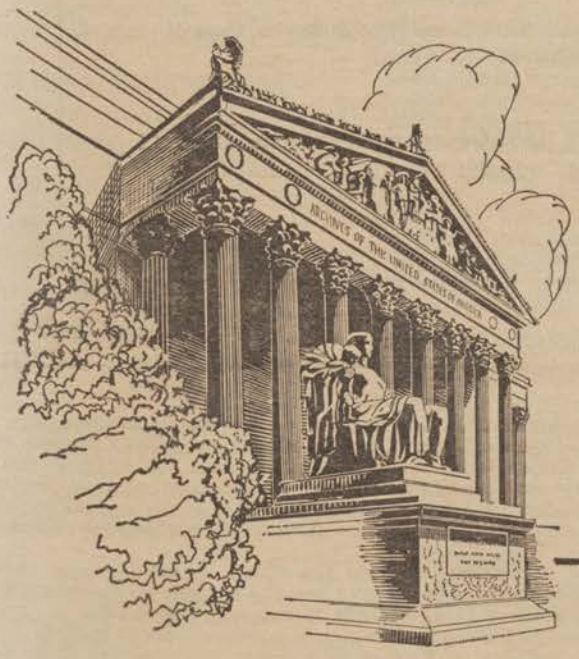
Pages 2497–2565

Part I

(Part II begins on page 2555)

Agencies in this issue—

Detailed list of Contents appears inside.



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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Contents

(Continued on next page)

List of CFR Parts Affected

The following numerical guide is a list of the parts of each title of the Code of Federal Regulations affected by documents published in today's issue. A cumulative list of parts affected, covering the current month to date, appears at the end of each issue beginning with the second issue of the month.

A cumulative guide is published separately at the end of each month. The guide lists the parts and sections affected by documents published since January 1, 1970, and specifies how they are affected.

3 CFR

EXECUTIVE ORDERS:

11211 (amended by EO 11506) ---- 2501
11368 (see EO 11506) ---------- 2501
11506 ---------- 2501

7 CFR

318 ---------- 2503
319 ---------- 2503
724 (2 documents) ---------- 2504–2506
857 ---------- 2507

PROPOSED RULES:

724 ---------- 2526
907 ---------- 2526
1001 ---------- 2527
1002 ---------- 2527
1003 ---------- 2527
1004 ---------- 2527
1005 ---------- 2527
1006 ---------- 2527
1007 ---------- 2527
1011 ---------- 2527
1012 ---------- 2527
1013 ---------- 2527
1015 ---------- 2527
1016 ---------- 2527
1030 ---------- 2527
1032 ---------- 2527
1033 ---------- 2527
1034 ---------- 2527
1035 ---------- 2527
1036 ---------- 2527
1040 ---------- 2527
1041 ---------- 2527
1043 ---------- 2527
1044 ---------- 2527
1046 ---------- 2527
1049 ---------- 2527
1050 ---------- 2527
1060 ---------- 2527
1061 ---------- 2527
1062 ---------- 2527
1063 ---------- 2527
1064 ---------- 2527
1065 ---------- 2527
1068 ---------- 2527
1069 ---------- 2527
1070 ---------- 2527
1071 ---------- 2527
1073 ---------- 2527
1075 ---------- 2527
1076 ---------- 2527
1078 ---------- 2527
1079 ---------- 2527
1090 ---------- 2527
1094 ---------- 2527
1096 ---------- 2527
1097 ---------- 2527
1098 ---------- 2527
1099 ---------- 2527
1101 ---------- 2527
1102 ---------- 2527
1103 ---------- 2527
1104 ---------- 2527
1106 ---------- 2527
1108 ---------- 2527
1120 ---------- 2527
1121 ---------- 2527
1124 ---------- 2527
1125 ---------- 2527
1126 ---------- 2527
1127 ---------- 2527
1128 ---------- 2527
1129 ---------- 2527
1130 ---------- 2527
1131 ---------- 2527
1132 ---------- 2527
1133 ---------- 2527
1134 ---------- 2527
1136 ---------- 2527
1137 ---------- 2527
1138 ---------- 2527

9 CFR

76 (2 documents) ---------- 2507, 2508

PROPOSED RULES:

318 ---------- 2527

12 CFR

510 ---------- 2509
542 ---------- 2509
543 ---------- 2509
545 ---------- 2511
556 ---------- 2514
562 ---------- 2514
567 ---------- 2515
571 ---------- 2515
582 ---------- 2515

14 CFR

39 ---------- 2517
71 ---------- 2517

PROPOSED RULES:

171 ---------- 2528

16 CFR

13 (7 documents) ---------- 2517–2522

29 CFR

201 ---------- 2556
202 ---------- 2557
203 ---------- 2561
205 ---------- 2563

41 CFR

14–1 ---------- 2523

46 CFR

502 ---------- 2523

49 CFR

1023 ---------- 2524

50 CFR

PROPOSED RULES:

280 ---------- 2526

Presidential Documents

Title 3—THE PRESIDENT

Executive Order 11506

FURTHER AMENDING EXECUTIVE ORDER NO. 11211, RELATING TO THE EXCLUSION FOR ORIGINAL OR NEW JAPANESE ISSUES AS REQUIRED FOR INTERNATIONAL MONETARY STABILITY

By virtue of the authority vested in me by section 4917(a) of the Internal Revenue Code of 1954, and as President of the United States, it is hereby ordered as follows:

SECTION 1. *Exclusion.* Executive Order No. 11211 [1] of April 2, 1965, as amended by section 3 of Executive Order No. 11368 of August 28, 1967, providing for an exclusion from the tax imposed by section 4911 of the Internal Revenue Code of 1954 with respect to acquisitions of certain original or new Japanese issues of stock or debt obligations—

(a) shall not apply to any acquisition of such debt obligations made on or after the effective date of this order;

(b) shall continue to apply to an acquisition of such stock made on or after the effective date of this order pursuant to the exercise of a right to convert (without payment of additional consideration) contained in a debt obligation issued prior to the effective date of this order.

SEC. 2. *Rules and regulations.* The Secretary of the Treasury or his delegate is authorized to prescribe from time to time regulations, rulings, directions, and instructions to carry out the purpose of this order.

SEC. 3. *Effective date.* This order shall be effective upon its filing for publication in the FEDERAL REGISTER.

Richard Nixon

THE WHITE HOUSE,
February 2, 1970.

[F.R. Doc. 70-1488; Filed, Feb. 3, 1970; 11:11 a.m.]

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[1] 30 F.R. 4385; 3 CFR, 1964–1965 Comp., p. 296.

Rules and Regulations

Title 7—AGRICULTURE

Chapter III—Agricultural Research Service, Department of Agriculture

PART 318—HAWAIIAN AND TERRITORIAL QUARANTINE NOTICES

Subpart—Hawaiian Fruits and Vegetables

COMBINATION TREATMENT AS CONDITION FOR CERTIFICATION OF AVOCADOS FOR MOVEMENT FROM HAWAII

Pursuant to the authority conferred by § 318.13–4(b) of the regulations (7 CFR 318.13–4(b)) supplemental to the Hawaiian Fruits and Vegetables Quarantine (Notice of Quarantine No. 13, 7 CFR 318.13), under sections 8 and 9 of the Plant Quarantine Act, as amended, and section 106 of the Federal Plant Pest Act (7 U.S.C. 161, 162, 150ee), and other delegation of authority (29 F.R. 16210, as amended), administrative instructions to be designated as 7 CFR 318.13–4f are hereby issued to read as follows:

§ 318.13–4f Administrative instructions approving a combination treatment of methyl bromide fumigation plus refrigeration as a condition for certification of avocados for movement from Hawaii.

The Director of the Plant Quarantine Division hereby approves methyl bromide fumigation followed by controlled refrigeration as a treatment for mature green avocados from Hawaii when applied in accordance with the provisions of this section. This treatment is specific for the Mediterranean fruit fly, the melon fly, and the oriental fruit fly. Avocados so treated and handled as provided in this section may be certified for movement from Hawaii to other parts of the United States.

(a) *Approved treatment.* The phases of the combination treatment shall consist of fumigation and seration; and a precooling and refrigeration period.

(1) The fumigant shall be methyl bromide applied at normal atmospheric pressure in an enclosure which has been approved for that purpose by an inspector of the Plant Quarantine Division. The dosage shall be 2 pounds per 1,000 cubic feet for 2½ hours at 70° F. or above. At the conclusion of the 2½-hour exposure period, the avocados shall be aerated for a minimum of 30 minutes. Avocados to be fumigated shall be restricted to fruit at the mature green stage of development and be arranged in ventilated wooden boxes, without packing material or wrappings. Fumigation chambers should not be loaded to more than two-thirds of their capacity. Tarpaulin enclosures should not be loaded to more than 80 percent of their capacity. The 2½-hour exposure period shall begin when all the fumigant has been volatilized and introduced into the enclosure. Forced circulation above and below the load, and between individual containers, shall be provided as soon as the avocados are loaded in the chamber and shall continue during the full period of fumigation and until the avocados have been removed to a well ventilated location.

(2) The refrigerated phase of the treatment shall consist of refrigeration for seven days at 45° F. or below. Cooling of the fruit must begin within 24 hours following the fumigation. The refrigerated storage shall consist of 7 days at fruit pulp temperature of 45° F. or below. The time required to cool the pulp temperature to 45° F. or below may be included in the 7-day period provided the cooling is accomplished in 24 hours or less. Temperature sensors inserted in the avocados shall be used to determine when pulp temperatures have reached 45° F. or below.

(b) *Supervision of treatments and subsequent handling.* The treatment approved in this section and the subsequent handling of the avocados so treated must be conducted under the supervision of an Inspector of the Plant Quarantine Division. Such treated avocados must be safeguarded against reinfestation during the period prior to movement from Hawaii in a manner satisfactory to the inspector. Certification of avocados for such movement will be made only upon compliance with the prescribed treatment and posttreatment safeguards.

(c) *Costs.* All costs of treatment, required safeguards, and supervision of treatments by the inspector outside regular hours of duty shall be borne by the owner of the avocados or his representative.

(d) *Department not responsible for damage.* Although this treatment is recognized as one which is only slightly injurious to certain varieties of avocados in the mature green stage of development, the Department of Agriculture assumes no responsibility for any loss or damage resulting from any treatment prescribed or supervised. There has not been an opportunity to test the treatment on all varieties of avocados that may be offered for entry. It is recommended that the phytotoxicity of the treatment to the variety to be shipped be tested by the exporters in Hawaii or by means of treatment of test shipments sent to the mainland.

(Sec. 9, 37 Stat. 318; sec. 106, 71 Stat. 33; 7 U.S.C. 162, 150ee, 29 F.R. 16210, as amended; 7 CFR 318.13–4(b); interprets or applies sec. 8, 37 Stat. 318, as amended, 7 U.S.C. 161 and sec. 103, 71 Stat. 33, 7 U.S.C. 150bb)

These administrative instructions shall become effective upon publication in the FEDERAL REGISTER.

The purpose of these administrative instructions is to provide an alternate and improved treatment for avocados from Hawaii. Avocados so treated may be certified for movement to other parts of the United States.

The present approved treatment consists of fumigation alone with a 4-hour exposure period. Certain varieties were moderately to severely damaged at this exposure period. The alternate treatment reduces the fumigant exposure period to 2½ hours and may be only slightly injurious to certain avocado fruit varieties in the mature green stage.

These instructions relieve a restriction, and in order to be of maximum benefit to persons subject to the restriction, they should be made effective as promptly as possible. Therefore, pursuant to the administrative procedure provisions of 5 U.S.C. 553, it is found upon good cause that notice and other public procedure with respect to these instructions are impracticable and unnecessary and they may be made effective less than 30 days after publication in the FEDERAL REGISTER.

Done at Hyattsville, Md., this 29th day of January 1970.

[SEAL] F. A. JOHNSTON,
Director,
Plant Quarantine Division.

[F.R. Doc. 70–1389; Filed, Feb. 3, 1970; 8:48 a.m.]

PART 319—FOREIGN QUARANTINE NOTICES

Subpart—Fruits and Vegetables

METHOD OF TREATMENT OF AVOCADOS FOR MEDITERRANEAN FRUIT FLY, MELON FLY, AND ORIENTAL FRUIT FLY

Pursuant to the authority conferred by § 319.56–2 of the regulations (7 CFR 319.56–2) supplemental to the Fruit and Vegetable Quarantine (Notice of Quarantine No. 56, 7 CFR 319.56), under sections 5 and 9 of the Plant Quarantine Act of 1912 and section 106 of the Federal Plant Pest Act (7 U.S.C. 159, 162, 150ee), and other delegation of authority (29 F.R. 16210, as amended), administrative instructions to be designated as 7 CFR 319.56–2s are hereby issued to read as follows:

§ 319.56–2s Administrative instructions prescribing method of treatment of avocados for the Mediterranean fruit fly, the melon fly, and the oriental fruit fly.

Fumigation with methyl bromide at normal atmospheric pressure followed by refrigerated storage in accordance with the procedures described in this section is effective against the Mediterranean fruit fly, the melon fly, and the oriental fruit fly in avocados but is not effective

against other dangerous pests of this fruit. Accordingly, this treatment will be approved for treatment of avocados in connection with the issuance of permits under § 319.56–4 for the importation of avocados from any country when it is determined that the pest risk involved in the proposed importation is such that it will be eliminated by this treatment.

(a) *Ports of entry.* Avocados offered for entry will be regulated by one of the following provisions:

(1) Avocados certified as having received the combined fumigation-refrigeration treatment in the country of origin immediately prior to shipment are enterable at all ports under permit.

(2) Avocados certified as having been fumigated in the country of origin and which are receiving the refrigeration storage on board approved transiting vessels are enterable at the U.S. ports named in the permit upon completion of the refrigerated storage period.

(3) Avocados which have not been treated are enterable at the ports named in the permit for treatment upon arrival.

(b) *Approved treatment.* The phases of the combination treatment shall consist of fumigation and aeration; and a precooling and refrigeration period.

(1) The fumigant shall be methyl bromide applied at normal atmospheric pressure in an enclosure which has been approved for that purpose by the Plant Quarantine Division. The dosage shall be two pounds per 1,000 cubic feet for 2½ hours at 70° F. or above. At the conclusion of the 2½-hour exposure period, the avocados shall be aerated for minimum of 30 minutes. Avocados to be fumigated shall be restricted to fruit at the mature green stage of development and be arranged in ventilated wooden boxes, without packing material or wrappings. Fumigation chambers should not be loaded to more than two-thirds of their capacity. Tarpaulin enclosures should not be loaded to more than 80 percent of their capacity. The 2½-hour exposure period shall begin when all the fumigant has been volatilized and introduced into the enclosure. Forced circulation above and below the load, and between individual containers, shall be provided as soon as the avocados are loaded in the chamber and shall continue during the full period of fumigation and until the avocados have been removed to a well ventilated location.

(2) The refrigerated phase of the treatment shall consist of refrigeration for 7 days at 45° F. or below. Cooling of the fruit must begin within 24 hours following the fumigation. The refrigerated storage shall consist of 7 days at fruit pulp temperature of 45° F. or below. The time required to cool the pulp temperature to 45° F. or below may be included in the 7-day period provided the cooling is accomplished in 24 hours or less. Temperature sensors inserted in the avocados will determine when pulp temperatures have reached 45° F. or below.

(c) *Supervision of treatments and subsequent handling.* The treatment approved in this section and the subsequent handling of the avocados so treated must be conducted under the supervision of an Inspector of the Plant Quarantine Division. If any part of the treatment is conducted in the country of origin, the organization requesting the service must enter into a formal agreement with this Division to secure the services of an inspector.

(d) *Costs.* All costs of treatment, required safeguards, and supervision of treatments by the inspector shall be borne by the owner of the avocados or his representative when the treatment is given in foreign countries. There is no charge for supervision of treatments given at authorized U.S. ports of entry during regularly scheduled hours of duty.

(e) *Department not responsible for damage.* The treatment prescribed in paragraph (b) of this section is judged from experimental tests to be safe for use on avocados at the mature green stage of development. However, the Department of Agriculture assumes no responsibility for any damage sustained through or in the course of treatment. There has not been an opportunity to test the treatment on all varieties of avocados that may be offered for entry from various countries. It is recommended that the phytotoxicity of the treatment to the variety to be shipped shall be tested by exporters in the country of origin or by means of test shipments sent to this country.

(Sec. 9, 37 Stat. 318, sec. 106, 71 Stat. 33; 7 U.S.C. 162, 150ee. Interprets or applies sec. 5, 37 Stat. 316; 7 U.S.C. 159; 29 F.R. 16210, as amended; 7 CFR 319.56–2)

These administrative instructions shall become effective upon publication in the FEDERAL REGISTER.

The purpose of these instructions is to approve a treatment for avocados imported under permit from countries where Mediterranean fruit fly, melon fly, and oriental fruit fly occur. Heretofore, avocados have not been permitted entry from countries infested with these fruit flies because a treatment schedule has not be available that would eliminate the above pests without severely damaging the fruit. Most avocado fruit varieties fumigated at the mature green stage of development are not likely to be injured by this treatment. Certain other varieties may be only slightly injured. This treatment is specific for the Mediterranean fruit fly, the melon fly, and the oriental fruit fly and is not acceptable as a condition of entry against other dangerous pests of avocado for which this treatment is not effective. Avocados from countries where the Mediterranean fruit fly, the melon fly, and the oriental fruit fly or other significant pests of avocado do not occur are unaffected by these instructions.

These instructions relieve a restriction, and in order to be of maximum benefit to persons subject to the restrictions, they should be made effective as promptly as possible. Therefore, pursuant to the administrative procedure provisions of 5 U.S.C. 553, it is found upon good cause that notice and other public procedure with respect to these instructions are impracticable and unnecessary and they may be made effective less than 30 days after publication in the FEDERAL REGISTER.

Done at Hyattsville, Md., this 29th day of January 1970.

[SEAL] F. A. JOHNSTON,
Director,
Plant Quarantine Division.

[F.R. Doc. 70–1390; Filed, Feb. 3, 1970; 8:48 a.m.]

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

SUBCHAPTER B—FARM MARKETING QUOTAS AND ACREAGE ALLOTMENTS

PART 724—BURLEY, FIRE-CURED, DARK AIR-CURED, VIRGINIA SUN-CURED, CIGAR-BINDER (TYPES 51 AND 52), CIGAR-FILLER AND BINDER (TYPES 42, 43, 44, 53, 54, AND 55), AND MARYLAND TOBACCO

Subpart—Proclamations, Determinations and Announcements of National Marketing Quotas and Referendum Results

PROCLAMATION OF QUOTAS

Sec.
724.2 Fire-cured (type 21) tobacco—1970–71, 1971–72, and 1972–73 marketing years.
724.3 Fire-cured (types 22–24) tobacco—1970–71, 1971–72, and 1972–73 marketing years.
724.4 Dark air-cured tobacco—1970–71, 1971–72, and 1972–73 marketing years.

DETERMINATIONS AND ANNOUNCEMENTS—1970–71 MARKETING YEAR

724.12 Fire-cured (type 21) tobacco.
724.13 Fire-cured (types 22–24) tobacco.
724.14 Dark air-cured tobacco.
724.15 Virginia sun-cured tobacco.

AUTHORITY: The provisions of this subpart are issued under secs. 301, 312, 313, 375, 52 Stat. 38, as amended, 46, as amended, 47, as amended, 66, as amended; 7 U.S.C. 1301, 1312, 1313, 1375.

Basis and purpose. Sections 724.2 through 724.4 are issued pursuant to, and in accordance with, the Agricultural Adjustment Act of 1938, as amended, hereinafter referred to as the "Act", to proclaim National Marketing Quotas for Fire-cured (type 21), Fire-cured (types 22–24), and Dark air-cured (types 35 and 36) tobacco for each of the 3 marketing years beginning October 1, 1970, October 1, 1971, and October 1, 1972. Sections 724.12 through 724.15 are also issued pursuant to the Act, to determine the reserve supply level and the total supply of each kind of tobacco for the marketing year beginning October 1, 1969; to announce for the 1970–71 marketing year the amounts of the national marketing quotas, national acreage allotments, national acreage factors for

apportioning the national acreage allotments (less reserves), to old farms, and the amounts of the national reserves and parts thereof available for (a) new farms and (b) making corrections and adjusting inequities in old farm allotments for Fire-cured (type 21), Fire-cured (types 22–24), Dark air-cured and Virginia sun-cured tobacco. The determinations contained in §§ 724.12 through 724.15 have been made on the basis of the latest available statistics of the Federal Government, and after due consideration of data, views, and recommendations received from Fire-cured (type 21), Fire-cured (types 22–24), Dark air-cured, and Virginia sun-cured tobacco producers and others as provided in a notice (34 F.R. 18760) given in accordance with the provisions of 5 U.S.C. 553. It is determined that acreage-poundage quotas for Virginia sun-cured tobacco will not be announced for the 1970–71 marketing year. Since Virginia sun-cured tobacco farmers are now making their plans for producing tobacco in 1970 and need to know, at the earliest possible date, the applicable 1970 tobacco allotments for their farms, and since the Act requires the holding of referenda of Fire-cured (types 21–24) and Dark air-cured tobacco producers within 30 days after issuance of the proclamations of national marketing quotas for these kinds of tobacco to determine whether such producers favor quotas, and the Act requires, insofar as practicable, the mailing of farm allotment notices to farmers prior to the referendum, it is hereby found that compliance with the 30-day effective date provision of 5 U.S.C. 553 is impracticable and contrary to the public interest. Therefore, the determinations and announcements contained herein shall become effective upon the date of filing with the Director, Office of the Federal Register.

PROCLAMATION OF QUOTAS

§ 724.2 Fire-cured (type 21) tobacco—1970–71, 1971–72, and 1972–73 marketing years.

Since the 1969–70 marketing year is the last of 3 consecutive years for which marketing quotas previously proclaimed will be in effect for Fire-cured (type 21) tobacco, a national marketing quota for such tobacco for each of the 3 marketing years beginning October 1, 1970, October 1, 1971, and October 1, 1972, is hereby proclaimed.

§ 724.3 Fire-cured (types 22–24) tobacco—1970–71, 1971–72, and 1972–73 marketing years.

Since the 1969–70 marketing year is the last of 3 consecutive years for which marketing quotas previously proclaimed will be in effect for Fire-cured (types 22–24) tobacco, a national marketing quota for such tobacco for each of the 3 marketing years beginning October 1, 1970, October 1, 1971, and October 1, 1972, is hereby proclaimed.

§ 724.4 Dark air-cured tobacco—1970–71, 1971–72, and 1972–73 marketing years.

Since the 1969–70 marketing year is the last of 3 consecutive years for which marketing quotas previously proclaimed will be in effect for Dark air-cured tobacco, a national marketing quota for such tobacco for each of the 3 marketing years beginning October 1, 1970, October 1, 1971, and October 1, 1972, is hereby proclaimed.

DETERMINATIONS AND ANNOUNCEMENTS—1970–71 MARKETING YEAR

§ 724.12 Fire-cured (type 21) tobacco.

(a) *Reserve supply level.*[1] The reserve supply level for Fire-cured (type 21) tobacco is 21,265 thousand pounds, calculated, as provided in the Act, from a normal year's domestic consumption of 3,700 thousand pounds and a normal year's exports of 6,107 thousand pounds.

(b) *Total supply.*[1] The total supply of Fire-cured (type 21) tobacco for the marketing year beginning October 1, 1969, is 16,221 thousand pounds, calculated in accordance with the Act, from a carryover of 9,851 thousand pounds and estimated 1969 production of 6,370 thousand pounds.

(c) *Carryover.*[1] The estimated carryover of Fire-cured (type 21) tobacco for the marketing year beginning October 1, 1970, is 7,221 thousand pounds, calculated in accordance with the Act by subtracting the estimated disappearance for the marketing year beginning October 1, 1969, of 9,000 thousand pounds from the total supply of such tobacco.

(d) *National marketing quota.*[1] The amount of Fire-cured (type 21) tobacco which will make available during the marketing year beginning October 1, 1970, a supply of Fire-cured (type 21) tobacco equal to the reserve supply level of such tobacco is 14,044 thousand pounds, and a national marketing quota of such amount is hereby announced. It is determined, however, that a national marketing quota in the amount of 14,044 thousand pounds would result in undue restriction of marketings during the 1970–71 marketing year and such amount is hereby increased by 5 percent. Therefore, the amount of the national marketing quota for Fire-cured (type 21) tobacco in terms of the total quantity of such tobacco which may be marketed during the marketing year beginning October 1, 1970, is 14,746 thousand pounds.

(e) *National acreage allotment.* The national acreage allotment, calculated in accordance with the Act by dividing the national marketing quota for the 1970–71 marketing year by the 5-year 1965–69 national average yield of 1,262 pounds is 11,684.63 acres.

(f) *National acreage factor.* The national acreage factor for use in determining farm acreage allotments is 1.15. It was calculated in accordance with the Act by dividing the national acreage allotment, less reserve, by the total of the 1970 preliminary allotments for 1970 old farms.

(g) *National reserve.* The national acreage reserve is 101.86 acres, of which 10 acres are made available for 1970 new farms, and 91.86 acres are made available for making corrections and adjusting inequities in old farm allotments.

See footnotes at end of document.

§ 724.13 Fire-cured (types 22–24) tobacco.

(a) *Reserve supply level.*[2] The reserve supply level for Fire-cured (types 22–24) tobacco is 107 million pounds, calculated, as provided in the Act, from a normal year's domestic consumption of 21.7 million pounds and a normal year's exports of 25.6 million pounds.

(b) *Total supply.*[2] The total supply of Fire-cured (types 22–24) tobacco for marketing year beginning October 1, 1969, is 107.8 million pounds, calculated in accordance with the Act, from a carryover of 72.7 million pounds and estimated 1969 production of 35.1 million pounds.

(c) *Carryover.*[2] The estimated carryover of Fire-cured (types 22–24) tobacco for the marketing year beginning October 1, 1970, is 66.8 million pounds, calculated in accordance with the Act by subtracting the estimated disappearance for the marketing year beginning October 1, 1969, of 41 million pounds from the total supply of such tobacco.

(d) *National marketing quota.*[2] The amount of Fire-cured (types 22–24) tobacco which will make available during the marketing year beginning October 1, 1970, a supply of Fire-cured (types 22–24) tobacco equal to the reserve supply level of such tobacco is 40.2 million pounds, and a national marketing quota of such amount is hereby announced. It is determined, however, that a national marketing quota in the amount of 40.2 million pounds would result in undue restriction of marketings during the 1970–71 marketing year and such amount is hereby increased by 20 percent. Therefore, the amount of the national marketing quota for Fire-cured (types 22–24) tobacco in terms of the total quantity of such tobacco which may be marketed during the marketing year beginning October 1, 1970, is 48.2 million pounds.

(e) *National acreage allotment.* The national acreage allotment, calculated in accordance with the Act by dividing the national marketing quota for the 1970–71 marketing year by the 5-year 1965–69 national average yield of 1,774 pounds is 27,170.23 acres.

(f) *National acreage factor.* The national acreage factor for use in determining farm acreage allotments for the 1970–71 marketing year is 1. It was calculated in accordance with the Act by dividing the national acreage allotment, less reserve, by the total of the 1970 preliminary allotments for 1970 old farms.

(g) *National reserve.* The national acreage reserve is 271.70 acres, of which 20 acres are made available for 1970 new farms, and 251.70 acres are made available for making corrections and adjusting inequities in old farm allotments.

§ 724.14 Dark air-cured tobacco.

(a) *Reserve supply level.*[2] The reserve supply level for Dark air-cured tobacco is 75.8 million pounds, calculated, as provided in the Act, from a normal year's domestic consumption of 22.4 million pounds and a normal year's exports of 6.4 million pounds.

(b) *Total supply.*[2] The total supply of Dark air-cured tobacco for the marketing year beginning October 1, 1969, is 78 million pounds calculated in accordance with the Act, from a carryover of 59.1 million pounds and estimated 1969 production of 18.9 million pounds.

(c) *Carryover.*[2] The estimated carryover of Dark air-cured tobacco for the marketing year beginning October 1, 1970, calculated in accordance with the Act, is 59 million pounds, calculated by subtracting the estimated disappearance for the marketing year beginning October 1, 1969, of 19 million pounds from the total supply of such tobacco.

(d) *National marketing quota.*[2] The amount of Dark air-cured tobacco which will make available during the marketing year beginning October 1, 1970, a supply of Dark air-cured tobacco equal to the reserve supply level of such tobacco is 16.8 million pounds, and a national marketing quota of such amount is hereby announced. It is determined, however, that a national marketing quota in the amount of 16.8 million pounds would result in undue restriction of marketings during the 1970–71 marketing year and such amount is hereby increased by 20 percent. Therefore, the amount of the national marketing quota for Dark air-cured tobacco in terms of the total quantity of such tobacco which may be marketed during the marketing year beginning October 1, 1970, is 20.2 million pounds.

(e) *National acreage allotment.* The national acreage allotment, calculated in accordance with the Act by dividing the national marketing quota for the 1970–71 marketing year by the 5-year, 1965–69, national average yield of 1,787 pounds, is 11,303.86 acres.

(f) *National acreage factor.* The national acreage factor for use in determining farm acreage allotments for the 1970–71 marketing year is 0.90. It was calculated in accordance with the Act by dividing the national acreage allotment, less reserve, by the total of the 1970 preliminary allotments for 1970 old farms.

(g) *National reserve.* The national acreage reserve is 23.62 acres, of which 10 acres are made available for 1970 new farms, and 13.62 acres are made available for making corrections and adjusting inequities in old farm allotments.

§ 724.15 Virginia sun-cured tobacco.

(a) *Reserve supply level.*[1] The reserve supply level for Virginia sun-cured tobacco is 5,722 thousand pounds, calculated, as provided in the Act, from a normal year's domestic consumption of 1,760 thousand pounds and a normal year's exports of 370 thousand pounds.

(b) *Total supply.*[1] The total supply of Virginia sun-cured tobacco for the marketing year beginning October 1, 1969, calculated in accordance with the Act, is 5,056 thousand pounds, consisting of carryover of 3,791 thousand pounds and estimated 1969 production of 1,265 thousand pounds.

(c) *Carryover.*[1] The estimated carryover of Virginia sun-cured tobacco for the marketing year beginning October 1, 1970, calculated in accordance with the Act, is 3,556 thousand pounds, calculated by subtracting the estimated disappearance for the marketing year beginning October 1, 1969, of 1,500 thousand pounds from the total supply of such tobacco.

(d) *National marketing quota.*[1] The amount of Virginia sun-cured tobacco which will make available during the marketing year beginning October 1, 1970, a supply of Sun-cured tobacco equal to the reserve supply level of such tobacco is 2,166 thousand pounds, and a national marketing quota of such amount is hereby announced. It is determined, however, that a national marketing quota in the amount of 2,166 thousand pounds would result in undue restriction of marketings during the 1970–71 marketing year and such amount is hereby increased by 20 percent. Therefore, the amount of the national marketing quota for Virginia sun-cured tobacco in terms of the total quantity of such tobacco which may be marketed during the marketing year beginning October 1, 1970 is 2,599 thousand pounds.

(e) *National acreage allotment.* The national acreage allotment, calculated in accordance with the Act by dividing the national marketing quota for the 1970–71 marketing year by the 5-year, 1965–69, national average yield of 1,101 pounds, is 2,360.58 acres.

(f) *National acreage factor.* The national acreage factor for use in determining farm acreage allotments for the 1970–71 marketing year is 1. It was calculated in accordance with the Act by dividing the national acreage allotment, less reserve, by the total of the 1970 preliminary allotments for 1970 old farms.

(g) *National reserve.* The national acreage reserve is 20.04 acres, of which 4 acres are made available for 1970 new farms, and 16.04 acres are made available for making corrections and adjusting inequities in old farm allotments.

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

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

CLARENCE D. PALMBY,
Acting Secretary.

[F.R. Doc. 70-1349; Filed, Jan. 30, 1970; 12:23 p.m.]

PART 724—BURLEY, FIRE-CURED, DARK AIR-CURED, VIRGINIA SUN-CURED, CIGAR-BINDER (TYPES 51 AND 52), CIGAR-FILLER AND BINDER (TYPES 42, 43, 44, 53, 54, AND 55), AND MARYLAND TOBACCO

Determinations and Announcements; 1970–71 Marketing Year

Sec.
724.16 Cigar binder (types 51 and 52) tobacco.
724.17 Cigar filler and binder (types 42, 43, 44, 53, 54, and 55) tobacco.

AUTHORITY: The provisions of this subpart issued under secs. 301, 312, 313, 375, 52 Stat. 38, as amended, 46, as amended, 47, as amended, 66, as amended; 7 U.S.C. 1301, 1312, 1313, 1375.

Basis and purpose. Sections 724.16 and 724.17 are issued pursuant to, and in accordance with, the Agricultural Adjustment Act of 1938, as amended, hereinafter referred to as the "Act", to (1) determine the reserve supply level for Cigar binder (types 51 and 52) and Cigar filler and Binder (types 42–44, 53–55) tobacco, (2) determine the total supply of each kind of tobacco for the marketing year beginning October 1, 1969, and (3) to announce for the 1970–71 marketing year the amounts of the national marketing quotas, national acreage allotments, national acreage factors for apportioning the national acreage allotments (less reserves) to old farms, and the amounts of the national reserves and parts thereof available for (a) new farms and (b) making corrections and adjusting inequities in old farm allotments for each of these kinds of tobacco. The determinations contained in §§ 724.16 and 724.17 have been made on the basis of the latest available statistics of the Federal Government, and after due consideration of data, views, and recommendations received from Cigar binder (types 51 and 52) and Cigar filler and Binder (types 42–44, 53–55) tobacco producers and others as provided in a notice (34 F.R. 18759) given in accordance with the provisions of 5 U.S.C. 553.

It is determined that acreage-poundage quotas for these kinds of tobacco will not be announced for the 1970–71 marketing year. Since cigar tobacco farmers are now making their plans for producing tobacco in 1970 and need to know, at the earliest possible date, the applicable 1970 tobacco allotments for their farms, it is hereby found that compliance with the 30-day effective date provision of 5 U.S.C. 553 is impracticable and contrary to the public interest. Therefore, the determinations and announcements contained herein shall become effective upon the date of filing with the Director, Office of the Federal Register.

§ 724.16 Cigar binder (types 51 & 52) tobacco.

(a) *Reserve supply level.*[1] The reserve supply level for Cigar binder (types 51 and 52) tobacco is 19.3 million pounds, calculated, as provided in the Act, from a normal year's domestic consumption of 5.8 million pounds and a normal year's exports of 1.5 million pounds.

(b) *Total supply.*[2] The total supply of Cigar binder (types 51 and 52) tobacco for the marketing year beginning October 1, 1969, is 11.9 million pounds, calculated in accordance with the Act, from a carryover of 8.9 million pounds and estimated 1969 production of 3.0 million pounds.

(c) *Carryover.*[1] The estimated carryover of Cigar binder (types 51 and 52) tobacco for the marketing year beginning October 1, 1970, is 6.9 million pounds, calculated in accordance with

[1] Rounded to the nearest thousand pounds.
[2] Rounded to the nearest tenth of a million.

[1] Rounded to the nearest tenth of a million.

See footnotes at end of document.

the Act by subtracting the estimated disapparance for the marketing year beginning October 1, 1969, of 5.0 million pounds from the total supply of such tobacco.

(d) *National marketing quota.*[1] The amount of Cigar binder (types 51 and 52) tobacco which will make available during the marketing year beginning October 1, 1970, a supply of Cigar binder (types 51 and 52) tobacco equal to the reserve supply level of such tobacco is 12.4 million pounds, and a national marketing quota of such amount is hereby announced.

(e) *National acreage allotment.* The national acreage allotment, calculated in accordance with the Act by dividing the national marketing quota for the 1970–71 marketing year by the 5-year, 1965–69 national average yield, of 1,912 pounds is 6,485.35 acres.

(f) *National acreage factor.* The national acreage factor for use in determining farm acreage allotments for the 1970–71 marketing year is 1.15. It was calculated in accordance with the Act by dividing the national acreage allotment, less reserve, by the total of the 1970 preliminary allotments for 1970 old farms.

(g) *National reserve.* The national acreage reserve is 59.62 acres, of which 30 acres are made available for 1970 new farms, and 29.62 acres are made available for making corrections and adjusting inequities in old farm allotments.

§ 724.17 Cigar filler and binder (types 42–44, 53–55) tobacco.

(a) *Reserve supply level.*[1] The reserve supply level for Cigar filler and Binder (types 42–44, 53–55) tobacco is 71.5 million pounds, calculated, as provided in the Act, from a normal year's domestic consumption of 24.5 million pounds and a normal year's exports of .4 million pounds.

(b) *Total supply.*[1] The total supply of Cigar filler and Binder (types 42–44, 53–55) tobacco for the marketing year beginning October 1, 1969, is 67.6 million pounds calculated in accordance with the Act, from a carryover of 51.3 million pounds and estimated 1969 production of 16.3 million pounds.

(c) *Carryover.*[1] The estimated carryover of Cigar filler and Binder (types 42–44, 53–55) tobacco for the marketing year beginning October 1, 1970, calculated in accordance with the Act, is 43.1 million pounds calculated by subtracting the estimated disappearance for the marketing year beginning October 1, 1969, of 24.5 million pounds from the total supply of such tobacco.

(d) *National marketing quota.*[1] The amount of Cigar filler and Binder (types 42–44, 53–55) tobacco which will make available during the marketing year beginning October 1, 1970, a supply of Cigar filler and Binder (type 42–44, 53–55) tobacco equal to the reserve supply level of such tobacco is 28.4 million pounds, and a national marketing quota of such amount is hereby announced. It is determined, however, that a national marketing quota in the amount of 28.4 million pounds would result in undue restriction of marketings during the 1970–71 marketing year and such amount is hereby increased by 20 percent. Therefore, the amount of the national marketing quota for Cigar filler and Binder (types 42–44, 53–55) tobacco in terms of the total quantity of such tobacco which may be marketed during the marketing year beginning October 1, 1970, is 34.1 million pounds.

(e) *National acreage allotment.* The national acreage allotment, calculated in accordance with the Act by dividing the national marketing quota for the 1970–71 marketing year by the 5-year, 1965–69, national average yield of 1,789 pounds, is 19,060.93 acres.

(f) *National acreage factor.* The national acreage factor for use in determining farm acreage allotments for the 1970–71 marketing year is 1.05. It was calculated in accordance with the Act by dividing the national acreage allotment, less reserve, by the total of the 1970 preliminary allotments for 1970 old farms.

(g) *National reserve.* The national acreage reserve is 190.60 acres, of which 95 acres are made available for 1970 new farms, and 95.60 acres are made available for making corrections and adjusting inequities in old farm allotments.

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

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

CLARENCE D. PALMBY,
Acting Secretary.

[F.R. Doc. 70-1350; Filed, Jan. 30, 1970; 12:24 p.m.]

[1] Rounded to the nearest tenth of a million.

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

SUBCHAPTER G—DETERMINATION OF PROPORTIONATE SHARES

[S.D. 857.19]

PART 857—SUGARCANE; PUERTO RICO

Proportionate Shares for Farms; 1970–71 Crop

The following regulation is issued pursuant to the provisions of section 302 of the Sugar Act of 1948, as amended.

§ 857.19 Proportionate shares for the 1970–71 crop of sugarcane not required.

It is determined for the 1970–71 crop of sugarcane that, in the absence of proportionate shares, the production of sugar from such crop will not be greater than the quantity needed to enable the area to meet its quota for 1971, the calendar year during which the larger part of the sugar from such crop normally will be marketed, and to provide a normal carryover inventory. Consequently, proportionate shares will not be in effect in Puerto Rico for the 1970–71 crop of sugarcane.

(Sec. 403, 61 Stat. 932; 7 U.S.C. 1153, secs. 301, 61 Stat. 929, 930, as amended, 7 U.S.C. 1131, 1132)

Statement of bases and considerations. Section 302 of the Sugar Act, as amended, provides, in part that the Secretary shall determine for each crop year whether the production of sugar from any crop of sugarcane will, in the absence of proportionate shares, be greater than the quantity needed to enable the area to meet its quota and provide a normal carryover inventory, as estimated by the Secretary for such area for the calendar year during which the larger part of the sugar from such crop normally would be marketed. Such determination may be made only after due notice and opportunity for an informal public hearing.

In accordance with this provision of the Act, an informal public hearing was held in Washington, D.C., on December 22, 1969. Interested persons were invited to submit views and recommendations concerning the possible establishment of proportionate shares for the 1970–71 crop of sugarcane.

The spokesman for the Association of Sugar Producers of Puerto Rico, whose members produce approximately 30 percent of the sugarcane and process more than 85 percent of all the cane grown in Puerto Rico, recommended that proportionate shares not be established for the 1970–71 crop. He stated that outturn from the 1968–69 crop was the island's smallest in 45 years; that indications for the 1969–70 crop are that, again due to the lack of cane cutters, about 25 percent of the sugarcane crop will be left standing in the fields; and that 1970–71 crop production cannot be expected to approach the level of marketing opportunities provided under the Sugar Act. No other interested persons offered testimony.

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

Effective date: Date of publication.

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

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

[F.R. Doc. 70-1333; Filed, Feb. 3, 1970; 8:45 a.m.]

Title 9—ANIMALS AND ANIMAL PRODUCTS

Chapter I—Agricultural Research Service, Department of Agriculture

SUBCHAPTER C—INTERSTATE TRANSPORTATION OF ANIMALS AND POULTRY

PART 76—HOG CHOLERA AND OTHER COMMUNICABLE SWINE DISEASES

Areas Quarantined

Pursuant to provisions of the Act of May 29, 1884, as amended, the Act of

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

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

(3) *Illinois.* (i) That portion of Christian County comprised of Buckhart, Greenwood, Johnson, King, Mosquito, Mount Auburn, Ricks, and Stonington Townships.

(ii) That portion of Gallatin County comprised of North Fork and Omaha Townships.

(iii) That portion of Henry County comprised of Loraine Township.

(iv) That portion of Macoupin County comprised of Nilwood and South Otter Townships.

(v) That portion of Whiteside County comprised of Portland Township.

(vi) That portion of Montgomery County comprised of Bois Darc, Butler Grove, East Fork, Fillmore, Harvel, Hillsboro, Irving, Nokomis, Raymond, Rountree, and Witt Townships.

(vii) That portion of Saline County comprised of East Eldorado and Rector Townships.

(viii) That portion of Shelby County comprised of Flat Branch, Okaw, Ridge, and Rural Townships.

2. In § 76.2, subdivision (viii) of paragraph (e)(9) relating to the State of North Carolina is amended to read:

(9) *North Carolina.* * * *

(viii) The adjacent portions of Wayne and Lenoir Counties bounded by a line beginning at the junction of the Atlantic and East Carolina Railroad and the Wayne-Lenoir County line; thence, following the Atlantic and East Carolina Railroad in a northwesterly direction to State Secondary Road 1713; thence, following State Secondary Road 1713 in a southwesterly direction to State Highway 111; thence, following State Highway 111 in a southerly direction to the Neuse River; thence, following the northern bank of the Neuse River in an easterly direction to State Secondary Road 1002; thence, following State Secondary Road 1002 in a northerly direction to the Atlantic and East Carolina Railroad; thence, following the Atlantic and East Carolina Railroad in a southeasterly direction to State Secondary Road 1546; thence, following State Secondary Road 1546 in a northeasterly direction to State Secondary Road 1545; thence, following State Secondary Road 1545 in a northeasterly direction to State Secondary Road 1544; thence, following State Secondary Road 1544 in a generally northerly direction to State Secondary Road 1536; thence, following State Secondary Road 1536 in a northwesterly direction to the Lenoir-Greene County line; thence, following the Lenoir-Greene County line in a southwesterly direction to Bear Creek (the Wayne-Lenoir County line); thence, following the Wayne-Lenoir County line in a southwesterly direction to its junction with the Atlantic and East Carolina Railroad.

3. In § 76.2, subdivision (iii) of paragraph (e)(13) relating to the State of Texas is amended to read:

(13) *Texas.* * * *

(iii) The adjacent parts of Comanche, Erath, and Hamilton Counties bounded by a line beginning at the junction of Farm to Market Road 1702 and State Highway 6 in Erath County; thence, following State Highway 6 in a southeasterly direction to its junction with U.S. Highway 281; thence, following U.S. Highway 281 and State Highway 6 in a southeasterly direction to the town of Hico in Hamilton County; thence, following U.S. Highway 281 in a southwesterly direction to its junction with State Highway 36; thence, following State Highway 36 in a northwesterly direction to the Hamilton-Comanche County line; thence, following the Hamilton-Comanche County line in a southwesterly direction to the Comanche-Mills County line; thence, following the Comanche-Mills County line in a northwesterly direction to State Highway 16; thence, following State Highway 16 in a northwesterly direction to U.S. Highway 377; thence, following U.S. Highway 377 in a northeasterly direction to the Comanche-Erath County line; thence, following the Comanche-Erath County line in a southeasterly direction to Farm to Market Road 1702; thence, following Farm to Market Road 1702 in a northerly direction to its junction with State Highway 6.

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

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

The amendments quarantine portions of Christian and Montgomery Counties in Illinois; a portion of Lenoir County in North Carolina; and a portion of Comanche County in Texas because of the existence of hog cholera. This action is deemed necessary to prevent further spread of the disease. The restrictions pertaining to the interstate movement of swine and swine products from or through quarantined areas as contained in 9 CFR Part 76, as amended, will apply to the quarantined areas designated herein.

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

Done at Washington, D.C., this 30th day of January 1970.

R. J. ANDERSON,
Acting Administrator,
Agricultural Research Service.

[F.R. Doc. 70–1385, Filed, Feb. 3, 1970; 8:48 a.m.]

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, 112, 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, paragraph (e)(3) relating to the State of Illinois, a new subdivision (ix) is added to read:

(3) *Illinois.* * * *

(ix) That portion of Greene County comprised of Linder, Rubicon, and Wrights Townships.

(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 portions of Greene County, Illinois, 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 78, as amended, will apply to the quarantined areas designated herein.

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 the amendment effective less than 30 days after publication in the FEDERAL REGISTER.

Done at Washington, D.C., this 30th day of January 1970.

R. J. ANDERSON,
Acting Administrator,
Agricultural Research Service.

[F.R. Doc. 70–1386; Filed, Feb. 3, 1970; 8:48 a.m.]

Title 12—BANKS AND BANKING

Chapter V—Federal Home Loan Bank Board

SUBCHAPTER A—GENERAL

[No. 23,754]

PART 510—MISCELLANEOUS RULES

Ex Parte Communications

JANUARY 27, 1970.

Resolved that the Federal Home Loan Bank Board, upon the basis of consideration by it of the advisability of revising § 510.1 of the general regulations of the Federal Home Loan Bank Board (12 CFR 510.1) for the purpose of enlarging the scope of the prohibition against ex parte communications and modifying the procedure to be followed in the event of receipt of such communications, hereby amends said § 510.1 by revising it to read as follows, effective March 9, 1970:

§ 510.1 Provisions relating to ex parte communications.

(a) *Scope of section.* This section shall apply to ex parte communications with respect to applications made to the Board for permission to organize Federal savings and loan associations and for branch office and mobile facilities of such associations under Subchapter C of this chapter, applications for insurance of accounts or requests for a commitment to insure accounts under Subchapter D of this chapter, applications for District of Columbia branch offices under Subchapter E of this chapter, and to ex parte communications with respect to any matter which is the subject of a hearing conducted by or on behalf of the Board. However, this section shall not apply to ex parte communications with respect to those applications as to which public notice is not required; and this section shall not apply to ex parte communications with respect to any hearing which is subject to the provisions of Part 509 of this subchapter, which communications shall be handled in accordance with applicable law.

(b) *Prohibited communications.* Except as provided in paragraph (c) of this section, any ex parte communication, either written or oral, relating to any matter within the scope of this section, by any person, other than an officer, agent, or employee of the Board or the Federal Savings and Loan Insurance Corporation, to any member of the Board, a hearing officer, or any other employee or agent of the Board participating in the decisional process, is prohibited prior to final decision on such matter.

(c) *Exceptions.* The provisions of this section shall not apply to communications on the subject matter of any hearing on the proposed adoption or repeal of, or amendment to, rules or regulations, to inquiries limited exclusively to the status of a pending matter or directed only to procedural questions, to reports or investigations made at the Board's request by or at the request of an officer, agent, or employee of the Board, communications and other material filed pursuant to the regulations in this chapter governing the applications and requests referred to in paragraph (a) of this section, or communications from authorities having governmental examining or supervisory functions relating to savings and loan, building and loan, and homestead associations or cooperative banks.

(d) *Action to be taken.* (1) The recipient of any written communication made in contravention of the provisions of this section shall promptly transmit such communication to the Secretary to the Board. The recipient of any oral communication made in contravention of the provisions of this section shall immediately prepare a written statement of the substance of the communication and promptly transmit such statement to such Secretary. Such transmittal shall be accompanied by a written statement of the circumstances under which the communication was made, if such circumstances are not otherwise apparent.

(2) The Secretary to the Board shall place all material so transmitted to him in the public record, and shall transmit copies of all such material to all interested parties for comment or rebuttal. Any such comment or rebuttal by any person shall be delivered to the Office of the Secretary to the Board within 10 days after such transmittal to such person, unless the Board shall otherwise provide, and shall be placed by such Secretary in the public record. The Board may provide for such other or further action with respect to any such communication as it may deem advisable.

(3) The references in subparagraphs (1) and (2) of this paragraph to "Secretary to the Board" and "Office of the Secretary to the Board" shall be deemed to be references to "Supervisory Agent" and "Office of the Supervisory Agent" in the case of a communication made with respect to an application or request within the scope of this section at a time when such application or request is in the Office of a Supervisory Agent. As used in this paragraph, the term "Supervisory Agent" shall mean the agent of the Board who is processing such an application or request.

(e) *Sanctions.* A violation of any of the provisions of this section shall be good cause for imposition of such sanctions as the Board may deem just and proper.

Resolved further that, since the above amendment relates only to rules of Board procedure and practice, notice and public procedure thereon are not required under the provisions of 12 CFR 508.11, and said amendment shall become effective as hereinbefore set forth.

(Sec. 17, 47 Stat. 736, as amended; sec. 5, 48 Stat. 132, as amended; secs. 402, 403, 48 Stat. 1256, 1257, as amended; 12 U.S.C. 1437, 1464, 1725, 1726. Reorg. Plan No. 3 of 1947, 12 F.R. 4981, 3 CFR, 1943–1948 Comp., p. 1071)

By the Federal Home Loan Bank Board.

[SEAL] JACK CARTER, *Secretary.*

[F.R. Doc. 70-1402; Filed, Feb. 3, 1970; 8:49 a.m.]

SUBCHAPTER C—FEDERAL SAVINGS AND LOAN SYSTEM

[No. 23,751]

HEARINGS AND PROCEDURE ON CERTAIN APPLICATIONS

JANUARY 27, 1970.

Resolve that, notice and public procedure having been duly afforded (34 F.R. 17456) and all relevant material presented or available having been considered by it, the Federal Home Loan Bank Board, upon the basis of such consideration, determines to amend Parts 542, 543, 545, and 556 of the rules and regulations for the Federal Savings and Loan System (12 CFR Parts 542, 543, 545, and 556) for the purpose of making changes in the procedures used to process applications for permission to organize Federal savings and loan associations and for permission to establish branch office and mobile facilities for such associations, which changes are designed to simplify such procedures and to expedite the decisional process on such applications. Accordingly, the following amendments are hereby adopted, effective March 9, 1970:

PART 542—AMENDMENT OF RULES AND REGULATIONS

§ 542.2 [Revoked]

1. Part 542 is amended by revising the heading thereof to read as set forth above and by revoking § 542.2 thereof, relating to hearings.

PART 543—INCORPORATION, ORGANIZATION, AND CONVERSION

2. Part 543 is amended by revising § 543.2 thereof, to read as follows:

§ 543.2 Application for permission to organize a Federal association.

(a) *General provisions.* All requests by interested persons for advice or instructions with respect to any matter arising under this section shall be addressed to the Board's Supervisory Agent. As used in this section, the term "Supervisory Agent" means the President of the Federal Home Loan Bank of the district in which the proposed association is to be located or any other officer or employee of such bank designated by the Board as agent as provided by § 501.10 or § 501.11 of this chapter. All recommendations by Supervisory Agents and by officers and employees of the Board in connection with any application for permission to organize a Federal association shall be deemed to be privileged and confidential and subject to the provisions of § 505.6 of this chapter.

(b) *Application form; supporting information.* An application for permission to organize a Federal association shall be in form prescribed by the Board and shall be executed by at least seven persons residing in the community to be served by the proposed association (hereinafter referred to as the "applicants"). Such application and prescribed "Outline of Information to be Submitted in Support of an Application for Permission to organize a Federal Association" may be obtained from the Supervisory Agent. Information shall be furnished in support of the application in accordance with such Outline designed to show: (1) The applicants are citizens of the United States of good character and responsibility; (2) there is a necessity for the proposed association in the community to be served by it; (3) there is a reasonable probability of usefulness and success of the proposed association; and (4) the proposed association can be established without undue injury to properly conducted existing local thrift and home-financing institutions. The application shall include an estimate of the annual income and expenses of the proposed association and of the annual volume of business to be transacted by it, and a statement of the personnel and office facilities to be provided for the operation of such association. An application shall be deemed to be complete when the foregoing requirements of this paragraph (b) have been met.

(c) *Filing of application.* An application for permission to organize a Federal association shall be filed with the Board by delivering six copies thereof, together with six copies of all supporting information, to the Supervisory Agent.

(d) *Amendment of application; filing of additional information.* After a complete application for permission to organize a Federal association has been filed with the Board and prior to the date of advice by the Supervisory Agent to the applicants to publish notice of the filing of the application pursuant to paragraph (e) of this section, the applicants may file additional information in support of the application and may amend the application; after the date of such advice, the applicants may not amend the application or file any additional supporting information unless requested to do so by the Supervisory Agent or otherwise by or on behalf of the Board.

(e) *Processing of application by Supervisory Agent; public notice; inspection.* (1) Upon determination by the Supervisory Agent that an application for permission to organize a Federal association is complete, the Supervisory Agent shall advise applicants, in writing, to publish within 15 days from the date of such advice, in a newspaper printed in the English language and having general circulation in the community to be served by the proposed Federal association, a notice of the filing of the application in the following form:

NOTICE OF FILING OF APPLICATION FOR PERMISSION TO ORGANIZE A FEDERAL SAVINGS AND LOAN ASSOCIATION

Notice is hereby given that, pursuant to the provisions of § 543.2 of the rules and regulations for the Federal Savings and Loan System _____
(Fill in names of applicants)
_____
have filed an application with the Federal Home Loan Bank Board for permission to organize a Federal savings and loan association to be located at, or in the immediate vicinity of _____
_____, _____,
(Street address) (City)
_____. The application has been de-
(State)
livered to the office of the Supervisory Agent of the said Board, located at the Federal Home Loan Bank of_____,
(City)
_____, _____.
(Street address) (City)

Any person may file communications, including briefs, in favor or in protest of said application at the aforesaid office of the Supervisory Agent within 10 days (or within 30 days if advice is filed within the first 10 days stating that more time is needed to furnish additional information) after the date of this publication. Six copies of any communication should be filed. The application and all communications in favor or in protest thereof are available for inspection by any person at the aforesaid office of the Supervisory Agent.

(2) Promptly after publication of the notice, the applicants shall transmit two copies thereof to the Supervisory Agent accompanied by two copies of a publisher's affidavit of publication.

(3) Within 10 days (or within 30 days if advice is filed within the first 10 days stating that more time is needed to furnish additional information) after the date of publication of said notice, any person may file, at the office of the Supervisory Agent designated in the notice, communications, including briefs, in favor or in protest of the application. In the event any communication is filed in protest of the application, the applicants may file information relevant to such protest within 15 days after the last date for filing communications pursuant to the preceding sentence or waive the right to file such information. Information may be submitted in connection with an application only as provided in this section, unless additional information is requested by the Supervisory Agent or otherwise by or on behalf of the Board. Six copies shall be furnished of any communication or information filed pursuant to this subparagraph.

(4) The application, together with all communications in favor or in protest thereof, shall be available at the office of the Supervisory Agent during regular working hours for inspection by any person after the issuance to the applicants of advice to publish a notice. Prior thereto, the application and the fact that it has been filed shall be held as confidential.

(f) *Oral argument*—(1) *General provisions.* Oral argument on the merits of any application filed pursuant to this section shall be heard upon the written request of the applicants or of any person who has filed a communication in protest of an application within the time specified in subparagraph (3) of paragraph (e) of this section, if such request is received by the Supervisory Agent within 10 days after the expiration of the time specified in said subparagraph for filing communications in protest of an application. Such oral argument shall also be heard if the Supervisory Agent, after review of the application and other pertinent information, considers it desirable. When oral argument is to be held, the Supervisory Agent shall mail a notice, fixing the time and place thereof, to the applicants and to all persons who have filed a communication in favor or in protest of the application. Such oral argument shall be scheduled not less than 10 days after the mailing of such notice.

(2) *Procedure.* The Supervisory Agent, or any other person designated by the Board, shall have authority to hear oral argument and determine all matters relating to the conduct of such argument. The oral argument with respect to any such application may be made in person or by authorized representatives, but the oral argument should be based on written information which has been filed in connection with the application. A reasonable time shall be allowed for oral argument, but, unless waived, not less than 1 hour shall be allowed for all oral argument against an application and not less than 1 hour shall be allowed for all oral argument in favor of an application. A transcript shall be made of any oral argument and shall be included in the application file.

(g) *Approval.* Decisions on all applications for permission to organize Federal associations will be made by the Board. If the Board approves the application, it will establish, as conditions to be met prior to the issuance of a charter, requirements as to (1) minimum number of subscribers to the association's capital; (2) minimum amount of capital to be paid into the association's savings accounts upon issuance of a charter to it; and (3) such other requirements as it deems necessary or desirable. Approval of an application for permission to organize a Federal association will not in any manner obligate the Board to issue a charter.

(h) *Applicability of section.* The provisions of this section in effect before March 9, 1970, shall remain in full force and effect as to any application filed prior to such date. However, by agreement of the applicants and all persons who filed written statements in protest of any application, oral argument provided for in paragraph (f) of this section, unless otherwise ordered by the Board, may be held in lieu of any hearing not yet held pursuant to this section as in effect prior to March 9, 1970.

PART 545—OPERATIONS

3. Part 545 is amended by revising § 545.14 thereof, to read as follows:

§ 545.14 Branch office.

(a) *General provisions.* (1) Any business of a Federal association, as authorized by the association's board of directors, may be transacted at a branch office.

(2) A Federal association shall not establish a branch office without prior written approval by the Board. Decisions on all applications for permission to establish a branch office will be made by the Board. In the event of approval of such an application, the Board may require as a condition of approval that the branch office be opened within such period, not less than 6 months, as may be fixed by the Board. Determination by a Federal association to make an application for permission to establish a branch office shall be evidenced by a resolution duly adopted by the association's board of directors. The making, filing, and processing of, and action on, such an application shall be in accordance with this section.

(3) All requests by a Federal association for advice or instructions with respect to any matter arising under this section shall be addressed to the Board's Supervisory Agent. As used in this section, the term "Supervisory Agent" means the President of the Federal Home Loan Bank of the district in which the applicant association is located or any other officer or employee of such bank designated by the Board as agent as provided by §§ 501.10 and 501.11 of this chapter. All recommendations by Supervisory Agents and by officers and employees of the Board in connection with branch office applications shall be deemed to be privileged and confidential and subject to the provisions of § 505.6 of this chapter.

(b) *Eligibility.* No application for permission to establish a branch office by a Federal association shall be considered or processed, except to determine the association's eligibility under the provisions of this paragraph (b), if, at the date on which such application is filed with the Board:

(1) The association has not been in operation for a period of at least 3 years;

(2) Less than 12 months have expired from the date of publication of the notice of application for the association's most recently approved branch, if not yet opened;

(3) The association does not submit in support of its application evidence giving reasonable assurance that the proposed branch office, if approved, will be opened within 21 months after the date on which the application is filed, or, if the proposed branch office is to be located in a shopping center having not less than 400,000 square feet of shopping space, within 36 months after such date;

(4) The association has on file any other application for permission to establish a branch office with respect to which action by the Board is pending;

(5) A period of at least 9 months has not elapsed since disapproval by the Board of an application by the association for permission to establish a branch office to serve any substantial part of the same savings service area as determined by the Supervisory Agent; or

(6) The sum of reserves and surplus is less than 3 percent of savings accounts;

Provided, however, That the Board may, with respect to a particular application, determine to consider and process that application without regard to the eligibility requirements contained in subparagraphs (2) and (4) of this paragraph.

(c) *Application form; supporting information.* An application for permission to establish a branch office shall be in form prescribed by the Board. Such application and prescribed "Outline of Information to be Submitted in Support of an Application for Permission to Establish (Maintain) a Branch Office" may be obtained from the Supervisory Agent. Information shall be furnished in support of the application in accordance with such Outline designed to show: (1) There is or will be at the time the branch is opened a necessity for the proposed branch office in the community to be served by it; (2) there is a reasonable probability of usefulness and success of the proposed branch office, and (3) the proposed branch office can be established without undue injury to properly conducted existing local thrift and home-financing institutions. The application shall include an estimate of the annual income and expenses of the proposed branch office and of the annual volume of business to be transacted by it, and a statement of the functions to be performed at such office and of the personnel and office facilities to be provided for the operation of the office. If the sum of reserves and surplus is at least 3 percent but less than 4 percent of savings accounts, the association shall submit evidence with the application, in such form and upon such terms and conditions as the Board may prescribe, that: (4) Savings accounts will be pledged in an amount not less than the difference between 4 percent of savings accounts and the sum of reserves and surplus; and (5) the pledged accounts will be held in escrow by the Federal Home Loan Bank of the district in which the association is located, until the sum of reserves and surplus is not less than 4 percent of savings accounts or until, in the judgment of the Board, the need for the pledge and escrow no longer exists. An application shall be deemed to be complete when the foregoing requirements of this paragraph (c) have been met.

(d) *Filing of application; proposed budget.* An application for permission to establish a branch office shall be filed with the Board by delivering six copies thereof, together with six copies of all supporting information, to the Supervisory Agent. In addition to and concurrently with the filing of such application and supporting information, the applicant shall deliver to the Supervisory Agent, for confidential use by the Board, two copies of a proposed budget of the association.

(e) *Amendment of application; filing of additional information.* After a complete application for permission to establish a branch office has been filed with the Board, and prior to the date of advice by the Supervisory Agent to the applicant to publish notice of the filing of the application pursuant to paragraph (g) of this section, the applicant may file additional information in support of the application and may amend the application; after the date of such advice, the applicant may not amend the application or file any additional supporting information unless requested to do so by the Supervisory Agent or otherwise by or on behalf of the Board.

(f) *Supervisory objection.* No application for permission to establish a branch office shall be approved if, in the opinion of the Board, the policies, condition, or operation of the applicant association afford a basis for supervisory objection to the application.

(g) *Processing of application by Supervisory Agent; public notice; inspection.* (1) Upon determination by the Supervisory Agent that an application for permission to establish a branch office is complete, that the association is eligible, and if it has been preliminarily determined that there is no basis for supervisory objection to approval of the application, the Supervisory Agent shall advise the applicant, in writing, to publish within 15 days from the date of such advice, in a newspaper printed in the English language and having general circulation in the community to be served by the proposed branch office, a notice of the filing of the application in the following form:

NOTICE OF FILING OF BRANCH OFFICE APPLICATION

Notice is hereby given that, pursuant to the provisions of § 545.14 of the rules and regulations for the Federal Savings and Loan System, the

---
(Federal Savings and Loan Association)
---, ---, has filed an ap-
(City) (State)
plication with the Federal Home Loan Bank Board for permission to establish a branch office at, or in the immediate vicinity of

---
(Street address)
---, ---. The application
(City) (State)
has been delivered to the office of the Supervisory Agent of the said Board, located at the Federal Home Loan Bank of ---,
(City)

(Street address)
---. Any person may file communi-
(City)
cations, including briefs, in favor or in protest of said application at the aforesaid office of the Supervisory Agent within 10 days (or within 30 days if advice is filed within the first 10 days stating that more time is needed to furnish additional information) after the date of this publication. Six copies of any communication should be filed. The application and all communications in favor or in protest thereof are available for inspection by any person at the aforesaid office of the Supervisory Agent.

(Federal Savings and Loan Association)

(2) Promptly after publication of the notice, the applicant shall transmit two copies thereof to the Supervisory Agent accompanied by two copies of a publisher's affidavit of publication.

(3) Within 10 days (or within 30 days if advice is filed within the first 10 days stating that more time is needed to furnish additional information) after the date of publication of said notice, any person may file, at the office of the Supervisory Agent designated in the notice, communications, including briefs, in favor or in protest of the application. In the event any communication is filed in protest of the application, the applicant may file information relevant to such protest within 15 days after the last date for filing communications pursuant to the preceding sentence or waive the right to file such information. Information may be submitted in connection with an application only as provided in this section, unless additional information is requested by the Supervisory Agent or otherwise by or on behalf of the Board. Six copies shall be furnished of any communication or information filed pursuant to this subparagraph.

(4) The application, together with all communications in favor or in protest thereof, shall be available at the office of the Supervisory Agent during regular working hours for inspection by any person after the issuance to the applicant of advice to publish a notice. Prior thereto, the application and the fact that it has been filed shall be held as confidential.

(h) *Oral argument*—(1) *General provisions.* Oral argument on the merits of any application filed pursuant to this section shall be heard upon the written request of an applicant or of any person who has filed a communication in protest of an application within the time specified in subparagraph (3) of paragraph (g) of this section, if such request is received by the Supervisory Agent within 10 days after the expiration of the time specified in said subparagraph for filing communications in protest of an application. Such oral argument shall also be heard if the Supervisory Agent, after review of the application and other pertinent information, considers it desirable. When oral argument is to be held, the Supervisory Agent shall mail a notice, fixing the time and place thereof, to the applicant and to all persons who have filed a communication in favor or in protest of the application. Such oral argument shall be scheduled not less than 10 days after the mailing of such notice.

(2) *Procedure.* The Supervisory Agent, or any other person designated by the Board, shall have authority to hear oral argument and determine all matters relating to the conduct of such oral argument. The oral argument with respect to any such application may be made in person or by authorized representatives, but the oral argument should be based on written information which has been filed in connection with the application. A reasonable time shall be allowed for oral argument, but, unless waived, not less than 1 hour shall be allowed for all oral argument against an application and not less than 1 hour shall be allowed for all oral argument in favor of an application. A transcript shall be made of any oral argument and shall be included in the application file.

(i) *Branch office incidental to conversion or merger.* A Federal association into which an existing institution is converted shall not thereafter maintain any office of the predecessor institution as a branch office of such Federal association, and a Federal association shall not maintain any office of another institution which is absorbed by merger, without prior written approval by the Board of an application by the association for permission to maintain such office. Such application shall be in form prescribed by the Board and shall be filed at the same time as a preliminary application for conversion is submitted to the Board pursuant to § 543.9 of this chapter or at the same time as an application for approval by the Board of a merger is submitted pursuant to § 546.2 of this chapter, and shall be processed in accordance with the provisions of this section with respect to applications for permission to establish a branch office, with the following exceptions:

(1) The provisions of this section with respect to public notice shall be applicable only in cases in which it is so determined by or on behalf of the Board, and the Supervisory Agent shall not advise an applicant association to publish notice pursuant to paragraph (g) of this section unless so instructed by or on behalf of the Board;

(2) The eligibility requirements of paragraph (b) of this section shall not be applicable to such application.

(j) *Applicability of section.* The provisions of this section in effect before March 9, 1970, shall remain in full force and effect as to any application filed prior to such date. However, by agreement of an applicant and all persons who filed written statements in protest of any application, oral argument provided for in paragraph (f) of this section, unless otherwise ordered by the Board, may be held in lieu of any hearing not yet held pursuant to this section as in effect prior to March 9, 1970.

4. Part 545 is amended by revising § 545.14–4 thereof, to read as follows:

§ 545.14–4 Mobile facility.

(a) *General provisions.* (1) All requests by a Federal association for advice or instructions with respect to any matter arising under this section shall be addressed to the Board's Supervisory Agent.

(2) As used in this section, the term "Supervisory Agent" means the President of the Federal Home Loan Bank of the district in which the applicant association is located or any other officer or employee of such bank designated by the Board as agent as provided by § 501.10 or § 501.11 of this chapter. All recommendations by Supervisory Agents and by officers and employees of the Board in connection with applications for permission to establish and operate mobile facilities shall be deemed to be privileged and confidential and subject to the provisions of § 505.6 of this chapter.

(3) A Federal association shall not establish a mobile facility without prior written approval by the Board. Decisions on all applications for permission to establish a mobile facility will be made by the Board. In the event of approval of such an application, the Board may require as a condition of approval that the mobile facility be opened within such period, not less than 6 months, as may be fixed by the Board.

(b) *Eligibility.* No application for permission to establish a mobile facility by a Federal association shall be considered or processed, except to determine the association's eligibility under the provisions of this paragraph (b), if, at the date on which such application is filed with the Board:

(1) The association has not been in operation for a period of at least 3 years;

(2) Less than 12 months have expired from the date of publication of the notice of application for the association's most recently approved mobile facility, if not yet opened;

(3) The association does not submit in support of its application evidence giving reasonable assurance that the proposed mobile facility, if approved, will be opened within 15 months after the date on which the application is filed;

(4) The association has on file any other application for permission to establish a mobile facility with respect to which action by the Board is pending;

(5) A period of at least 9 months has not elapsed since disapproval by the Board of an application by the association for permission to establish a mobile facility to serve any substantial part of the same savings service area as determined by the Supervisory Agent; or

(6) The sum of reserves and surplus is less than 3 percent of savings accounts.

(c) *Conditions for establishing and operating a mobile facility.* In order to provide savings and loan services in areas which are not otherwise provided with such services locally, a Federal association may establish and operate a mobile facility, subject to the following requirements and limitations:

(1) Such facility shall be operated only at locations approved by the Board, each of which shall at all times be appropriately identified at the site;

(2) The mobile facility shall be established and operated at two or more locations, each of which, at the time of filing of the application for permission to establish and operate the mobile facility, shall be more than 10 miles from the locations of any home or branch office or agency of any other institution the accounts of which are insured by the Federal Savings and Loan Insurance Corporation;

(3) Any such facility shall be open for business at the same location on the same day or days (not to exceed 2 days) of each week, during such hours, aggregating a total of not less than 4 hours a day, as the association's board of directors may from time to time determine;

(4) Any business of the association, as authorized by its board of directors, may be transacted at such facility, and a detailed record of the transactions of each such facility shall be maintained as provided by § 545.20;

(5) The mobile equipment used in the establishment and operation of such facility shall not remain at any location while such facility is not open for business, except that such equipment may be at any approved location on the night before and the night following a day on which such facility is open for business; and

(6) Without prior approval by the Board, operation of such facility shall not be continued at any location after the expiration of such period of time as the Board may prescribe with respect to operation of the facility at such location.

(d) *Application form; supporting information.* An application for permission to establish and operate a mobile facility shall be in form prescribed by the Board and shall be supported in accordance with the prescribed "Outline of Information to be Submitted in Support of an Application for Permission to Establish and Operate a Mobile Facility." Such application shall show that there is a need for such facility at each proposed location and that it is not feasible to establish a full-time office at any such location. Further, if the sum of reserves and surplus is at least 3 percent but less than 4 percent of savings accounts, the association shall submit evidence with the application in such form and upon such terms and conditions as the Board may prescribe, that: (1) Savings accounts will be pledged in an amount not less than the difference between 4 percent of savings accounts and the sum of reserves and surplus; and (2) the pledged accounts will be held in escrow by the Federal Home Loan Bank of the district in which the association is located, until the sum of reserves and surplus is not less than 4 percent of savings accounts or until, in the judgment of the Board, the need for the pledge and escrow no longer exists. An application shall be deemed to be complete when the foregoing requirements of this paragraph (d) have been met.

(e) *Filing of application.* An application for permission to establish and operate a mobile facility shall be filed with the Board by delivering six copies thereof, together with six copies of all supporting information, to the Supervisory Agent.

(f) *Amendment of application; filing of additional information.* After an application for permission to establish and operate a mobile facility has been filed with the Board, and prior to the date of advice by the Supervisory Agent to the applicant to publish notice of the filing of the application pursuant to paragraph (h) of this section, the applicant may file additional information in support of the application and may amend the application; after the date of such advice, the applicant may not amend the application or file any additional supporting information unless requested to do so by the Supervisory Agent or otherwise by or on behalf of the Board.

(g) *Supervisory objection.* No application for permission to establish and operate a mobile facility shall be approved if, in the opinion of the Board, the policies, condition, or operation of the applicant association afford a basis for supervisory objection to the application.

(h) *Processing of application by Supervisory Agent; public notice; inspection.* (1) Upon determination by the Supervisory Agent that an application for permission to establish and operate a mobile facility is complete, that the association is eligible, and if it has been preliminarily determined that there is no basis for supervisory objection to the application, the Supervisory Agent shall advise the applicant, in writing, to publish within 15 days from the date of such advice, in a newspaper printed in the English language and having general circulation in the community to be served by the proposed mobile facility, a notice of the filing of the application in the following form:

NOTICE OF FILING OF APPLICATION FOR PERMISSION TO ESTABLISH AND OPERATE A MOBILE FACILITY

Notice is hereby given that, pursuant to the provisions of § 545.14–4 of the rules and regulations for the Federal Savings and Loan System, the _____ Federal Savings and Loan Association_____, _____ has filed
(City) (State)
application with the Federal Home Loan Bank Board for permission to establish and operate a mobile facility at the following locations: _____, _____,
(Street address) (City)
_____. The application has been
(State)
delivered to the office of the Supervisory Agent of the said Board, located at the Federal Home Loan Bank of _____, _____,
(City) (Street address)
_____, _____. Any
(City) (State)
person may file communications, including briefs, in favor or in protest of said application at the aforesaid office of the Supervisory Agent within 10 days (or within 30 days if advice is filed within the first 10 days stating that more time is needed to furnish additional information) after the date of this publication. Six copies of any communication should be filed. The application and all communications in favor or in protest thereof are available for inspection by any person at the aforesaid office of the Supervisory Agent.

_____
(Federal Savings and Loan Association)

(2) Promptly after publication of the notice, the applicant shall transmit two copies thereof to the Supervisory Agent accompanied by two copies of a publisher's affidavit of publication.

(3) Within 10 days (or within 30 days if advice is filed within the first 10 days stating that more time is needed to furnish additional information) after the date of publication of said notice, any person may file, at the office of the Supervisory Agent designated in the notice, communications, including briefs, in favor or in protest of the application. In the event any communication is filed in protest of the application, the applicant may file information relevant to such protest within 15 days after the last date for filing communications pursuant to the preceding sentence or waive the right to file such information. Information may be submitted in connection with an application only as provided in this section, unless additional information is requested by the Supervisory Agent or otherwise by or on behalf of the Board. Six copies shall be furnished of any communication or information filed pursuant to this subparagraph.

(4) The application, together with all communications in favor or in protest thereof, shall be available at the office of the Supervisory Agent during regular working hours for inspection by any person after the issuance to the applicant of advice to publish a notice. Prior thereto, the application and the fact that it has been filed shall be held as confidential.

(i) *Oral argument*—(1) *General provisions.* Oral argument on the merits of any application filed pursuant to this section shall be heard upon the written request of an applicant or of any person who has filed a communication in protest of an application within the time specified in subparagraph (3) of paragraph (h) of this section, if such request is received by the Supervisory Agent within 10 days after the expiration of the time specified in said subparagraph for filing communications in protest of an application. Such oral argument shall also be heard if the Supervisory Agent, after review of the application and other pertinent information, considers it desirable. When oral argument is to be held, the Supervisory Agent shall mail a notice, fixing the time and place thereof, to the applicant and to all persons who have filed a communication in favor or in protest of the application. Such oral argument shall be scheduled not less than 10 days after the mailing of such notice.

(2) *Procedure.* The Supervisory Agent, or any other person designated by the Board, shall have authority to hear oral argument and determine all matters relating to the conduct of such oral argument. The oral argument with respect to any such application may be made in person or by authorized representatives, but the oral argument should be based on written information which has been filed in connection with the application. A reasonable time shall be allowed for oral argument, but, unless waived, not less than 1 hour shall be allowed for all oral argument against an application and not less than 1 hour shall be allowed for all oral argument in favor of an application. A transcript shall be made of any oral argument and shall be included in the application file.

(j) *Mobile facility incidental to conversion or merger.* A Federal association into which an existing institution is converted shall not thereafter maintain any mobile facility of the predecessor institution as a mobile facility of such Federal

association, and a Federal association shall not maintain any mobile facility of another institution which is absorbed by merger, without prior written approval by the Board of an application by the association for permission to maintain such mobile facility. Such application shall be in form prescribed by the Board and shall be filed at the same time as a preliminary application for conversion is submitted to the Board pursuant to § 543.9 of this chapter or at the same time as an application for approval by the Board of a merger is submitted pursuant to § 546.2 of this chapter, and shall be processed in accordance with the provisions of this section with respect to applications for permission to establish and operate a mobile facility except that the provisions of this section with respect to public notice shall be applicable only in cases in which it is so determined by or on behalf of the Board, and the Supervisory Agent shall not advise an applicant association to publish notice pursuant to paragraph (h) of this section unless so instructed by or on behalf of the Board; and the eligibility requirements of paragraph (b) of this section shall not be applicable to such application.

(k) *Applicability of section.* The provisions of this section in effect before March 9, 1970, shall remain in full force and effect as to any application filed prior to such date. However, by agreement of an applicant and all persons who filed written statements in protest of any application, oral argument provided for in paragraph (f) of this section, unless otherwise ordered by the Board, may be held in lieu of any hearing not yet held pursuant to this section as in effect prior to March 9, 1970.

PART 556—STATEMENTS OF POLICY

§ 556.4 [Rescinded]

5. Part 556 is amended by rescinding § 556.4 thereof, a statement of policy relating to attendance at certain hearings.

(Sec. 5, 48 Stat. 132, as amended; 12 U.S.C. 1464. Reorg. Plan No. 3 of 1947, 12 F.R. 4981, 3 CFR, 1943–1948 Comp., p. 1071)

By the Federal Home Loan Bank Board.

[SEAL] JACK CARTER, *Secretary.*

[F.R. Doc. 70-1399; Filed, Feb. 3, 1970; 8:49 a.m.]

SUBCHAPTER D—FEDERAL SAVINGS AND LOAN INSURANCE CORPORATION

[No. 23,752]

HEARINGS AND PROCEDURE ON APPLICATIONS FOR INSURANCE OF ACCOUNTS

JANUARY 27, 1970.

Resolved that, notice and public procedure having been duly afforded (34 F.R. 17452) and all relevant material presented or available having been considered by it, the Federal Home Loan Bank Board, upon the basis of such consideration, determines to amend Parts 562, 567, and 571 of the Rules and Regulations for Insurance of Accounts (12 CFR Parts 562, 567, and 571) for the purpose of making changes in the procedures used to process applications for insurance of accounts, which changes are designed to simplify such procedures and to expedite the decisional process on such applications. Accordingly, the following amendments are hereby adopted, effective March 9, 1970:

PART 562—APPLICATION FOR INSURANCE OF ACCOUNTS

1. Part 562 is amended by revising §§ 562.3, 562.4, 562.5 and 562.7 thereof, and by adding a new § 562.7–1, to read as follows:

§ 562.3 Filing and amendment of application.

An application for insurance of accounts shall be filed with the Corporation by delivering six copies thereof, together with six copies of all supporting information, to the Supervisory Agent. After an application for insurance of accounts has been filed with the Corporation, and prior to the date of advice by the Supervisory Agent to the applicant to publish notice of the filing of the application pursuant to § 562.4, the applicant may file additional information in support of the application and may amend it; after the date of such advice the applicant may not amend the application or file any additional supporting information unless requested to do so by the Supervisory Agent or otherwise by or on behalf of the Corporation.

§ 562.4 Processing of application by supervisory agent; public notice; inspection.

(a) *Public notice.* Upon determination by the Supervisory Agent that an application for insurance of accounts is complete, the Supervisory Agent shall advise the applicant, in writing, to publish, within 15 days from the date of such advice, in a newspaper printed in the English language and having general circulation in the community proposed to be served by the applicant as an insured institution, a notice of the filing of the application in the following form:

NOTICE OF FILING OF APPLICATIONS FOR INSURANCE OF ACCOUNTS

Notice is hereby given that, pursuant to the provisions of Part 562 of the rules and regulations for insurance of accounts (fill in the name of applicant institution or names of organizers who are applicants in cases in which no charter has yet been issued) has (have) filed with the Federal Savings and Loan Insurance Corporation (fill in either (1) an application for insurance of accounts or (2) a request for a commitment to insure accounts) of an institution located or to be located at, or in the immediate vicinity of _____, _____ (Street address), _____, _____. The application (City) (State) has been delivered to the office of the Supervisory Agent of the said Board, located at the Federal Home Loan Bank of _____ (City), _____ (Street address), _____ (City).

Any person may file communications, including briefs, in favor or in protest of said application at the aforesaid office of the Supervisory Agent within 10 days (or within 30 days if advice is filed within the first 10 days stating that more time is needed to furnish additional information) after the date of this publication. Six copies of any communication should be filed. The application and all communications in favor or in protest thereof are available for inspection by any person at the aforesaid office of the Supervisory Agent.

(b) *Filing of communications by others.* Within 10 days (or within 30 days if advice is filed within the first 10 days stating that more time is needed to furnish additional information) after the date of publication of said notice, any person may file, at the office of the Supervisory Agent designated in the notice, communications, including briefs, in favor or in protest of the application. In the event any communication is filed in protest of the application, the applicant may file information relevant to such protest within 15 days after the last date for filing communications pursuant to the preceding sentence or waive the right to file such information. Information may be submitted in connection with an application only as provided in this section, unless additional information is requested by the Supervisory Agent or otherwise by or behalf of the Board. Six copies shall be furnished of any communication or information filed pursuant to this subparagraph.

(c) *Proof of publication.* Promptly after publication of the notice, the applicant shall transmit two copies thereof to the Supervisory Agent accompanied by two copies of a publisher's affidavit of publication.

(d) *Inspection.* The application, together with communications in favor or in protest thereof, shall be available at the office of the Supervisory Agent during regular working hours for inspection by any person after the issuance to the applicant of advice to publish a notice. Prior thereto, the application and the fact that it has been filed shall be held as confidential.

§ 562.5 Oral argument.

(a) *General provisions.* Oral argument on the merits of any application filed pursuant to this section shall be heard upon the written request of an applicant or of any person who has filed a communication in protest of an application within the time specified in paragraph (b) of § 562.4, if such request is received by the Supervisory Agent within 10 days after the expiration of the time specified in said paragraph for filing communications in protest of an application. Such oral argument shall also be heard if the Supervisory Agent, after review of the application and other pertinent information, considers it desirable. When oral argument is to be held, the Supervisory Agent shall mail a notice, fixing the time and place thereof, to the applicants and to all persons who have filed a communication in favor or in protest of the application. Such oral argument shall be scheduled not less than 10 days after the mailing of such notice.

(b) *Procedure.* The Supervisory Agent, or any other person designated by the Board, shall have authority to hear oral argument and determine all matters relating to the conduct of such oral argument. The oral argument with respect to any such application may be made in person or by authorized representatives, but the oral argument should be based on written information which has been filed in connection with the application. A reasonable time shall be allowed for oral argument, but, unless waived, not less than 1 hour shall be allowed for all oral argument against an application and not less than 1 hour shall be allowed for all oral argument in favor of an application. A transcript shall be made of any oral argument and shall be included in the application file.

§ 562.7 **Action by Corporation.**

Decisions of the Corporation on all applications for insurance of accounts will be made by action of the Board. The Corporation's approval of an application for insurance of accounts or of a request for a commitment to insure accounts may be conditioned by the Corporation upon submission of evidence satisfactory to the Corporation that the applicant has complied in a manner satisfactory to the Corporation with such conditions as are deemed necessary to enable the applicant to qualify for insurance. Failure by an applicant to comply with conditions imposed by the Corporation within the time fixed for such compliance, or within any extended time as the Corporation may fix, will result in the withdrawal of the conditional approval. Any subsequent application from such applicant shall be treated in the same manner as a new application.

§ 562.7–1 **Applicability of part.**

The provisions of this part in effect before March 9, 1970 shall remain in full force and effect as to any application filed prior to such date. However, by agreement of an applicant and all persons who filed written statements in protest of any application, oral argument provided for in § 562.5, unless otherwise ordered by the Board, may be held in lieu of any hearing not yet held pursuant to this part as in effect prior to March 9, 1970.

PART 567—AMENDMENT OF RULES AND REGULATIONS

§ 567.2 [Revoked]

2. Part 567 is amended by revising the heading thereof to read as set forth above and by revoking § 567.2 thereof, relating to hearings.

PART 571—STATEMENTS OF POLICY

§ 571.6 [Rescinded]

3. Part 571 is amended by rescinding § 571.6 thereof, a statement of policy relating to attendance at hearings on applications for insurance of accounts.

(Secs. 402, 403, 48 Stat. 1256, 1257, as amended; 12 U.S.C. 1725, 1726. Reorg. Plan No. 3 of 1947, 12 F.R. 4981, 3 CFR, 1943–1948 Comp., p. 1071)

By the Federal Home Loan Bank Board.

[SEAL] JACK CARTER, *Secretary.*

[F.R. Doc. 70–1400; Filed, Feb. 3, 1970; 8:49 a.m.]

SUBCHAPTER E—DISTRICT OF COLUMBIA SAVINGS AND LOAN OFFICES

[No. 23,753]

PART 582—OFFICES

Procedure on Applications for Branch Offices

JANUARY 27, 1970.

Resolved that, notice and public procedure having been duly afforded (34 F.R. 17457) and all relevant material presented or available having been considered by it, the Federal Home Loan Bank Board, upon the basis of such consideration, determines to amend § 582.1 of the Regulations for District of Columbia Savings and Loan Offices (12 CFR 582.1) for the purpose of making changes in the procedures used to process applications for branch offices, which changes are designed to simplify such procedures and to expedite the decisional process on such applications. Accordingly, the Federal Home Loan Bank Board hereby amends said § 582.1 by revising it to read as follows, effective March 9, 1970:

§ 582.1 **Branch offices.**

(a) *General provisions.* (1) An association shall not establish a branch office in the District of Columbia without prior written approval by the Board and an association which is incorporated or organized under the laws of the District of Columbia shall not establish a branch office elsewhere without prior written approval by the Board. Determination by an association to make an application for permission to establish a branch office shall be evidenced by a resolution duly adopted by the association's board of directors. The making, filing, and processing of, and action on, an application for permission to establish a branch office shall be in accordance with this section. Decisions on all such applications will be made by the Board. In the event of approval of such an application, the Board may require as a condition of approval that the branch office be opened within such period, not less than 6 months, as may be fixed by the Board.

(2) All requests by an association for advice or instruction with respect to any matter arising under this section shall be addressed to the Board's Supervisory Agent. All recommendations by Supervisory Agents and by officers and employees of the Board in connection with branch office applications shall be deemed to be privileged and confidential and subject to the provisions of § 505.6 of this chapter.

(b) *Eligibility.* No application for permission to establish a branch office by an association shall be considered or processed, except to determine the association's eligibility under the provisions of this paragraph (b), if, at the date on which such application is filed with the Board:

(1) The association has not been in operation for a period of at least 3 years;

(2) Less than 12 months have expired from the date of publication of the notice of application for the association's most recently approved branch, if not yet opened;

(3) The association does not submit in support of its application evidence giving reasonable assurance that the proposed branch office, if approved, will be opened within 21 months after the date on which the application is filed, or, if the proposed branch office is to be located in a shopping center having not less than 400,000 square feet of shopping space, within 36 months after such date;

(4) The association has on file any other application for permission to establish a branch office with respect to which action by the Board is pending;

(5) A period of at least 9 months has not elapsed since disapproval by the Board of an application by the association for permission to establish a branch office to serve any substantial part of the same savings service area as determined by the Supervisory Agent; or

(6) The sum of reserves and surplus is less than 3 percent of savings accounts;

Provided, however, That the Board may, with respect to a particular application, determine to consider and process that application without regard to the eligibility requirements contained in subparagraphs (2) and (4) of this paragraph.

(c) *Application form; supporting information.* An application for permission to establish a branch office shall be in form prescribed by the Board. An association may obtain from the Supervisory Agent the prescribed application form and "Outline of Information to be Submitted in Support of an Application for Permission to Establish (Maintain) a Branch Office." Information shall be furnished in support of the application in accordance with such outline designed to show: (1) There is a necessity for the proposed branch office in the community to be served by it; (2) there is a reasonable probability of usefulness and success of the proposed branch office; and (3) the proposed branch office can be established without undue injury to properly conducted existing local thrift and home-financing institutions. The application shall include an estimate of the annual income and expenses of the proposed branch office and of the annual volume of business to be transacted by it, and a statement of the functions to be performed at such office and of the personnel and office facilities to be provided for the operation of the office. An application shall be deemed to be complete when the foregoing requirements of this paragraph (c) have been met.

(d) *Filing of application; proposed budget.* An application for permission to establish a branch office shall be filed with the Board by delivering six copies thereof, together with six copies of all supporting information, to the Supervisory Agent. In addition to and concurrently with the filing of such application and supporting information, the applicant shall deliver to the Supervisory Agent, for confidential use by the Board, two copies of a proposed budget of the association.

(e) *Amendment of application; filing of additional information.* After a complete application for permission to establish a branch office has been filed with the Board, and prior to the date of advice by the Supervisory Agent to the applicant to publish notice of the filing of the application pursuant to paragraph (g) of this section, the applicant may file additional information in support of the application and may amend the application; after the date of such advice, the applicant may not amend the application or file any additional supporting information unless requested to do so by the Supervisory Agent or otherwise by or on behalf of the Board.

(f) *Supervisory objection.* No application for permission to establish a branch office shall be approved if, in the opinion of the Board, the policies, condition, or operation of the applicant association afford a basis for supervisory objection to the application.

(g) *Processing of application by Supervisory Agent; public notice; inspection.* (1) Upon determination by the Supervisory Agent that an application for permission to establish a branch office is complete, that the association is eligible, and if it has been preliminarily determined that there is no basis for supervisory objection to approval of the application, the Supervisory Agent shall advise the applicant, in writing, to publish, within 15 days from the date of such advice, in a newspaper printed in the English language and having general circulation in the community to be served by the proposed branch office, a notice of the filing of the application in the following form:

NOTICE OF FILING OF BRANCH OFFICE APPLICATION

Notice is hereby given that, pursuant to the provisions of § 582.1 of Chapter V (E), Title 12 (Banks and Banking) of the Code of Federal Regulations, the_____

_____
(Association)

has filed an application with the Federal Home Loan Bank Board for permission to establish a branch office at, or in the immediate vicinity of_____,

_____, _____,
(Street address) (City)

_____.
(State)

The application has been delivered to the office of the Supervisory Agent of the said Board, located at the Federal Home Loan Bank of _____, _____,
(City) (Street address)

_____.
(City)

Any person may file communications, including briefs, in favor or in protest of said application at the aforesaid office of the Supervisory Agent within 10 days (or within 30 days if advice is filed within the first 10 days stating that more time is needed to furnish additional information) after the date of this publication. Six copies of any communication should be filed. The application, together with all communications in favor or in protest thereof, are available for inspection by any person at the aforesaid office of the Supervisory Agent.

_____
(Association)

(2) Within 10 days (or within 30 days if advice is filed within the first 10 days stating that more time is needed to furnish additional information) after the date of publication of said notice, any person may file, at the office of the Supervisory Agent designated in the notice, communications, including briefs, in favor or in protest of the application. In the event any communication is filed in protest of the application, the applicant may file information relevant to such protest within 15 days after the last date for filing communications pursuant to the preceding sentence or waive the right to file such information. Information may be submitted in connection with an application only as provided in this section, unless additional information is requested by the Supervisory Agent or otherwise by or on behalf of the Board. Six copies shall be furnished of any communications or information filed pursuant to this subparagraph.

(3) Promptly after publication of the notice, the applicant shall transmit two copies thereof to the Supervisory Agent accompanied by two copies of a publisher's affidavit of publication.

(4) The application, together with all communications in favor or in protest thereof, shall be available at the office of the Supervisory Agent during regular working hours for inspection by any person after the issuance to the applicant of advice to publish a notice. Prior thereto, the application and the fact that it has been filed shall be held as confidential.

(h) *Oral argument*—(1) *General provisions.* Oral argument on the merits of any application filed pursuant to this section shall be heard upon the written request of an applicant or of any person who has filed a communication in protest of an application within the time specified in subparagraph (2) of paragraph (g) of this section, if such request is received by the Supervisory Agent within 10 days after the expiration of the time specified in said subparagraph for filing communications in protest of an application. Such oral argument shall also be heard if the Supervisory Agent, after review of the application and other pertinent information, considers it desirable. When oral argument is to be held, the Supervisory Agent shall mail a notice, fixing the time and place thereof, to the applicant and to all persons who have filed a communication in favor or in protest of the application. Such oral argument shall be scheduled not less than 10 days after the mailing of such notice.

(2) *Procedure.* The Supervisory Agent, or any other person designated by the Board, shall have authority to hear oral argument and determine all matters relating to the conduct of such oral argument. The oral argument with respect to any such application may be made in person or by authorized representatives, but the oral argument should be based on written information which has been filed in connection with the application. A reasonable time shall be allowed for oral argument, but, unless waived, not less than 1 hour shall be allowed for all oral argument against an application and not less than 1 hour shall be allowed for all argument in favor of an application. A transcript shall be made of any oral argument and shall be included in the application file.

(i) *Branch office incidental to merger.* No association shall maintain in the District of Columbia any office of another institution which is hereafter absorbed by merger, and no association which is incorporated or organized under the laws of the District of Columbia shall maintain any office of another institution which is hereafter absorbed by merger, without prior written approval by the Board of an application by the association for permission to maintain such office. Such application shall be in form prescribed by the Board and shall be processed in accordance with the provisions of this section with respect to applications for permission to establish a branch office, with the following exceptions:

(1) The provisions of this section with respect to public notice shall be applicable only in cases in which it is so determined by or on behalf of the Board, and the Supervisory Agent shall not advise an applicant association to publish notice pursuant to paragraph (g) of this section unless so instructed by or on behalf of the Board; and

(2) The eligibility requirements of paragraph (b) of this section shall not be applicable to such application.

(j) *Applicability of section.* The provisions of this section in effect before March 9, 1970, shall remain in full force and effect as to any application filed prior to such date. However, by agreement of an applicant and all persons who filed written statements in protest of any application, oral argument provided for in paragraph (h) of this section, unless otherwise ordered by the Board, may be held in lieu of any hearing not yet held pursuant to this section as in effect prior to March 9, 1970.

(Sec. 5, 48 Stat. 132, as amended; 12 U.S.C. 1464. Reorg. Plan No. 3 of 1947, 12 F.R. 4981, 3 CFR, 1943–1948 Comp., p. 1071)

By the Federal Home Loan Bank Board.

[SEAL] JACK CARTER, *Secretary.*

[F.R. Doc. 70-1401; Filed, Feb. 3, 1970; 8:49 a.m.]

Title 14—AERONAUTICS AND SPACE

Chapter I—Federal Aviation Administration, Department of Transportation

[Docket No. 70-CE-2-AD; Amdt. 39-935]

PART 39—AIRWORTHINESS DIRECTIVES

Beech Models 35 Series, 35-33 Series, 33 Series and 36 Airplanes

There have been reports of engine power losses on certain Beech Model 35, 35-33, 33 series and Model 36 airplanes caused by air entering the fuel lines due to inertial forces on the fuel in the wing tanks which uncovers the fuel tank outlet. As a result of tests performed jointly with the manufacturer, it has been determined that these inertial forces are generated during fast turns when on the ground or during prolonged slips in flight if fuel is being supplied to the engine from the critical tank. These forces and resultant power losses vary with the time and rate of turn or slip.

Since power losses during or immediately following takeoff are the most critical and tests have indicated that engine power losses can occur at various times during the takeoff run, an airworthiness directive is being issued prohibiting turning type takeoffs and takeoffs immediately following fast taxi turns. Also, as a result of the tests, prolonged slips resulted in power losses when slips were held for periods in excess of 20 seconds when the fuel tanks were less than half full. Since this is a controllable and variable condition and it takes more than 20 seconds for the engine to indicate power loss, this AD includes a warning to avoid prolonged slips of 20 seconds or more with fuel tanks less than half full. Also, this AD will require the installation of a placard reading:

Turning Type Takeoffs, and Takeoff Immediately Following Fast Taxi Turn Prohibited. Avoid Prolonged Slips (20 Seconds or More) With Fuel Tanks Less Than Half Full.

This AD will not apply to any current production Model 35, 35-33, 33 series and 36 airplanes or any other such airplane which have been retrofitted with anti-slosh main fuel tanks provided by the manufacturer. The differences in engine response between the fuel injection engine equipped models and the earlier carburetor engine equipped models are such that the earlier Model 35 airplanes are not included in this AD. Also, the test results indicate that the AD need not distinguish between the 20-gallon, the 25-gallon and the 40-gallon tank installations.

Since immediate corrective action is required in the interest of safety, and adoption of this amendment does not require extensive modification, compliance with the notice and public procedures provision of the Administrative Procedure Act is impracticable and good cause exists for making this amendment effective in less than thirty (30) days.

In consideration of the foregoing and pursuant to the authority delegated to me by the Administrator (31 F.R. 13697), § 39.13 of Part 39 of the Federal Aviation Regulations is amended by adding the following new AD.

BEECH. Applies to Models H35, equipped with fuel injection engines, J35, K35, M35, N35, P35, S35, S35-TC, V35, V35-TC, V35A, and V35A-TC, Serial Nos. D5062, D5331 through D-9068; Model 35R, Serial Nos. 25R1 and up; Models 35-33, 35-A33, 35-B33, 35-C33, E33, and F33, Serial Nos. CD1 through CD-1234; Models 35-C33A, E33A, and F33A, Serial Nos. CE-1 through CE-289; Model F33C, Serial Nos. CJ-26 and up; Model E33C, Serial Nos. CJ-1 and up; Model 36, Serial Nos. E-1 through E-184 airplanes, unless retrofitted with antislosh main fuel tanks.

Compliance: Required as indicated, unless already accomplished.

(A) Effective immediately, turning type takeoffs and a takeoff immediately following a fast taxi turn are prohibited. Avoid prolonged slips (20 seconds or more) with fuel tanks less than half full.

(B) Within 20 hours' time in service after the effective date of this AD, install a permanent type placard on the instrument panel in clear view of the pilot utilizing a minimum of ⅛-inch high letters, or at any equivalent location approved by an FAA Flight Standards Inspector, with the following wording:

"Turning Type Takeoffs, and Takeoff Immediately Following Fast Taxi Turn Prohibited. Avoid Prolonged Slips (20 Seconds or More) With Fuel Tanks Less Than Half Full."

NOTE: The operator may make and install the placard.

This amendment becomes effective February 5, 1970.

(Secs. 313(a), 601, 603, Federal Aviation Act of 1958, 49 U.S.C. 1354(a), 1421, 1423, sec. 6(c), Department of Transportation Act, 49 U.S.C. 1655(c))

Issued in Kansas City, Mo., on January 27, 1970.

EDWARD C. MARSH,
Director, Central Region.

[F.R. Doc. 70-1357; Filed, Feb. 3, 1970; 8:46 a.m.]

[Airspace Docket No. 69-WE-83]

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

Designation of Transition Area

On December 6, 1969, a notice of proposed rule making was published in the FEDERAL REGISTER (34 F.R. 19376) 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 Bishop 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 with the following change.

Change the FEDERAL REGISTER citation to read "In § 71.181 (35 F.R. 2134)."

Effective date. This amendment shall be effective 0901 G.m.t., April 2, 1970.

Issued in Los Angeles, Calif., on January 19, 1970.

LEE E. WARREN,
Acting Director, Western Region.

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

BISHOP, CALIF.

That airspace extending upward from 700 feet above the surface within a 5-mile radius of the Bishop VOR (lattitude 37°22'37" N., longitude 118°21'56" W.); that airspace extending upward from 1,200 feet above the surface within 8 miles southwest and 12 miles northeast of the Bishop VOR 156° and 336° radials, extending from 10 miles northwest to 22 miles southeast of the VOR; that airspace extending upward from 12,500 feet MSL within 5 miles each side of the Bishop VOR 341° radial extending from the VOR to V-244, within 5 miles each side of a direct course between the Bishop VOR and Lida Intersection, 42 miles 12,500 feet MSL, 10,500 feet MSL Lida Intersection, and within 5 miles each side of a direct course between Bishop VOR and Beatty, Nev., VOR 80 miles 12,500 feet MSL, 10,500 feet MSL Beatty.

[F.R. Doc. 70-1358; Filed, Feb. 3, 1970; 8:46 a.m.]

Title 16—COMMERCIAL PRACTICES

Chapter I—Federal Trade Commission

[Docket No. 8774 o]

PART 13—PROHIBITED TRADE PRACTICES

American Chinchilla Corp. et al.

Subpart—Advertising falsely or misleadingly: § 13.50 *Dealer or seller assistance;* § 13.60 *Earnings and profits;* § 13.70 *Fictitious or misleading guarantees;* § 13.175 *Quality of product or service.* Subpart—Misrepresenting oneself and goods—Goods: § 13.1608 *Dealer or seller assistance;* § 13.1615 *Earnings and profits;* § 13.1647 *Guarantees;* § 13.1715 *Quality.*

(Sec. 6, 38 Stat. 721; 15 U.S.C. 46. Interprets or applies sec. 5, 38 Stat. 719, as amended; 15 U.S.C. 45) [Cease and desist order, American Chinchilla Corp. et al., Nashville, Tenn., Docket No. 8774 o, Dec. 23, 1969]

In the Matter of American Chinchilla Corp., a Corporation, and Lowell Thomas Page and John C. Green, Jr., Individually and as Officers of Said Corporation, and Robert V. Fudge, Individually and as a Former Officer of Said Corporation, and Gardner F. Tinnin, Individually and as a Salesman for Said Corporation

Order adopting the decision of the hearing examiner which prohibits the corporate respondent and three individuals from making various misrepresentations in the sale of chinchilla breeding stock and dismissing the complaint as to respondent John C. Green, Jr.

The order to cease and desist, is as follows:

It is ordered, That respondents American Chinchilla Corp., a corporation, and its officers, and Lowell Thomas Page and John C. Green, Jr., individually and as officers of said corporation, and Robert V. Fudge, individually and as a former officer of said corporation, and Gardner F. Tinnin, individually and as a salesman for said corporation, and respondents' agents, representatives, and employees, directly or through any corporate or other device, in connection with the advertising, offering for sale, sale or distribution of chinchilla breeding stock or any other products, in commerce, as "commerce" is defined in the Federal Trade Commission Act, do forthwith cease and desist from:

A. Representing, directly or by implication, that:

1. It is commercially feasible to breed or raise chinchillas in homes, basements, garages or spare buildings, or other quarters or buildings unless in immediate conjunction therewith it is clearly and conspicuously disclosed that the represented quarters or buildings can only be adaptable to and suitable for the breeding and raising of chinchillas on a commercial basis if they have the requisite space, temperature, humidity, ventilation, and other environmental conditions.

2. Breeding chinchillas as a commercially profitable enterprise can be achieved without previous knowledge or experience in the breeding, caring for and raising of such animals.

3. Chinchillas are hardy animals or are not susceptible to disease.

4. Purchasers of respondents' chinchilla breeding stock will receive pedigreed or top quality chinchillas.

5. Each female chinchilla purchased from respondents and each female offspring will produce at least four live young per year.

6. The number of live offspring produced per female chinchilla is any number or range of numbers; or representing, in any manner, the past number or range of numbers of live offspring produced per female chinchilla of purchasers of respondents' breeding stock unless in fact the past number or range of numbers represented are those of a substantial number of purchasers and accurately reflect the number or range of numbers of live offspring produced per female chinchilla of these purchasers under circumstances similar to those of the purchaser to whom the representation is made.

7. Each female chinchilla purchased from respondents and each female offspring will produce successive litters of one to five live offspring at 111-day intervals.

8. The number of litters or sizes thereof produced per female chinchilla is any number or range thereof; or representing, in any manner, the past number or range of numbers of litters or sizes produced per female chinchilla of purchasers of respondents' breeding stock unless in fact the past number or range of numbers represented are those of a substantial number of purchasers and accurately reflect the number or range of numbers of litters or sizes thereof produced per female chinchilla of these purchasers under circumstances similar to those of the purchaser to whom the representation is made.

9. Pelts from the offspring of respondents' chinchilla breeding stock sell for an average price of $30 per pelt; or that pelts from the offspring of respondents' breeding stock generally sell from $15 to $65 each.

10. Chinchilla pelts from respondents' breeding stock will sell for any price, average price, or range of prices; or representing, in any manner, the past price, average price or range of prices of purchasers of respondents' breeding stock unless in fact the past price, average price or range of prices represented are those of a substantial number of purchasers and accurately reflect the price, average price or range of prices realized by these purchasers under circumstances similar to those of the purchaser to whom the representation is made.

11. A purchaser starting with six females and two males will have, from the sale of pelts, an annual income, earnings or profits of $10,000 in the fifth year after purchase.

12. Purchasers of respondents' breeding stock will realize earnings, profits or income in any amount or range of amounts; or representing, in any manner, the past earnings, profits or income of purchasers of respondents' breeding stock unless in fact the past earnings, profits or income represented are those of a substantial number of purchasers and accurately reflect the average earnings, profits or income of these purchasers under circumstances similar to those of the purchaser to whom the representation is made.

13. Breeding stock purchased from respondents is guaranteed or warranted without clearly and conspicuously disclosing the nature and extent of the guarantee, the manner in which the guarantor will perform thereunder and the identity of the guarantor.

14. Respondents' chinchillas are guaranteed unless respondents do in fact promptly fulfill all of their obligations and requirements set forth in or represented, directly or by implication, to be contained in any guarantee or warranty applicable to each and every chinchilla.

15. Purchasers of respondents' chinchilla breeding stock will receive service calls from respondents' service personnel four times a year for the first year after purchase of the animals or at any other interval or frequency unless purchasers do in fact receive the represented number of service calls at the represented interval or frequency.

16. Purchasers of respondents' chinchilla breeding stock are given guidance in the care and breeding of chinchillas or are furnished advice by respondents as to the breeding of chinchillas unless purchasers are actually given the represented guidance in the care and breeding of chinchillas and are furnished the represented advice by respondents as to the breeding of chinchillas.

17. Chinchillas or chinchilla pelts are in great demand; or that purchasers of respondents' breeding stock can expect to be able to sell the offspring or the pelts of the offspring of respondents' chinchillas because said chinchillas or pelts are in great demand.

18. Respondents will purchase all or any of the offspring raised by purchasers of respondents' breeding stock for from $30 to $75 per animal or for any other price or prices unless respondents do in fact purchase all the offspring offered by said purchasers at the prices and on the terms and conditions represented.

19. Respondents maintain facilities for or provide their purchasers with priming, pelting, or marketing services; or misrepresenting, in any manner, their facilities or services.

20. The assistance or advice furnished to purchasers of respondents' chinchilla breeding stock by respondents will enable purchasers to successfully breed or raise chinchillas as a commercially profitable enterprise.

B. 1. Misrepresenting, in any manner, the assistance, training, services or advice supplied by respondents to purchasers of their chinchilla breeding stock.

2. Misrepresenting, in any manner, the earnings or profits to purchasers or the quality or reproduction capacity of any chinchilla breeding stock.

C. Failing to deliver a copy of this order to cease and desist to all present and future salesmen and other persons engaged in the sale of the respondents' products or services and failing to secure from each such salesman or other person a signed statement acknowledging receipt of said order.

It is further ordered, That the respondent corporation shall forthwith distribute a copy of this order to each of its operating divisions.

The order of the Commission is as follows:

It is ordered, That, as to respondents American Chinchilla Corp., Lowell Thomas Page, Robert V. Fudge, and Gardner F. Tinnin, the initial decision of the hearing examiner be, and it hereby is, adopted as the decision of the Commission.

It is further ordered, That, as to respondent John C. Green, Jr., the complaint be, and it hereby is, dismissed.

Issued: December 23, 1969.

By the Commission.

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

[F.R. Doc. 70-1373; Filed, Feb. 3, 1970; 8:47 a.m.]

[Docket No. C-1666]

PART 13—PROHIBITED TRADE PRACTICES

Best Homes et al.

Subpart—Advertising falsely or misleadingly: § 13.35 *Condition of goods;*

§ 13.70 *Fictitious or misleading guarantees*; § 13.75 *Free goods or services*; § 13.155 *Prices:* 13.155–10 Bait; 13.-155–95 Terms and conditions. Subpart—Misrepresenting oneself and goods—Goods: § 13.1595 *Condition of goods*; § 13.1625 *Free goods or services*; § 13.-1647 *Guarantees*; Misrepresenting oneself and goods—Prices: § 13.1779 *Bait*; § 13.1795 *Coverage or extras.*

(Sec. 6, 38 Stat. 721; 15 U.S.C. 46. Interprets or applies sec. 5, 38 Stat. 719, as amended; 15 U.S.C. 45) [Cease and desist order, Best Homes et al., Center Square, Pa., Docket C–1666, Jan. 6, 1970]

In the Matter of Best Homes, a Partnership, and Best Builders of Pennsylvania, Inc., Classic Builders of Pennsylvania, Inc., Classic Homes, Inc., Best Quality Homes of New Jersey, Inc., and Classic Builders of New Jersey, Inc., Corporations, and Edward B. Meyers, and Irvin Robbins, Individually and as Co-partners Trading and Doing Business as Best Homes and as Officers of Said Corporations

Consent order requiring six contractors in the custom-built residential housing business located in Pennsylvania and New Jersey to cease using bait tactics, failing to quote terms on houses illustrated in brochures, implying that unfinished houses are complete, failing to include all items in quoted prices, using deceptive guarantees, and misrepresenting that certain extras are cost free.

The order to cease and desist, including further order requiring report of compliance therewith, is as follows:

It is ordered, That respondents Best Homes, a partnership, and Best Builders of Pennsylvania, Inc., Classic Builders of Pennsylvania, Inc., Classic Homes, Inc., Best Quality Homes of New Jersey, Inc., and Classic Builders of New Jersey, Inc., corporations, and their respective officers, and Edward B. Meyers, and Irvin Robbins, individually and as co-partners trading and doing business as Best Homes, or under any other trade name or names, and as officers of each of said corporations, and respondents' agents, representatives and employees, directly or through any corporate or other device, in connection with the advertising, offering for sale, sale or distribution or construction of houses, or other structures or products, in commerce, as "commerce" is defined in the Federal Trade Commission Act, do forthwith cease and desist from:

1. Using, in any manner, a sales plan, scheme or device wherein false, misleading or deceptive statements or representations are made in order to obtain leads or prospects for the sale of houses.

2. Making representations purporting to offer houses for sale when the purpose of the representation is not to sell the offered house but to obtain leads or prospects for the sale of other houses.

3. Representing, directly or by implication, that any houses are offered for sale when such offer is not a bona fide offer to sell such houses.

4. Representing, directly or by implication, that houses are offered for sale on certain stated terms unless such house may be purchased on the stated terms.

5. Illustrating or describing a higher priced home in conjunction with the terms of a lower priced home.

6. Failing to quote and to disclose in advertising and promotional material the terms for an illustrated or described home with equal size and conspicuousness as the terms quoted for any other home.

7. Representing, directly or by implication, that respondents' houses are complete, or finished to any degree of completeness, unless the house is completed or finished to the extent or degree represented.

8. Quoting prices, terms or conditions in advertising which does not include all of the significant features of the house or other products illustrated or described.

9. Representing, directly or by implication, that any of the respondents' houses or components of its houses are guaranteed unless the nature, extent and duration of the guarantee, the identity of the guarantor and the manner in which the guarantor will perform thereunder are clearly and conspicuously disclosed in immediate conjunction therewith: *Provided, however,* That this paragraph shall not apply to any now-existing copies of brochures which are distributed within 1 year following the effective date of this order.

10. Representing, directly or by implication, that appliances or other equipment, parts, or accessories are free or at no extra cost to purchasers of respondents' products, unless said appliances, equipment, parts, or accessories are free or without additional cost.

11. Failing to deliver a copy of this order to cease and desist to all present and future salesmen or other persons engaged in the sale of respondents' products or services, and failing to secure from each such salesman or other person a signed statement acknowledging receipt of said order.

12. Failing, after the acceptance of the initial report of compliance, to submit a report to the Commission, once every year during the next 3 years, describing all complaints respecting unauthorized representations, all complaints received from customers respecting representations by salesmen which are claimed to be deceptive, the acts uncovered by respondents in their investigation thereof and the action taken by respondents with respect to each such complaint.

It is further ordered, That the respondent corporations shall forthwith distribute a copy of this order to each of their operating divisions.

It is further ordered, That the respondents herein shall, within sixty (60) days after service upon them of this order, file with the Commission a report in writing setting forth in detail the manner and form in which they have complied with this order.

Issued: January 6, 1970.

By the Commission.

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

[F.R. Doc. 70–1375; Filed, Feb. 3, 1970; 8:47 a.m.]

[Docket No. C–1660]

PART 13—PROHIBITED TRADE PRACTICES

Golbin Bros. Fur Corp. et al.

Subpart—Invoicing products falsely: § 13.1108 *Invoicing products falsely:* 13.1108–45 Fur Products Labeling Act. Subpart—Neglecting, unfairly or deceptively, to make material disclosure: § 13.1852 *Formal regulatory and statutory requirements:* 13.1852–35 Fur Products Labeling Act.

(Sec. 6, 38 Stat. 721; 15 U.S.C. 46. Interpret or apply sec. 5, 38 Stat. 719, as amended, sec. 8, 65 Stat. 179; 15 U.S.C. 45, 69f) [Cease and desist order, Golbin Bros. Fur Corp. et al., New York City, N.Y., Docket C–1660, Dec. 19, 1969]

In the Matter of Golbin Bros. Fur Corp., a Corporation, and Ignace Golbin and Max Fishman, Individually and as Officers of Said Corporation

Consent order requiring a New York City wholesale furrier to cease falsely invoicing its fur products.

The order to cease and desist, including further order requiring report of compliance therewith, is as follows:

It is ordered, That respondents Golbin Bros. Fur Corp. a corporation, and its officers, and Ignace Golbin and Max Fishman, individually and as officers of said corporation, and respondents' representatives, agents, and employees, directly or through any corporate or other device, in connection with the introduction into commerce, or the sale, advertising or offering for sale in commerce, or the transportation or distribution in commerce, of any fur product; or in connection with the sale, advertising, offering for sale, transportation or distribution, of any fur product which is made in whole or in part of fur which has been shipped and received in commerce; or in connection with the introduction into commerce, or the sale, advertising or offering for sale in commerce, or the transportation or distribution in commerce, of any fur, as the terms "commerce", "fur" and "fur product" are defined in the Fur Products Labeling Act, do forthwith cease and desist from falsely or deceptively invoicing such fur or fur product by:

1. Failing to furnish an invoice, as the term "invoice" is defined in the Fur Products Labeling Act, showing in words and figures plainly legible all the information required to be disclosed by each of the subsections of section 5(b)(1) of the Fur Products Labeling Act.

2. Misrepresenting on an invoice, directly or by implication, the country of origin of such fur or the fur contained in such fur product.

It is further ordered, That respondents notify the Commission at least 30 days prior to any proposed change in the corporate respondent such as dissolution, assignment or sale resulting in the emergence of a successor corporation, the creation or dissolution of subsidiaries or any other change in the corporation which may affect compliance obligations arising out of the order.

It is further ordered, That the respondent corporation shall forthwith distribute a copy of this order to each of its operating divisions.

It is further ordered, That the respondents herein shall, within sixty (60) days after service upon them of this order, file with the Commission a report, in writing, setting forth in detail the manner and form in which they have complied with this order.

Issued: December 19, 1969.

By the Commission.

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

[F.R. Doc. 70-1372; Filed, Feb. 3, 1970; 8:47 a.m.]

[Docket No. C-1668]

PART 13—PROHIBITED TRADE PRACTICES

House of Carpets, Inc., and Gilbert Malooly

Subpart—Advertising falsely or misleadingly: § 13.30 *Composition of goods:* 13.30-75 Textile Fiber Products Identification Act; § 13.70 *Fictitious or misleading guarantees;* § 13.75 *Free goods or services;* § 13.155 *Prices:* 13.155-10 Bait; 13.155-40 Exaggerated as regular and customary. Subpart—Misbranding or mislabeling: § 13.1185 *Composition:* 13.1185-80 Textile Fiber Products Identification Act. Subpart—Neglecting, unfairly or deceptively, to make material disclosure: § 13.1845 *Composition:* 13.1845-70 Textile Fiber Products Identification Act.

(Sec. 6, 38 Stat. 721; 15 U.S.C. 46. Interpret or apply sec. 5, 38 Stat. 719, as amended, 72 Stat. 1717; 15 U.S.C. 45, 70) [Cease and desist order, House of Carpets, Inc., et al., El Paso, Tex., Docket C-1668, Jan. 14, 1970]

In the Matter of House of Carpets, Inc., a Corporation, and Gilbert Malooly, Individually and as an Officer of Said Corporation

Consent order requiring an El Paso, Tex., marketer of carpets and rugs to cease falsely advertising and misbranding its textile fiber products, making deceptive pricing, savings and guarantee representations, and failing to disclose all details of its "free" offers.

The order to cease and desist, including further order requiring report of compliance therewith, is as follows:

It is ordered, That respondents House of Carpets, Inc., a corporation, and its officers, and Gilbert Malooly, individually and as an officer of said corporation, and respondents' representatives, agents, and employees, directly or through any corporate or other device, in connection with the introduction, delivery for introduction, sale, advertising, or offering for sale, in commerce, or the transportation or causing to be transported in commerce, or the importation into the United States, of any textile fiber product; or in connection with the sale, offering for sale, advertising, delivery, transportation, or causing to be transported, of any textile fiber product which has been advertised or offered for sale in commerce; or in connection with the sale, offering for sale, advertising, delivery, transportation or causing to be transported, after shipment in commerce, of any textile fiber product, whether in its original state or contained in other textile fiber products, as the terms "commerce" and "textile fiber product" are defined in the Textile Fiber Products Identification Act, do forthwith cease and desist from:

A. Misbranding textile fiber products by falsely or deceptively stamping, tagging, labeling, invoicing, advertising or otherwise identifying such products as to the name or amount of the constituent fibers contained therein.

B. Falsely and deceptively advertising textile fiber products by:

1. Making any representations by disclosure or by implication as to the fiber content of any textile fiber product in any written advertisement which is used to aid, promote or assist, directly or indirectly, in the sale or offering for sale of any such textile fiber product, unless the same information required to be shown on the stamp, tag, label or other means of identification under sections 4(b) (1) and (2) of the Textile Fiber Products Identification Act is contained in the said advertisement, except the percentages of fibers present in the textile fiber product need not be stated.

2. Failing to set forth in disclosing the required fiber content information as to floor coverings containing exempted backings, fillings or paddings, that such disclosure relates only to the face, pile or outer surface of such textile fiber products and not to the exempted backing, fillings or paddings.

3. Using a fiber trademark in advertising textile fiber products containing only one fiber without such fiber trademark appearing at least once in the advertisement in immediate proximity and conjunction with the generic name of the fiber in plainly legible and conspicuous type.

It is further ordered, That respondents House of Carpets, Inc., a corporation, and its officers, and Gilbert Malooly, individually and as an officer of said corporation, and respondents' representatives, agents, and employees, directly or through any corporate or other device, in connection with the advertising, sale, offering for sale, or distribution of floor coverings, or other products, in commerce, as "commerce" is defined in the Federal Trade Commission Act, do forthwith cease and desist from:

1. Representing that any of respondents' products are guaranteed, unless the nature and extent of the guarantee, the name of the guarantor, the address of the guarantor and the manner in which the guarantor will perform thereunder are clearly and conspicuously disclosed in immediate conjunction therewith.

2. Representing directly or by implication that any price is the retail price or value of any such product when such price or value is in excess of the price at which such product has been usually and customarily sold at retail in the recent regular course of business in the trade area where the representation is made or otherwise misrepresenting in any manner the retail price or value of such product in the trade area where the representation is made.

3. Representing, directly or by implication, that any price, whether accompanied or not by descriptive terminology is the respondents' former price of any such product when such price is in excess of the price at which such product has been sold or offered for sale in good faith by the respondents for a reasonably substantial period of time in the recent regular course of business, or otherwise misrepresenting the price at which any such product has been sold or offered for sale by respondents.

4. Falsely representing that savings are afforded to the purchaser of any such product or misrepresenting in any manner the amount of savings afforded to the purchaser of any such product.

5. Falsely representing that the price of any such product is reduced.

6. Using the word "Free" or any other word or words of similar import and meaning, to designate or describe any of respondents' products unless all of the conditions, obligations, or other prerequisites to the receipt and retention of the "free" products are clearly and conspicuously explained or set forth at the outset so as to leave no reasonable probability that the terms might be misunderstood.

It is further ordered, That respondents henceforth maintain full and adequate records supporting all pricing claims made by them.

It is further ordered, That respondents notify the Commission at least 30 days prior to any proposed change in the corporate respondent such as dissolution, assignment or sale resulting in the emergence of a successor corporation, the creation or dissolution of subsidiaries or any other change in the corporation which may affect compliance obligations arising out of the order.

It is further ordered, That the respondent corporation shall forthwith distribute a copy of this order to each of its operating divisions.

It is further ordered, That respondents herein shall, within sixty (60) days after service upon them of this order, file with the Commission a report, in writing, setting forth in detail the manner and form in which they have complied with this order.

Issued: January 14, 1970.

By the Commission.

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

[F.R. Doc. 70-1377; Filed, Feb. 3, 1970; 8:47 a.m.]

[Docket No. C-1669]

PART 13—PROHIBITED TRADE PRACTICES

Klein & Blumenstein, Inc., et al.

Subpart—Advertising falsely or misleadingly: § 13.30 *Composition of goods:* 13.30–30 Fur Products Labeling Act. Subpart—Invoicing products falsely: § 13.1108 *Invoicing products falsely:* 13.1108–45 Fur Products Labeling Act. Subpart—Neglecting, unfairly or deceptively, to make material disclosure: § 13.1852 *Formal regulatory and statutory requirements:* 13.1852–35 Fur Products Labeling Act.

(Sec. 6, 38 Stat. 721; 15 U.S.C. 46. Interpret or apply sec. 5, 38 Stat. 719, as amended, sec. 8, 65 Stat. 179; 15 U.S.C. 45, 69f) [Cease and desist order, Klein & Blumenstein, Inc., et al., New York, N.Y., Docket C-1669, Jan. 14, 1970]

In the Matter of Klein & Blumenstein, Inc., a Corporation, and Meyer Klein and Henry Blumenstein, Individually and as Officers of Said Corporation

Consent order requiring a New York City retail furrier to cease falsely advertising and invoicing its fur products.

The order to cease and desist, including further order requiring report of compliance therewith, is as follows:

It is ordered, That respondents Klein & Blumenstein, Inc., a corporation, and its officers, and Meyer Klein and Henry Blumenstein, individually and as officers of said corporation, and respondents' representatives, agents, and employees, directly or through any corporate or other device, in connection with the introduction, into commerce, or the sale, advertising or offering for sale in commerce, or the transportation or distribution in commerce, of any fur product; or in connection with the sale, advertising, offering for sale, transportation or distribution of any fur product which is made in whole or in part of fur which has been shipped and received in commerce; or in connection with the introduction into commerce, or the sale, advertising or offering for sale in commerce, or the transportation and distribution in commerce of furs, as the terms "commerce", "fur" and "fur product" are defined in the Fur Products Labeling Act, do forthwith cease and desist from:

A. Falsely or deceptively advertising any fur products or fur through the use of any advertisement, representation, public announcement or notice which is intended to aid, promote or assist, directly or indirectly, in the sale, or offering for sale of any such fur product or fur, and which represents directly or by implication that the fur contained in any fur product or fur is natural when the fur contained therein is pointed, bleached, dyed, tip-dyed, or otherwise artificially colored.

B. Falsely or deceptively invoicing furs or fur products by:

1. Failing to furnish invoices, as the term "invoice" is defined in the Fur Products Labeling Act, showing in words and figures plainly legible all the information required to be disclosed by each of the subsections of section 5(b)(1) of the Fur Products Labeling Act.

2. Describing fur products or furs which have been bleached, dyed or otherwise artificially colored by the name of mink or by any other animal name or names without disclosing that the said fur products or furs were bleached, dyed or otherwise artificially colored.

3. Failing when a fur or fur product is pointed or contains or is composed of bleached, dyed or otherwise artificially colored fur, to disclose such facts as a part of the required information on invoices pertaining thereto.

It is further ordered, That the respondent corporation shall forthwith distribute a copy of this order to each of its operating divisions.

It is further ordered, That the respondents herein shall, within sixty (60) days after service upon them of this order, file with the Commission a report in writing setting forth in detail the manner and form in which they have complied with this order.

Issued: January 14, 1970.

By the Commission.

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

[F.R. Doc. 70-1378; Filed, Feb. 3, 1970; 8:47 a.m.]

[Docket No. C-1664]

PART 13—PROHIBITED TRADE PRACTICES

Malooly's Furniture and Carpet City et al.

Subpart—Advertising falsely or misleadingly: § 13.30 *Composition of goods:* 13.30–75 Textile Fiber Products Identification Act; § 13.70 *Fictitious or misleading guarantees;* § 13.73 *Formal regulatory and statutory requirements:* 13.73–90 Textile Fiber Products Identification Act; § 13.110 *Endorsements, approval and testimonials;* § 13.155 *Prices:* 13.155–50 Forced or sacrifice sales; 13.155–100 Usual as reduced, special, etc. Subpart—Misbranding or mislabeling: § 13.1185 *Composition:* 13.1185–80 Textile Fiber Products Identification Act; § 13.1212 *Formal regulatory and statutory requirements:* 13.1212–80 Textile Fiber Products Identification Act. Subpart—Neglecting, unfairly or deceptively, to make material disclosure: § 13.1845 *Composition:* 13.1845–70 Textile Fiber Products Identification Act; § 13.1852 *Formal regulatory and statutory requirements:* 13.1852–70 Textile Fiber Products Identification Act.

(Sec. 6, 38 Stat. 721; 15 U.S.C. 46. Interpret or apply sec. 5, 38 Stat. 719, as amended, 72 Stat. 1717; 15 U.S.C. 45, 70) [Cease and desist order, Malooly's Furniture and Carpet City et al., El Paso, Tex., Docket C-1664, Dec. 24, 1969]

In the Matter of Malooly's Furniture and Carpet City, a Partnership, and Edward T. Malooly, Individually and as a Copartner Trading as Malooly's Furniture and Carpet City, and George J. Malooly, Individually and as a Copartner Trading as Malooly's Furniture and Carpet City, and as Malooly's Discount Center

Consent order requiring an El Paso, Tex., retailer of furniture, appliances, and carpeting to cease falsely advertising and guaranteeing and misbranding its textile fiber products, making deceptive pricing claims, misrepresenting that it is endorsed by a Federal agency, and falsely claiming that it conducts factory bankrupt sales.

The order to cease and desist, including further order requiring report of compliance therewith, is as follows:

It is ordered, That respondents Malooly's Furniture and Carpet City, a partnership, and Edward T. Malooly, individually and as a copartner trading as Malooly's Furniture and Carpet City, and George J. Malooly, individually and as a copartner trading as Malooly's Furniture and Carpet City, and as Malooly's Discount Center, or under any other name or names, and respondents' representatives, agents, and employees, directly or through any corporate or other device, in connection with the introduction, delivery for introduction, sale, advertising, or offering for sale, in commerce, or the transportation or causing to be transported in commerce, or the importation into the United States, of any textile fiber product; or in connection with the sale, offering for sale, advertising, delivery, transportation, or causing to be transported, of any textile fiber product which has been advertised or offered for sale in commerce; or in connection with the sale, offering for sale, advertising, delivery, transportation or causing to be transported, after shipment in commerce, of any textile fiber product, whether in its original state or contained in other textile fiber products, as the terms "commerce" and "textile fiber product" are defined in the Textile Fiber Products Identification Act, do forthwith cease and desist from:

A. Misbranding textile fiber products by:

1. Falsely or deceptively stamping, tagging, labeling, invoicing, advertising or otherwise identifying such products as to the name or amount of the constituent fibers contained therein.

2. Failing to affix a stamp, tag, label, or other means of identification to each such product showing in a clear, legible and conspicuous manner each element of information required to be disclosed by section 4(b) of the Textile Fiber Products Identification Act.

B. Falsely and deceptively advertising textile fiber products by:

1. Making any representations by disclosure or by implication as to the fiber content of any textile fiber product in any written advertisement which is used

to aid, promote or assist, directly or indirectly, in the sale or offering for sale of such textile fiber product, unless the same information required to be shown on the stamp, tag, label or other means of identification under sections 4(b) (1) and (2) of the Textile Fiber Products Identification Act is contained in the said advertisement, except the percentages of fibers present in the textile fiber product need not be stated.

2. Failing to set forth in disclosing the required fiber content information as to floor coverings containing exempted backings, fillings or paddings, that such disclosure relates only to the face, pile or outer surface of such textile fiber products and not to the exempted backing, filling or paddings.

3. Using a fiber trademark in advertising textile fiber products containing only one fiber without such fiber trademark appearing at least once in the advertisement in immediate proximity and conjunction with the generic name of the fiber in plainly legible and conspicuous type.

It is further ordered, That respondents Malooly's Furniture and Carpet City, a partnership, and Edward T. Malooly, individually and as a copartner trading as Malooly's Furniture and Carpet City, and George J. Malooly, individually and as a copartner trading as Malooly's Furniture and Carpet City, and as Malooly's Discount Center, or under any other name or names, and respondents' representatives, agents, and employees, directly or through any corporate or other device, in connection with the advertising, sale, offering for sale, or distribution of floor coverings, or other products, in commerce, as "commerce" is defined in the Federal Trade Commission Act, do forthwith cease and desist from:

1. Representing that any of respondents' products are guaranteed, unless the nature and extent of the guarantee, the name of the guarantor, the address of the guarantor and the manner in which the guarantor will perform thereunder are clearly and conspicuously disclosed in immediate conjunction therewith.

2. Representing, directly or by implication, that any price, whether accompanied or not by descriptive terminology is the respondents' former price of any such product when such price is in excess of the price at which such product has been sold or offered for sale in good faith by the respondents for a reasonably substantial period of time in the recent regular course of business, or otherwise misrepresenting the price at which any such product has been sold or offered for sale by respondents.

3. Falsely representing that savings are afforded to the purchaser of any such product or misrepresenting in any manner the amount of savings afforded to the purchaser of such product.

4. Falsely representing that the price of any such product is reduced.

5. Falsely representing that the Federal Housing Administration, or any other agency of the U.S. Government, has issued an approval or endorsement of respondents' business or falsely representing that respondents' products have been endorsed by any other organization or person.

6. Falsely representing that respondents are conducting, or are in any way connected with, a "factory bankruptcy sale".

7. Falsely representing that respondents have acquired any products by means of special purchases or that through such special purchases, savings are being offered to the consuming public or misrepresenting in any manner the source from which any of respondents' merchandise was obtained.

It is further ordered, That the respondents henceforth maintain full and adequate records supporting all pricing claims made my them.

It is further ordered, That respondents herein shall, within sixty (60) days after service upon them of this order, file with the Commission a report, in writing, setting forth in detail the manner and form in which they have complied with this order.

Issued: December 24, 1969.

By the Commission.

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

[F.R. Doc. 70-1374; Filed, Feb. 3, 1970; 8:47 a.m.]

[Docket No. C-1667]

PART 13—PROHIBITED TRADE PRACTICES

James A. Povich et al.

Subpart—Advertising falsely or misleadingly: § 13.70 *Fictitious or misleading guarantees;* § 13.155 *Prices:* 13.155-10 Bait; 13.155-78 Repossession balances; 13.155-100 Usual as reduced, special, etc. Subpart—Misrepresenting oneself and goods—Goods: § 13.1647 *Guarantees;* Misrepresenting oneself and goods—Prices: § 13.1779 *Bait;* § 13.1805 *Exaggerated as regular and customary.* Subpart—Neglecting, unfairly or deceptively, to make material disclosure: § 13.1882 *Prices.*

(Sec. 6, 38 Stat. 721; 15 U.S.C. 46. Interprets or applies sec. 5, 38 Stat. 719, as amended; 15 U.S.C. 45) [Cease and desist order, James A. Povich et al., Baltimore, Md., Docket C-1667, Jan. 6, 1970]

In the Matter of James A. Povich, an Individual, Formerly Trading and Doing Business as Capitol Sewing Machine Sales of Baltimore, and Now Trading and Doing Business as Capitol Sewing Machine Sales of Maryland

Consent order requiring a Baltimore, Md., distributor of new and used sewing machines to cease using bait tactics and fictitious pricing and savings claims, deceptively guaranteeing its products, and failing to maintain adequate records.

The order to cease and desist, including further order requiring report of compliance therewith, is as follows:

It is ordered, That respondent James A. Povich, an individual, formerly trading and doing business as Capitol Sewing Machine Sales of Baltimore, and now trading and doing business as Capitol Sewing Machine Sales of Maryland or under any other name or names, and respondent's agents, representatives, and employees, directly or through any corporate or other device, in connection with the advertising, offering for sale, sale or distribution of sewing machines and related products, in commerce, as "commerce" is defined in the Federal Trade Commission Act, do forthwith cease and desist from:

1. Representing, directly or by implication, that sewing machines or other products have been repossessed or in any manner reacquired from a former purchaser, or are being offered for sale for the unpaid balance, or any portion thereof, of the original purchase price, or for the amount or any portion of the amount owed by a former purchaser, unless said advertised products actually were of the character stated and were offered for sale and sold on the terms and conditions represented.

2. Representing, directly or by implication, that any products are offered for sale when such offer is not a bona fide offer to sell said products on the terms and conditions stated; or using any sales plan or procedure involving the use of false, deceptive or misleading statements to obtain leads or prospects for the sale of other merchandise.

3. Advertising or offering any product for sale, unless the product shown or demonstrated to the prospective purchaser does in all respects conform to the representations and description thereof as contained in the advertisement or offer.

4. Using any deceptive sales scheme or device to induce the sale of the products or services offered by respondent.

5. Representing, directly or by implication, that any price for respondent's products is a special or reduced price, unless such price constitutes a significant reduction from an established selling price at which such products have been sold in substantial quantities by respondent in the recent regular course of his business.

6. Representing, directly or by implication, that any savings, discount or allowance is given purchasers from respondent's selling price for specified products, unless said selling price is the amount at which such products have been sold or offered for sale in good faith by respondent for a reasonably substantial period of time in the recent regular course of his business.

7. Misrepresenting, in any manner, the amount of savings available to purchasers or prospective purchasers of respondent's merchandise at retail.

8. Failing to maintain adequate records (a) which disclose the facts upon which any savings claims, including former pricing claims and comparative value claims, and similar representations of the type described in paragraphs 5 through 7 of this order are based, and

(b) from which the validity of any savings claims, including former pricing claims and comparative value claims, and similar representations of the type described in paragraphs 5 through 7 of this order can be determined.

9. Representing, directly or by implication, that respondent's products are guaranteed unless the nature, extent and duration of the guarantee, the identity of the guarantor and the manner in which the guarantor will perform thereunder are clearly and conspicuously disclosed in immediate conjunction therewith.

It is further ordered, That the respondent herein shall forthwith deliver a copy of this order to cease and desist to all present and future salesmen or other persons engaged in the sale of respondent's products or services, and shall secure from each such salesman or other person a signed statement acknowledging receipt of said order.

It is further ordered, That the respondent shall notify the Commission at least thirty (30) days prior to any proposed change in his business organization such as dissolution, assignment, incorporation or sale resulting in the emergence of a successor corporation or partnership or any other change which may affect compliance obligations arising out of this order.

It is further ordered, That the respondent herein shall, within sixty (60) days after service upon him of this order, file with the Commission a report, in writing, setting forth in detail the manner and form in which he has complied with this order.

Issued: January 6, 1970.

By the Commission.

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

[F.R. Doc. 70-1376; Filed, Feb. 3, 1970; 8:47 a.m.]

Title 41—PUBLIC CONTRACTS AND PROPERTY MANAGEMENT

Chapter 14—Department of the Interior

PART 14-1—GENERAL

Subpart 14-1.0—Regulation System

INTERIOR PROCUREMENT REGULATIONS COMMITTEE

Pursuant to the authority of the Secretary of the Interior, contained in 5 U.S.C. 301, § 14-1.010 of Chapter 14, Title 41 of the Code of Federal Regulations is hereby approved as set forth below.

It is the general policy of the Department of the Interior to allow time for interested parties to take part in the public rulemaking process. However, because this section is largely a general statement of Departmental policy and internal procedure the rulemaking process will be waived and this section will become effective upon publication in the FEDERAL REGISTER.

GEORGE E. ROBINSON,
Deputy Assistant Secretary for Administration.

JANUARY 26, 1970.

This section is effective upon publication in the FEDERAL REGISTER.

The table of contents for Part 14-1 is amended to add the following new entry:

Subpart 14-1.0—Regulation System

Sec.
14-1.010 Interior Procurement Regulations Committee.

§ 14-1.010 Interior Procurement Regulations Committee.

For the purpose of developing and proposing policies and procedures designed to implement and supplement the Federal Procurement Regulations, a committee, to be known as the Interior Procurement Regulations Committee and to be chaired by the Office of Survey and Review, is hereby established. Its personnel shall be comprised of representatives of the following bureaus and offices:

Office of the Solicitor.
National Park Service.
Geological Survey.
Bureau of Indian Affairs.
Bureau of Land Management.
Federal Water Pollution Control Administration.
Bureau of Reclamation.
Office of Survey and Review.

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

[F.R. Doc. 70-1348; Filed, Feb. 3, 1970; 8:45 a.m.]

Title 46—SHIPPING

Chapter IV—Federal Maritime Commission

SUBCHAPTER A—GENERAL PROVISIONS

[General Order 16, Amdt. 6; Docket No. 69-50]

PART 502—RULES OF PRACTICE AND PROCEDURE

Practice of Former Employees

By notice of proposed rule making published in the FEDERAL REGISTER of October 1, 1969 (34 F.R. 15300), the Commission announced it was considering the amendment of its rules of practice and procedure by revising its rule regarding practice of former employees before the Commission (46 CFR 502.32).

The stated purposes of the proposed revision were (1) to clarify the areas of past participation which will disqualify former employees; (2) to place former Commission members on an equal status with former officers and employees in respect to participation in proceedings which were pending during employment; (3) to reduce the time restriction regarding obtaining consent of the Commission to participate in matters which were pending during employment; and (4) to clarify the requirements and procedures regarding disqualification of partners or legal or business associates of former employees.

Interested parties have commented on the proposal. Comments were directed only to the proposed § 502.32(c) regarding partners or associates of former employees.

Opposition was expressed to the portion of the proposed rule which would require the filing of an affidavit by partners and associates of former employees before the partner or associate could appear in a matter in which the former employee is disqualified. It was felt that the provision would make it difficult to assure a client in advance that any representation would be undertaken.

Objection was also expressed to the provision which would permit the Commission to preclude representation by partners or associates of former employees on the grounds of "apparent impropriety". It was stated that no definition of this has been set down and any such rule is unnecessarily harsh and restrictive. The same provision was also characterized as being too subjective and providing no reasonable standard or criteria by which a lawyer's right to participate will be determined.

Upon review of the comments we are not adopting the proposed provisions which would require the submission of affidavits by partners and associates of former employees and which would permit exclusion of partners and associates from practice on the basis of "apparent impropriety". Rather, a code of conduct for partners and associates, similar to that contained in the current rule, is being adopted and appears as § 502.32(c).

No adverse comments having been received in respect to the other portions of the proposed rule, they are being adopted as proposed.

Now therefore it is ordered, That pursuant to section 43 of the Shipping Act, 1916 (46 U.S.C. 841(a)), § 502.32 *Former employees,* of Title 46, Code of Federal Regulations, is hereby revised to read as follows:

§ 502.32 Former employees.

(a) *Permanent prohibition.* No former member, officer, or employee of the Commission shall practice, appear, or represent anyone before the Commission in connection with any particular Commission matter involving a specific party or parties in which he participated personally and substantially as a member, officer, or employee of the Commission, through decision, approval, disapproval, recommendation, the rendering of service, investigation, or otherwise gained knowledge of the facts of the matter.

(b) *Matters pending; waiver.* (1) No former member, officer, or employee of the Commission shall practice, appear, or represent anyone before the Commission, within 1 year after the termination of his service with the Commission, in connection with any particular Commission matter involving a specific party or parties which was pending before the Commission at any time during the

period of his service with the Commission, unless he shall first apply for and obtain written consent of the Commission. This consent will not be granted unless it appears that the applicant did not, as member, officer, or employee of the Commission participate personally and substantially in the matter through decision, aproval, disapproval, recommendation, the rendering of service, investigation, or otherwise gain knowledge of the facts of the matter.

(2) Such applicant shall be required to file an affidavit to the effect that he did not participate personally and substantially in the matter through decision, approval, disapproval, recommendation, the rendering of service, investigation, or otherwise gain knowledge of the facts of the matter; that he is not associated with, and will not in such matter be associated with, any former member, officer, or employee of the Commission who so participated; and that his employment is not prohibited by any law of the United States or by the regulations of the Commission. The statements contained in such affidavit shall not be sufficient if disproved by an examination of the files and records of the case.

(3) Applications for consent should be directed to the Commission, should state the former connection of the applicant with the Commission, and should identify the matter in which the applicant desires to appear. The applicant shall be promptly advised as to his privilege to appear in the particular matter, and the application, affidavit and consent, or refusal to consent, shall be filed by the Commission in its records relative thereto. Separate consents to appear must be obtained to appear in separate cases.

(c) *Partners or associates.* In any case in which a former member, officer, or employee of the Commission is prohibited under this section from practice, appearing, or representing anyone before the Commission in a particular Commission matter, any partner or legal or business associate of such former member, officer, or employee shall be prohibited from (1) utilizing the services of the disqualified former member, officer, or employee in connection with the matter, (2) discussing the matter in any manner with the disqualified former member, officer, or employee, and (3) sharing directly or indirectly with the disqualified former member, officer, or employee in any fees or revenues received for services rendered in connection with such matter.

Effective date. This revision shall become effective upon publication in the FEDERAL REGISTER.

By the Commission.

[SEAL] FRANCIS C. HURNEY, *Secretary.*

[F.R. Doc. 70-1382; Filed, Feb. 3, 1970; 8:48 a.m.]

Title 49—TRANSPORTATION

Chapter X—Interstate Commerce Commission

SUBCHAPTER A—GENERAL RULES AND REGULATIONS

PART 1023—STANDARDS FOR REGISTRATION OF CERTIFICATES AND PERMITS WITH STATES

Motor Carrier Standards; Evidencing Lawfulness of Interstate Operation

Order. At a general session of the Interstate Commerce Commission, held at its office in Washington, D.C., on the 26th day of January 1970.

Pursuant to section 202(b) of the Interstate Commerce Act, the Commission promulgated standards for registering with the various States, certificates and permits issued by the Commission. These standards are contained in Part 1023 of Title 49 of the Code of Federal Regulations.

The National Association of Regulatory Utility Commissioners has certified to the Commission the following resolution amending these standards:

Whereas, The Congress of the United States has amended subsection (b) of section 202 of the Interstate Commerce Act (49 U.S.C., sec. 302(b)(2)) so as to authorize the "national organization of the State commissions" to determine and officially certify standards to the Interstate Commerce Commission evidencing the lawfulness of interstate operations of motor carriers, and to require the Interstate Commerce Commission to promulgate such standards into law; and

Whereas, the National Association of Regulatory Utility Commissioners, hereinafter sometimes referred to as the "NARUC" constitutes the "national organization of the State commissions" within the meaning of the Interstate Commerce Act, as amended; and

Whereas, the NARUC, assembled in its 78th Annual Convention on November 17, 1966, determined such standards for evidencing the lawfulness of interstate operations of motor carriers (Convention Proceedings, p. 371; NARUC Bulletin No. 63-1966, p. 2), and the Interstate Commerce Commission, pursuant to NARUC certification, promulgated them into law by publication in the FEDERAL REGISTER of December 28, 1966, pages 16567-16575 (49 CFR Part 1023); and

Whereas, the Congress, in so amending subsection (b) of section 202 of the Interstate Commerce Act, has authorized the NARUC to amend from time to time the standards determined by it to evidence the lawfulness of interstate operations of motor carriers; and

Whereas, such standards have been so amended pursuant to certification of amendments by the NARUC and promulgation thereof into law by the Interstate Commerce Commission (80th NARUC Annual Convention Proceedings, pp. 263-265 (1968); NARUC Bulletin No. 49-1968, pp. 9-10; FEDERAL REGISTER of December 25, 1968, p. 19250); and

Whereas, since the primary purpose of such standards is to establish procedures for evidencing the lawfulness of interstate operations of motor carriers and not to raise revenue, the NARUC has determined that such standards should be further amended so as to prescribe the maximum fees which may be collected by State Commissions (1) for the filing of applications for the registration of ICC operating authority, (2) for the issuance of identification stamps, and (3) for the assignment of identification numbers; now, therefore, be it

Resolved, that the National Association of Regulatory Utility Commissioners, assembled in its 81st Annual Convention in Denver, Colo., hereby amends the said standards for evidencing the lawfulness of interstate operations of motor carriers, adopted November 17, 1966, as amended, by:

(1) Striking the period at the end of section 2.3, codified as 49 CFR 1023.13, and inserting in lieu of such period the following: "; provided, however, that such fee shall not exceed 25 dollars for an application filed by a motor carrier who has not previously filed a currently effective application for the registration of ICC operating authority with the Commission of such State; and provided further, that such fee shall not exceed 10 dollars for an application filed by a motor carrier who has previously filed a currently effective application for the registration of ICC operating authority with such Commission."; and

(2) Striking the period at the end of section 4.3, codified as 49 CFR 1023.33, and inserting in lieu of such period the following: "; provided, however, that such fee shall not exceed 5 dollars for the issuance of each such identification stamp; and provided further (when the State Commission assigns an identification number in lieu of issuing an identification stamp or stamps), that such fee shall not exceed 5 dollars for each vehicle operated under the authority of the motor carrier identified in the cab card bearing such identification number."; and be it further,

Resolved, that the President of the NARUC and the Chairman of the NARUC Committee on Motor and Air Transportation are hereby directed to officially certify, for and on behalf and in the name of the NARUC, a copy of this resolution to the Interstate Commerce Commission within the next 15 days.

In accordance with the provisions of section 202(b) of the Interstate Commerce Act (49 U.S.C. 302(b)), and upon consideration of the above resolution:

It is ordered, That Part 1023 of Chapter X of Title 49 of the Code of Federal Regulations be amended as follows:

1. The last sentence of § 1023.13 is revised to read as follows:

§ 1023.13 Filing of application.

* * * The application shall be accompanied by the fee, if any, prescribed by the law of such State: *Provided, however,* That such fee shall not exceed $25 for an application filed by a motor carrier who has not previously filed a currently effective application for registration of ICC operating authority with the Commission of such State: *And provided further,* That such fee shall not exceed $10 for an application filed by a motor carrier who has previously filed a currently effective application for the registration of ICC operating authority with such Commission.

2. The last sentence of § 1023.33 is revised to read as follows:

§ 1023.33 Form and execution of application for identification stamps or number.

* * * The application shall be duly completed and executed by an official of the motor carrier, and shall be accompanied by the fee, if any, prescribed by the law of such State; provided, however, that such fee shall not exceed $5 for the issuance of each such identification stamp; and provided further (when the State Commission assigns an identification number in lieu of issuing an identification stamp or stamps), that such fee shall not exceed $5 for each vehicle operated under the authority of the motor carrier identified in the cab card bearing such identification number.

(Secs. 1, 49 Stat. 543, as amended, 546, as amended, 49 U.S.C. 302, 304)

It is further ordered, That since these amendments do not materially effect the substance of the Standards, they shall be effective concurrently with the original standards promulgated by the Commission which is 5 years from the 14th day of December 1966.

And it is further ordered, That notice of this order shall be given to the general public by depositing a copy hereof in the Office of the Secretary of the Commission, Washington, D.C., and by filing a copy with the Director, Office of the Federal Register. Notice shall also be served upon the Governors and Chairmen of the Public Utility Commissions of the several States.

By the Commission.

[SEAL] H. NEIL GARSON,
Secretary.

[F.R. Doc. 70-1398; Filed, Feb. 3, 1970; 8:49 a.m.]

Proposed Rule Making

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

[50 CFR Part 280]

EASTERN PACIFIC TUNA FISHERIES

Yellowfin Tuna

Experience gained since the adoption of the yellowfin tuna regulations effective May 17, 1969 (34 F.R. 7845–7889) as amended on September 27, 1969 (34 F.R. 14873–15238) prescribing the restrictions on the taking of yellowfin tuna from a defined area of the eastern Pacific Ocean, has demonstrated a need for some minor revisions in the regulations to make them more effective in implementing the yellowfin conservation measures promulgated by the Inter-American Tropical Tuna Commission.

The proposed amendments are to be issued under the authority contained in subsection (c) of section 6 of the Tuna Convention Act of 1950, as amended (16 U.S.C. 955(e)).

Prior to the final adoption of the proposed amendments, consideration will be given to any data, views, or arguments pertaining thereto which are submitted in writing to the Regional Director, Pacific Southwest Region, Bureau of Commercial Fisheries, 300 South Ferry Street, Terminal Island, Calif. 90731, within the period of 30 days from the date of publication of this notice in the FEDERAL REGISTER, unless the closure comes before this time, in which case regulations could be adopted as an emergency measure. Interested persons will also be afforded an opportunity to comment orally on the proposed amendments at a public hearing to be held at the United Portuguese Club, 2818 Addison Street, San Diego, Calif., beginning at 9:30 a.m., February 26, 1970. Any person who intends to present views orally at this hearing is requested to furnish in writing his name and the name of the organization he represents, if any, to the said Regional Director.

The proposed amendments are described below.

1. Delete the numeral "72" from § 280.6(e)(2) and insert in its place the word "within" followed by the numeral "48."

2. Revise § 280.6(e)(2)(ii) to read as follows:

(ii) In addition, each vessel while outside the regulatory area shall transmit a prepaid message to the Regional Director between 6 p.m. and 11 p.m., P.s.t. (+8 time zone) on each even-numbered day; such reporting to continue throughout the closed season. The message shall be sent through either Station KMI (San Francisco) or Station WOM (Miami) to the Regional Director, Bureau of Commercial Fisheries, Terminal Island, Calif. Such messages shall be transmitted to area code 213, telephone number 830–0411. On such transmissions the following statement will be made: "This Message is being Transmitted in Compliance with the United States Eastern Tropical Pacific Yellowfin Tuna Regulations, and it Confirms that the Vessel (Name of Reporting Vessel) has not Reentered the Eastern Pacific Regulatory Area as of this Date: (Give Date)." Any vessel that fails to receive an acknowledgement that a required transmission has been received through KMI or WOM must attempt to transmit the same message on the day following the failure to receive such acknowledgment. If in 3 successive days the vessel fails to receive an acknowledgment that a required transmission has been received, it will then be considered that the vessel's radio equipment is not functioning properly and the vessel shall then return directly to port.

3. Add a new paragraph (g) to § 280.6 as follows:

(g) All messages required in paragraphs (e) and (f) of this section shall be transmitted to area code 213, telephone number 830–0411.

Issued at Washington, D.C., pursuant to authority delegated to me by the Secretary of the Interior on August 26, 1966 (31 F.R. 11685), and dated January 29, 1970.

WILLIAM M. TERRY,
Acting Director,
Bureau of Commercial Fisheries.

[F.R. Doc. 70–1337; Filed, Feb. 3, 1970; 8:45 a.m.]

DEPARTMENT OF AGRICULTURE

Agricultural Stabilization and Conservation Service

[7 CFR Part 724]

FIRE-CURED AND DARK AIR-CURED TOBACCO

Notice of Referenda

Notice is herey given that on February 16 to 20, 1970, each inclusive, referenda will be held of farmers engaged in the production of 1969 crop Fire-cured (types 21–24) and Dark air-cured (types 35 and 36) tobacco, pursuant to the provisions of the Agricultural Adjustment Act of 1938, as amended (7 U.S.C. 1281 et seq.). Notice was given (34 F.R. 18760) that consideration would be given to establishing the date or period for holding the referenda and whether the referenda would be conducted at polling places rather than by mail ballot. Data, views, and recommendations received have been considered within the limits permitted by the Act. It is hereby determined that the referenda will be held by mail ballot during the period specified above. The purpose of the referenda is to determine whether the farmers voting favor national marketing quotas for Fire-cured and Dark air-cured tobacco for each of the 1970–71, 1971–72, and 1972–73 marketing years. The referenda will be conducted in accordance with the Act and the Regulations Governing the Holding of Referenda on Marketing Quotas, as amended (28 F.R. 13249).

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

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

[F.R. Doc. 70–1351; Filed, Jan. 30, 1970; 12:24 p.m.]

Consumer and Marketing Service

[7 CFR Part 907]

NAVEL ORANGES GROWN IN ARIZONA AND DESIGNATED PART OF CALIFORNIA

Expenses and Rate of Assessment and Carryover of Unexpended Funds and Establishment of Reserve

Consideration is being given to the following proposals submitted by the Navel Orange Administrative Committee, established under marketing agreement, as amended, and Order No. 907, as amended (7 CFR Part 907), regulating the handling of Navel oranges grown in Arizona and designated part of California, effective under the applicable provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674), as the agency to administer the terms and provisions thereof: (1) That the expenses that are reasonable and likely to be incurred by the Navel Orange Administrative Committee during the period from November 1, 1969, through October 31, 1970, will amount to $320,600; (2) that there be fixed, at $0.011 per carton of oranges, the rate of assessment payable by each handler in accordance with § 907.41 of the aforesaid marketing agreement and order; (3) that the Secretary approve the establishment of a reserve, which reserve shall not exceed approximately one half of a fiscal year's operational expenses, as appropriate for the maintenance and functioning of the said committee under the aforesaid marketing agreement and order; and (4) that unexpended funds in excess of expenses incurred during the fiscal year ended October 31, 1969, in the amount of $34,030.78, be carried over as a reserve in accordance with § 907.42 of the said marketing agreement and order.

All persons who desire to submit written data, views, or arguments in connection with the aforesaid proposals should file same in quadruplicate with the Hearing Clerk, U.S. Department of Agriculture, Room 112, Administration Building, Washington, D.C. 20250, not later than the 10th day after publication of this notice in the FEDERAL REGISTER. All written submissions made pursuant to this notice will be made available for public inspection at the office of the Hearing Clerk during regular business hours (7 CFR 1.27(b)).

Dated: January 30, 1970.

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

[F.R. Doc. 70-1388; Filed, Feb. 3, 1970; 8:48 a.m.]

[7 CFR Parts 1001-1007, 1011-1013, 1015, 1016, 1030, 1032-1036, 1040, 1041, 1043, 1044, 1046, 1049, 1050, 1060-1065, 1068-1071, 1073, 1075, 1076, 1078, 1079, 1090, 1094, 1096-1099, 1101-1104, 1106, 1108, 1120, 1121, 1124-1134, 1136-1138]

[Docket No. AO-10-A41 etc.]

MILK IN ST. LOUIS-OZARKS AND CERTAIN OTHER MARKETING AREAS

Notice of Reconvened Hearing on Proposed Amendments to Tentative Marketing Agreements and Orders

7 CFR part	Marketing area	Docket No.
1062	St. Louis-Ozarks	AO-10-A41.
1001	Massachusetts-Rhode Island-New Hampshire.	AO-14-A47-RO1.
1002	New York-New Jersey	AO-71-A59.
1003	Washington, D.C.	AO-203-A23-RO2.
1004	Delaware Valley	AO-160-A43-RO2.
1005	Tri-State	AO-177-A35-RO1.
1006	Upper Florida	AO-356-A5.
1007	Georgia	AO-366-A3.
1011	Appalachian	AO-251-A12.
1012	Tampa Bay	AO-347-A9.
1013	Southeastern Florida	AO-286-A17.
1015	Connecticut	AO-305-A25.
1016	Upper Chesapeake Bay	AO-312-A20-RO2.
1030	Chicago Regional	AO-361-A2-RO1.
1032	Southern Illinois	AO-313-A18.
1033	Greater Cincinnati	AO-166-A40-RO1.
1034	Miami Valley	AO-175-A29-RO1.
1035	Columbus	AO-176-A26-RO1.
1036	Eastern Ohio-Western Pennsylvania.	AO-179-A32-RO1.
1040	Southern Michigan	AO-225-A22.
1041	Northwestern Ohio	AO-72-A36-RO1.
1043	Upstate Michigan	AO-247-A15.
1044	Michigan Upper Peninsula.	AO-299-A17.
1046	Louisville-Lexington-Evansville.	AO-123-A36.
1049	Indiana	AO-319-A15.
1050	Central Illinois	AO-355-A7.
1060	Minnesota-North Dakota	AO-360-A4.
1061	Southeastern Minnesota-Northern Iowa.	AO-367-A1.
1063	Quad Cities-Dubuque	AO-105-A31.
1064	Greater Kansas City	AO-23-A38.
1065	Nebraska-Western Iowa	AO-86-A23.
1068	Minneapolis-St. Paul	AO-178-A25.
1069	Duluth-Superior	AO-153-A17.
1070	Cedar Rapids-Iowa City	AO-229-A22.
1071	Neosho Valley	AO-227-A24.
1073	Wichita	AO-173-A24.
1075	Black Hills	AO-248-A12.
1076	Eastern South Dakota	AO-260-A15.
1078	North Central Iowa	AO-272-A17.
1079	Des Moines	AO-295-A20.
1090	Chattanooga	AO-266-A13.
1094	New Orleans	AO-103-A29.
1096	Northern Louisiana	AO-257-A18.
1097	Memphis	AO-219-A23.
1098	Nashville	AO-184-A28.
1099	Paducah	AO-183-A23.
1101	Knoxville	AO-195-A19.
1102	Fort Smith	AO-237-A18.
1103	Mississippi	AO-346-A11.
1104	Red River Valley	AO-298-A16.
1106	Oklahoma Metropolitan	AO-210-A28.
1108	Central Arkansas	AO-243-A20.
1120	Lubbock-Plainview	AO-328-A10.
1121	South Texas	AO-364-A1.
1124	Oregon-Washington	AO-368-A1.
1125	Puget Sound	AO-226-A21.
1126	North Texas	AO-231-A33.
1127	San Antonio	AO-232-A20.
1128	Central West Texas	AO-238-A23.
1129	Austin-Waco	AO-256-A16.
1130	Corpus-Christi	AO-259-A20.
1131	Central Arizona	AO-271-A13.
1132	Texas Panhandle	AO-262-A20.
1133	Inland Empire	AO-275-A21.
1134	Western Colorado	AO-301-A11.
1136	Great Basin	AO-309-A15-RO1.
1137	Eastern Colorado	AO-326-A15.
1138	Rio Grande Valley	AO-335-A15.

The hearing with respect to proposed amendments to the tentative marketing agreements and to the orders regulating the handling of milk in the respective marketing areas designated herein, notice of which was published in the FEDERAL REGISTER dated December 2, 1969 (34 F.R. 19078), was held in Clayton, Mo., January 20-23, 1970. On January 13, 1970, a supplemental notice of hearing was issued (35 F.R. 435) stating that an additional hearing session would be held at Washington, D.C., or another eastern city as well as the Clayton location, the exact time and location to be announced by the Hearing Examiner. When the hearing was recessed on January 23, 1970, the Hearing Examiner announced that the hearing would reconvene on or about February 17, 1970, at an eastern city to be named by him and the location of which would be published in the FEDERAL REGISTER.

Pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601 et seq.), and the applicable rules of practice and procedure governing the formulation of marketing agreements and orders (7 CFR Part 900), notice is hereby given that the said public hearing will be reconvened commencing at 10 a.m., local time, on February 17, 1970, in the Conference Room of the Market Administrator, 205 East 42d Street, New York, N.Y.

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

JOHN G. LIEBERT,
Hearing Examiner.

[F.R. Doc. 70-1344; Filed, Feb. 3, 1970; 8:45 a.m.]

[9 CFR Part 318]

REINSPECTION AND PREPARATION OF PRODUCTS

Notice of Proposed Rule Making

Notice is hereby given that the Consumer and Marketing Service of the U.S. Department of Agriculture is considering amending Part 318 of the Meat Inspection Regulations (9 CFR Part 318), as indicated below, pursuant to authority contained in the Federal Meat Inspection Act, as amended by the Wholesome Meat Act (21 U.S.C., Supp. IV, sec. 601 et seq.).

Statement of considerations. The purposes of the proposed amendments of the regulations are to modify slightly and formalize the procedure and criteria for obtaining approval of chemical substances and other substances or mixtures of substances intended to be used as ingredients or for their functional effect in the preparation of meat food products and other products subject to the Act and the policy under which an obtained approval may be suspended or withdrawn or will be inapplicable.

All persons who desire to submit written data, views or arguments in connection with the proposal, shall file the same in duplicate with the office of the Hearing Clerk, U.S. Department of Agriculture, Washington, D.C. 20250, not later than 30 days after publication hereof in the FEDERAL REGISTER.

All written submissions made pursuant to this notice will be made available in said office for public inspection during normal office hours (9 a.m. to 5:30 p.m., Mondays through Fridays, except holidays).

The proposed amendments are as follows:

In § 318.7, paragraph (a) would be revised and paragraphs (c), (d), (e), and (f) added to read:

§ 318.7 Approval of substances for use in the preparation of products.

(a) No chemical substance or other substance or mixture of substances, intended to be used as an ingredient or for its functional effect, shall be used in the preparation of any product at an official establishment if it would render the product adulterated or misbranded or if it is not approved by the Administrator in rule-making reflected in this subchapter or in specific cases in accordance with paragraph (c) of this section: *Provided*, That reapproval under this section is not required for substances and mixtures approved prior to the effective date hereof.

* * * * *

(c) The manufacturer of a substance or mixture within paragraph (a) of this section, or the person proposing to use such a substance or mixture in the preparation of any product at an official establishment may apply to the Administrator for approval under this section, by filing with the Director, Technical Services Division, Consumer and Marketing Service, U.S. Department of Agriculture, Washington, D.C. 20250, a request for approval giving the following data:

(1) The trade name of the substance or mixture.

(2) The common name, or if there is none, the correct chemical name of the substance.

(3) If it is a mixture, a listing of each ingredient and the percentage of each ingredient in terms of weight. Each ingredient must be listed by its common

name or if it has no common name, the correct chemical name.

(4) The proposed level of use of the substance or mixture.

(5) The intended use of the substance or mixture.

(6) An analytical method of control suitable for regulatory purposes, unless the said Director deems it unnecessary for such purposes.

(7) Scientific data demonstrating that the substance or mixture is safe and efficacious under the conditions of its intended use and does not promote deception or cause the product to be otherwise adulterated or misbranded.

(8) Evidence that the substance or mixture is not prohibited from the intended use under the Federal Food, Drug and Cosmetic Act.

(d) (1) After a careful evaluation of the data submitted by the applicant for approval of a substance or mixture under paragraph (c) of this section and all other relevant information in the possession of the Technical Services Division, the Director of said Division will tentatively approve the application if it appears that the proposed use of the substance or mixture will not cause the product involved to be adulterated or misbranded. Otherwise he will disapprove the application. Any adversely affected applicant may appeal the decision of the Director to the Administrator, within 20 days after notification of the decision. If the decision of the Administrator, upon such appeal wth respect to use of the substance or mixture, is made in connection with an application for a label approval, any applicant adversely affected by a determination of the Administrator requiring a label to be modified or withheld from use, may have a hearing and final determination by the Judicial Officer of the Department in accordance with section 7 of the Federal Meat Inspection Act.

(2) After a tentative decision to approve a substance or mixture is made in any specific case, a rule-making proceeding will be instituted to consider amendment of the regulations in this subchapter to adopt the decision as a general policy, in accordance with the provisions in 5 U.S.C. 553.

(3) A substance or mixture may also be evaluated for specified uses in a rule-making proceeding without prior consideration in a specific case, and approved upon a determination that the substance or mixture will not cause the product involved to be adulterated or misbranded.

(4) Final decisions made on each specific proposal will be published in the FEDERAL REGISTER.

(e) A tentative approval for use of a substance or mixture may be withdrawn by the Director, Technical Services Division, after opportunity to present views is accorded to the person who obtained the approval in the specific case, and approval for use of a substance or mixture reflected in the regulations may be withdrawn by the Administrator in a rule-making proceeding, upon a determination in either case, on the basis of new information or a reevaluation of information previously in possession of the Department, that the use of the substance or mixture causes the product involved to be adulterated or misbranded. Any approval may be suspended by the Director pending such determination, if he deems such action necessary to protect the public. Any withdrawal or suspension of approval shall be subject to review as provided in paragraph (d) (1) of this section, but the substance or mixture shall not be used pending final determination of the matter.

(f) Any approval granted under this section for any kind of substance or mixture is applicable only to a quantity of such substance or mixture that is of food grade and otherwise fit for human food and not adulterated. Any change in composition of the substance or mixture approved will render the approval inapplicable.

Done at Washington, D.C., on January 27, 1970.

ROY W. LENNARTSON,
Administrator.

[F.R. Doc. 70-1387; Filed, Feb. 3, 1970; 8:48 a.m.]

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

[14 CFR Part 171]

[Docket No. 10116: Notice 70-6]

SIMPLIFIED DIRECTIONAL APPROACH SYSTEMS, DISTANCE MEASURING EQUIPMENT, AND VHF MARKER BEACONS

Notice of Proposed Rule Making

The Federal Aviation Administration is considering amending Part 171 of the Federal Aviation Regulations by adding three new subparts containing standards for non-Federal navigation facilities not now included in that part, and by making certain other minor revisions of that part.

Interested persons are invited to participate in the making of the proposed rule by submitting such written data, views, or arguments as they may desire. Communications should identify the regulatory docket or notice number and be submitted in duplicate to: Federal Aviation Administration, Office of the General Counsel, Attention: Rules Docket GC-24, 800 Independence Avenue SW., Washington, D.C. 20590. All communications received on or before March 6, 1970, will be considered by the Administrator before taking action on the proposed rule. The proposal contained in this notice may be changed in the light of comments received. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons.

Part 171 of the Federal Aviation Regulations provides the method whereby a non-Federal navigation facility may be approved for operation in connection with an approved IFR procedure. Each subpart of Part 171 sets forth standards, for a specified type of non-Federal navigation facility, that must be met before an IFR approach procedure may be approved for that facility. The Federal Aviation Administration has received requests for approval of IFR approach procedures for facility types for which no standards are provided in Part 171, including simplified directional approach systems (SDAS), distance measuring equipment (DME), and VHF marker beacons. In response to the demand for use of these facilities, the Federal Aviation Administration has developed minimum standards and requirements for the operation of these navigational facilities, and proposes to adopt them as new subparts under Part 171. Since the SDAS represents a new facility type, no standards have been developed elsewhere for such a facility. The Federal Aviation Administration has developed a new complete set of standards and requirements for SDAS facilities. These standards were developed on the basis of field tests and engineering evaluation accomplished by the FAA, and on FAA evaluation of recommendations from segments of industry. These standards are presented in detail in this proposal. However, proposed subparts for DME and for VHF marker beacons propose to incorporate by reference certain presently existing standards and tolerances found in the publication "International Standards and Recommended Practices, Aeronautical Telecommunications" (Annex 10 to the Convention of International Civil Aviation).

In addition, the Federal Aviation Administration proposes to make certain minor changes to other parts of the existing rule. The reference in § 171.7(a) to paragraphs 3.4 and 3.4.7 of the document incorporated by reference would be corrected to refer to paragraphs 3.3 and 3.3.7. In § 171.9(a), the separate requirement that a VOR facility must be of permanent construction would be eliminated as unnecessary in addition to the requirement to conform to "accepted good engineering practices." This would permit the construction of facilities in locations such as Alaska where climatic conditions may require seasonal operation. In addition, the VOR facilities would be required to meet at least the Federal Communications Commission Licensing requirements.

The FAA proposes to amend § 171.27 (a) to delete the present standards, and to incorporate by reference the standards found in the publication "International Standards and Recommended Practices, Aeronautical Telecommunications" Part I, paragraph 3.4 (Annex 10 to the Convention on International Civil Aviation). This change will permit the use of compass locator nondirectional radio beacon facilities under Part 171, in addition to the types of nondirectional radio beacon facilities now included under Subpart B of Part 171. The referenced publication requires that the

facility be identified by on-off keying of an amplitude modulated tone. However, a provision would be included in § 171.27 (a) to also permit identification by an on-off keying of a second carrier frequency that is separated from the main carrier by 1020 Hz, plus or minus 50 Hz.

The FAA also proposes to add a new requirement to §§ 171.3, 171.23, and 171.43 which will require that each owner of a facility requesting an IFR procedure must show that his facility has an acceptable level of operational reliability and an acceptable standard of performance. The FAA must be assured, before it approves an IFR approach procedure for a facility, that the facility is reliable and will function properly over a prescribed period of time. An identical provision would be included in the proposed subparts for simplified directional approach systems, distance measuring equipment, and VHF marker beacons.

Finally, the FAA proposes to add a new § 171.75 containing all requirements concerning submission of requests for approval of non-Federal navigation facilities, and proposes to make it clear in each subpart that the subpart applies to the approval of such facilities, not only their operation.

In consideration of the foregoing, it is proposed to amend Part 171 of the Federal Aviation Regulations, as follows:

§§ 171.1, 171.21, 171.41 [Amended]

1. By amending §§ 171.1, 171.21, and 171.41, by inserting the words "approval and" between the words "for the" and the words "operation of."

2. By amending § 171.3(a) by adding a new subparagraph (5) to read as follows:

§ 171.3 Requests for IFR procedure.

(a) * * *

(5) A showing that the facility has an acceptable level of operational reliability and an acceptable standard of performance. Previous equivalent operational experience with a similar facility may be shown to comply with this subparagraph.

* * * * *

3. By amending the first sentence of § 171.7(a) to read as follows:

§ 171.7 Performance requirements.

(a) The VOR must perform in accordance with the "International Standards and Recommended Practices, Aeronautical Telecommunications" Part I, paragraph 3.3 (Annex 10 to the Convention on International Civil Aviation) except that part of paragraph 3.3.7 requiring removal of only the bearing information. * * *

* * * * *

4. By amending § 171.9(a) to read as follows:

§ 171.9 Installation requirements.

(a) The facility must be installed according to accepted good engineering practices, applicable electric and safety codes, and the installation must meet at least the Federal Communication Commission's licensing requirements.

* * * * *

5. By amending § 171.23(a) by adding a new subparagraph (5) to read as follows:

§ 171.23 Requests for IFR procedure.

(a) * * *

(5) A showing that the facility has an acceptable level of operational reliability and an acceptable standard of performance. Previous equivalent operational experience with a similar facility may be shown to comply with this subparagraph.

* * * * *

6. By amending § 171.27(a) to read as follows:

§ 171.27 Performance requirements.

(a) The facility must meet the performance requirements set forth in the "International Standards and Recommended Practices, Aeronautical Telecommunications, Part I, paragraph 3.4" (Annex 10 to the Convention on International Civil Aviation), except that identification by on-off keying of a second carrier frequency, separated from the main carrier by 1020 Hz plus or minus 50 Hz, is also acceptable.

* * * * *

7. By amending § 171.43(a) by adding a new subparagraph (5) to read as follows:

§ 171.43 Requests for IFR procedure.

(a) * * *

(5) A showing that the facility has an acceptable level of operational reliability and an acceptable standard of performance. Previous equivalent operational experience may be shown to comply with this subparagraph.

* * * * *

§§ 171.3, 171.23, 171.43 [Amended]

8. By deleting §§ 171.3(c), 171.23(c), and 171.43(c), and by adding a new § 171.75, within Subpart E, to read as follows:

§ 171.75 Submission of requests.

(a) Requests for approval of facilities not identical to facilities currently approved under this part, including requests for deviations from this part for such facilities, must be submitted to the Director, Systems Research and Development Service.

(b) The following requests must be submitted to the Regional Director of the region in which the facility is located:

(1) Requests for approval of facilities that are identical to facilities currently approved under this part, including requests for deviations from this part for such facilities.

(2) Requests for deviations from this part for facilities currently approved under this part.

(3) Requests for modification of facilities currently approved under this part.

9. By adding new Subparts F, G, and H to read as follows:

Subpart F—Simplified Directional Approach System (SDAS)

§ 171.101 Scope.

This subpart sets forth minimum requirements for the approval and operation of non-Federal Simplified Directional Approach System (SDAS) Facilities that are to be involved in the approval of instrument flight rules and air traffic control procedures related to those facilities.

§ 171.103 Requests for IFR procedure.

(a) Each person who requests an IFR procedure based on an SDAS facility that he owns must submit the following information with that request:

(1) A description of the facility and evidence that the equipment meets the performance requirements of § 171.109 and the standards and tolerances of § 171.111, and is installed in accordance with § 171.113.

(2) A proposed procedure for operating the facility.

(3) A proposed maintenance organization and a maintenance manual that meets the requirements of § 171.115.

(4) A statement of intent to meet the requirements of this subpart.

(5) A showing that the facility has an acceptable level of operational reliability as prescribed in § 171.111(k), and an acceptable standard of performance. Previous equivalent operational experience with a similar facility may be shown to comply with this subparagraph.

(b) After the FAA inspects and evaluates the facility, it advises the owner of the results and of any required changes in the facility or the maintenance manual or maintenance organization. The owner must then correct the deficiencies, if any, and operate the facility for an in-service evaluation by the FAA.

§ 171.105 Minimum requirements for approval.

(a) The following are the minimum requirements that must be met before the FAA will approve an IFR procedure for a non-Federal Simplified Directional Approach System:

(1) A suitable frequency channel must be available.

(2) The facility's performance, as determined by air and ground inspection, must meet the requirements of §§ 171.109 and 171.111.

(3) The installation of the equipment must meet the requirements of § 171.113.

(4) The owner must agree to operate and maintain the facility in accordance with § 171.115.

(5) The owner must agree to furnish periodic reports, as set forth in § 171.117 and agree to allow the FAA to inspect the facility and its operation whenever necessary.

(6) The owner must assure the FAA that he will not withdraw the facility

from service without the permission of the FAA.

(7) The owner must bear all costs of meeting the requirements of this section and of any flight or ground inspections made before the facility is commissioned, except that the FAA may bear certain of these costs subject to budgetary limitations and policy established by the Administrator.

(b) If the applicant for approval meets the requirements of paragraph (a) of this section, the FAA commissions the facility as a prerequisite to its approval for use in an IFR procedure. The approval is withdrawn at any time the facility does not continue to meet those requirements. In addition, the facility may be decommissioned whenever the frequency channel is needed for higher priority common system service.

§ 171.107 Definition.

As used in this subpart:

"SDAS" means a directional aid facility providing only lateral guidance (front or back course) for approach from a final approach fix.

"DDM (Difference in depth of modulation)" means the percentage modulation depth of the larger signal minus the percentage modulation depth of the smaller signal, divided by 100.

"Angular displacement sensitivity" means the ratio of measured DDM to the corresponding angular displacement from the appropriate reference line.

"Back course sector" means the course sector on the opposite end of the runway from the front course sector.

"Course line" means the locus of points along the final approach course at which the DDM is zero.

"Course sector" means a sector in a horizontal plane containing the course line and limited by the loci of points nearest to the course line at which the DDM is 0.155.

"Displacement sensitivity" means the ratio of measured DDM to the corresponding lateral displacement from the appropriate reference line.

"Front course sector" means the course sector centered on the course line in the direction from the runway in which a normal final approach is made.

"Half course sector" means the sector, in a horizontal plane containing the course line and limited by the loci of points nearest to the course line, at which the DDM is 0.0775.

"Point A" means a point on the course in the approach direction a distance of 4 nautical miles from the threshold.

"Point A1" means a point on the course in the approach direction a distance of 1 nautical mile from the threshold.

"Point A2" means a point on the course at the threshold.

"Reference datum" means a point at a specified height located vertically above the intersection of the course and the threshold.

"Missed approach point" means the point on the final approach course, not farther from the final apporach fix than Point "A2", at which the approach must be abandoned, if the approach and subsequent landing cannot be safely completed under visual flight rules, whether or not the aircraft has descended to the minimum descent altitude.

§ 171.109 Performance requirements.

(a) The Simplified Directional Approach System must perform in accordance with the following standards and practices:

(1) The radiation from the SDAS antenna system must produce a composite field pattern which is amplitude modulated by a 90 Hz and a 150 Hz tone. The radiation field pattern must produce a course sector with 90 Hz tone predominating on the left side of the course and with the 150 Hz tone predominating on the right side.

(2) When an observer faces the SDAS from the approach end of runway, the depth of modulation of the radio frequency carrier due to the 150 Hz tone must predominate on his right hand and that due to the 90 Hz tone must predominate on his left hand.

(3) All horizontal angles employed in specifying the SDAS field patterns must originate from the center of the antenna system which provides the signals used in the front course sector.

(4) The SDAS must operate on odd tenths MHz within the frequency band 108.1 MHz to 111.95 MHz. The frequency tolerance must not exceed plus or minus 0.005 percent.

(5) The radiated emission from the SDAS must be horizontally polarized. The vertically polarized component of the radiation on the course line must not exceed that which corresponds to an error one-twentieth of the course width when an aircraft is positioned on the course line and is in a roll attitude of 20° from the horizontal.

(6) The SDAS must provide signals sufficient to allow satisfactory operation of a typical aircraft installation within the sector which extends from the center of the SDAS antenna system to distances of 18 nautical miles within a plus or minus 10° sector and 10 nautical miles within the remainder of the coverage when alternative navigational facilities provide satisfactory coverage within the intermediate approach area. SDAS signals must be receivable at the distances specified at and above a height of 1,000 feet above the elevation of the threshold, or the lowest altitude authorized for transitions, whichever is the higher. Such signals must be receivable, to the distances specified, up to a surface extending outward from the SDAS antenna and inclined at 7° above the horizontal.

(7) The modulation tones must be phase-locked so that within the half course sector, the demodulated 90 Hz and 150 Hz wave forms pass through zero in the same direction within 20° of phase relative to the 150 Hz component, every half cycle of the combined 90 Hz and 150 Hz wave form. However, the phase need not be measured within the half course sector.

(8) The angle of convergence of the final approach course and the extended runway centerline must not exceed 3°. The final approach course must be aligned to intersect the extended runway centerline between points A1 and the runway threshold. When an operational advantage can be achieved, a final approach course that does not intersect the runway or that intersects it at a distance greater than point A1 from the threshold, may be established, if that course lies within 500 feet laterally of the extended runway centerline at a point 3,000 feet outward from the runway threshold. The mean course line must be maintained within ±10 percent of the course width.

(9) The nominal displacement sensitivity within the half course sector must be 0.0516 DDM/degree. The nominal course width must be 6°. When an operational advantage can be achieved, a nominal displacement sensitivity of 0.0258 DDM/degree may be established, with a nominal course width of 12° or at course widths between these extremes with proportional displacement sensitivity. The lateral displacement sensitivity must be adjusted and maintained within the limits of plus or minus 17 percent of the nominal value.

(10) The increase of DDM must be substantially linear with respect to the angular displacement from the front course line (where DDM is zero) up to an angle on either side of the front course line where the DDM is 0.180. From that angle to plus or minus 10°, the DDM must not be less than 0.180. From plus or minus 10° to plus or minus 35°, the DDM must not be less than 0.155. With the localizer course adjusted to cause any of the several monitor alarm conditions, the minimum DDM must be 0.160 from 0.6 of the course width to 10°, and 0.135 from 10° to 35°.

(11) The SDAS may provide a ground-to-air radiotelephone communication channel to be operated simultaneously with the navigation and identification signals, if that operation does not interfere with the basic function. If a channel is provided, it must conform with the following Standards:

(i) The channel must be on the same radio frequency carrier or carriers as used for the SDAS function, and the radiation must be horizontally polarized. Where two carriers are modulated with speech, the relative phases of the modulations on the two carriers must avoid the occurrence of nulls within the coverage of the SDAS.

(ii) On centerline, the peak modulation depth of the carrier or carriers due to the radiotelephone communications must not exceed 50 percent but must be adjusted so that the ratio of peak modulation depth due to the radiotelephone communications to that due to the identification signal is approximately 9:1.

(iii) The audio frequency characteristics of the radiotelephone channel must be flat to within 3db relative to the level at 1,000 Hz over the range from 300 Hz to 3,000 Hz.

(12) (i) The SDAS must provide for the simultaneous transmission of an identification signal, specific to the runway and approach direction, on the same radio frequency carrier or carriers as

used for the SDAS function. The transmission of the identification signal must not interfere in any way with the basic SDAS function.

(ii) The identification signal must be produced by Class A2 modulation of the radio frequency carrier or carriers using a modulation tone of 1,020 Hz within plus or minus 50 Hz. The depth of modulation must be between the limits of 5 and 15 percent except that, where a radiotelephone communication channel is provided, the depth of modulation must be adjusted so that the ratio of peak modulation depth due to radiotelephone communications to that due to the identification signal modulation is approximately 9:1. The emissions carrying the identification signal must be horizontally polarized.

(iii) The identification signal must employ the International Morse Code and consist of two or three letters, except that it may be preceded by a fourth letter followed by a short pause, where necessary to distinguish the SDAS facility from other navigational facilities in the immediate area.

(iv) The identification signal must be transmitted at a speed corresponding to approximately seven words per minute, and must be repeated at approximately equal intervals, not less than six times per minute. When SDAS transmission is not available for operational use, including periods of removal of navigational components or during maintenance or test transmissions, the identification signal must be suppressed.

(b) It must be shown during ground inspection of the design features of the equipment that there will not be conditions that will allow unsafe operations because of component failure or deterioration.

(c) The monitor must be checked periodically during the in-service test evaluation period for calibration and stability. These tests, and ground checks of SDAS radiation characteristics must be conducted in accordance with the maintenance manual required by § 171.115(c) and must meet the standards and tolerances contained in § 171.111(j).

(d) The monitor system must provide a warning to the designated control point(s) when any of the conditions of § 171.111(j) occur, within the time periods specified in that paragraph.

(e) Flight inspection to determine the adequacy of the facility's operational performance and compliance with applicable performance requirements must be conducted in accordance with the "U.S. Standard Flight Inspection Manual." Tolerances contained in the U.S. Standard Flight Inspection Manual, section 217, must be complied with except as stated in paragraph (f) of this section.

(f) Flight inspection tolerances specified in section 217 of the "U.S. Standard Flight Inspection Manual" must be complied with, except as follows:

(1) *Course width.* The nominal course width must be 6°. When an operational advantage can be achieved, a nominal course width greater than 6 but not to exceed 12° may be established. Course width must be adjusted and maintained within the limits of plus or minus 17 percent of the nominal value.

(2) *Course alignment.* The mean course line must be adjusted and maintained within the limits of plus or minus 10 percent of the nominal course width.

(3) *Course structure.* Course deviations due to roughness, scalloping or bends must be within the following limitations:

(i) *Front course.* (*a*) Course structure 18 miles from runway threshold to 4 miles from runway threshold must not exceed ±40 microamperes;

(*b*) Point A to Point A–1—linear decrease from not more than ±40 microamperes at Point A to not more than ±20 microamperes at Point A–1;

(*c*) Point A–1 to Missed Approach Point—not more than ±20 microamperes;

(*d*) Monitor tolerances: Width—±17 percent of nominal; alignment—±10 percent of nominal course width.

(ii) *Back course.* (*a*) Course structure 18 miles from runway threshold to 4 miles from runway threshold must not exceed ±40 microamperes. Five miles to 1 mile from R/W must not exceed ± microamperes decreasing to not more than 20 microamperes, at a linear rate.

(*b*) Monitor tolerances: Width—±17 percent of nominal; alignment—±10 percent of nominal course width.

§ 171.111 Ground standards and tolerances.

Compliance with this section must be shown as a condition to approval and must be maintained during operation of the SDAS.

(a) *Frequency.* (1) The SDAS must operate on an assigned frequency within the band 108.1 MHz to 111.95 MHz, inclusive. The frequency tolerance must not exceed plus or minus 0.005 percent.

(2) The modulating tones must be 90 Hz and 150 Hz within plus or minus 2.5 percent.

(3) The identification signal must be 1020 Hz within plus or minus 50 Hz.

(4) The total harmonic content of the 90 Hz tone must not exceed 10 percent.

(5) The total harmonic content of the 150 Hz tone must not exceed 10 percent.

(b) *Power output.* (1) The normal carrier power output must be within 80 percent to 100 percent of the rated power.

(2) If a phase comparison or split carrier system is used, the following tolerances must be complied with:

(i) The normal 90 Hz amplifier output must be within 80 percent to 100 percent of the rated power.

(ii) The normal 150 Hz amplifier output must be within 80 percent to 100 percent of the rated power.

(iii) The normal 90 Hz Port to Dummy must be within 80 percent to 100 percent of the rated power.

(iv) The normal 150 Hz Port to Dummy must be within 80 percent to 100 percent of the rated power.

(v) The normal 90 Hz Port to Antenna must be the rated power within plus or minus 10 percent.

(vi) The normal 150 Hz Port to Antenna must be the rated power within plus or minus 10 percent.

(vii) The Antenna Port Power Ratio must be 1/1 within plus or minus 10 percent.

(c) *VSWR.* (1) The VSWR of carrier and sideband feedlines must be a nominal value of 1/1 and must not exceed 1.2/1.

(2) If a phase comparison or split carrier system is used the following tolerances must be complied with:

(i) The VSWR at the 90 Hz Hybrid Input must not exceed 1.1/1.

(ii) The VSWR at the 150 Hz Hybrid Input must not exceed 1.1/1.

(iii) The ratio of 171.111(c)(2)(i): 171.111(c)(2)(ii) must not exceed 1.1/1.

(iv) The VSWR of the 90 Hz Antenna Input must not exceed 1.5/1.

(v) The VSWR of the 150 Hz Antenna Input must not exceed 1.5/1.

(vi) The ratio of 171.111(c)(2)(iv): 171.111(c)(2)(v) must not exceed 1.5/1.

(d) *Insulation resistance.* The insulation resistance of all coaxial feedlines must be greater than 20 megohms.

(e) *Depth of modulation.* (1) The depth of modulation of the radio frequency carrier due to each of the 90 Hz and 150 Hz tones must be 20±2 percent along the course line.

(2) The depth of modulation of the radio frequency carrier due to the 1020 Hz identification signal must be within 5 to 15 percent.

(f) *Course width.* The standard course width must be as assigned within the range of 6° to 12°. The course width must be maintained within plus or minus 17 percent of the standard.

(g) *Course alignment.* The standard course alignment must be along the runway centerline. The course alignment must not deviate from the standard by more than plus or minus 4 percent of the standard course width.

(h) *Back course alignment and width.* If a back course is provided, standards and tolerances for back course width and alignment must be the same as course width and course alignment specified in paragraphs (f) and (g) of this section.

(i) *Clearance.* The clearance must be as specified in the "U.S. Standard Flight Inspection Manual."

(j) *Monitor standards and tolerances.* (1) The monitor system must provide a warning to the designated control point(s) when any of the conditions described in this paragraph occur, within the time periods specified in subparagraph (5) of this paragraph.

(2) Course shift alarm: The monitor must alarm and cause radiation to cease or identification and navigation signals must be removed, if the course alignment deviates from standard alignment by 10 percent or more of the standard course width.

(3) RF power reduction alarm: The monitor must alarm and cause radiation to cease or identification and navigation signals must be removed, if the output power is reduced by 3db or more from normal.

(4) Modulation level alarm:

(i) The monitor must alarm and cause radiation to cease or identification and navigation signals must be removed, if the 90 Hz and 150 Hz modulation levels decrease by 17 percent or more.

(ii) If a phase comparison or split carrier system is used, the monitor must alarm and cause radiation to cease, or identification and navigation signals must be removed, if the 90 Hz and 150 Hz modulation levels increase to 23 percent or more or decrease to 17 percent or less.

(5) Monitor delay before shutdown: Radiation must cease, or identification and navigation signals must be removed, within 10 seconds after a fault is detected by the monitor, and no attempt must be made to resume radiation for a period of at least 20 seconds. If an automatic recycle device is used, not more than three successive recycles may be permitted before a complete SDAS shutdown occurs.

(k) *Mean time between failures.* The mean time between failures must not be less than 800 hours. This measure is applied only to equipment failures (monitor or transmitting equipment, including out of tolerance conditions) which result in facility shutdown. It does not relate to the responsiveness of the maintenance organization.

(l) *Course alignment stability.* The course alignment must not exceed one-half the monitor limit in a 1-week period.

§ 171.113 Installation requirements.

(a) The facility must be installed according to accepted good engineering practices, applicable electric and safety codes, and FCC requirements.

(b) The SDAS facility must have the following basic components:

(1) VHF SDAS equipment and associated monitor system;

(2) Remote control and indicator equipment (remote monitor) when required by the FAA;

(3) A final approach fix; and

(4) Compass locator (COMLO) or marker if suitable fixes and initial approach routes are not available from existing facilities.

(c) The facility must have a reliable source of suitable primary power, either from a power distribution system or locally generated. Also, adequate power capacity must be provided for operation of test and working equipment at the SDAS. A determination by the FAA as to whether a facility will be required to have a standby system for the SDAS and monitor accessories to supplement the primary system, will be made for each airport based upon operational minimums and density of air traffic.

(d) A determination by the FAA as to whether a facility will be required to have dual transmitting equipment with automatic changeover for the SDAS will be made for each airport based upon operational minimums and density of air traffic.

(e) There must be a means for determining, from the ground, the performance of the equipment (including antennae), initially and periodically.

(f) The facility must have the following ground/air or landline communication services:

(1) At facilities outside of and not immediately adjacent to air traffic control zones or areas, there must be ground/air communications from the airport served by the facility. The utilization of voice on the SDAS should be determined by the facility operator on an individual basis.

(2) At facilities within or immediately adjacent to air traffic control zones or areas, there must be the ground/air communications required by subparagraph (1) of this paragraph and reliable communications (at least a landline telephone) from the airport to the nearest FAA air traffic control or communications facility.

Compliance with subparagraphs (1) and (2) of this paragraph need not be shown at airports where an adjacent FAA facility can communicate with aircraft on the ground at the airport and during the entire proposed instrument approach procedure. In addition, at low traffic density airports within or immediately adjacent to air traffic control zones or areas, and where extensive delays are not a factor, the requirements of subparagraphs (1) and (2) of this paragraph may be reduced to reliable communications (at least a landline telephone) from the airport to the nearest FAA air traffic control or communications facility, if an adjacent FAA facility can communicate with aircraft during the proposed instrument approach procedure down to the airport surface or at least to the minimum approach altitude.

(g) At those locations where two separate SDAS facilities serve opposite ends of a single runway, an interlock must ensure that only the facility serving the approach direction in use must radiate, except where no operationally harmful interference results.

(h) At those locations where, in order to alleviate frequency congestion, the SDAS facilities serving opposite ends of one runway employ identical frequencies, an interlock must ensure that the facility not in operational use cannot radiate.

(i) Provisions for maintenance and operations by authorized persons only.

(j) Where an operational advantage exists, the installation may omit a back course.

§ 171.115 Maintenance and operations requirements.

(a) The owner of the facility shall establish an adequate maintenance system and provide qualified maintenance personnel to maintain the facility at the level attained at the time it was commissioned. Each person who maintains a facility shall meet at a minimum the Federal Communications Commission's licensing requirements and show that he has the special knowledge and skills needed to maintain the facility, including proficiency in maintenance procedures and the use of specialized test equipment.

(b) The SDAS must be designed and maintained so that the probability of operation within the performance requirements specified is high enough to ensure an adequate level of safety. In the event out-of-tolerance conditions develop, the facility shall be removed from operation, and the designated control point notified.

(c) The owner must prepare, and obtain approval of, and each person operating or maintaining the facility shall comply with, an operations and maintenance manual that sets forth procedures for operations, preventive maintenance, and emergency maintenance, including instructions on each of the following:

(1) Physical security of the facility. This includes provisions for designating critical areas relative to the facility and preventing or controlling movements within the facility that may adversely affect SDAS operations.

(2) Maintenance and operations by authorized persons only.

(3) Federal Communication Commission requirements for operating personnel and maintenance personnel.

(4) Posting of licenses and signs.

(5) Relation between the facility and FAA air traffic control facilities, with a description of the boundaries of controlled airspace over or near the facility, instructions for relaying air traffic control instructions and information (if applicable), and instructions for the operations of an air traffic advisory service if the facility is located outside of controlled airspace.

(6) Notice to the Administrator of any suspension of service.

(7) Detailed and specific maintenance procedures and servicing guides stating the frequency of servicing.

(8) Air-ground communications, if provided, expressly written or incorporating appropriate sections of FAA manuals by reference.

(9) Keeping of station logs and other technical reports, and the submission of reports required by § 171.117.

(10) Monitoring of the facility.

(11) Inspections by U.S. personnel.

(12) Names, addresses, and telephone numbers of persons to be notified in an emergency.

(13) Shutdowns for routine maintenance and issue of "Notices to Airmen" for routine or emergency shutdowns, except that private use facilities may omit "Notices to Airmen."

(14) Commissioning of the facility.

(15) An acceptable procedure for amending or revising the manual.

(16) An explanation of the kinds of activities (such as construction or grading) in the vicinity of the facility that may require shutdown or certification of the facility by FAA flight check.

(17) Procedures for conducting a ground check of SDAS course alignment, width and clearance.

(18) The following information concerning the facility:

(i) Facility component locations with respect to airport layout, instrument runway, and similar areas;

(ii) The type, make, and model of the basic radio equipment that will provide the service;

(iii) The station power emission and frequencies of the SDAS, markers and associated COMLOs, if any;

(iv) The hours of operation;

(v) Station identification call letters and method of station identification and the time spacing of the identification;

(vi) A description of the critical parts that may not be changed, adjusted or repaired without an FAA flight check to confirm published operations.

(d) The owner shall make a ground check of the facility each month in accordance with procedures approved by the FAA at the time of commissioning, and shall report the results of the checks as provided in § 171.117.

(e) If the owner desires to modify the facility, he shall submit the proposal to the FAA and may not allow any modifications to be made without specific approval.

(f) The owner's maintenance personnel shall participate in initial inspections made by the FAA. In the case of subsequent inspections, the owner or his representative shall participate.

(g) Whenever it is required by the FAA, the owner shall incorporate improvements in SDAS maintenance. In addition, he shall provide a stock of spare parts, of such a quantity, to make possible the prompt replacement of components that fail or deteriorate in service.

(h) The owner shall provide FAA approved test instruments needed for maintenance of the facility.

(i) The owner shall close the facility by ceasing radiation and shall issue a "Notice to Airmen" that the facility is out of service (except that private use facilities may omit "Notices to Airmen"), upon receiving two successive pilot reports of its malfunctioning.

§ 171.117 Reports.

The owner of each facility to which this subpart applies shall make the following reports, at the times indicated, to the FAA Regional Office for the area in which the facility is located:

(a) *Record of meter readings and adjustments (Form FAA–198).* To be filled out by the owner or his maintenance representative with the equipment adjustments and meter readings as of the time of commissioning, with one copy to be kept in the permanent records of the facility and two copies to the appropriate Regional Office of the FAA. The owner shall revise the form after any major repair, modernization, or returning, to reflect an accurate record of facility operation and adjustment.

(b) *Facility maintenance log (Form FAA–406c).* This form is a permanent record of all equipment malfunctioning met in maintaining the facility, including information on the kind of work and adjustments made, equipment failures, causes (if determined), and corrective action taken. The owner shall keep the original of each report at the facility and send a copy to the appropriate Regional Office of the FAA at the end of each month in which it is prepared.

(c) *Radio equipment operation record (Form FAA–418).* To contain a complete record of meter readings, recorded on each scheduled visit to the facility. The owner shall keep the original of each month's record at the facility and send a copy of it to the appropriate Regional Office of the FAA.

Subpart G—Distance Measuring Equipment (DME)

§ 171.151 Scope.

This subpart sets forth minimum requirements for the approval and operation of non-Federal DME facilities that are to be involved in the approval of instrument flight rules and air traffic control procedures related to those facilities.

§ 171.153 Requests for IFR procedure.

(a) Each person who requests an IFR procedure based on a DME facility that he owns must submit the following information with that request:

(1) A description of the facility and evidence that the equipment meets the performance requirements of § 171.157 and is installed in accordance with § 171.159.

(2) A proposed procedure for operating the facility.

(3) A proposed maintenance organization and maintenance manual that meets the requirement of § 171.161.

(4) A statement of intention to meet the requirements of this subpart.

(5) A showing that the facility has an acceptable level of operational reliability and an acceptable standard of performance. Previous equivalent operational experience may be shown to comply with this subparagraph.

(b) After the FAA inspects and evaluates the facility, it advises the owner of the results and of any required changes in the facility or the maintenance manual or maintenance organization. The owner must then correct the deficiencies, if any, and operate the facility for an in-service evaluation by the FAA.

§ 171.155 Minimum requirements for approval.

(a) The following are the minimum requirements that must be met before the FAA will approve an IFR procedure for a non-Federal DME:

(1) A suitable frequency channel must be available.

(2) The facility's performance, as determined by air and ground inspection, must meet the requirements of § 171.157.

(3) The installation of the equipment must meet the requirements of § 171.159.

(4) The owner must agree to operate and maintain the facility in accordance with § 171.161.

(5) The owner must agree to furnish periodic reports, as set forth in § 171.163, and must agree to allow the FAA to inspect the facility and its operation whenever necessary.

(6) The owner must assure the FAA that he will not withdraw the facility from service without the permission of the FAA.

(7) The owner must bear all costs of meeting the requirements of this section and of any flight or ground inspections made before the facility is commissioned, except that the FAA may bear certain of these costs subject to budgetary limitations and policy established by the Administrator.

(b) If the applicant for approval meets the requirements of paragraph (a) of this section, the FAA commissions the facility as a prerequisite to its approval for use in an IFR procedure. The approval is withdrawn at any time the facility does not continue to meet those requirements.

§ 171.157 Performance requirements.

(a) The DME must meet the performance requirements set forth in the "International Standards and Recommended Practices. Aeronautical Telecommunications, Part I, Paragraph 3.5.1" (Annex 10 to the Convention of International Civil Aviation).

(b) It must be shown during ground inspection of the design features of the equipment that there will not be conditions that will allow unsafe operations because of component failure or deterioration.

(c) The monitor must be checked periodically, during the in-service test evaluation period, for calibration and stability. These tests and ground tests of the functional and performance characteristics of the DME transponder must be conducted in accordance with the maintenance manual required by § 171.161(b).

(d) Flight inspection to determine the adequacy of the facility's operational performance and compliance with applicable "Standards and Recommended Practices" must be accomplished in accordance with the "U.S. Standard Flight Inspection Manual."

§ 171.159 Installation requirements.

(a) The facility must be installed according to accepted good engineering practices, applicable electric and safety codes, and Federal Communications Commission requirements.

(b) The facility must have a reliable source of suitable primary power, either from a power distribution system or locally generated, with a supplemental standby system, if needed.

(c) Dual transmitting equipment with automatic changeover is preferred and may be required to support certain IFR procedures.

(d) There must be a means for determining from the ground, the performance of the equipment, initially and periodically.

(e) A facility intended for use as an instrument approach aid for an airport must have or be supplemented by the following ground-air or landline communications services:

(1) At facilities outside of and not immediately adjacent to air traffic control areas, there must be ground-air communications from the airport served by

the facility. Separate communications channels are acceptable.

(2) At facilities within or immediately adjacent to air traffic control areas, there must be the ground-air communications required by subparagraph (1) of this paragraph and reliable communications (at least a landline telephone) from the airport to the nearest FAA air traffic control or communication facility. Separate communications channels are acceptable.

Compliance with subparagraphs (1) and (2) of this paragraph need not be shown at airports where an adjacent FAA facility can communicate with aircraft on the ground at the airport and during the entire proposed instrument approach procedure. In addition, at low traffic density airports within or immediately adjacent to air traffic control zones or areas, and where extensive delays are not a factor, the requirements of subparagraphs (1) and (2) of this paragraph may be reduced to reliable communications (at least a landline telephone) from the airport to the nearest FAA air traffic control or communications facility, if an adjacent FAA facility can communicate with aircraft during the proposed instrument approach procedure, at least down to the minimum en route altitude or the controlled area.

§ 171.161 Maintenance and operations requirements.

(a) The owner of the facility shall establish an adequate maintenance system and provide qualified maintenance personnel to maintain the facility at the level attained at the time it was commissioned. Each person who maintains a facility shall meet at a minimum the Federal Communications Commission's licensing requirements and show that he has the special knowledge and skills needed to maintain the facility, including proficiency in maintenance procedures and the use of specialized test equipment.

(b) The owner must prepare, and obtain FAA approval of, and each person operating or maintaining the facility shall comply with, an operations and maintenance manual that sets forth procedures for operations, preventive maintenance, and emergency maintenance, including instructions on each of the following:

(1) Physical security of the facility.

(2) Maintenance and operations by authorized persons only.

(3) Federal Communications Commission's requirements and maintenance personnel.

(4) Posting of licenses and signs.

(5) Relations between the facility and FAA air traffic control facilities, with a description of the boundaries of controlled airspace over or near the facility, instructions for relaying air traffic control instructions and information (if applicable), and instructions for the operation of an air traffic advisory service if the DME is located outside of controlled airspace.

(6) Notice to the Administrator of any suspension of service.

(7) Detailed and specific maintenance procedures and servicing guides stating the frequency of servicing.

(8) Air-ground communications, if provided, expressly written or incorporating appropriate sections of FAA manuals by reference.

(9) Keeping of station logs and other technical reports, and the submission of reports required by § 171.163.

(10) Monitoring of the facility.

(11) Inspections by United States personnel.

(12) Names, addresses, and telephone numbers of persons to be notified in an emergency.

(13) Shutdowns for routine maintenance and issue of "Notices to Airmen" for routine or emergency shutdowns, except that private use facilities may omit the "Notices to Airmen".

(14) An explanation of the kinds of activity (such as construction or grading) in the vicinity of the facility that may require shutdown or reapproval of the facility by FAA flight check.

(15) Commissioning of the facility.

(16) An acceptable procedure for amending or revising the manual.

(17) The following information concerning the facility:

(i) Location by latitude and longitude to the nearest second, and its position with respect to airport layouts.

(ii) The type, make, and model of the basic radio equipment that will provide the service.

(iii) The station power emission and frequency.

(iv) The hours of operation.

(v) Station identification call letters and methods of station identification, whether by Morse Code or recorded voice announcement, and the time spacing of the identification.

(vi) A description of the critical parts that may not be changed, adjusted, or repaired without an FAA flight check to confirm published operations.

(c) The owner shall make a monthly ground operational check in accordance with procedures approved by the FAA at the time of commissioning, and shall report the results of the checks as provided in § 171.163.

(d) If the owner desires to modify the facility, he shall submit the proposal to the FAA and may not allow any modifications to be made without specific approval.

(e) The owner's maintenance personnel shall participate in initial inspections made by the FAA. In the case of subsequent inspections, the owner or his representative shall participate.

(f) Whenever it is required by the FAA, the owner shall incorporate improvements in DME maintenance.

(g) The owner shall provide a stock of spare parts of such a quantity to make possible the prompt replacement of components that fail or deteriorate in service.

(h) The owner shall provide FAA approved test instruments needed for maintenance of the facility.

(i) The owner shall shut down the facility (i.e. cease radiation and issue a NOTAM that the facility is out of service) upon receiving two successive pilot reports of its malfunctioning.

§ 171.163 Reports.

The owner of each facility to which this subpart applies shall make the following reports on forms furnished by the FAA, at the time indicated, to the FAA Regional office for the area in which the facility is located:

(a) *Record of meter readings and adjustments (Form FAA–198).* To be filled out by the owner with the equipment adjustments and meter readings as of the time of commissioning, with one copy to be kept in the permanent records of the facility and two copies to the appropriate Regional office of the FAA. The owner shall revise the form after any major repair, modernization, or returning, to reflect an accurate record of facility operation and adjustment.

(b) *Facility maintenance log (Form FAA–406c).* This form is a permanent record of all equipment malfunctioning met in maintaining the facility, including information on the kind of work and adjustments made, equipment failures, causes (if determined), and corrective action taken. The owner shall keep the original of each report at the facility and send a copy to the appropriate Regional office of the FAA at the end of the month in which it is prepared.

(c) *Radio equipment operation record (Form FAA–418).* To contain a complete record of meter readings, recorded on each scheduled visit to the facility. The owner shall keep the original of each month's record at the facility and send a copy of it to the appropriate Regional office of the FAA.

Subpart H—VHF Marker Beacons

§ 171.201 Scope.

(a) This subpart sets forth minimum requirements for the approval and operation of non-Federal VHF marker beacons facilities that are to be involved in the approval of instrument flight rules and air traffic control procedures related to those facilities.

§ 171.203 Requests for IFR procedure.

(a) Each persons who requests an IFR procedure based on a VHF marker beacon facility that he owns must submit the following information with that request:

(1) A description of the facility and evidence that the equipment meets the performance requirements of § 171.207 and is installed in accordance with § 171.209.

(2) A proposed procedure for operating the facility.

(3) A proposed maintenance organization and a maintenance manual that meets the requirements of § 171.211.

(4) A statement of intent to meet the requirements of this subpart.

(5) A showing that the facility has an acceptable level of operational reliability,

and an acceptable standard of performance. Previous equivalent operational experience may be shown to comply with this subparagraph.

(b) After the FAA inspects and evaluates the facility, it advises the owner of the results and of any required changes in the facility or the maintenance manual or maintenance organization. The owner shall then correct the deficiencies, if any, and operate the facility for an in-service evaluation by the FAA.

§ 171.205 Minimum requirements for approval.

(a) The following are the minimum requirements that must be met before the FAA will approve an IFR procedure for a non-Federal VHF marker beacon facility under this subpart:

(1) A suitable frequency channel must be available.

(2) The facility's performances, as determined by air and ground inspection, must meet the requirements of § 171.207.

(3) The installation of the equipment must meet the requirements of § 171.209.

(4) The owner must agree to operate and maintain the facility in accordance with § 171.209.

(5) The owner must agree to furnish periodic reports, as set forth in § 171.213, and agree to allow the FAA to inspect the facility and its operation whenever necessary.

(6) The owner must assure the FAA that he will not withdraw the facility from service without the permission of the FAA.

(7) The owner must bear all costs of meeting the requirements of this section and of any flight or ground inspections made before the facility is commissioned, except that the FAA may bear certain of these costs subject to budgetary limitations and policy established by the Administrator.

(b) If the applicant for approval meets the requirements of paragraph (a) of this section, the FAA commissions the facility as a prerequisite to its approval for use in an IFR procedure. The approval is withdrawn at any time the facility does not continue to meet those requirements. In addition, the facility may be decommissioned whenever the frequency channel is needed for higher priority common system service.

§ 171.207 Performance requirements.

(a) VHF Marker Beacons must meet the performance requirements set forth in the "International Standards and Recommended Practices, Aeronautical Telecommunications, Part I, paragraphs 3.1.6 and 3.6." (Annex 10 to the Convention on International Civil Aviation) except those portions that pertain to identification. Identification of a marker beacon (75 MHz) must be in accordance with "U.S. Standard Flight Inspection Manual," section 219.

(b) The facility must perform in accordance with recognized and accepted good electronic engineering practices for the desired service. The facility must be checked periodically during the in-service test evaluation period for calibration and stability. These tests and ground tests of the marker radiation characteristics must be conducted in accordance with the maintenance manual required by § 171.211(b).

(c) It must be shown during ground inspection of the design features of the equipment that there will not be conditions that will allow unsafe operations because of component failure or deterioration.

(d) Flight inspection to determine the adequacy of the facility's operational performance and compliance with applicable "Standards and Recommended Practices" are conducted in accordance with the "U.S. Standard Flight Inspection Manual." The original test is made by the FAA and later tests must be made under arrangements, satisfactory to the FAA, that are made by the owner.

§ 171.209 Installation requirements.

(a) The facility must be installed according to accepted good engineering practices, applicable electric and safety codes, and FCC requirements.

(b) The facility must have a reliable source of suitable primary power.

(c) Dual transmitting equipment may be required, if applicable, to support certain IFR procedures.

(d) A facility intended for use as an instrument approach aid for an airport must have the following ground-air or landline communications services:

(1) At facilities outside of and not immediately adjacent to air traffic control areas, there must be ground-air communications from the airport served by the facility.

(2) At facilities within or immediately adjacent to air traffic control areas, there must be the ground-air communications required by the subparagraph (1) of this paragraph and reliable communications (at least a landline telephone) from the airport to the nearest FAA air traffic control or communication facility.

Compliance with subparagraphs (1) and (2) of this paragraph need not be shown at airports where an adjacent FAA facility can communicate with aircraft on the ground at the airport and during the entire proposed instrument approach procedure. In addition, at low traffic density airports within or immediately adjacent to air traffic control zones or areas, and where extensive delays are not a factor, the requirements of subparagraphs (1) and (2) of this paragraph may be reduced to reliable communications (at least a landline telephone) from the airport to the nearest FAA air traffic control or communications facility, if an adjacent FAA facility can communicate with aircraft during the proposed instrument approach procedure, at least down to the minimum en route altitude or the controlled area.

§ 171.211 Maintenance and operations requirements.

(a) The owner of the facility shall establish an adequate maintenance system and provide qualified maintenance personnel to maintain the facility at the level attained at the time it was commissioned. Each person who maintains a facility shall meet at a minimum the Federal Communications Commission's licensing requirements and show that he has the special knowledge and skills needed to maintain the facility, including proficiency in maintenance procedures and the use of specialized test equipment.

(b) The owner must prepare, and obtain approval of, and each person who operates or maintains the facility shall comply with, an operations and maintenance manual that sets forth procedures for operations, preventive maintenance, and emergency maintenance, including instructions on each of the following:

(1) Physical security of the facility.

(2) Maintenance and operations by authorized persons only.

(3) Federal Communications Commission's requirements for operating and maintenance personnel.

(4) Posting of licenses and signs.

(5) Relations between the facility and FAA air traffic control facilities, with a description of the boundaries of controlled airspace over or near the facility, instructions for relaying air traffic control instructions and information (if applicable), and instructions for the operation of an air traffic advisory service if the facility is located outside of controlled airspace.

(6) Notice to the Administrator of any suspension of service.

(7) Detailed arrangements for maintenance, flight inspection and servicing stating the frequency of servicing.

(8) Air-ground communications, if provided, expressly written or incorporating appropriate sections of FAA manuals by reference.

(9) Keeping of station logs and other technical reports, and the submission of reports required by § 171.213.

(10) Monitoring of the facility, at least once each half hour, to assure continuous operation.

(11) Inspections by U.S. personnel.

(12) Names, addresses, and telephone numbers of persons to be notified in an emergency.

(13) Shutdowns for routine maintenance and issue of "Notices to Airmen" for routine or emergency shutdowns (private use facilities may omit the "Notice to Airmen").

(14) Commissioning of the facility.

(15) An acceptable procedure for amending or revising the manual.

(16) The following information concerning the facility:

(i) Location by latitude and longitude to the nearest second, and its position with respect to airport layouts.

(ii) The type, make, and model of the basic radio equipment that will provide the service.

(iii) The station power emission and frequency.

(iv) The hours of operation.

(v) Station identification call letters and methods of station identification, whether by Morse Code or recorded voice

announcement, and the time spacing of the identification.

(c) If the owner desires to modify the facility, he shall submit the proposal to the FAA and meet applicable requirements of the Federal Communications Commission, and must not allow any modification to be made without specific approval by the FAA.

(d) The owner's maintenance personnel shall participate in initial inspections made by the FAA. In the case of subsequent inspections, the owner or his representative shall participate.

(e) The owner shall provide a stock of spare parts, including vacuum tubes, of such a quantity to make possible the prompt replacement of components that fail or deteriorate in service.

(f) The owner shall shutdown the facility by ceasing radiation, and shall issue a "Notice to Airmen" that the facility is out of service (except that private use facilities may omit "Notices to Airmen") upon receiving two successive pilot reports of its malfunctioning.

§ 171.213 Reports.

The owner of each facility to which this subpart applies shall make the following reports, at the times indicated, to the FAA Regional Office for the area in which the facility is located:

(a) *Record of meter readings and adjustments (Form FAA–198)*. To be filled out by the owner or his maintenance representative with the equipment adjustments and meter readings as of the time of commissioning, with one copy to be kept in the permanent records of the facility and two copies to the appropriate Regional Office of the FAA. The owner must revise the form after any major repair, modernization, or retuning, to reflect an accurate record of facility operation and adjustment.

(b) *Facility maintenance log (Form FAA–406c)*. This form is a permanent record of all equipment malfunctioning met in maintaining the facility, including information on the kind of work and adjustments made, equipment failures, causes (if determined), and corrective action taken. The owner shall keep the original of each report at the facility and send a copy to the appropriate Regional Office of the FAA at the end of the month in which it is prepared.

(c) *Radio equipment operation record (Form FAA–418)*. To contain a complete record of meter readings, recorded on each scheduled visit to the facility. The owner shall keep the original of each month's record at the facility and send a copy of it to the appropriate Regional Office of the FAA.

These amendments are made under the authority of sections 305, 307, 313(a), 601, and 606 of the Federal Aviation Act of 1958 (49 U.S.C. 1346, 1348, 1354(a), 1421, 1426), and under section 6(c) of the Department of Transportation Act (49 U.S.C. 1655(c)).

Issued in Washington, D.C., on January 29, 1970.

C. W. WALKER,
Deputy Associate Administrator for Operations.

[F.R. Doc. 70–1359; Filed, Feb. 3, 1970; 8:46 a.m.]

Notices

DEPARTMENT OF THE TREASURY

Bureau of the Mint

DEPUTY DIRECTOR ET AL.

Order of Succession of Officials Authorized To Act as Director of the Mint and Delegation of Authority Under Emergent Conditions

1. By virtue of the authority vested in me by Treasury Department Order No. 129, Revision No. 2, dated April 22, 1955 (20 F.R. 2875, published Apr. 28, 1955), the following officials of the Bureau of the Mint, in the order of succession enumerated herein, are hereby authorized and directed to act as Director of the Mint, and to perform all of the functions of that office during the absence or disability of the Director of the Mint, or when there is a vacancy in that office:

Deputy Director of the Mint.
Assistant Director of the Mint.
Financial Manager.
Assistant to the Director, Coin Management and Public Information.
Technical Consultant to the Director.
Superintendent, U.S. Mint, Philadelphia, Pa.
Superintendent, U.S. Mint, Denver, Colo.
Officer in Charge, U.S. Assay Office, San Francisco, Calif.

2. By virtue of the above authority, and in the event of an enemy attack on the continental United States, the following officials of the Bureau of the Mint (or, in the absence of any of them, such officer as is authorized to act in his (or her) absence) are hereby authorized and directed to make such provisions as he (or she) deems necessary to insure continuous performance of all functions of the Bureau of the Mint, now or hereafter assigned to such official:

Deputy Director of the Mint.
Assistant Director of the Mint.
Financial Manager.
Assistant to the Director, Coin Management and Public Information.
Technical Consultant to the Director.
Superintendent, U.S. Mint, Philadelphia, Pa.
Superintendent, U.S. Mint, Denver, Colo.
Officer in Charge, U.S. Assay Office, San Francisco, Calif.
Superintendent, U.S. Assay Office, New York, N.Y.
Officer in Charge, U.S. Bullion Depository, Fort Knox, Ky.
Administrative Officer, U.S. Bullion Depository, West Point, N.Y.

This authority, in the event of an enemy attack on the continental United States, will authorize each of the above named officials (or in the absence of any such official, the officer authorized to act for him or her) to take any action with respect to the functions performed in his (or her) office which the Secretary of the Treasury, the Director of the Mint, or any of their subordinates would be authorized to take.

This order supersedes the order of succession of persons to Act as Director, dated March 9, 1967 (32 F.R. 4318, published Mar. 21, 1967).

Effective date. The effective date of this order is the date of publication in the FEDERAL REGISTER.

Dated: January 27, 1970.

[SEAL] MARY BROOKS,
Director of the Mint.

[F.R. Doc. 70-1364; Filed, Feb. 3, 1970; 8:46 a.m.]

Fiscal Service

[Dept. Circ. 570, 1969 Rev., Supp. No. 15]

ELAC INSURANCE COMPANY LIMITED

Change of Name

The Employers' Liability Assurance Corporation, Limited, London, England (U.S. Office, Boston, Massachusetts), has formally changed its name to ELAC Insurance Company Limited, effective January 1, 1970. Documents evidencing the change of name of The Employers' Liability Assurance Corporation, Limited to ELAC Insurance Company Limited are on file in the Treasury.

A new Certificate of Authority as an acceptable reinsuring company only on Federal bonds, dated January 1, 1970, has been issued by the Secretary of the Treasury to the ELAC Insurance Company Limited, London, England (U.S. Office, Boston, Massachusetts), pursuant to Treasury Department Circular No. 297, Revised January 2, 1970, 31 CFR Part 223, to replace the Certificate issued July 1, 1969 to the Company under its former name, The Employers' Liability Assurance Corporation, Limited. The underwriting limitation of $9,049,000 previously established for the Company remains unchanged.

The change in name of The Employers' Liability Assurance Corporation, Limited does not affect its status or liability with respect to any obligation in favor of the United States or in which the United States has an interest, which it may have undertaken pursuant to the Certificate of Authority issued by the Secretary of the Treasury.

Certificates of Authority expire on June 30 each year, unless sooner revoked and new Certificates are issued on July 1, so long as the companies remain qualified (31 CFR Part 223). A list of qualified companies is published annually as of July 1, in Department Circular 570, with details as to underwriting limitations, areas in which licensed to transact fidelity and surety business and other information. Copies of the Circular, when issued, may be obtained from the Treasury Department, Bureau of Accounts, Audit Staff, Washington, D.C. 20226.

Dated: January 29, 1970.

[SEAL] JOHN K. CARLOCK,
Fiscal Assistant Secretary.

[F.R. Doc. 70-1363; Filed, Feb. 3, 1970; 8:46 a.m.]

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[F-12423]

ALASKA

Notice of Proposed Classification of Lands for Multiple Use Management; Correction

In F.R. Doc. 69-15500, appearing at pages 16 and 17 of the issue for Thursday, January 1, 1970, the following change should be made: Under Fairbanks Meridian, "T. 8 S., R. 8 W.," should read "T. 8 S., R. 8 E."

BURTON W. SILCOCK,
State Director.

JANUARY 27, 1970.

[F.R. Doc. 70-1370; Filed, Feb. 3, 1970; 8:47 a.m.]

[S-3503]

CALIFORNIA

Notice of Proposed Classification of Public Lands for Transfer Out of Federal Ownership

JANUARY 28, 1970.

1. Pursuant to the Act of September 19, 1964 (43 U.S.C. 1412) and to the regulations in 43 CFR Parts 2410 and 2411, it is proposed to classify the public lands described in paragraph 3 for transfer out of Federal ownership by exchange under section 8 of the Taylor Grazing Act (43 U.S.C. 315g).

2. Publication of this notice has the effect of segregating the following described public lands from all forms of disposal under the public land laws, including the mining laws, except the form of disposal for which it is proposed to classify the lands. However, publications does not alter the applicability of the public land laws governing the use of the lands under lease, license, or permit, or govern the disposal of their mineral and vegetative resources, other than under the mining laws.

3. The below-described lands proposed to be classified for disposal are located in the Fresno-San Benito Planning Unit, in Fresno, San Benito and Monterey Counties. The proposal has been discussed and analyzed in detail with the counties and with other agencies, groups and individuals. Maps and other information are available for inspection in

the Folsom District Office, Bureau of Land Management, 63 Natoma Street, Folsom, Calif. 95630; and in the Sacramento Land Office, Bureau of Land Management, 2800 Cottage Way, Sacramento, Calif. 95825.

MT. DIABLO MERIDIAN

T. 19 S., R. 12 E.,
Sec. 9, SE¼SE¼;
Sec. 10, S½SW¼;
Sec. 14, NE¼NW¼;
Sec. 15, N½N½ and SW¼SW¼;
Sec. 17, E½;
Sec. 20, NE¼NE¼;
Sec. 21, S½N½ and S½;
Sec. 22, W½E½, W½, and E½SE¼;
Sec. 23, SW¼;
Sec. 25, NW¼NW¼;
Sec. 26, N½;
Sec. 27, N½N½, SE¼SW¼, and SW¼SE¼;
Sec. 28, E½, E½W½, and W½NW¼;
Sec. 29, S½NE¼;
Sec. 33, NE¼NE¼, W½NE¼, and E½NW¼;
Sec. 34, NW¼ and NW¼SW¼.
T. 19 S., R. 13 E.,
Sec. 21, NE¼ and SE¼NW¼;
Sec. 31, Lot 1.
Containing 3,803.48 acres.

4. For a period of 60 days from the date of publication of this notice in the FEDERAL REGISTER, all persons who wish to submit comments, suggestions, or objections in connection with the proposed classification may present their views in writing to the Folsom District Manager, 63 Natoma Street, Folsom, Calif. 95630.

For the State Director.

DELMAR D. VAIL,
District Manager.

[F.R. Doc. 70-1336; Filed, Feb. 3, 1970; 8:45 a.m.]

[Colorado 3986]

COLORADO

Opening of Lands

FEBRUARY 6, 1970.

1. In an order issued November 18, 1969, the Federal Power Commission vacated the power withdrawal created pursuant to the filing on July 10, 1937 of an application for license for Project No. 1445 for the following described lands:

SIXTH PRINCIPAL MERIDIAN, COLORADO

All unpatented portions of the following tracts lying within 50 feet of the centerline of the transmission line location as shown on a map designated "Exhibit J-K" and entitled "Exhibit J-K, Public Service Company of Colorado, Bemrose Placer Distribution Line", and filed in the office of the Federal Power Commission on July 10, 1937:

T. 8 S., R. 78 W.,
Sec. 2, S½SE¼;
Sec. 11, N½NE¼;
Sec. 12, N½NW¼, SE¼NW¼.

The area described aggregates approximately 8.73 acres.

The State of Colorado has waived the preference right afforded it under section 24 of the Federal Power Act of June 10, 1920 (41 Stat. 1075; 16 U.S.C. 818), as amended.

2. The lands formerly in Project No. 1445 are national forest lands in the Arapaho National Forest.

By virtue of the authority contained in section 24 of the Federal Power Act of June 10, 1920 (41 Stat. 1075; 16 U.S.C. 818), as amended, and pursuant to the authority delegated to me by Bureau Order No. 701 of July 23, 1964, as amended, it is ordered as follows:

3. At 10 a.m. on March 14, 1970, the lands described in paragraph 1 shall be open to such forms of disposal as may by law be made of national forest lands.

4. The lands have been open to applications and offers under the mineral leasing laws and to location under the U.S. mining laws subject to the provisions of the Act of August 11, 1955 (69 Stat. 682; 30 U.S.C. 621).

Inquiries concerning the lands should be addressed to the Manager, Land Office, Bureau of Land Management, Denver, Colo. 80202.

J. ELLIOTT HALL,
Land Office Manager.

[F.R. Doc. 70-1334; Filed, Feb. 3, 1970; 8:45 a.m.]

[Colorado 3284]

COLORADO

Opening of Lands

FEBRUARY 6, 1970.

1. In an order issued October 2, 1969, the Federal Power Commission vacated the power withdrawal created pursuant to the filing on September 22, 1927, of an application for license for Project No. 838 for the following described lands:

NEW MEXICO PRINCIPAL MERIDIAN, COLORADO

T. 33 N., R. 5 E.,
Sec. 12, S½NW¼, N½SW¼, SE¼SW¼.

All portions of the following-described tracts lying within 50 feet of the centerline of the transmission line location shown on a map designated "Exhibit F" and entitled "Application for License, Conejos Recreation Association, Inc., La Manga Creek, Hydro-Electric Development, Twp. 33 N., Range 5 E., N.M.P.M., Conejos County, Colo., Irrigation Div. #3, Water Dist. No. 22", and filed in the Office of the Federal Power Commission on September 22, 1927:

T. 33 N., R. 5 E.,
Sec. 1, N½NW¼NW¼, W½SW¼, SE¼SW¼;
Sec. 12, NW¼.

The areas described aggregate approximately 213 acres.

The State of Colorado has waved the preference right afforded it under section 24 of the Federal Power Act of June 10, 1920 (41 Stat. 1075; 16 U.S.C. 818), as amended.

2. The lands formerly in Project No. 838 are national forest lands in the Rio Grande National Forest.

By virtue of the authority contained in section 24 of the Federal Power Act of June 10, 1920 (41 Stat. 1075; 16 U.S.C. 818), as amended, and pursuant to the authority delegated to me by Bureau Order No. 701 of July 23, 1964, as amended, it is ordered as follows:

3. At 10 a.m. on March 14, 1970 the lands described in paragraph 1 shall be open to such forms of disposal as may by law be made of national forest lands.

4. The lands have been open to applications and offers under the mineral leasing laws and to location under the U.S. mining laws subject to the provisions of the Act of August 11, 1955 (69 Stat. 682; 30 U.S.C. 621).

Inquiries concerning the lands should be addressed to the Manager, Land Office, Bureau of Land Management, Denver, Colo. 80202.

J. ELLIOTT HALL,
Land Office Manager.

[F.R. Doc. 70-1366; Filed, Feb. 3, 1970; 8:46 a.m.]

DISTRICT MANAGERS, NEW MEXICO

Delegation of Authority

JANUARY 28, 1970.

Designating Acting Area Managers and Acting Chiefs, Divisions of Resource Management, Operations, and Administration in New Mexico District Offices. The authorities delegated to the Area Managers, Chiefs, Divisions of Resource Management, Operations, and Administration in the District Offices may in the absence of the designated Area Manager, Chiefs, Divisions of Resource Management, Operations, or Administration be performed by an Acting Area Manager or Acting Chiefs, Divisions of Resource Management, Operations, or Administration. Such "acting" officials shall be designated by written orders of the District Manager.

Each designated employee who serves in such capacity shall, when serving, sign documents and other papers as "Acting (name of position)." Each such acting official shall prepare a memorandum to be kept in the district office showing the date and hour of commencement and termination of each period of such service as "Acting (name of position)."

W. J. ANDERSON,
State Director.

[F.R. Doc. 70-1335; Filed, Feb. 3, 1970; 8:45 a.m.]

Geological Survey

NEW MEXICO AND WYOMING

Definitions of Known Geologic Structures of Producing Oil and Gas Fields

Pursuant to 43 CFR 3120.2-2(b) notice is hereby given that the known geologic structures of producing oil and gas fields have been defined as follows:

NAMES OF FIELD	EFFECTIVE DATE	ACREAGE
(31) NEW MEXICO		
Lusk	Nov. 17, 1969	15,345
Shugart-North Benson	Oct. 27, 1969	30,027
Young-South Maljamar	Oct. 6, 1969	4,080
(50) WYOMING		
Barber Creek, West	Dec. 11, 1969	1,506
C-H	Oct. 17, 1969	1,120
Frenchie Draw "A"	Sept. 16, 1969	19,953
Garland	Oct. 6, 1969	7,563
Pickrel Ranch	Sept. 25, 1969	1,022
Sandbar East	Aug. 19, 1969	2,560
Soda Well East	Oct. 1, 1969	2,800
Whitetail	Sept. 17, 1969	2,991

Maps and diagrams showing the boundaries of the defined structures have been filed with the appropriate land office of the Bureau of Land Management and are also of record in the Geological Survey, Washington, D.C.

W. A. RADLINSKI,
Acting Director.

JANUARY 28, 1970.

[F.R. Doc. 70-1352; Filed, Feb. 3, 1970; 8:46 a.m.]

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Food and Drug Administration

AMERICAN CYANAMID CO.

Notice of Filing of Petition for Food Additives

Pursuant to provisions of the Federal Food, Drug, and Cosmetic Act (sec. 409 (b)(5), 72 Stat. 1786; 21 U.S.C. 348(b)(5)), notice is given that a petition (FAP 0B2496) has been filed by American Cyanamid Co., Wayne, N.J. 07470, proposing that § 121.2541 *Emulsifiers and/or surface-active agents* (21 CFR 121.2541) be amended to provide for the safe use of the following substances as emulsifiers and/or surface-active agents in the manufacture of food-packaging materials:

1. Sodium bis(tridecyl) sulfosuccinate.
2. Sodium diamylsulfosuccinate.
3. Sodium dicyclohexylsulfosuccinate.
4. Sodium dihexylsulfosuccinate.
5. Sodium diisobutylsulfosuccinate.

Dated: January 27, 1970.

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

[F.R. Doc. 70-1347; Filed, Feb. 3, 1970; 8:45 a.m.]

CHEMAGRO CORP.

Notice of Filing of Petition Regarding Pesticides

Pursuant to provisions of the Federal Food, Drug, and Cosmetic Act (sec. 408 (d)(1), 68 Stat. 512; 21 U.S.C. 346a(d)(1)), notice is given that a petition (PP 0F0934) has been filed by Chemagro Corp., Post Office Box 4913, Kansas City, Mo. 64120, proposing the establishment of tolerances (21 CFR Part 120) for residues of the insecticide *O,O*-diethyl-*S*-[4-oxo-1, 2, 3-benzotriazin-3(4H)-ylmethyl] phosphorodithioate in or on the raw agricultural commodities cottonseed and potatoes at 0.1 part per million.

The analytical methods proposed in the petition for determining residues of the insecticide are: (1) A colorimetric technique based on alkaline hydrolysis of residues to anthranilic acid which acid is then determined colorimetrically by diazotization and coupling with *N*-(1-naphthyl) ethylenediamine dihydrochloride; and (2) a gas chromatographic technique with a thermionic-emission flame detector.

Dated: January 27, 1970.

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

[F.R. Doc. 70-1346; Filed, Feb. 3, 1970; 8:45 a.m.]

DEPARTMENT OF COMMERCE

Business and Defense Services Administration

PURDUE UNIVERSITY

Notice of Decision on Application for Duty-Free Entry of Scientific Article

The following is a decision on an application for duty-free entry of a scientific article pursuant to section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Public Law 89-651, 80 Stat. 897) and the regulations issued thereunder as amended (34 F.R. 15787 et seq.).

A copy of the record pertaining to this decision is available for public reveiw during ordinary business hours of the Department of Commerce, at the Scientific Instrument Evaluation Division, Department of Commerce, Washington, D.C.

Docket No. 69-00687-00-46040. Applicant: Purdue University, West Lafayette, Ind. 47907. Article: Accessories for Elmiskop IA electron microscope. Manufacturer: Siemens AG, West Germany. Intended use of article: The article will be used for updating an existing electron microscope presently in use. These accessories are intended to provide additional capability for the study of dislocation arrangements of metallurgical structures. Comments: No comments have been received with respect to this application. Decision: Application approved. No instrument or apparatus of equivalent scientific value to the foreign articles, for such purposes as these articles are intended to be used, is being manufactured in the United States. Reasons: The application relates to certain accessories which are intended to be used with an electron microscope that had previously been imported for the use of the applicant institution. These accessories are being furnished by the manufacturer of the electron microscope with which they are intended to be used. The Department of Commerce knows of no similar accessories being manufactured in the United States, which are interchangeable with the accessories described in the application or which may readily be adapted to the electron microscope with which the foreign articles are intended to be used.

CHARLEY M. DENTON,
Assistant Administrator for Industry Operations, Business and Defense Services Administration.

[F.R. Doc. 70-1345; Filed, Feb. 3, 1970; 8:45 a.m.]

CIVIL AERONAUTICS BOARD

[Docket No. 21865; Order 70-1-149]

AMERICAN AIRLINES, INC., AND BRANIFF AIRWAYS, INC.

Order of Investigation and Suspension

Adopted by the Civil Aeronautics Board at its office in Washington, D.C., on the 29th day of January 1970.

Freight rates for certified and space-available services proposed by American Airlines, Inc., and Braniff Airways, Inc.; Docket 21865.

By tariffs bearing the posting dates of December 18 and 24, 1969, and marked to become effective February 1, 1970, American Airlines, Inc. (American), proposes to establish two additional levels of service for freight in selected markets.[1]

"Certified Service" provides that shipments will be transported on flights specifically confirmed to the shipper under person-to-person signature service. The rates for this service will be 130 percent of the current general commodity rates, subject to a minimum charge per shipment equal to the applicable charge for a 100-pound shipment plus $35. If, however, the carrier fails to carry a shipment on the specific flight indicated or the scheduled arrival of that specific flight is delayed three hours or more, causing a comparable delay in delivery, the shipper will pay the otherwise applicable rate for standard service.

Under the proposed space-available tariff, the airport-to-airport transportation will be performed after the accommodation of all other revenue-traffic, including nonpriority mail. The rates, however, cover door-to-door service for all shipments. The carrier will not trace any shipment for a period of approximately four days after receipt. The tariff will not apply to live animals, perishables, human remains, oversized pieces and valuable articles, or to shipments having a declared value in excess of 50 cents per pound or $50 per shipment, whichever is greater.

The rates proposed for the space-available service are approximately 50 percent of American's westbound general commodity rates plus the Area A pickup and delivery charges. There would be a minimum charge per shipment equal to the charge for a 250-pound shipment over the various segments. Additional charges will be made if redelivery is required, if waiting time is requested, or if storage is provided beyond the established free period.

Both the certified and space-available service tariffs are marked to expire December 31, 1970.

Braniff Airways, Inc. (Braniff), by tariff filed January 2, 1970, marked to become effective February 1, 1970, proposes space-available rates identical to American's from Dallas/Fort Worth to

[1] From Dallas to Chicago, Los Angeles, and New York-Newark, from Los Angeles to New York-Newark, from New York-Newark to Los Angeles, and from St. Louis to Los Angeles and New York-Newark.

Chicago and New York/Newark. Braniff states that this filing is intended to meet the competition of American's proposal, against which it is submitting a complaint.

Numerous complaints, requesting suspension and investigation and in several cases rejection, as an alternative, were received against one or more of the foregoing proposals.[2]

The complaints against the proposed certified-service tariff assert, inter alia, that the rates proposed involve significant increases above the current rates for standard service, which also involves committed space for consistent shippers, and that American presents no cost justification for the higher rates. REA Express (REA) asserts that the certified service would be inconsistent with its agreement with the airlines since the service would have priority over air express and would divert significant revenues from REA.

The complaints against the space-available tariff allege, inter alia, that the rates would be uneconomic and the service proposed would generally be as fast as standard service because of the low load factors in the markets involved; consequently, it is claimed, the tariff would result in major diversion of traffic from standard service and in revenue dilution. The forwarder complainants assert, inter alia, that the door-to-door feature of the proposal and the prohibition of customer pick-up at destination will prevent forwarders from using the space-available tariff.

In support of its proposals and in answer to the complaints, American states that the proposals involve experimental services and rates intended to tap shipper needs not now met by the standard service and rates, which would be continued.[3] The certified service would meet a demand for guaranteed expedited service, including special services to shippers. Freight forwarders and other consistent shippers would continue to receive committed space. Air Express will continue to receive priority over all types of air freight.

American claims that the space-available service will not result in significant diversion from standard service (the diversion is estimated at 10 percent) because (1) the former would be subject to uncertain transportation patterns resulting from fluctuations in other traffic; (2) American intends to handle space-available shipments in off-peak flights; and (3) shippers would not receive prompt flight information. American also claims that the rates will be economic because (unlike under the former deferred service[4]) there will be no holding of shipments and because the door-to-door service will increase the carrier's control over the shipments. American states, finally, that the service is intended to divert traffic from surface transport modes, involving an enormous potential market.

Upon consideration of all relevant factors, the Board finds that the proposed space-available tariffs may be unjust, unreasonable, unjustly discriminatory, unduly preferential, unduly prejudicial, or otherwise unlawful, and should be suspended pending investigation.

The rate reductions proposed appear out of proportion to the differences in cost and value of service as compared with standard services. Existence of substantial unused capacity means that the space-available service much of the time would be comparable to standard air freight although the rates would be much lower. Therefore, much of current air freight would be subject to diversion to the space-available service, at reduced revenues to carriers, though costs remain largely the same. This would only worsen already marginal air cargo economics.

By the same token, if substantial new traffic is generated by the reduced space-available rates, the service would be on an economic basis only if provided in currently unused capacity, thus increasing load factors. But experience has shown that traffic carried at discounts aimed at filling empty space often becomes the basis for adding capacity.

The Board does not oppose discount pricing aimed at selling capacity otherwise unused, as for example in off-peak periods. We believe, however, that such discounts must be carefully tailored to the cost and value of service factors involved to achieve sound economic results.

We now turn to the proposed certified-service tariff. That tariff provides at higher rates a premium service which would appear likely to attract a limited amount of traffic. Those shippers that do not wish such a service will continue to have available the service and rates now in effect. However, the Board is concerned with the application to the new service of the liability limitations now under inquiry as to their application to standard air freight service. The certified service would be held out to the public as a kind of guaranteed service to meet special requirements for the movement of property. It is only fair to assume that most users would employ it in situations in which they were relying on the performance of the service as agreed and scheduled and that failure of the carrier to perform could have substantial adverse consequences on the user. In these circumstances, the carrier's purported exculpation from consequential damages may be unjust or unreasonable. Similarly, the application of the usual 50 cents per pound, $50 per shipment limitation on carrier liability may be unjust or unreasonable and the Board is not prepared to permit the application of these limitations to this premium service without investigation, and the proposal will be suspended.

Accordingly, pursuant to the Federal Aviation Act of 1958, and particularly sections 204(a) and 1002 thereof:

It is ordered, That:

1. An investigation is instituted to determine whether the rates, charges, and provisions in Airline Tariff Publishers, Inc., Agent's Tariffs CAB No. 132 and CAB No. 135 (and 1st Revised Pages 1, 2, 5, and 6 thereto), and rules, regulations, and practices affecting such rates, charges, and provisions, are or will be unjust or 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 Airline Tariff Publishers, Inc., Agent's Tariffs CAB No. 132 and CAB No. 135 (and 1st Revised Pages 1, 2, 5, and 6 thereto) are suspended and their use deferred to and including May 1, 1970, 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 complaints of Air Freight Forwarders Association, in Docket 21784; Braniff Airways, Inc., in Docket 21766; Eastern Air Lines, Inc., in Docket 21786; The Flying Tiger Line, Inc., in Docket 21776; Society of American Florists and Ornamental Horticulturists, in Docket 21794; REA Express, in Docket 21746; Seaboard World Airlines, Inc., in Docket 21785; Trans World Airlines, Inc., in Docket 21745; United Air Lines, Inc., in Docket 21762; and Wings and Wheels Express, Inc., in Docket 21743 are hereby dismissed except to the extent granted herein.

4. The proceeding herein be assigned for hearing before an examiner of the Board at a time and place hereafter to be designated; and

5. Copies of this order shall be filed with the tariffs and served upon American Airlines, Inc., Braniff Airways, Inc., Air Freight Forwarders Association, Eastern Air Lines, Inc., The Flying Tiger Line, Inc., Society of American Florists and Ornamental Horticulturists, REA Express, Seaboard World Airlines, Inc., Trans World Airlines, Inc., United Air Lines, Inc., and Wings and Wheels 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. 70-1380; Filed, Feb. 3, 1970; 8:48 a.m.]

[2] Complaints against the space-available tariff were received from Braniff, Eastern Air Lines, Inc., The Flying Tiger Line Inc., Seaboard World Airlines, Inc., and United Air Lines, Inc. Complaints against both the certified-service and the space-available tariffs were submitted by the Air Freight Forwarders Association, Society of American Florists and Ornamental Horticulturists, Trans World Airlines, Inc., and Wings and Wheels Express, Inc. A protest against the certified service alone was filed by REA Express.

We do not find that the proposals are inconsistent with the Board's tariff regulation, 14 CFR Part 221, and the requests for rejection will be dismissed.

[3] Numerous telegrams and letters in support of American's proposals were received from shippers.

[4] Deferred service providing for mandatory delays in deliveries has been canceled by most carriers which offered such service.

[Docket Nos. 21344, 21302; Order 70-1-146]

PAN AMERICAN WORLD AIRWAYS, INC., ET AL.

Order To Show Cause and Granting Exemption

Adopted by the Civil Aeronautics Board at its office in Washington, D.C., on the 29th day of January 1970.

Application of Pan American World Airways, Inc., Docket 21344, under section 401 of the Federal Aviation Act, as amended, for amendment of its certificate of public convenience and necessity for route 150; application of the city of Fairbanks, the Fairbanks-North Star Borough, and the Greater Fairbanks Chamber of Commerce, Inc., Docket 21302, for an exemption pursuant to section 416(b) of the Federal Aviation Act, as amended.

On August 13, 1969, the city of Fairbanks, Alaska, the Fairbanks-North Star Borough, and the Greater Fairbanks Chamber of Commerce (Fairbanks parties) filed an application for an exemption pursuant to section 416(b) of the Act so as to permit Pan American World Airways to carry local traffic between New York and Fairbanks on New York-Tokyo flights operated via Fairbanks. Pan American and the State of Alaska filed answers in support of the exemption, Alaska Airlines and Northwest Airlines filed answers in opposition, and the Fairbanks parties filed a reply.[1] In its answer to the application of the Fairbanks parties, Pan American states that it is ready, willing, and able to provide such service and that the exemption should be granted pending decision on its contemporaneously filed certificate application in Docket 21344 for authority to engage in interstate air transportation between New York and Fairbanks.[2]

Upon consideration of the pleadings and all other relevant matters known to the Board, we have decided to direct interested persons to show cause why Pan American's certificate application should not be granted, subject to a long-haul condition requiring New York-Fairbanks flights to serve a point west of Fairbanks on the holder's route 130. We will also grant the requested exemption pendente lite.

Pan American was granted authority in the Transpacific Route Investigation[3] to engage in overseas and foreign air transportation over a new Great Circle segment between New York and Tokyo via Fairbanks. Pursuant to that award, Pan American has been operating a daily nonstop round-trip service between New York and Fairbanks. Because its Transpacific award did not encompass interstate authority, however,[4] Pan American cannot carry local and interstate connecting New York-Fairbanks traffic, despite the availability of ample space to accommodate this traffic. This traffic must currently move via connecting service, since no other U.S. carrier is authorized to serve between New York and Fairbanks. Pan American's nonstop routing is 700 miles or 21 percent shorter than via the principal connecting point, Seattle, and offers substantially faster elapsed travel times than now available by means of circuitous journeys on connecting flights.[5] Moreover, to reflect the shorter nonstop routing, Pan American states that it would offer fare reductions from those presently available on connecting services.

We tentatively accept as reasonable the traffic forecast of the Fairbanks parties showing that in 1970 a total market of almost 10,000 passengers, or 13 a day in each direction, would be available for carriage on a New York-Fairbanks nonstop service. No challenge has been directed to the basic reasonableness of the forecast.[6] While this volume of traffic would ordinarily not warrant consideration of nonstop or even single-plane service, in view of the size of the aircraft which must necessarily be employed over this 3,280-mile sector, the fact that the service can be provided by Pan American without any increase in aircraft mileage flown or direct operating expenses incurred leads us tentatively to conclude that the traveling public should not be deprived of this valuable service and Pan American should not be deprived of the revenues it can earn through providing the service.

We also tentatively conclude that no other carrier will suffer significant diversion of traffic or revenues if Pan American receives this authority. The precise level of market participation that Pan American can achieve is, of course, dependent in some degree on the quality and quantity of connecting service which is or may be offered by other carriers. Based on the Fairbanks parties' 1970 traffic forecast, Northwest and Alaska estimate that the award of the authority in question to Pan American would cost each of them $200,000 in revenues, the latter predicting that 50 percent of the total market would utilize Pan American's nonstop service. We tentatively find that Pan American could be expected to carry at least 50 percent of the total forecast market, or about 5,000 passengers in 1970—which volume may be exceeded, however, to the extent the Alaskan oil boom and other factors affecting traffic growth may expand the market. On the other hand, it is our tentative judgment that the market is not and will not for a considerable time to come be large enough to support nonstop service on a turnaround basis, and that only a carrier in a position to consolidate New York-Fairbanks traffic with significant beyond-market traffic flows could economically provide nonstop service. Because of its existing route authority, Pan American is the only carrier that could economically operate such a nonstop service without opening new stations or gaining entry into other beyond markets.

We tentatively find that the factors favoring the award of nonstop authority to Pan American outweigh the diversionary impact asserted by Northwest and Alaska. Since neither carrier serves both terminals, the claims are based on the loss of interline revenue derived from connecting passengers. In any event neither estimate has been calculated from base-year or current levels of participation, but from participation based on the 1970 forecast, which includes stimulation and growth. However, even assuming that the alleged diversion materializes in the amounts claimed by Northwest and Alaska, we find that there will be no significant adverse effect on either carrier. Such revenue loss would constitute less than 0.05 percent of Northwest's 1968 annual system revenues and is less than 0.8 percent of Alaska's. While Alaska has been experiencing financial difficulties, its traffic continues to show a healthy growth rate which exceeds that of the industry. Any marginal diminution in its traffic opportunities by reason of our award to Pan American herein will not affect in any significant way the carrier's financial condition.

In these circumstances we tentatively find and conclude that the public convenience and necessity require the grant of Pan American's application for a certificate amendment to add a new segment between New York and Fairbanks to its existing route 150. We will make the authority subject to a long-haul condition providing that flights must serve a point or points west of Fairbanks on route 130, since the market does not now justify turnaround service and Pan American has agreed to accept such a limitation.

We further tentatively find and conclude that, as thus conditioned, the authority we propose to award Pan American is not mutually exclusive, as a matter of economic fact, with any future application for unrestricted New York-Fairbanks turnaround authority. At the present time, as pointed out above, there would be no justification for considering New York-Fairbanks service in the absence of Pan American's ability to serve the market by flights already being operated between New York and Tokyo. If at some future time the New York-Fairbanks market grows to a size warranting consideration of unrestricted authority, an applicant other than Pan American will not be precluded from showing that its application for such authority should be granted rather than Pan American's.

Interested persons will be permitted, in accordance with the schedule and procedures set forth below, to show why the

[1] The motion of the Fairbanks parties for leave to file an untimely reply will be granted for good cause shown.

[2] Pan American's certificate application seeks New York-Fairbanks authority in the form of a new segment on its interstate route 150.

[3] Order 69-4-90, served Apr. 24, 1969.

[4] Such authority was outside the scope of the Investigation.

[5] For example, the Fairbanks parties point out that Pan American's nonstop service is 2:35 hours faster than the best connecting westbound service, and 5:26 hours faster than the best connecting eastbound service.

[6] However, Pan American suggests that the forecast may prove to be understated in light of the recent Alaskan oil discoveries, which portend significant additional traffic growth.

tentative findings and conclusions herein should not be made final.[7] In the event a hearing is requested, and the Board determines to hold a hearing, the expedited procedures set forth in Subpart N of Part 302 of the Board's procedural regulations (other than Rules 1401–1404) shall govern as if they were applicable. In the interests of expedition, Pan American is directed to supplement its application in Docket 21344 by setting forth the matters specified in subsections A through E of Rule 1404 not later than 10 days from the date of service of this order.

Objections, if any, to the tentative findings and conclusions set forth herein should be accompanied by arguments of fact or law and should be supported by legal precedent or detailed economic analysis. If an evidentiary hearing is requested, the objector should state in detail why such a hearing is considered necessary and what relevant facts he would expect to establish through such a hearing, and should comply with Rule 1406. General, vague, or unsupported objections will not be entertained. Such objections shall be filed not later than 25 days after the filing of Pan American's supplemental application. If no objections are filed, or the Board concludes that a hearing is not required as a matter of law, the Board intends to finalize its tentative findings and conclusions without further proceedings. If objections requiring a hearing are filed, they will be treated as answers under Subpart N procedures, and the Board will issue an order directing that the case shall go forward in accordance with said procedures, all in the interests of the most expeditious resolutions consistent with due process for the objecting parties.

We also find that the grant of exemption authority pendente lite is warranted. The public interest in such an exemption is established by our earlier findings concerning the time and fare savings which will be afforded to New York-Fairbanks travelers, the benefit to Pan American in filling seats which would otherwise be vacant, and the absence of any significant adverse impact on any other carrier. The temporary authority granted is limited in extent in that it is only for the duration of an expedited certification proceeding, which in our judgment should be concluded within 6 months even if a hearing is required. Moreover, it involves no new aircraft operations for Pan American, and the carriage of an extremely small volume of traffic, an average of probably no more than seven passengers a day in each direction. Unusual circumstances are also present in that there appears to have been a recent sharp increase in demand for New York-Fairbanks service, as a result of the Alaskan oil boom, and in that Pan American is in a position from an operational standpoint to respond economically to this need. Furthermore, certification proceedings cannot be completed in time to meet the present exigencies. In these circumstances, a failure to permit Pan American to respond to the demonstrated need pending disposition of the expedited certificate proceeding which we are instituting would constitute an undue burden on Pan American and would subject the public to unnecessary hardship. Accordingly, we find that enforcement of section 401 and the terms, conditions, and limitations of Pan American's certificate of public convenience and necessity for route 130, to the extent that they would otherwise prevent Pan American from carrying New York-Fairbanks traffic on its existing New York-Fairbanks-Tokyo flights, would be an undue burden on Pan American by reason of the limited extent of and unusual circumstances affecting its operations and is not in the public interest.

Accordingly, it is ordered, That:

1. Pursuant to the procedures hereinafter set out, all interested persons are directed to show cause why the Board should not issue an order making final the tentative findings and conclusions stated herein, and amending the certificate of public convenience and necessity of Pan American World Airways, Inc., for route 150 by adding a new segment between the terminal point New York, N.Y.-Newark, N.J., and the terminal point Fairbanks, Alaska, such new authority to be subject to a condition requiring any flights operated pursuant to that authority also to serve a point west of Fairbanks on Pan American's route 130;

2. Within 10 days of the date of this order Pan American shall file a supplemental application for the authority described in paragraph 1, such application to comply with the provisions of Rules 1404 and 1407(a) of the Board's rules of practice;

3. Any interested persons having objection to the issuance of an order making final any of the proposed findings, conclusions, or certificate amendments set forth herein shall, within 25 days after the filing by Pan American of its supplemented application, file with the Board an answer to the application, such answers to comply with the provisions of Rules 1406 and 1407(a) of the Board's rules of practice;

4. If answers are filed pursuant to paragraph 3, Pan American's application will be considered by the Board under the expedited procedures of Subpart N of its rules of practice, specifically Rules 1408–1415;

5. In the event no answers are filed, all further procedural steps will be deemed to have been waived and the Board may proceed to enter an order in accordance with the tentative findings and conclusions set forth herein;

6. Pan American World Airways, Inc., be and it is hereby temporarily exempted from the provisions of section 401 of the Act, and the terms, conditions, and limitations of its certificate of public convenience and necessity for route 130 to the extent that they would otherwise prevent Pan American from carrying local New York-Fairbanks traffic on New York-Tokyo flights;

7. The exemption authority granted herein shall be effective until 60 days following final Board decision in the proceeding directed by paragraphs 1 through 5 hereof, or for a period of 2 years, whichever is less;

8. The exemption authority granted herein may be amended or revoked at any time in the discretion of the Board without hearing;

9. The motion of the City of Fairbanks, the Fairbanks-North Star Borough, and the Greater Fairbanks Chamber of Commerce, Inc., for leave to file an unauthorized document be and it is hereby granted;

10. A copy of this order shall be served upon the following persons, who are hereby made parties to this proceeding: all air carriers certificated to serve New York, N.Y., Newark, N.J., and Fairbanks, Alaska; the city of Fairbanks, Alaska, the Fairbanks-North Star Borough, and the Greater Fairbanks Chamber of Commerce, Inc.; the States of New York, New Jersey, and Alaska; the Alaska Transportation Commission; the cities of New York, N.Y., and Newark, N.J.; and the Port of New York Authority.

This order shall be published in the FEDERAL REGISTER.

By the Civil Aeronautics Board.[8]

[SEAL] HARRY J. ZINK,
Secretary.

[F.R. Doc. 70–1379; Filed, Feb. 3, 1970; 8:47 a.m.]

[7] The Board will not entertain requests for the expansion of the scope of the proceeding to include service between New York and Fairbanks via intermediate points. Nor do we anticipate that motions to consolidate competing applications will be filed since no other applicant would be in a position to seek precisely the authority at issue. However, evidence of potential mutual exclusivity will, of course, be considered.

[Docket No. 19176]

TRANSAMERICA CORP. AND TRANS INTERNATIONAL AIRLINES, INC.

Notice of Prehearing Conference

Notice is hereby given that a prehearing conference in the above-entitled matter is assigned to be held on February 17, 1970, at 10 a.m., e.s.t., in Room 911, Universal Building, 1825 Connecticut Avenue NW., Washington, D.C., before Examiner E. Robert Seaver.

Requests for evidence, statements of proposed issues, proposed procedural dates, and motions shall be filed with the Examiner and interested parties on or before February 12, 1970.

Dated at Washington, D.C., January 30, 1970.

[SEAL] THOMAS L. WRENN,
Chief Examiner.

[F.R. Doc. 70–1381; Filed, Feb. 3, 1970; 8:48 a.m.]

[8] Joint concurring and dissenting statement of Members Murphy and Minetti filed as part of original document.

FEDERAL POWER COMMISSION

NATIONAL POWER SURVEY TASK FORCE ON ENVIRONMENT

Establishment

JANUARY 28, 1970.

The Federal Power Commission is directed by section 202(a) of the Federal Power Act (16 U.S.C. 824a(a)) to promote and encourage voluntary interconnection and coordination of the Nation's electric power facilities in the interest of economy and the proper utilization and conservation of natural resources and is authorized by section 311 of the Act (16 U.S.C. 825j) to conduct broad investigations covering all aspects of the entire power industry. In order to accomplish these objectives, the Commission with the assistance of a number of industry advisory committees is updating the National Power Survey issued by the Commission on December 12, 1964. We have concluded that it would be in the public interest to establish, in addition, an advisory group composed of persons especially qualified to assist on environmental questions. In accordance with the Executive Order No. 11007 of February 26, 1962 (27 F.R. 1875), relating to the Formation and Use of Advisory Committees, we hereby establish a National Power Survey Task Force on Environment.

1. *Purpose.* The Task Force shall counsel with the Commission and staff on studies of environmental aspects associated with updating the National Power Survey which will project the growth of the electric power industry to the year 1990. These studies will examine current and projected effects of power system facilities on the quality of air and water environments, upon land use, and upon scenic and historic areas and natural and developed environments. The advisory group will counsel on long-range programs of site selection, data collection, and investigations and research that may appear to be needed to effect timely and satisfactory resolution of questions on preserving and where possible improving these environments.

2. *Selection of Task Force members.* All Task Force members and alternates shall be selected by the Chairman of the Commission with the approval of the Commission.

3. *Conduct of meetings.* The Chairman of the Commission, or in his absence, the Acting Chairman, or any full-time employee of the Commission designated by the Chairman or Acting Chairman of the Commission, shall act as Chairman of Task Force meetings and shall be responsible for calling, opening and conducting meetings and for adjourning meetings when, in his judgment, adjournment is in the public interest.

4. *Minutes.* The Chairman of the Commission having made a finding that maintenance of a verbatim transcript would be impracticable and not in the public interest, there shall be kept by the Secretary of the Task Force, in lieu thereof, a record of persons present, a description of matters discussed and conclusions reached, and copies of all reports received, issued, or approved by the Task Force.

5. *Secretary of the Task Force.* The Chairman of the Commission shall appoint a Secretary and an Assistant Secretary of the Task Force from the Commission staff who shall be responsible for preparing summary minutes of all Task Force meetings, preparing agenda, notifying members of the meetings, and maintaining all records related to organizations, memberships and operations of the Task Force. The Secretary or Assistant Secretary shall be present during all meetings and shall certify the accuracy of all minutes.

6. *Location and time of meetings.* Meetings will convene at the Office of the Federal Power Commission, located at 441 G Street NW., Washington, D.C. 20426, unless otherwise directed. Ordinarily, meetings will be held during the regular working hours of the Federal Power Commission.

7. *Duration of the Task Force.* The Task Force shall terminate not later than 1 year subsequent to its date of establishment, unless the Commission determines in writing, not more than 60 days prior to the expiration of such 1-year period, that continued existence of the Task Force is in the public interest.

By the Commission.

[SEAL] GORDON M. GRANT, *Secretary.*

[F.R. Doc. 70-1354; Filed, Feb. 3, 1970; 8:46 a.m.]

[Docket No. RI70-1089]

ATLANTIC RICHFIELD CO.

Order Accepting Contract Amendment and Providing for Hearing on and Suspension of Proposed Change in Rate

JANUARY 28, 1970.

On December 29, 1969, Atlantic Richfield Co. (Atlantic) [1] tendered for filing a proposed change in its presently effective rate schedule for sales of natural gas subject to the jurisdiction of the Commission. The proposed change, which constitutes an increased rate and charge, is designated as follows:

Description: Notice of Change, dated December 23, 1969.
Purchaser and producing area: United Gas and Pipe Line Co. (South Cabeza Creek Field, Goliad County, Tex., RR. District No. 2).
Rate schedule designation: Supplement No. 24 to Atlantic's FPC Gas Rate Schedule No. 46.
Effective date: January 29, 1970.[2]
Amount of annual increase: $2,510.
Effective rate: 14.0345 cents per Mcf.[3]
Proposed rate: 15 cents per Mcf.
Pressure base: 14.65 p.s.i.a.

Concurrently with the filing of its increased rate, Atlantic submitted a contract amendment, designated as Supplement No. 23 to its FPC Gas Rate Schedule No. 46.[4] We believe it would be in the public interest to accept for filing Atlantic's proposed amendment to become effective on January 29, 1970, the proposed effective date, but not the proposed rate contained therein. Atlantic's proposed rate of 15 cents per Mcf will be suspended as ordered herein.

The contract amendment tendered by Atlantic provides, inter alia, for a base rate of 18.3 cents per Mcf at the present time. Atlantic proposes herein to increase its rate for the subject sale from 14.0345 cents to 15 cents per Mcf, as permitted under its contract amendment, and waives its right to file for any higher rate for the remainder of the contract term which expires on July 1, 1980, but reserves the right to collect any higher future just and resonable area ceiling price applicable to this sale that may be established by the Commission.

Atlantic's proposed rate exceeds the applicable area increased rate ceiling of 14 cents per Mcf set forth in the Commission's statement of general policy No. 61-1, as amended (18 CFR 2.56). The proposed rate is equal to the area ceiling of 15 cents per Mcf prescribed in the Second Amendment to the Commission's statement of general policy No. 61-1 for those contracts from which all price escalation clauses have been eliminated, except for future changes in tax reimbursement. But, the Second Amendment 15-cent settlement ceiling is not applicable in view of Atlantic's reservation of the right to file for any higher area just and reasonable rate.[5] Accordingly we shall suspend Atlantic's proposed rate for 5 months from the proposed effective date of January 29, 1970.

The proposed increased rate may be unjust, unreasonable, unduly discriminatory, or preferential, or otherwise unlawful.

The Commission finds:

(1) Atlantic's contract amendment, designated as Supplement No. 23 to its FPC Gas Rate Schedule No. 46, should be accepted for filing and allowed to become effective as of January 29, 1970.

(2) It is necessary and proper in the public interest and to aid in the enforcement of the provisions of the Natural Gas Act that the Commission enter upon a hearing concerning the lawfulness of the proposed change, and that Supplement No. 24 to Atlantic's FPC Gas Rate Schedule No. 46 be suspended and the use thereof deferred as hereinafter ordered.

The Commission orders:

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[1] Address is: Post Office Box 2819, Dallas, Tex. 75221, Attention: Mr. P. T. Davis.

[2] The stated effective date is the effective date requested by respondent.

[3] Rate in effect subject to refund in Docket No. RI69-792.

[4] The contract amendment was accepted and agreed to by Atlantic on Nov. 11, 1969, effective as of June 19, 1969.

[5] See order issued Apr. 17, 1969, in Mobil Oil Corp., 41 FPC 519, and order issued Mar. 13, 1967, in D. E. & R. J. Whelan, Inc., 37 FPC 534. The same action was taken by the Commission in an order issued Feb. 23, 1966, in Frio-Tex Oil & Gas Co., 35 FPC 244, involving the Seventh Amendment to the Commission's policy statement.

(A) Supplement No. 23 to Atlantic's FPC Gas Rate Schedule No. 46 is accepted for filing and permitted to become effective as of January 29, 1970.

(B) Pursuant to the authority of the Natural Gas Act, particularly sections 4 and 15 thereof, the Commission's rules of practice and procedure, and the regulations under the Natural Gas Act (18 CFR Ch. I), a public hearing shall be held upon a date to be fixed by notice from the Secretary concerning the lawfulness of the proposed increased rate and charge contained in Supplement No. 24 to Atlantic's FPC Gas Rate Schedule No. 46.

(C) Pending such hearing and decision thereon, Supplement No. 24 to Atlantic's FPC Gas Rate Schedule No. 46 is hereby suspended and the use thereof deferred until June 29, 1970, and thereafter until such further time as it is made effective in the manner prescribed by the Natural Gas Act.

(D) Neither the supplement hereby suspended nor the rate schedule sought to be altered thereby shall be changed until this proceeding has been disposed of or until the period of suspension has expired, unless otherwise ordered by the Commission.

(E) Notices of intervention or petitions to intervene may be filed with the Federal Power Commission, Washington, D.C. 20426, in accordance with rules of practice and procedure (18 CFR 1.8 and 1.37(f)) on or before March 16, 1970.

By the Commission.

[SEAL] GORDON M. GRANT, *Secretary.*

[F.R. Doc. 70-1355; Filed, Feb. 3, 1970; 8:46 a.m.]

[Docket No. CP70-174]

TRUNKLINE GAS CO.

Notice of Application

JANUARY 28, 1970.

Take notice that on January 16, 1970, Trunkline Gas Co. (applicant), Post Office Box 1642, Houston, Tex. 77001, filed in Docket No. CP70-174 an application pursuant to section 7(c) of the Natural Gas Act and § 157.7 of the regulations thereunder for a certificate of public convenience and necessity authorizing the construction and operation of miscellaneous field facilities to be used in the transportation of natural gas in interstate commerce, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

The stated purpose of this budget-type application is to augment applicant's ability to act with reasonable dispatch in contracting for and connecting to its pipeline system additional supplies of natural gas in areas generally coextensive with said system.

The total estimated cost of the proposed facilities will not exceed $5 million, with no single onshore project to cost in excess of $500,000, and no single offshore project cost in excess of $1 million. Applicant requests a waiver of the single project cost limitation contained in § 2.58 of the Commission's rules of practice and procedure. The proposed facilities cost will be financed from funds on hand.

Any person desiring to be heard or to make any protest with reference to said application should on or before February 16, 1970, file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10) and the regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Power Commission by sections 7 and 15 of the Natural Gas Act and the Commission's rules of practice and procedure, a hearing will be held without further notice before the Commission on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

GORDON M. GRANT, *Secretary.*

[F.R. Doc. 70-1353; Filed, Feb. 3, 1970; 8:46 a.m.]

[Docket No. E-7521]

INDIANAPOLIS POWER & LIGHT CO.

Notice of Application

FEBRUARY 2, 1970.

Take notice that on January 22, 1970, Indianapolis Power & Light Co. (Applicant) filed an application seeking an order pursuant to section 204 of the Federal Power Act authorizing the issuance of $27 million principal amount of unsecured short-term promissory notes.

Applicant is incorporated under the laws of Indiana with its principal business office at Indianapolis, Ind., and is primarily engaged in the generating, distributing and selling of electric energy within the city of Indianapolis, Ind., and adjacent communities, towns, and rural areas.

The notes will be issued from time to time during the calendar year 1970, prior to December 31, 1970, and each note will carry a maturity date of not more than 1 year after the date of issuance and in no event will the final maturity date be later than December 31, 1971. The notes to be issued to commercial paper dealers will be issued at the prevailing published discount rate, in various amounts but not to exceed $24 million aggregate principal amount. The notes issued to commercial banks will bear interest at a rate not to exceed the prevailing prime commercial lending rate of commercial banks.

The net proceeds to be received from the initial issuance of its notes will be used to (1) repay other presently outstanding unsecured Promissory Notes ($12 million promissory notes now outstanding) and the balance thereof applied to payment of part of the cost of its 1969–1974 construction program. The construction program for 1970 is estimated at a total of $32,431,000.

Any person desiring to be heard or to make any protest with reference to said application should on or before February 16, 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 (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Persons wishing to become parties to a proceeding or to participate as a party in any hearing therein must file petitions to intervene in accordance with the Commission's rules. The application is on file with the Commission and available for public inspection.

GORDON M. GRANT, *Secretary.*

[F.R. Doc. 70-1410; Filed, Feb. 3, 1970; 8:50 a.m.]

FEDERAL MARITIME COMMISSION

CONTINENTAL NORTH ATLANTIC WESTBOUND FREIGHT 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 offices of the District Managers, 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, 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

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. Burton H. White,
Burlingham, Underwood, Wright, White & Lord,
25 Broadway,
New York, N.Y. 10004.

Agreement No. 8210–10 between the member lines of the Continental North Atlantic Westbound Freight Conference, amends the Preamble of the basic agreement to delete the present reference to the now disbanded Swiss/North Atlantic Freight Conference and to substitute in its place the geographical reference "Switzerland/Leichtenstein." This is a redesignation of the areas to which the basic agreement does not apply.

Dated: January 30, 1970.

By order of the Federal Maritime Commission.

FRANCIS C. HURNEY,
Secretary.

[F.R. Doc. 70–1384; Filed, Feb. 3, 1970; 8:48 a.m.]

ISRAEL/U.S. NORTH ATLANTIC PORTS WESTBOUND FREIGHT 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 offices of the District Managers, 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, 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 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. Howard A. Levy, Kurrus and Jacobi, 2000 K Street NW., Washington, D.C. 20006.

Agreement No. 8420–7, between the member lines of the Israel/U.S. North Atlantic Ports Westbound Freight Conference, modifies the basic agreement, which is a two-party rate agreement, by deleting (1) the first sentence in Article 12 which provides for the filing with the Commission of minutes or other records of actions taken by the parties, and (2) paragraph (f) from Article 14 which provides for the filing with the Commission of complaints received pursuant to the self-policing provisions of the agreement. The Commission's General Order 18, Amendment No. 4, and General Order 7, Amendment No. 3, respectively, relieve two-party rate agreements from the above filing requirements.

Dated: January 30, 1970.

By order of the Federal Maritime Commission.

FRANCIS C. HURNEY,
Secretary.

[F.R. Doc. 70–1383; Filed, Feb. 3, 1970; 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) of the Bank Holding Company Act of 1956 (12 U.S.C. 1842(a)), by First Florida Bancorporation, which is a registered bank holding company located in Haines City, Fla., for prior approval by the Board of Governors of the acquisition by applicant of 80 percent or more of the voting shares of The State Bank of Arlington, Jacksonville, 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 efforts 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.

Dated at Washington, D.C., this 28th day of January 1970.

By order of the Board of Governors.

[SEAL] KENNETH A. KENYON,
Deputy Secretary.

[F.R. Doc. 70–1338; Filed, Feb. 3, 1970; 8:45 a.m.]

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) of the Bank Holding Company Act of 1956 (12 U.S.C. 1842(a)), by First Florida Bancorporation, which is a registered bank holding company located in Haines City, Fla., for prior approval by the Board of Governors of the acquisition by applicant of 80 percent or more of the voting shares of The State Bank of Jacksonville, Jacksonville, 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.

Dated at Washington, D.C., this 28th day of January 1970.

By order of the Board of Governors.

[SEAL] KENNETH A. KENYON,
Deputy Secretary.

[F.R. Doc. 70-1339; Filed, Feb. 3, 1970; 8:45 a.m.]

[Regs. G, T, and U]

OTC MARGIN STOCK

Changes in List

The following changes have been made, effective January 26, 1970, in the List of OTC Margin Stocks, published in the FEDERAL REGISTER on August 16, 1969, at 34 F.R. 13343:

1. Deletions: (stocks now registered on national securities exchanges) The Bank of California, N.A., $10 par value common capital; Bank of New York Co., $15 par common; The TI Corp. (of California), common, $1 par value; and Will Ross, Inc., common, $1 par value; (stocks of companies acquired by firms registered on national securities exchanges) Edgcomb Steel Co., common, $5 par value, and Grinnell Corp., no par value, common; and (issuer not subject to registration under section 12(g)(1) of the Securities Exchange Act of 1934) Narragansett Capital Corp., $1 par common.

2. Changes: American Maize-Products Co., without par or face value, common, becomes American-Maize Products Co., class A, $1 par common, and class B, $1 par common; Anchor Corp., class B, nonvoting, common, is changed to Washington National Corp., $5 par common; Manufacturers and Traders Trust Co. (New York), $5 par capital, becomes First Empire State Corp., $5 par common; The Ohio Casualty Insurance Co., capital, becomes Ohio Casualty Corp., $0.50 par capital; The Philadelphia National Bank, capital, is changed to PNB Corp., $1 par common; and Wachovia Corp., $5 par common, is corrected to read Wachovia Corp., The $5 par common.

Board of Governors of the Federal Reserve System, acting by its Director of the Division of Supervision and Regulation pursuant to delegated authority (12 CFR 265.2(c)(13)), January 26, 1970.

[SEAL] KENNETH A. KENYON,
Deputy Secretary.

[F.R. Doc. 70-1371; Filed, Feb. 3, 1970; 8:47 a.m.]

SECURITIES AND EXCHANGE COMMISSION

[70-4826]

AMERICAN NATURAL GAS CO.

Notice of Proposed Issue and Sale of Short-Term Notes to Banks

JANUARY 29, 1970.

Notice is hereby given that American Natural Gas Co. ("American Natural"), 30 Rockefeller Plaza, Suite 4950, New York, N.Y. 10020, a registered holding company, has filed a declaration with this Commission pursuant to the Public Utility Holding Company Act of 1935 ("Act"), designating sections 6 and 7 of the Act as applicable to the transactions proposed. All interested persons are referred to the declaration, which is summarized below, for a complete statement of the proposed transactions.

American Natural proposes to issue and sell its short-term promissory notes to two banks in an aggregate principal amount of $40 million outstanding at any one time. The banks and their commitments are as follows: First National City Bank, New York, N.Y. ("First National"), $24 million, and Manufacturers Hanover Trust Co., New York, N.Y., $16 million. The notes will be unsecured and will be issued commencing in February 1970, as funds are required. There is no commitment fee, and the notes may be prepaid without penalty. The notes will be dated as of the date of issuance and will mature December 31, 1970. Borrowings will be approximately pro rata with the amount of the line of credit set up with each bank. Each note will bear interest at the prime rate of First National in effect on the date of each borrowing, and the interest rate will be adjusted to the prime rate in effect at First National at the beginning of each 90-day period subsequent to the date of the first borrowing.

American Natural will use the proceeds of the proposed notes to acquire additional shares of common stock of two of its subsidary companies, Michigan Consolidated Gas Co. and Michigan Wisconsin Pipe Line Co., up to a maximum of $18,004,000 and $21 million, respectively. Such acquisitions are the subject of separate filings with this Commission. The proceeds of permanent financing during the second half of 1970 contemplated by American Natural will be used to retire all, or a major portion, of the proposed short-term borrowings. It is stated that any funds required by American Natural to retire the balance of such short-term borrowings will be generated internally or borrowed from banks under the exemption provided by section 6(b) of the Act.

It is stated that the fees and expenses to be incurred in connection with the proposed transactions are estimated at $1,500, including legal fees of $500, and 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 February 20, 1970, request in writing that a hearing be held on such matter, stating the nature of his interest, the reasons for such request, and the issues of fact or law raised by said declaration which he desires to controvert; or he may request that he be notified if the Commission should order a hearing thereon. Any such request should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request should be served personally or by mail (airmail if the person being served is located more than 500 miles from the point of mailing) upon the declarant 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 declaration, as filed or as it may be amended, may be permitted to become effective as provided in Rule 23 of the general rules and 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 (pursuant to delegated authority).

[SEAL] ORVAL L. DUBOIS,
Secretary.

[F.R. Doc. 70-1367; Filed, Feb. 3, 1970; 8:47 a.m.]

[70-4827]

AMERICAN NATURAL GAS CO. AND MICHIGAN CONSOLIDATED GAS CO.

Notice of Proposed Increase in Authorized Capital Stock, Issue and Sale, and Acquisition of Common Stock

JANUARY 29, 1970.

Notice is hereby given that American Natural Gas Co. ("American Natural"), Suite 4950, 30 Rockefeller Plaza, New York, N.Y. 10020, a registered holding company, and its subsidiary company, Michigan Consolidated Gas Co. ("Michigan"), 1 Woodward Avenue, Detroit, Mich. 48226, have filed an application with this Commission, pursuant to the Public Utility Holding Company Act of 1935 ("Act"), designating sections 6(b), 9, 10, and 12(f) of the Act and Rules 43

and 50(a)(3) promulgated thereunder as applicable to the proposed transactions. All interested persons are referred to the application, which is summarized below, for a complete statement of the proposed transactions.

Michigan proposes (a) to amend its articles of incorporation so as to increase the number of its authorized shares of common stock, par value $14 per share, from 10,350,000 shares to 11,636,000 shares; and (b) to issue and sell 1,286,000 shares of such common stock to American Natural for a cash consideration of $18,004,000 which is equal to the aggregate par value thereof. American Natural, which owns all of Michigan's outstanding common stock, proposes to acquire the 1,286,000 shares.

The proceeds will be used by Michigan to pay a portion of its notes payable to banks due August 14, 1970, of which $45 million is estimated to be outstanding when the common stock is sold. It is stated that additional permanent financing during 1970 will include the sale to the public of $30 million of first mortgage bonds. The 1970 construction program is estimated at $43 million.

It is stated that the fees and expenses to be incurred in connection with the proposed transactions are estimated at $28,506, including State commission fees of $27,006 and counsel fees of $1,000. The filing further states that the proposed issuance and sale of common stock are subject to the jurisdiction of the Michigan Public Service Commission and that no other 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 February 20, 1970, request in writing that a hearing be held on such matter, stating the nature of his interest, the reasons for such request, and the issues of fact or law raised by said application which he desires to controvert; or he may request that he be notified if the Commission should order a hearing thereon. Any such request should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request should be served personally or by mail (airmail if the person being served is located more than 500 miles from the point of mailing) upon the applicants at the above-stated addresses, and proof of service (by affidavit or, in case of an attorney at law, by certificate) should be filed with the request. At any time after said date, the application, as filed or as it may be 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 (pursuant to delegated authority).

[SEAL] ORVAL L. DUBOIS, *Secretary.*

[F.R. Doc. 70-1368; Filed, Feb. 3, 1970; 8:47 a.m.]

[70-4829]

MICHIGAN WISCONSIN PIPE LINE CO. AND AMERICAN NATURAL GAS CO.

Notice of Proposed Issue and Sale of First Mortgage Bonds at Competitive Bidding and Increase in Authorized Shares of Common Stock and Sale Thereof to Holding Company

JANUARY 29, 1970.

Notice is hereby given that American Natural Gas Co. ("American Natural"), 30 Rockefeller Plaza, Suite 4950, New York, N.Y. 10020, a registered holding company, and one of its subsidiary companies, Michigan Wisconsin Pipe Line Co. ("Michigan Wisconsin"), have filed an application-declaration with this Commission pursuant to the Public Utility Holding Company Act of 1935 ("Act"), designating sections 6(b), 9, 10, and 12(f) of the Act and Rules 43 and 50 thereunder as applicable to the proposed transactions. All interested persons are referred to the application-declaration, which is summarized below, for a complete statement of the proposed transactions.

Michigan Wisconsin proposes to issue and sell, pursuant to the competitive bidding requirements of Rule 50 under the Act, $40 million principal amount of First Mortgage Pipe Line Bonds, ------ percent Series due 1990. The interest rate on the bonds (which shall be a multiple of ⅛ of 1 percent) and the price, exclusive of accrued interest, to be received by Michigan Wisconsin (which shall be not less than 98½ percent nor more than 101½ percent of the principal amount thereof) are to be determined by the competitive bidding. The bonds are to be issued under Michigan Wisconsin's Mortgage and Deed of Trust dated as of September 1, 1948, between Michigan Wisconsin and First National City Bank, trustee, as heretofore supplemented and as to be further supplemented by a 21st Supplemental Indenture to be dated as of March 1, 1970, and which includes a prohibition until March 15, 1975, against refunding the issue with the proceeds of funds borrowed at lower interest cost.

Michigan Wisconsin also proposes to increase its authorized shares of common stock, par value $100 per share (all of which are owned by American Natural), from 1,255,000 to 1,465,000 shares. Michigan Wisconsin further proposes to issue and sell, and American Natural proposes to acquire, the 210,000 additional shares of common stock of Michigan Wisconsin at a price of $100 per share, or for an aggregate price of $21 million.

Michigan Wisconsin presently has outstanding $71 million of notes payable to banks, maturing March 31, 1970. The net proceeds from the sale of the bonds and common stock will be applied to the retirement of said notes.

The fees and expenses to be paid in connection with the proposed transactions are to be filed by amendment. Michigan Wisconsin has applied to the Michigan Public Service Commission for authority to issue and sell the proposed bonds and common stock. A copy of the order entered therein is to be supplied by amendment. It is represented that no other 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 February 23, 1970, request in writing that a hearing be held on such matter, stating the nature of his interest, the reasons for such request, and the issues of fact or law raised by said application-declaration which he desires to controvert; or he may request that he be notified if the Commission should order a hearing thereon. Any such request should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request should be served personally or by mail (airmail if the person being served is located more than 500 miles from the point of mailing) upon the applicants-declarants at the above-stated 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-declaration, as filed or as it may be amended, may be granted and permitted to become effective as provided in Rule 23 of the general rules and regulations promulgated under the Act, or the Commission may grant exemption from such rules as provided in Rules 20(a) and 100 thereof or take such other action as it may deem appropriate. Persons who request a hearing or advice as to whether a hearing is ordered will receive notice of further developments in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission (pursuant to delegated authority).

[SEAL] ORVAL L. DUBOIS, *Secretary.*

[F.R. Doc. 70-1369; Filed, Feb. 3, 1970; 8:47 a.m.]

INTERSTATE COMMERCE COMMISSION

[Notice 11]

MOTOR CARRIER APPLICATIONS AND CERTAIN OTHER PROCEEDINGS

JANUARY 30, 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.

APPLICATIONS ASSIGNED FOR ORAL HEARING

MOTOR CARRIERS OF PROPERTY

No. MC 113855 (Sub-No. 197) (Republication), filed May 15, 1969, published in the FEDERAL REGISTER issue of June 19, 1969, and republished this issue. Applicant: INTERNATIONAL TRANSPORT, INC., South Highway 2, Rochester, Minn. 55901. Applicant's representative: Alan Foss, 502 First National Bank Building, Fargo, N. Dak. 58102. By application filed May 15, 1969, as amended, applicant seeks a certificate of public convenience and necessity authorizing operation, in interstate or foreign commerce, as a common carrier by motor vehicle, over irregular routes, of landscaping, irrigation, forestry, digging and earthmoving equipment, utility line installation and maintenance equipment, and attachments and parts for such commodities, from Pella, Iowa, to points in the United States, except Alaska and Hawaii. An order of the Commission, Review Board No. 1, decided January 20, 1970, and served January 26, 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 *irrigation, stump-cutting, and earth and tree moving equipment, and equipment* used in the installation and maintenance of underground utility lines, *parts and attachments* for such commodities, and *trailers* designed for the transportation of such commodities, from Pella, Iowa, to points in the United States, except Alaska and Hawaii, subject to the condition that the authority herein, to the extent that it duplicates any other authority held by applicant shall not be construed as conferring more than a single operating right; that applicant is fit, willing, and able properly to perform such service and to conform to the requirements of the Interstate Commerce Act and the Commission's rules and regulations thereunder. Because it is possible that other persons who have relied upon the notice of the application as published, may have an interest in and would be prejudiced by the lack of proper notice of the authority described in the findings in this order, a notice of the authority actually granted will be published in the FEDERAL REGISTER and issuance of a certificate in this proceeding will be withheld for a period of 30 days from the date of such publication, during which period any proper party in interest may file a petition to reopen or for other appropriate relief setting forth in detail the precise manner in which it has been so prejudiced.

No. MC 128940 (Sub-No. 7) (Republication), filed February 24, 1969, published in the FEDERAL REGISTER issue of March 13, 1969, and republished this issue. Applicant: RICHARD A. CRAWFORD, doing business as R. A. CRAWFORD TRUCKING SERVICE, 9327 Riggs Road, Post Office Box 722, Adelphi, Md. Applicant's representative: Charles E. Creager, Post Office Box 3582, Baltimore, Md. 21214. By report and order entered in the above-entitled proceeding, the examiner recommended the granting to applicant a permit authorizing operation, in interstate or foreign commerce as a contract carrier by motor vehicle, over irregular routes, of the commodities, to and from points substantially as indicated below. An order of the Commission, Division 1, served December 17, 1969, and effective January 16, 1970, finds that applicant is fit, willing, and able properly to perform the service of a contract carrier by motor vehicle and to conform to the provisions of the Interstate Commerce Act and with the lawful requirements, rules, and regulations of the Commission thereunder, that operation, in interstate or foreign commerce, by applicant as a *contract carrier* by motor vehicle, under a continuing contract with Fairfield Farms Kitchens, of Beaver Heights, Md., of *foods and food products, related advertising materials, and equipment and supplies* used in the preparation and serving of foods in restaurants or commissaries, over irregular routes; (1) from Washington, D.C., to points in Livingston, Macomb, Monroe, Oakland, Washtenaw, and Wayne Counties, Mich.; and (2) from Chicago, Ill., Detroit, Mich., and Cleveland, Ohio, to Washington, D.C., subject to the following restriction: The transportation of meats, meat products, and meat byproducts, as described in section A, appendix I, in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209 (1952) and 766 (1963), from Chicago, Ill., Detroit, Mich., and Cleveland, Ohio, would be restricted to transportation in mixed loads with the other commodities herein authorized will be consistent with the public interest and the national transportation policy. 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 permit 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 133900 (Republication), filed July 14, 1969, published in the FEDERAL REGISTER issue of August 14, 1969, and republished this issue. Applicant: U.S. TRANSFER COMPANY, a corporation, 1509 North Eighth Street, Coos Bay, Oreg. 97420. Applicant's representative: Lawrence V. Smart, Jr., 419 Northwest 23d Avenue, Portland, Oreg. 97210. By application filed July 14, 1969, applicant seeks a certificate of public convenience and necessity authorizing operation, in interstate or foreign commerce, as a common carrier by motor vehicle, over irregular routes, of used household goods between points in Coos and Curry Counties, Oreg., and Douglas and Lane Counties, Oreg., within a radius of 50 miles of oCos Bay, Oreg., in a manner substantially as indicated below. An order of the Commission, Operating Rights Board, dated December 10, 1969, and served December 23, 1969, 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 *used household goods* between points in Coos, Curry, and Douglas Counties, Oreg., restricted to the transportation of traffic having a prior or subsequent movement, in containers, beyond the points authorized and further restricted to the performance of pickup and delivery service in connection with packing, crating, and containerization or unpacking, uncrating, and decontainerization of such traffic; 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

No. MC 128642 (Sub-No. 1) (Notice of Filing of Petition for Interpretation of Certificate), filed October 6, 1969. Petitioner: SKYLINE TRANSPORT, INC., Baltimore, Md. Petitioner's representatives: Jacob P. Billig and John R. Bagileo, 1108 16th Street NW., Washington, D.C. 20036. Petitioner holds certificate No. MC–128642 (Sub-No. 1), authorizing it to transport, as pertinent herein, rayon, silk, textiles, chemicals, raw materials, and machinery used in the manufacture of piece goods, over regular routes, between Paterson, N.J., and Rocky Mount, N.C., serving specified intermediate points. By the instant petition, petitioner requests the Commission find that the commodity description, chemicals, as set forth in its certificate,

is not restricted to the movement of chemicals intended to be utilized in the manufacture of piece goods. An order of the Commission, dated January 20, 1970, orders that the said petition be, and it is hereby, assigned for hearing at a time and place hereafter to be fixed, and that notice of the said petition and this order be published in the FEDERAL REGISTER. 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 129351 (Sub-No. 1) (Notice of Filing of Petition for Modification of Permit To Add Additional Contracting Shipper), filed January 15, 1970. Petitioner: VAN NATTA TRUCKING, INC., Vasper, Wis. Petitioner's representative: Edward Solie, Executive Building, Suite 100, 4513 Vernon Boulevard, Madison, Wis. 53705. Petitioner holds a Permit in No. MC 129351 (Sub-No. 1), authorizing the transportation of malt beverages, from St. Paul, Minn., to Milwaukee, Wis., limited to a transportation service to be performed, under a continuing contract, or contracts, with Prestwor Beverage, Inc., of Milwaukee, Wis. By the instant petition, petitioner requests that its permit be modified by adding Tiffany Distributing Corp. of Milwaukee, Wis., as a contracting shipper. 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.

APPLICATION FOR CERTIFICATE OR PERMIT WHICH IS TO BE PROCESSED CONCURRENTLY WITH APPLICATION UNDER SECTION 5 GOVERNED BY SPECIAL RULE 240 TO THE EXTENT APPLICABLE

No. MC 87109 (Sub-No. 24), filed December 17, 1969. Applicant: TIDEWATER INLAND EXPRESS, INC., doing business as T.I.E., Rehoboth Boulevard, Milford, Del. 19963. Applicant's representative: Robert S. Burk, 2001 Massachusetts Avenue NW., Washington, D.C. 20036. Authority sought to operate as a *common carrier*, by motor vehicle, over regular and irregular routes, transporting: *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 Syracuse, N.Y. and Oswego, N.Y.: (A) Regular routes: (1) From Syracuse over New York Highway 57 to Oswego; also over New York Highway 48 to Oswego; also over New York Highway 370 to junction with New York Highway 31, thence over New York Highway 31 to junction New York Highway 48, thence over New York Highway 48 to Oswego and return over the same routes serving all intermediate points and the off-route points of Geddes, De Witt, Salina, Pennellville, and Nedrow; and (2) between Cortland, N.Y., and Elmira, N.Y., from Cortland over New York Highway 13 to junction New York Highway 14, thence over New York Highway 14 to Elmira and return over the same route, serving all intermediate points and the off-route points of Etna, McLean, Peruville, Virgil, Elmira Airport, Freeville, Homer, and McGraw; and (B) Irregular routes: (1) Between points in Brome and Cortland Counties, N.Y.; (2) between points in Cortland Counties, N.Y., on the one hand, and, on the other, points in Cayuga, Chenango, Onondaga, Tioga, Tompkins, and Yates Counties, N.Y.; (3) from points in Cortland County, N.Y., to points in Otsego County, N.Y.; (4) from points in Tompkins County, N.Y., to points in Broome County, N.Y.; and (5) from points in Onondaga, County, N.Y., to points in Cayuga County, N.Y. NOTE: Applicant states that it intends to tack the irregular route authority sought herein with its present authorities at the points of Binghamton, Cortland, and Syracuse, N.Y. Service through such joinder would be provided between points in the territory sought and points on the routes and in the territories now served by applicant in the states of Delaware, Maryland, New Jersey, Pennsylvania, Virginia, and the District of Columbia. The purpose of this application is to convert the certificate of registration No. MC–85117 (Sub-No. 4) into a certificate of public convenience and necessity. This is a matter directly related to MC–F–10686, published in the FEDERAL REGISTER issue of December 24, 1969. Common control may be involved. If a hearing is deemed necessary, applicant requests it be held at Washington, D.C., or Syracuse, N.Y.

APPLICATIONS UNDER SECTIONS 5(a) AND 210a(b)

The following applications are governed by the Interstate Commerce Commission's special rules governing notice of filing of applications by motor carriers of property or passengers under sections 5(a) and 210a(b) of the Interstate Commerce Act and certain other proceedings with respect thereto (49 CFR 1.240).

MOTOR CARRIERS OF PROPERTY

No. MC–F–10719. Authority sought for control and merger by TRI-STATE MOTOR TRANSIT CO., Post Office Box 113, Interstate Business Route I–44, Joplin, Mo. 64802, of the operating rights and property of D. B. FORD, INC., 51 Lowry Avenue North, Minneapolis, Minn. 55411. Applicants' attorneys: Max G. Morgan, 600 Leininger Building, Oklahoma City, Okla. 73112, and R. E. Powell, Suite 621, Terminal Building, Lincoln, Nebr. 68500. Operating rights sought to be controlled and merged: *Tanks, towers, incinerators, heavy machinery,* and *building contractors' tools and supplies,* as a *common carrier*, over irregular routes, between points in Illinois, Iowa, Kansas, Minnesota, Missouri, Nebraska, South Dakota, and Wisconsin. TRI-STATE MOTOR TRANSIT CO. is authorized to operate as a *common carrier* in all States in the United States (except Hawaii) and the District of Columbia. Application has not been filed for temporary authority under section 210a(b). NOTE: Finance Docket No. 26029 is a matter simultaneously filed.

No. MC–F–10732. Authority sought for purchase by MILTON TRUCKING, INC., Rural Delivery No. 2, Milton, Pa. 17847, of the operating rights and property of GLENN NAREHOOD AND JAY NAREHOOD, doing business as NAREHOOD TRUCKING CO., Rural Delivery No. 1, Milton, Pa. 17847, and for acquisition by RAY B. BOWERSOX, GLEN NAREHOOD, JAY NAREHOOD, JAMES R. SPATTS, AND GARY L. WIEAND, all of Milton, Pa., of control of such rights and property through the purchase. Applicants' representative: George A. Olsen, 69 Tonnele Avenue, Jersey City, N.J. 07306. Operating rights sought to be transferred: *Foodstuffs* (except in bulk), as a *common carrier* over irregular routes, from Milton, Pa., to points in Connecticut, Massachusetts, Rhode Island, New Hampshire, Vermont, and Maine, with restriction. Vendee holds no authority from this Commission. However, one of its controlling stockholders RAY B. BOWERSOX, controls Milton Transportation, Inc., Rural Delivery No. 2, Milton, Pa. 17847 which is authorized to operate as a *contract carrier* in Pennsylvania, New York, New Jersey, Maryland, Delaware, Ohio, Virginia, West Virginia, Connecticut, and the District of Columbia. Application has not been filed for temporary authority under section 210a(b).

No. MC–F–10733. Authority sought for control and merger by MUSHROOM TRANSPORTATION COMPANY, INC., 845 East Hunting Park Avenue, Philadelphia, Pa. 19124, of the operating rights and property of REILLY'S AUTO TRANSFER, INC., Alternate U.S. Route No. 22 and Vulcanite Road (Alpha Industrial Center) Rural Delivery No. 1, Phillipsburg, N.J. 08865, and for acquisition by RICHARD W. CUTAIAR, 5898 Woodbine Avenue, Philadelphia, Pa. 19131, ROBERT F. CUTAIAR, 7628 Oaklane Road, Cheltenham, Pa. 19012, and WM. W. CUTAIAR, JR., 4800 Township Line, Apartment C–6, Drexel Hill, Pa., of control of such rights and property through the transaction. Applicants' attorney and representative: John S. Fessenden, 618 Perpetual Building, Washington, D.C., and Leonard Schwartz, 1401 Walnut Street, Philadelphia, Pa. Operating rights sought to be controlled and merged: *General commodities,* except those of unusual value, and except dangerous explosives, household goods as defined in *Practices of Motor Common Carriers of Household Goods,* 17 M.C.C. 467, intoxicating liquors, commodities in bulk, commodities requiring special equipment, and those injurious or contaminating to other lading, as a *common carrier* over regular routes, between New York, N.Y., and Allentown, Pa., between Easton, Pa., and Philadelphia, Pa., serving all intermediate points and certain specified off-route points; *meats, packinghouse products, and canned goods,* over irregular routes, from Wilkes-Barre and Scranton, Pa., to Phillipsburg, N.J.; *household goods,* as defined in *Practices of Motor Common*

Carriers of Household Goods, 17 M.C.C. 467, between Easton, Pa., and Phillipsburg, N.J., and points within 10 miles of each, on the one hand, and, on the other, points in New Jersey, New York, and Pennsylvania; and *machinery, and machine parts*, between Easton, Pa., and Phillipsburg, N.J., on the one hand, on the other, points in New York, New Jersey, and Pennsylvania. MUSHROOM TRANSPORTATION COMPANY, INC., is authorized to operate as a *common carrier* in Maryland, Pennsylvania, New York, Delaware, Illinois, Connecticut, Massachusetts, Rhode Island, New Jersey, and the District of Columbia. Application has not been filed for temporary authority under section 210a(b).

No. MC–F–10734. Authority sought for purchase by MURPHY MOTOR FREIGHT LINES, INC., 2323 Terminal Road, St. Paul, Minn. 55113, of the operating rights of TRIANGLE TRANSPORT, INC., 15 Foundry Street, Buffalo, N.Y. 14207, and for acquisition by E. L. MURPHY, JR., 270 South Mississippi River Boulevard, St. Paul, Minn., of control of such rights through the purchase. Applicants' attorneys and representative: Axelrod, Goodman and Steiner, 39 South La Salle Street, Chicago, Ill. 60603, and Richard G. Birmingham, Marine Trust Building, Buffalo, N.Y. 14203. Operating rights sought to be transferred: Under a certificate of registration, in Docket No. MC–58206 Sub-1, covering the transportation of general commodities, as a common carrier, in intrastate commerce within the State of New York. Vendee is authorized to operate as a *common carrier* in North Dakota, South Dakota, Minnesota, Iowa, Nebraska, Wisconsin, Illinois, Indiana, Michigan, Ohio, Pennsylvania, and New York. Application has been filed for temporary authority under section 210a(b). NOTE: No. MC–108937 Sub-34 is a matter directly related.

No. MC–F–10735. Authority sought for purchase by D. W. RAMSAY MOTOR FREIGHT, INC., 1616 East 26th, Tacoma, Wash. 98421, of the operating rights of VANCOUVER-PORTLAND FREIGHT, INC., 1321 South East Water Street, Portland, Oreg. 97214, and for acquisition by J. A. MALLORY, 1831 Eastwood Place, Olympia, Wash. 98501, and E. H. BINGER, 207 North Decatur Street, Olympia, Wash. 98501, of control of such rights through the purchase. Applicants' attorneys: John G. McLaughlin, 726 Blue Cross Building, Portland, Oreg. 97201, and Earle V. White, Farley Building, Portland, Oreg. 97201. Operating rights sought to be transferred: *General commodities*, excepting, among others, classes A and B explosives, household goods, and commodities in bulk, as a *common carrier*, over regular routes, between Portland, Oreg., and Washougal, Wash., serving the intermediate point of Vancouver, Wash., and intermediate and off-route points (in Washington) within 10 miles of Washougal. Vendee is authorized to operate as a *common carrier* in Washington. Application has not been filed for temporary authority under section 210a(b).

No. MC–F–10736. Authority sought for purchase by WALLACE-COLVILLE MOTOR FREIGHT, INC., North 404 Sycamore, Spokane, Wash. 99202, of a portion of the operating rights and certain property of EVERGREEN FREIGHT LINES, INC., East 5205 Union, Spokane, Wash. 99206, and for acquisition by O. H. WILLIAMS, 3421 South Altamont, Spokane, Wash. 99203, of control of such rights and property through the purchase. Applicants' attorney: Hugh A. Dressel, 702 Old National Bank Building, Spokane, Wash. 99201. Operating rights sought to be transferred: *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, as a *common carrier*, over irregular routes, between Spokane, Wash., on the one hand, and, on the other, points in Ferry County, Wash. Vendee is authorized to operate as a *common carrier* in Washington, and Idaho. Application has been filed for temporary authority under section 210a(b).

No. MC–F–10737. Authority sought for purchase by DEARBORN'S MOTOR EXPRESS, INC., 140 Epping Road, Exeter, N.H. 03833, of the operating rights of TERMINAL TRANSPORTATION CO., INC., 284 Elm Street, Salisbury, Mass. 01950, and for acquisition by WILLIAM M. WALSH, also of New Hampshire, of control of such rights through the purchase. Applicants' attorney: John F. Curley, 15 Court Square, Boston, Mass. 02108. Operating rights sought to be transferred: *General commodities*, excepting among others, classes A and B explosives, household goods and commodities in bulk, as a *common carrier* over regular routes, between Boston, Mass., and Salisbury, Mass., serving the intermediate and off-route points of Newburyport and Amesbury, Mass., with restriction; and under a certificate of registration in Docket No. MC–30512 Sub-No. 2, covering the transportation of property, as a common carrier, in intrastate commerce, within the State of Massachusetts. Vendee is authorized to operate as a *common carrier* in New Hampshire, Massachusetts, Maine, Vermont, Rhode Island, Connecticut, and New York. Application has been filed for temporary authority under section 210a(b). NOTE: No. MC–30508 Sub-No. 2 is a matter directly related.

No. MC–F–10738. Authority sought for control by KENAN TRANSPORT COMPANY INCORPORATED, Post Office Box 2933, West Durham Station, Guess Road and Interstate 85, Durham, N.C. 27705, of LANEY TANK LINES, INCORPORATED, Camden, S.C. 29020, and for acquisition by FRANK H. KENAN, Box 2537, Durham, N.C. 27705, HENRY EMERSON, and LEE P. SHAFFER, both of Box 2933, Durham, N.C. 27705, of control of LANEY TANK LINES, INCORPORATED, through the acquisition by KENAN TRANSPORT COMPANY INCORPORATED. Applicants' attorney: Francis W. McInerny, 1000 16th Street NW., Washington, D.C. 20036. Operating rights sought to be controlled: *Petroleum products*, as a *common carrier*, over irregular routes, from Charleston, S.C., and points within 10 miles thereof, to certain specified points in North Carolina, from Wilmington, N.C., to certain specified points in Georgia, and points in South Carolina; *petroleum products*, in containers, from Charleston, S.C., and points within 10 miles thereof, to certain specified points in North Carolina, with exceptions; *filling station equipment and empty containers for petroleum products*, from the respective destination points as above to the respective origin points specified above; *filling station equipment*, from Charleston, S.C., to points in North Carolina, from points within 10 miles of Charleston, S.C., to certain specified points in North Carolina; *filling station equipment and empty containers for petroleum products*, from the destination points as immediately above to points within 10 miles of Charleston, S.C., from points in North Carolina, to Charleston, S.C.;

Gasoline, in bulk, in tank vehicles, from Doraville, Ga., to certain specified points in South Carolina; *propane and butane*, in bulk, in tank vehicles, from the terminal of Trans-Southern pipeline, at or near Anderson, S.C., to certain specified points in Georgia; *liquefied petroleum gas*, in bulk, in tank vehicles, from the site of the pipeline terminal of the Dixie Pipe Line Co. near Griffin, Ga., to points in South Carolina, and points in that part of North Carolina on and west of U.S. Highway 21, from the site of the pipeline terminals of the Dixie Pipe Line Co. near Columbia and Cheraw, S.C., to points in North Carolina, and points in that part of Georgia on and east of U.S. Highway 19, from the site of the pipeline terminal of the Dixie Pipe Line Co. near Apex, N.C., to points in South Carolina, from the pipeline distribution terminal of the Dixie Pipe Line Co. near Alma, Ga., to points in South Carolina; from certain specified points in South Carolina, to points in Georgia and North Carolina, with restriction; *petroleum products*, in bulk, in tank trucks, from Savannah, Ga., and points within 7 miles of Savannah, and Wilmington, N.C., and points within 7 miles of Wilmington, to points in South Carolina, from Charlotte, N.C., and points within 15 miles of Charlotte, to points in South Carolina, from pipeline terminals at Chattahoochee and Knox, Ga., to points in Georgia, North Carolina, and South Carolina, from Spartanburg, S.C., and points within 10 miles of Spartanburg, to points in North Carolina, from Savannah, Ga., and points within 7 miles of Savannah, to points in North Carolina; *petroleum products*, in containers, from Hopewell, Va., to points in North Carolina, South Carolina, and Georgia; from Sewaren, N.J., to points in South Carolina, with restriction;

Fertilizer, from Savannah, Ga., and Wilmington, N.C., to points in South Carolina, with restriction; *such merchandise* as is dealt in by wholesale grocery and food business houses, from Savannah, Ga., and Wilmington, N.C., to certain specified points in South Carolina, with restriction; *peaches*, from

points in South Carolina, to New York, N.Y., Philadelphia, Pa., and certain specified points in New Jersey, with restriction; *general commodities,* except gold bullion, articles of exceptional value, objects of art, classes A and B explosives other than small arms ammunition, articles which because of bulk, weight, or length cannot be transported by ordinary motor carrier equipment, and articles requiring refrigerated trucks for transportation, between points in Kershaw County, S.C., on the one hand, and, on the other, points in North Carolina and Georgia, with restriction; *clay and concrete pipe, and machinery, materials, and supplies,* used in the manufacture thereof, between Columbia, S.C., and points in North Carolina, Virginia, and Georgia, with restriction; *livestock,* between points in South Carolina, on the one hand, and, on the other, points in North Carolina and Georgia, with restriction; *household goods,* as defined by the Commission, between points in Kershaw County, S.C., on the one hand, and, on the other, points in Georgia, Florida, Tennessee, North Carolina, Virginia, and the District of Columbia, with restriction; *petroleum products* (except petro acids and chemicals, and asphalt and asphalt products), in bulk, in tank vehicles, from terminals off the Colonial Pipeline in Georgia and North Carolina, to points in South Carolina, from terminals off the Colonial Pipeline in South Carolina, to points in Georgia; and *hexamethylene diamine adipate* (nylon salt) in solution, and *hexamethylene diamine solution,* in bulk, in shipper-owned tank vehicles, from the plantsite of the Monsanto Co. at or near Gonzales, Fla., to the site of the Phillips Fibers Corp. Technical Service Center at or near Greenville, S.C. KENAN TRANSPORT COMPANY INCORPORATED is authorized to operate as a *common carrier* in North Carolina, Virginia, South Carolina, Delaware, Maryland, West Virginia, New Jersey, Pennsylvania, and Georgia. Application has not been filed for temporary authority under section 210a(b).

By the Commission.

[SEAL] H. NEIL GARSON, *Secretary.*

[F.R. Doc. 70-1392; Filed, Feb. 3, 1970; 8:49 a.m.]

[Notice 585]

MOTOR CARRIER ALTERNATE ROUTE DEVIATION NOTICES

JANUARY 30, 1970.

The following letter-notices of proposals to operate over diviation routes for operating convenience only have been filed with the Interstate Commerce Commission, under the Commission's Deviation Rules Revised, 1957 (49 CFR 1042.1(c)(8)) and notice thereof to all interested persons is hereby given as provided in such rules (49 CFR 1042.1(d)(4)).

Protests against the use of any proposed deviation route herein described may be filed with the Interstate Commerce Commission in the manner and form provided in such rules (49 CFR 1042.1(e)) at any time, but will not operate to stay commencement of the proposed operations unless filed within 30 days from the date of publication.

Successively filed letter-notices of the same carrier under the Commission's Deviation Rules Revised, 1957, will be numbered consecutively for convenience in identification and protests if any should refer to such letter-notices by number.

MOTOR CARRIERS OF PASSENGERS

No. MC 61598 (Deviation No. 7), SMOKY MOUNTAIN STATES, INC., Post Office Box 2387, Charlotte, N.C., 28201, filed January 19, 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 Knoxville, Tenn., over city streets to junction Interstate Highway 40, thence over Interstate Highway 40 to junction U.S. Highway 70 (near the city limits of Knoxville), thence over U.S. Highway 70 to junction Interstate Highway 40 (about 3 miles west of Dandridge, Tenn.), thence over Interstate Highway 40 to junction Wilton Springs Road (Cocke County Road 2484); (2) from junction U.S. Highway 19 and Interstate Highway 40 (just west of Canton, N.C.), over Interstate Highway 40 to junction U.S. Highway 19 (near Luther, N.C.); and (3) from junction U.S. Highway 19 and Interstate Highway 40 (just northeast of Enka, N.C.) over Interstate Highway 40 to junction North Carolina Highway 191, thence over North Carolina Highway 191 to junction U.S. Highway 19, 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 Asheville, N.C., over U.S. Highway 19 to Sylva, N.C.; (2) from Waynesville, N.C., over unnumbered highway to junction U.S. Highway 19 (formerly North Carolina Highway 293), thence over U.S. Highway 19 to Cherokee, N.C.; (3) from Knoxville, Tenn., over Tennessee Highway 71 (U.S. Highway 441) via Sevierville and Gatlinburg, Tenn., to junction Tennessee Highway 73; and (4) from Dellwood, N.C., over U.S. Highway 276 (formerly North Carolina Highway 284) to junction Interstate Highway 40, thence over Interstate Highway 40 to junction Wilton Springs Road (Cocke County Road 2484), thence over Wilton Springs Road to junction Tennessee Highway 32, thence over Tennessee Highway 32 to junction Tennessee Highway 73 to Gatlinburg, Tenn., and return over the same routes.

By the Commission.

[SEAL] H. NEIL GARSON, *Secretary.*

[F.R. Doc. 70-1393; Filed, Feb. 3, 1970; 8:49 a.m.]

[Notice 4]

MOTOR CARRIER ALTERNATE ROUTE DEVIATION NOTICES

JANUARY 30, 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 13547 (Deviation No. 1), LEONARD BROTHERS TRANSPORT COMPANY, INC., 520 Madison Street, Kansas City, Mo. 64105, filed January 26, 1970. Carrier proposes to operate as a *common carrier,* by motor vehicle, of *general commodities,* with certain exceptions, over deviation routes as follows: (1) From Kansas City, Kans., over Interstate Highway 70 to junction U.S. Highway 73, thence over U.S. Highway 73 to Leavenworth, Kans.; and (2) from Kansas City, Kans., over Interstate Highway 70 to junction U.S. Highway 73, thence over U.S. Highway 73 to Atchison, Kans., and return over the same routes, for operating convenience only. The notice indicates that the carrier is presently authorized to transport the same commodities, over pertinent service routes as follows: (1) From Topeka, Kans., over unnumbered highway to junction U.S. Highway 24, thence over U.S. Highway 24 to junction U.S. Highway 59, thence over U.S. Highway 59 to junction U.S. Highway 159 (formerly portion of U.S. Highway 59), thence over U.S. Highway 159 to junction Kansas Highway 116 (formerly portion U.S. Highway 59), thence over Kansas Highway 116 to junction U.S. Highway 59, thence over U.S. Highway 59 to Atchison, Kans.; (2) from Topeka, Kans., over Kansas Highway 4 (formerly portion U.S. Highway 75) to junction Kansas Highway 92, thence over Kansas Highway 92 to Leavenworth, Kans.; and (3) from Kansas City, Mo., over city streets to Kansas City, Kans., thence over Kansas Highway 10 to junction U.S. Highway 40, thence over U.S. Highway 40 to Topeka, Kans., and return over the same routes.

No. MC 39300 (Deviation No. 5), MIDDLE STATES MOTOR FREIGHT, INC., 5723 Este Avenue, Cincinnati, Ohio 45232, filed December 19, 1969, amended Januray 15, 1970. Carrier's representative: Jack B. Josselson, Atlas Bank Building, Cincinnati, Ohio 45202. Carrier proposes to operate as a *common carrier*, by motor vehicle, of *general commodities*, with certain exceptions, over a deviation route as follows: Between Louisville, Ky., and Cincinnati, Ohio, over Interstate Highway 71, 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 Salem, Ind., over Indiana Highway 60 to junction U.S. Highway 31E, thence over U.S. Highway 31E to Louisville, Ky.; and (2) from Salem, Ind., over Indiana Highway 56 to junction Indiana Highway 3, thence over Indiana Highway 3 to junction U.S. Highway 50, thence over U.S. Highway 50 to Cincinnati, Ohio, and return over the same route.

No. MC 52709 (Deviation No. 24), RINGSBY TRUCK LINES, INC., 3201 Ringsby Court, Denver, Colo. 80216, filed January 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: Between Denver, Colo., and junction Interstate Highway 25 (U.S. Highway 87) and Colorado Highway 1, near Wellington, Colo., over Interstate Highway 25, 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 Denver, Colo., over U.S. Highway 287 (formerly U.S. Highway 87) to junction Colorado Highway 1 (formerly U.S. Highway 87), thence over Colorado Highway 1 to junction U.S. Highway 87, thence over U.S. Highway 87 via Douglas, Wyo., to Casper, Wyo.; and (2) from Denver, Colo., over U.S. Highway 85 to Torrington, Wyo., thence over U.S. Highway 26 to junction U.S. Highway 87, and return over the same routes.

By the Commission.

[SEAL] H. NEIL GARSON, *Secretary.*

[F.R. Doc. 70-1394; Filed, Feb. 3, 1970; 8:49 a.m.]

NOTICE OF FILING OF MOTOR CARRIER INTRASTATE APPLICATIONS

JANUARY 30, 1970.

The following applications for motor common carrier authority to operate in intrastate commerce seek concurrent motor carrier authorization in interstate or foreign commerce within the limits of the intrastate authority sought, pursuant to section 206(a)(6) of the Interstate Commerce Act, as amended October 15, 1962. These applications are governed by Special Rule 245 (49 CFR 1100.245) of the Commission's rules of practice, published in the FEDERAL REGISTER, issue of April 11, 1963, page 3533, which provides, among other things, that protests and requests for information concerning the time and place of State Commission hearings or other proceedings, any subsequent changes therein, any other related matters shall be directed to the State Commission with which the application is filed and shall not be addressed to or filed with the Interstate Commerce Commission.

State Docket No. MC 21555 Sub 1 (Amended), filed December 31, 1969. Applicant: McCOMAS TRUCK LINES, INC., 604 North Second Street, Chickasha, Okla. Applicant's representative: C. O. Hunt, Professional Office Building, 1405 South Midwest Boulevard, Midwest City, Okla. Certificate of public convenience and necessity sought to operate a freight service as follows: Class A motor carrier of freight (which shall include all kinds of goods, wares and merchandise), giving regular service over and along the following route: Serving between Oklahoma City, Okla., and Terral, Okla., via H. E. Bailey Turnpike and U.S. Highway 81, serving all intermediate points and places along said routes; from Waurika, Okla., via State Highway 5 to Waurika Damsite, Hastings, and Temple and Walters; thence by State Highway 53 to U.S. Highway 81; from Ryan, Okla., on State Highway 32 and unnumbered country road to Oscar; U.S. Highway 81 from Chickasha to El Reno, serving all intermediate points and places; State Highway 152 from its junction with U.S. Highway 81 to its junction with U.S. Highway 277 and thence to Oklahoma City; Interstate Highway 35 and U.S. Highway 77 serving Moore, Noble, Lexington, Purcell, and Wayne; State Highway 39 and U.S. Highway 62 between Purcell, and Chickasha, serving all intermediate points and places; State Highway 76 from its intersection with State Highway 39 to Blanchard; U.S. Highway 62 between Oklahoma City and Chickasha serving Newcastle, Blanchard, and all intermediate points and places; the above authority to authorize service to, from, and between all points and places along all the above-described routes as a unitized authority, including the right to furnish service to all off-route points, places, or customers along the routes or places named, where the same are within the reasonable delivery limits for said authorized places or routes and/or can normally be served without going through any town, to which carrier does not have authority; and the following alternate routes: Interstate 40 between Oklahoma City and El Reno, serving no intermediate points; H. E. Bailey Turnpike and U.S. Highway 277 and State Highway 5 between Chickasha and Walters, serving no intermediate points; State Highway 74 from Purcell to State Highway 29, thence on State Highway 29 to State Highway 76 and thence to State Highway 7, and thence on State Highway 7 to Duncan, Okla., serving no intermediate points; between Oklahoma City and Chickasha, over U.S. Highway 62, State Highway 37, State Highway 92 and U.S. Highway 62, serving no intermediate point. Both intrastate and interstate authority sought.

HEARING: Friday, February 27, 1970, at the Oklahoma Corporation Commission hearing room, Oklahoma City, Okla. Requests for procedural information, including the time for filing protests concerning this application should be addressed to the Oklahoma Corporation Commission, Oklahoma City, Okla., and should not be directed to the Interstate Commerce Commission.

By the Commission.

[SEAL] H. NEIL GARSON, *Secretary.*

[F.R. Doc. 70-1395; Filed, Feb. 3, 1970; 8:49 a.m.]

[Notice 485]

MOTOR CARRIER TRANSFER PROCEEDINGS

JANUARY 30, 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-71786. By order of January 27, 1970, the Motor Carrier Board approved the transfer to R. J. Taylor and G. G. Taylor Co., a corporation, Providence, R.I., of the operating rights in permit No. MC-19306 issued February 2, 1968, to Reginald J. Taylor and George G. Taylor, Jr., a partnership, doing business as R. J. Taylor and G. G. Taylor, Providence, R.I., authorizing the transportation of general commodities, between points in Connecticut, Massachusetts, and Rhode Island, restricted to a service in which the carrier leases trucks with drivers to shippers for the transporation of such shipper's property. Francis E. Nute, registered practitioner, 177 Benefit Street, Providence, R.I. 02903, representative for applicants.

No. MC-FC-71826. By order of January 27, 1970, the Motor Carrier Board approved the transfer to Rich's Express, Inc., Malaga, N.J., of certificate No. MC-87661 (Sub-No. 1) issued March 14, 1967, to Edward L. Trasferini, doing business as Rich's Express, Malaga, N.J., authorizing the transportation of: General commodities, with exceptions, between Philadelphia, Pa., and specified counties in New Jersey, in a radical movement. Charles Ephraim, 1411 K Street NW., Washington, D.C. 20005, attorney for applicants.

No. MC-FC-71837. By order of January 28, 1970, the Motor Carrier Board

approved the transfer to B. K. W. Trucking, Inc., Baltimore, Md., of the operating rights in certificate No. MC–34479 issued December 30, 1969, to E. I. Kane, Inc., Baltimore, Md., authorizing the transportation of livestock and farm products from points in Culpeper, Fauquier, Madison, Orange, Page, and Rappahannock Counties, Va., over irregular routes to Washington, D.C., thence over U.S. Highway 1 to Baltimore, Md., and general commodities, except those of unusual value, classes A and B explosives, household goods, commodities in bulk, commodities requiring special equipment, and those injurious or contaminating to other lading from Baltimore, Md., over U.S. Highway 1 to Washington, D.C., thence over irregular routes to points in Culpeper County, Va., with service authorized to and from the intermediate point of Washington, D.C., Charles E. Creager, 11215 Oak Leaf Drive, Silver Spring, Md., 20901, representative for transferee. William P. Sullivan, 1819 H Street NW., Washington, D.C. 20006, attorney for transferor.

No. MC–FC–71844. By order of January 27, 1970, the Motor Carrier Board approved the transfer to Frank Delivery Service, Inc., Williamsport, Pa., of the certificates in Nos. MC–67783 and MC–67783 (Sub-No. 5), issued June 5, 1953 and December 11, 1964, respectively, to Marion A. Frank, doing business as Frank Delivery Service, Williamsport, Pa., authorizing the transportation of various commodities from, to and between various points in Pennsylvania. Robert J. Sarno, 429 Pine Street, Williamsport, Pa. 17701, attorney for applicants.

No. MC–FC–71854. By order of January 29, 1970, the Motor Carrier Board approved the transfer to Trojan Transportation, Inc., Philadelphia, Pa., of permit No. MC–59528 issued June 26, 1943, to Murphy's Motor Freight, Inc., Philadelphia, Pa., authorizing the transportation of: Such merchandise as is handled by wholesale, retail grocery stores, and business houses, equipment, materials, and supplies, and other specifically named commodities, between points in New Jersey, Pennsylvania, Delaware, New York, and Maryland. Leonard A. Jaskiewicz, 1730 M Street NW., Washington, D.C. 20036, attorney for applicants.

[SEAL] H. NEIL GARSON,
Secretary.

[F.R. Doc. 70–1396; Filed, Feb. 3, 1970; 8:49 a.m.]

FOURTH SECTION APPLICATION FOR RELIEF

JANUARY 30, 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. 41872—*Liquefied petroleum gas from Oriva, Wyo.* Filed by Western Trunk Line Committee, agent (No. A–2615), for interested rail carriers. Rates on liquefied petroleum gas, in tank carloads, as described in the application, from Oriva, Wyo., to points in Missouri in southwestern territory.

Grounds for relief—Market competition, short-line distance formula and grouping.

Tariff—Supplement 80 to Western Trunk Line Committee, agent, tariff ICC A–4572.

By the Commission.

[SEAL] H. NEIL GARSON,
Secretary.

[F.R. Doc. 70–1397; Filed, Feb 3, 1970; 8:49 a.m.]

CUMULATIVE LIST OF PARTS AFFECTED—FEBRUARY

The following numerical guide is a list of parts of each title of the Code of Federal Regulations affected by documents published to date during February.

3 CFR

5 CFR

7 CFR

7 CFR—Continued

9 CFR

12 CFR

13 CFR

14 CFR

16 CFR

18 CFR

19 CFR

21 CFR

29 CFR

38 CFR

39 CFR

41 CFR

42 CFR

43 CFR

45 CFR

46 CFR

47 CFR

49 CFR

50 CFR

FEDERAL REGISTER

VOLUME 35 • NUMBER 24

Wednesday, February 4, 1970 • Washington, D.C.

PART II

DEPARTMENT OF LABOR

Office of the Assistant Secretary for Labor-Management Relations

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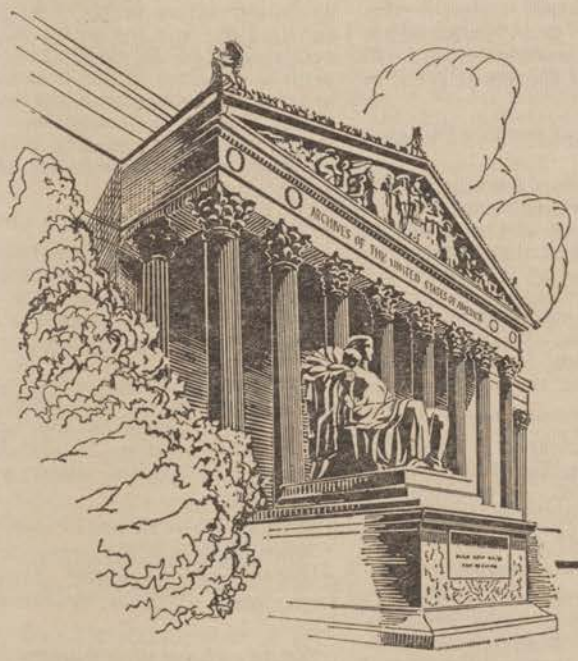

Labor Relations in Federal Service and Addresses and Jurisdiction of Regional and Area Administrators

Title 29—LABOR

Chapter II—Office of the Assistant Secretary for Labor-Management Relations, Department of Labor

LABOR RELATIONS IN FEDERAL SERVICE

On December 20, 1969, there was published in the FEDERAL REGISTER (34 F.R. 19986) a notice of proposed rule making to revise 29 CFR Part 25 in order to implement the duties delegated to the Assistant Secretary of Labor for Labor-Management Relations by Executive Order 11491. Interested persons were invited to submit written comments, suggestions, or objections regarding the proposed regulations not later than January 9, 1970. After consideration of all relevant matter presented, I have decided to adopt the proposed regulations, with extensive changes. As adopted, the rules are set forth below in a new chapter of Title 29 of the Code of Federal Regulations, designated Chapter II.

Accordingly pursuant to sections 6(d) and 18(d) of Executive Order 11491 (34 F.R. 17605), I hereby amend Title 29 of the Code of Federal Regulations by adding thereto a new Chapter II to read as follows:

Part
201 General.
202 Representation Proceedings.
203 Unfair Labor Practice Proceedings.
205 Miscellaneous.

PART 201—GENERAL

Subpart A—Purpose and Scope

Sec.
201.1 Purpose and scope.

Subpart B—Meanings of Terms in This Chapter

201.10 Order.
201.11 Agency, employee, labor organization, council, panel, Assistant Secretary.
201.12 National consultation rights, exclusive recognition, unfair labor practices.
201.13 Standards of conduct for labor organizations.
201.14 Activity.
201.15 Regional Administrator.
201.16 Area Administrator.
201.17 Director.
201.18 Party.
201.19 Intervenor.
201.20 Certification.
201.21 Appropriate unit.
201.22 Secret ballot.
201.23 Hearing Officer.
201.24 Hearing Examiner.
201.25 Chief Hearing Examiner.
201.26 Showing of interest.

AUTHORITY: The provisions of this Part 201 issued under secs. 6, 18, E.O. 11491, 34 F.R. 17605.

Subpart A—Purpose and Scope

§ 201.1 Purpose and scope.

The regulations contained in this chapter are designed to implement the provisions of sections 6, 9, 10, 18, and 19 of Executive Order 11491 of October 29, 1969, "Labor-Management Relations in the Federal Service" (34 F.R. 17605). They prescribe procedures and basic principles which the Assistant Secretary of Labor for Labor-Management Relations will utilize in:

(a) Deciding questions as to the appropriate unit for the purpose of exclusive recognition and related issues submitted for his consideration;

(b) Supervising elections to determine whether a labor organization is the choice of a majority of the employees in an appropriate unit as their exclusive representative, and certifying the results;

(c) Deciding questions as to eligibility of labor organizations for national consultation rights under criteria prescribed by the Federal Labor Relations Council;

(d) Effectuating the standards of conduct required of labor organizations by section 18 of the order;

(e) Deciding complaints of alleged unfair labor practices, and alleged violations of the standards of conduct for labor organizations.

Subpart B—Meanings of Terms in This Chapter

As used in this chapter:

§ 201.10 Order.

"Order" means Executive Order 11491, entitled "Labor-Management Relations in the Federal Service."

§ 201.11 Agency, employee, labor organization, council, panel, Assistant Secretary.

"Agency," "employee," "labor organization," "Council," "Panel," and "Assistant Secretary" have the meanings set forth in section 2 of the order.

§ 201.12 National consultation rights, exclusive recognition, unfair labor practices.

"National consultation rights," "Exclusive recognition," and "unfair labor practices" have the meanings as set forth in sections 9, 10, and 19, respectively, of the order.

§ 201.13 Standards of conduct for labor organizations.

"Standards of conduct for labor organizations" shall have the meaning as set forth in section 18 of the order, as amplified in Part 204 of this chapter.

§ 201.14 Activity.

"Activity" means any facility, geographical subdivision, or combination thereof, of any agency, as that term is defined in section 2 of the order.

§ 201.15 Regional Administrator.

"Regional Administrator" means the Administrator of a region of the Labor-Management Services Administration, with geographical boundaries as fixed by the Assistant Secretary.

§ 201.16 Area Administrator.

"Area Administrator" means the Administrator of an area office within a region of the Labor-Management Services Administration, with geographical boundaries as fixed by the Assistant Secretary.

§ 201.17 Director.

"Director" means the Director of the Office of Labor-Management and Welfare-Pension Reports.

§ 201.18 Party.

"Party" means any person, employee, group of employees, labor organization, agency or activity: (a) Filing a complaint, petition or request; (b) named as a party in a complaint, petition or request; or (c) whose intervention in a proceeding has been permitted or directed by the Assistant Secretary, Regional Administrator, Area Administrator, Director, Hearing Officer, or Hearing Examiner, as the case may be.

§ 201.19 Intervenor.

"Intervenor" means a party in a proceeding whose intervention has been permitted or directed by the Assistant Secretary, Regional Administrator, Area Administrator, Director, Hearing Officer, or Hearing Examiner, as the case may be.

§ 201.20 Certification.

"Certification" means the determination by the Assistant Secretary, Regional Administrator, or Area Administrator of the results of an election held under the order and the regulations in this chapter, including a certification of representation for exclusive recognition under the order.

§ 201.21 Appropriate unit.

"Appropriate unit" means that grouping of employees found to be appropriate for purposes of exclusive recognition consistent with the provisions of section 10 (b) and (c) of the order.

§ 201.22 Secret ballot.

"Secret ballot" means the expression by ballot, voting machine or otherwise, but in no event by proxy, of a choice with respect to any election or vote taken upon any matter, which is cast in such a manner that the person expressing such choice cannot be identified with the choice expressed, except in that instance in which any determinative challenged ballot is opened.

§ 201.23 Hearing Officer.

"Hearing Officer" means the individual designated to conduct a hearing in a unit dispute or such other representation matters as may be assigned.

§ 201.24 Hearing Examiner.

"Hearing Examiner" means an individual designated by the Chief Hearing Examiner to conduct the hearing in cases under sections 18 and 19 of the order and such other matters as may be assigned.

§ 201.25 Chief Hearing Examiner.

"Chief Hearing Examiner" means the Chief Hearing Examiner, United States Department of Labor, Washington, D.C. 20210.

§ 201.26 Showing of interest.

"Showing of interest" means a designated percentage of Federal employees

in a unit claimed to be appropriate or a unit determined to be appropriate, who are members of a labor organization or have designated it as their exclusive representative or have signed and dated a petition or cards requesting an election to determine whether a labor organization should cease to be the exclusive representative because it does not represent a majority of the employees. Such designations shall consist of written authorization cards or petitions, signed and dated by employees, authorizing a labor organization to represent such employees for purposes of exclusive recognition, executed allotment of dues forms, current dues records, an existing or recently expired agreement, current exclusive recognition or certification, or other evidence approved by the Assistant Secretary.

PART 202—REPRESENTATION PROCEEDINGS

Sec.

AUTHORITY: The provisions of this Part 202 issued under sec. 6, E.O. 11491, 34 F.R. 17605.

§ 202.1 Who may file petitions.

(a) A petition for exclusive recognition may be filed by a labor organization requesting an election to determine whether it should be recognized as the exclusive representative of employees of an agency in an appropriate unit or should replace another labor organization as the exclusive representative of employees in an appropriate unit.

(b) A petition for an election to determine if a labor organization should cease to be the exclusive representative because it does not represent a majority of employees in an appropriate unit may be filed by an agency or by any employee(s) or any individual acting on their behalf.

(c) A petition for clarification of an existing unit or amendment of certification may be filed by an agency or labor organization which is currently recognized by the agency as an exclusive representative.

(d) A petition for a determination as to the eligibility of a labor organization for national consultation rights under criteria prescribed by the Council may be filed by an agency or labor organization.

§ 202.2 Contents of petition; challenges to petition.

(a) *Petition for exclusive recognition.* A petition by a labor organization for exclusive recognition shall be submitted on a form prescribed by the Assistant Secretary and shall contain the following:

(1) The name of the agency and the activity involved, their addresses, telephone numbers, and the persons to contact and their titles, if known;

(2) A description of the unit appropriate or claimed to be appropriate for purposes of exclusive representation by the petitioner. Such description shall indicate generally the geographic locations and the classifications of employees sought to be included and those sought to be excluded and the approximate number of employees in the unit claimed to be appropriate;

(3) Name, address, and telephone number of the recognized or certified representative, if any, and the date of such recognition or certification and the expiration date of any applicable agreement, if known to the petitioner;

(4) Names, addresses, and telephone numbers of any other interested labor organizations, if known to the petitioner;

(5) Name and affiliation, if any, of the petitioner and its address and telephone number;

(6) A statement that the petitioner has submitted to the activity a current roster of its officers and representatives, a copy of its constitution and bylaws, and a statement of its objectives;

(7) A declaration by the person signing the petition, under the penalties of the Criminal Code (18 U.S.C. 1001) that its contents are true and correct to the best of his knowledge and belief;

(8) The signature of the petitioner's representative, including his title and telephone number;

(9) The petition shall be accompanied by a showing of interest of not less than thirty (30%) percent of the employees in the unit claimed to be appropriate and an alphabetical list of names constituting such showing;

(10) A statement that the petitioner is in full compliance with the requirements of the Order and the regulations under this chapter.

(b) *Petition for an election to determine if a labor organization should cease to be the exclusive representative.* (1) A petition by an agency shall contain the information set forth in paragraph (a) of this section except subparagraphs (6), (9), and (10) thereof and a statement that the agency or activity has a good faith doubt that the currently recognized or certified labor organization represents a majority of the employees in the unit;

(2) A petition by employees or an individual acting on behalf of employees shall contain the information set forth in paragraph (a) of this section, except subparagraphs (6), (9), and (10) thereof, and it shall be accompanied by a showing of interest of not less than thirty (30%) percent of the employees in the unit indicating that the employees no longer desire to be represented for the purpose of exclusive recognition by the currently recognized or certified labor organization and an alphabetical list of names constituting such showing.

(c) *Petition for clarification of unit or amendment of certification.* A petition for clarification of unit or amendment of certification shall contain the information required by paragraph (a) of this section, except subparagraphs (2), (6), (9), and (10) thereof, and shall set forth:

(1) A description of the present unit and the date of recognition or certification;

(2) The proposed clarification or amendment of the certification; and

(3) A statement of reasons why the proposed clarification or amendment is requested.

(d) *Petition for national consultation rights.* [Reserved]

(e) *Filing and service of petition and copies.* (1) An original and four copies of a petition shall be filed with the Area Administrator for the area in which the unit exists, or, if the claimed unit exists in two or more areas the petition shall be filed with the Area Administrator for the area in which the headquarters of the activity is located.

(2) The petitioner shall supply with its petition a statement of any other relevant facts and two (2) copies of all correspondence relating to the question concerning representation.

(3) Simultaneously with the filing of a petition, copies shall be served by the petitioner on all known interested parties, and a written statement of such services shall be furnished to the Area Administrator. The showing of interest submitted with the petition shall not be furnished to any of the parties or organizations listed in the petition.

(f) *Adequacy and validity of showing of interest.* The Area Administrator shall determine the adequacy of the showing of interest administratively, and such decision shall not be subject to collateral attack at a unit or representation hearing. Any party challenging the validity of showing of interest must file his challenge with the Area Administrator within ten (10) days after the initial date of posting of the notice of petition as provided in § 202.4(b) and support his challenge with evidence. The Area Administrator shall investigate the challenge and report his findings to the Regional Administrator who shall take such action as he deems appropriate.

(g) *Challenges to status of a labor organization.* Any party challenging the status of a labor organization under the order must file its challenge with the Area Administrator within ten (10) days after the initial date of posting of the notice of petition as provided in § 202.4 (b) and support its challenge with evidence. The Area Administrator shall investigate the challenge and report his findings to the Regional Administrator

who shall take such action as he deems appropriate.

§ 202.3 Timeliness of petition.

(a) When there is no recognized or certified exclusive representative of the employees, a petition will be considered timely filed provided there has been no valid election within the claimed unit within the preceding twelve (12) month period and provided further that the claimed unit is not a subdivision of a unit in which a valid election has been held within such period.

(b) When there is a recognized or certified exclusive representative of the employees, a petition will not be considered timely if filed within twelve (12) months after the grant of exclusive recognition or certification as the exclusive representative of employees in an appropriate unit, unless a signed agreement covering the claimed unit has been entered into in which case paragraph (c) of this section shall be applicable.

(c) When there is a signed agreement covering a claimed unit, a petition for exclusive recognition or other election petition will not be considered timely if filed during the period within which that agreement is in force or awaiting approval at a higher management level, but not to exceed an agreement period of two (2) years, unless (1) a petition is filed not more than ninety (90) days and not less than sixty (60) days prior to the terminal date of such agreement or two (2) years, whichever is earlier, or (2) unusual circumstances exist which will substantially affect the unit or the majority representation.

(d) When a challenge to the representation status of an incumbent exclusive representative has been filed not more than ninety (90) days and not less than sixty (60) days prior to the terminal date of an agreement, and such challenge is subsequently dismissed or withdrawn, the activity and incumbent exclusive representative shall be afforded a ninety (90) day period free from rival claim within which to consummate an agreement.

(e) When an extension of agreement has been signed more than sixty (60) days before its terminal date, such extension shall not serve as a basis for the denial of a petition submitted in accordance with the time limitations provided herein.

(f) A petition for exclusive recognition or other petition for an election will not be considered timely if filed within a twelve (12) month period following the close of a hearing conducted pursuant to § 202.9 concerning the unit or any subdivision thereof.

§ 202.4 Investigation of petition and posting of notice of petition.

(a) Upon the filing of a petition the Area Administrator shall make such investigation as he deems necessary.

(b) Upon the request of the Area Administrator, after the filing of a petition, the activity shall post copies of a notice to all employees in places where notices are normally posted affecting the employees in the unit involved in the proceeding.

(c) Such notice shall set forth: (1) The name of the petitioner, (2) the description of the unit involved, and (3) a statement that all interested parties are to advise the Area Administrator in writing of their interest within ten (10) days from the date of posting such notice.

(d) The notice shall remain posted for a period of ten (10) days. The notice shall be posted conspicuously and shall not be covered by other material, altered or defaced.

(e) The activity shall furnish the Area Administrator with the names, addresses and telephone numbers of all labor organizations known to represent any of the employees in the claimed unit.

(f) The parties are expected to meet as soon as possible after the filing of the petition and use their best efforts of secure agreement on an appropriate unit, including, where appropriate, consulting with higher authority within the agency and the organization.

(g) Within thirty (30) days following the receipt of a copy of the petition, the activity shall file a response thereto with the Area Administrator raising any matter which is relevant to the petition. A copy of such response shall be furnished to other parties and organizations.

(h) The Area Administrator shall report the essential facts and positions of the parties to the Regional Administrator.

(i) The Regional Administrator shall take appropriate measures which may consist of the approval of a withdrawal request or dismissal of the petition, or the supervision of an election in an approved agreed-upon appropriate unit or the conduct of a hearing.

§ 202.5 Intervention.

(a) No labor organization will be permitted to intervene in any proceeding pursuant to this part unless it has submitted a showing of interest of ten (10%) percent or more of the employees in the unit involved in the petition or has submitted a current or recently expired agreement with the activity covering any of the employees involved.

(b) A labor organization seeking exclusive recognition in a unit which encompasses any portion of the unit petitioned for must file a petition with the Area Administrator supported by a showing of interest of thirty (30%) percent or more of the employees in the unit it claims to be appropriate within ten (10) days after the initial date of posting of the notice of petition as provided in § 202.4(b) unless good cause is shown for extending the period.

(c) No labor organization may participate to any extent in any representation proceeding unless it has notified the Area Administrator of its desire to intervene within ten (10) days after the initial date of posting of the notice of petition as provided in § 202.4(b) unless good cause is shown for extending the period.

(d) Any labor organization intervening for the purpose of seeking exclusive recognition by an activity or retaining its status as exclusive representative must supply a statement to the Area Administrator that it is in full compliance with the order and the regulations in this chapter and that it has submitted to the activity a current roster of its officers and representatives, a copy of its constitution and bylaws and a statement of its objectives.

§ 202.6 Withdrawal, dismissal or deferral of petitions; consolidation of cases.

(a) If the Regional Administrator determines after an investigation that the petition has not been timely filed, that the claimed unit is not appropriate, that the petitioner has not made a sufficient showing of interest or the petition is not otherwise actionable, he may request the party filing such a petition to withdraw the petition or in the absence of such withdrawal within a reasonable time, he may dismiss the petition.

(b) If the Regional Administrator determines, after investigation, that a valid issue has been raised by a challenge under § 202.2 (f) and (g), he may take such action as he deems appropriate including a request to the party filing such a petition to withdraw the petition, dismissal of the petition, deferral of action upon the petition until such time as those issues have been resolved pursuant to this part, or consolidation of such issues with the representation matter for a resolution of all issues.

(c) If the Regional Administrator dismisses the petition, he shall furnish the petitioner with a written statement of the grounds for the dismissal, sending a copy of such statement to the activity and any intervenors.

(d) The petitioner may obtain a review of such action by filing a request for review with the Assistant Secretary within ten (10) days of service of the notice of dismissal. Copies of the requested review shall be served on the Regional Administrator and the other parties, and statement of service shall be filed with the request for review. The request shall contain a complete statement setting forth facts and reasons upon which the request is based.

(e) A petitioner who withdraws a petition after the issuance of a notice of hearing and before the close of the hearing or after the approval of an agreement for a consent election shall be barred from filing another petition for the same unit or any subdivision thereof for six (6) months.

§ 202.7 Agreement for consent election.

(a) The parties may stipulate subsequent to the filing of a petition that a secret ballot election shall be conducted and such stipulation shall be filed with the Area Administrator. If the Area Administrator approves the stipulation, the election shall be conducted by the agency or activity as appropriate, under the supervision of the Area Administrator, in accordance with § 202.17, among the employees in an agreed upon appropriate

unit, to determine whether the employees desire to be represented for purposes of exclusive recognition by any or none of the labor organizations involved. The parties to such proceedings shall be the agency or activity, the petitioner, and any intervenors who have complied with the requirements set forth in § 202.5.

(b) The parties shall stipulate the eligibility period for participation in the election, the date(s), hour(s), and place(s) of the election, the designations on the ballot and other related election procedures.

(c) In the event that the parties cannot agree on the matters contained in paragraph (b) of this section, the Area Administrator acting on behalf of the Assistant Secretary shall decide these matters.

§ 202.8 Notice of hearing.

The Regional Administrator may cause a notice of hearing to be issued if, after the filing of a petition, the petitioner, the agency or activity, and all intervenors, within the purview of § 202.5 are unable to resolve issues of appropriateness of unit or related matters. A notice of hearing providing at least ten (10) days notice shall be served on all interested parties and shall include:

(a) A statement of the time, place, and nature of the hearing;

(b) A statement of the unit claimed by the petitioner to be appropriate;

(c) The name of the agency or activity, petitioner and intervenors, if any;

(d) A statement of the authority and jurisdiction under which the hearing is to be held.

§ 202.9 Conduct of hearing.

(a) Hearings shall be conducted by a Hearing Officer and shall be open to the public unless otherwise ordered by the Hearing Officer. At any time another Hearing Officer may be substituted for the Hearing Officer previously presiding. It shall be the duty of the Hearing Officer to inquire fully into all matters in issue and necessary to obtain a full and complete record upon which the Assistant Secretary may make an appropriate decision. An official reporter shall make the only official transcript of such proceedings. Copies of the official transcript will not be provided to the parties but may be purchased by arrangement with the official reporter or may be examined in the Area Office during normal working hours.

(b) Hearings under this section are considered investigatory and not adversary. Their purpose is to develop a full and complete factual record. The rule of relevancy and materiality are paramount; there are no burdens of proof and the technical rules of evidence do not apply.

(c) The Hearing Officer may continue the hearing from day to day, or adjourn it to a later date or to a different place, by announcement thereof at the hearing or by other appropriate notice.

§ 202.10 Motions.

(a) All motions shall be in writing or, if made at the hearing may be stated orally on the record and shall briefly state the order or relief sought and the grounds for such motion. An original and two copies of written motions shall be filed and a copy thereof simultaneously shall be served on the other parties to the proceedings. Motions made prior to the transfer of the case to the Assistant Secretary shall be filed with the Regional Administrator, with a copy to the Area Administrator, except that motions made during the hearing shall be filed with the Hearing Officer. After the transfer of the case to the Assistant Secretary, all motions shall be filed with the Assistant Secretary. Other parties may file responses to such motions within five (5) days of service. The Regional Administrator may rule upon all motions filed with him, causing a copy of said ruling to be served on the parties, or he may refer the motion to the Hearing Officer: *Provided*, That if the Regional Administrator prior to the close of the hearing grants a motion to dismiss the petition, the petitioner may obtain a review of such ruling in the manner prescribed in § 202.6(d). The Hearing Officer shall rule, either orally on the record or in writing, upon all motions filed at the hearing or referred to him as hereinabove provided, except that all motions to dismiss petitions shall be referred for appropriate action at such time as the entire record is considered by the Regional Administrator or the Assistant Secretary, as the case may be.

(b) Motions to intervene will not be entertained by the Hearing Officer. Intervention will be permitted only to those who have met the requirements set forth in § 202.5.

(c) All motions, rulings, and orders shall become a part of the record. Rulings by the Regional Administrator or by the Hearing Officer shall be considered by the Assistant Secretary when the case is transferred to him for decision.

(d) The right to make motions or to make objections to rulings on motions shall not be deemed waived by participation in the proceeding.

§ 202.11 Rights of the parties.

(a) Any party shall have the right to appear at any hearing in person, by counsel, or by other representative, and any party shall have power to examine and cross-examine witnesses and to introduce into the record documentary and other evidence. Stipulations of fact may be introduced in evidence with respect to any issue.

(b) Any party shall be entitled, upon request, to a reasonable period at the close of the hearing for oral argument, which shall be included in the stenographic report of the hearing.

§ 202.12 Duties and powers of the Hearing Officer.

It shall be the duty of the Hearing Officer to inquire fully into the facts as they relate to the matter before him. With respect to cases assigned to him between the time he is designated and the transfer of the case to the Assistant Secretary, the Hearing Officer shall have the authority to:

(a) Grant requests for appearance of witnesses or production of records;

(b) Rule upon offers of proof and receive relevant evidence;

(c) Take or cause depositions to be taken whenever the ends of justice would be served thereby;

(d) Limit lines of questioning or testimony which are immaterial, irrelevant or unduly repetitious;

(e) Regulate the course of the hearing and, if appropriate, exclude from the hearing persons who engage in misconduct;

(f) Strike all related testimony of witnesses refusing to answer any questions ruled to be proper;

(g) Hold conferences for the settlement or simplification of the issues by consent of the parties or upon his own motion;

(h) Dispose of procedural requests, motions, or similar matters which shall be made part of the record of the proceeding, including motions referred to the Hearing Officer by the Regional Administrator and motions to amend pleadings;

(i) Examine and cross-examine witnesses and to introduce into the record documentary or other evidence;

(j) Request the parties at any time during the hearing to state their respective positions concerning any issue in the case or theory in support thereof;

(k) Continue, in his discretion, the hearing from day-to-day, or adjourn it to a later date or to a different place, by announcement thereof at the hearing or by other appropriate notice;

(l) Take any other action necessary under the foregoing and not prohibited by the regulations in this chapter.

§ 202.13 Objections to conduct of hearing.

Any objection to the introduction of evidence may be stated orally or in writing and shall be accompanied by a short statement of the grounds of such objection, and included in the record. No such objection shall be deemed waived by further participation in the hearing. Automatic exception will be allowed to all adverse rulings.

§ 202.14 Filing of briefs.

Any party may file a brief with the Assistant Secretary within seven (7) days after the close of the hearing provided, however, that prior to the close of the hearing and for good cause, the Hearing Officer may allow time not to exceed fourteen (14) additional days for the filing of briefs with the Assistant Secretary. Copies thereof shall be served simultaneously on all other parties to the proceeding. Requests for additional time in which to file a brief under authority of this section not addressed to the Hearing Officer during the hearing shall be made to the Regional Administrator, in writing, and copies thereof shall be served simultaneously on the other parties. Requests for extension of time shall be received not later than three (3) days before the date such briefs are due. No reply brief may be filed

except by special permission of the Assistant Secretary.

§ 202.15 Transfer of case to Assistant Secretary; contents of record.

Upon the close of the hearing the Hearing Officer shall transfer this case to the Assistant Secretary. The record of the proceeding shall include the petition, notice of hearing, service sheet, motions, rulings, orders, official transcript of the hearing, stipulations, objections, depositions, exhibits, documentary evidence, and any briefs or other documents submitted by the parties.

§ 202.16 Decision.

The Assistant Secretary will issue a decision determining the appropriate unit, and directing an election, or dismissing the petition, or making other disposition of the matter.

§ 202.17 Election procedure.

This section governs all elections conducted under the supervision of an Area Administrator, pursuant to § 202.7 or § 202.16.

(a) Appropriate notices of election shall be posted by the activity. Such notices shall set forth the details and procedures for the election, the appropriate unit, the eligibility period, the date(s), hour(s), and place(s) of the election and shall contain a sample ballot.

(b) The reproduction of any document purporting to be a copy of the official ballot, other than one completely unaltered in form and content and clearly marked "sample" on its face, which suggests either directly or indirectly to employees that the Assistant Secretary endorses a particular choice, may contitute grounds for setting aside an election upon objections properly filed.

(c) All elections shall be by secret ballot. An exclusive representative shall be chosen by a majority of the valid ballots cast.

(d) Whenever two or more labor organizations are included as choices in an election, any labor organization may request, in writing, the Area Administrator to remove its name from the ballot. The request must be received not later than seven (7) days before the date of the election. Such request shall be subject to the approval of the Area Administrator, whose decision shall be final: *Provided however,* That in a proceeding involving a petition filed under § 202.2(b) an organization currently recognized or certified may not have its name removed from the ballot without giving the aforementioned notice in writing to all parties and the Area Administrator, disclaiming any representation interest among the employees in the unit.

(e) Any party may be represented at the poling place(s) by observers of his own selection, subject to such limitations as the Area Administrator may prescribe.

§ 202.18 Challenged ballots.

Any party or the representative of the Assistant Secretary may challenge, for good cause, the eligibility of any person to participate in the election. The ballots of such challenged persons shall be impounded.

§ 202.19 Tally of ballots.

Upon the conclusion of the election, the Area Administrator shall cause to be furnished to the parties a tally of ballots.

§ 202.20 Objections to election; determination on objections and challenged ballots.

(a) Within five (5) days after the tally of ballots has been furnished, any party may file with the Area Administrator an original and four (4) copies of objections to the conduct of the election or conduct affecting the results of the election, supported by a short statement of the reasons therefor. Such filing must be timely whether or not the challenged ballots are sufficient in number to affect the results of the election. Copies of such objections shall be served simultaneously on the other parties by the party filing them, and a statement of service shall be made.

(b) If no objections are filed within the time set forth above, if the challenged ballots are insufficient in number to affect the results of the election, and if no runoff election is to be held, the Area Administrator shall forthwith issue to the parties a certification of the results of the election, including certification of representative, where appropriate.

(c) If objections are filed to the conduct of the election or conduct affecting the results of the election, or if the challenged ballots are sufficient in number to affect the results of the election, the Area Administrator shall investigate the objections or challenges, or both.

(d) The Area Administrator shall report the essential facts and positions of the parties to the Regional Administrator. Where it appears to the Regional Administrator that the objections or challenged ballots raise any relevant question of fact which may have affected the results of the election, the Regional Administrator shall cause to be issued a notice of hearing designating a Hearing Examiner, to take evidence, make factual findings and recommendations with respect to the objections and/or challenged ballots, and shall report these findings and recommendations to the Assistant Secretary and the parties. The objecting party shall bear the burden of proof regarding all matters alleged in its objections to conduct affecting the results of the election.

(e) When the Regional Administrator determines that no such relevant issue of fact exists, he shall (1) find whether improper conduct occurred which affected the results of the election and indicate his intention to set aside the election, or (2) if the Regional Administrator finds no such improper conduct occurred affecting the election, he shall rule on challenges to ballots, if any. The Regional Administrator shall simultaneously serve any such finding upon all parties to the proceeding and shall include therein any additional pertinent matters such as his intent to rerun the election or count ballots at a specified date, time, and place. When the Regional Administrator determines that no relevant question of fact exists, but that a substantial question of interpretation or policy exists, he shall notify the parties and transfer the case to the Assistant Secretary in accordance with § 205.5(b).

(f) Any party aggrieved by findings and recommendations of a Hearing Examiner or findings of a Regional Administrator with respect to objections to an election or challenged ballots, may obtain a review of such action by the Assistant Secretary by following the procedure set forth in § 202.6(d), which review may include an objection to the failure of the Regional Administrator to direct a hearing on the ground that a relevant question of fact exists.

(g) The Assistant Secretary shall decide whether to adopt or modify the Hearing Examiner's recommendations, whether to grant review of the Regional Administrator's findings, or any substantial issue of interpretation or policy transferred by the Regional Administrator. In accord with the Assistant Secretary's final determinations, the Regional Administrator shall cause to be issued a certification of the results of the election, certification of representative, or a decision setting aside the election or directing the opening and counting of challenged ballots, whichever is appropriate.

§ 202.21 Runoff elections.

(a) The activity shall conduct a runoff election under supervision of the Area Administrator when an election in which the ballot provided for not less than three (3) choices (i.e., at least two representatives and "neither" or "none") results in no choice receiving a majority of the valid ballots cast, and any objections which had been filed have been disposed of, and any challenged ballots have been disposed of or are not sufficient in number to affect the results of the election, as provided herein. Only one runoff election shall be held pursuant to this section.

(b) Employees who were eligible to vote in the original election and who also are in an eligible category on the date of the runoff election shall be eligible to vote in the runoff election.

(c) The ballot in the runoff election shall provide for a selection between the two choices receiving the largest and second largest number of votes.

§ 202.22 Inconclusive elections.

(a) An inconclusive election is one in which none of the choices on the ballot has received a majority of the valid ballots cast. If there are no challenged ballots that would affect the results of the election, the Area Administrator may declare the election a nullity and may order another election, providing for a selection from among the choices afforded in the previous ballot in the following situations:

(1) The ballot provided for a choice among two or more representatives and "neither" or "none," and the votes are equally divided among the several choices;

(2) The number of ballots cast for one choice in an election is equal to the number cast for another choice but less than the number cast for the third choice; or

(3) The runoff ballot provided for a choice between two representatives and the votes are equally divided.

(b) Only one further election pursuant to this section may be held.

PART 203—UNFAIR LABOR PRACTICE PROCEEDINGS

AUTHORITY: The provisions of this Part 203 issued under sec. 6, E.O. 11491, 34 F.R. 17605.

§ 203.1 Who may file complaints.

A complaint to the Assistant Secretary that an agency, activity, or labor organization has engaged in any act prohibited under section 19 of the order or has failed to take any action required by the order, may be filed by an employee, an agency, activity, or a labor organization.

§ 203.2 Action to be taken before filing a complaint with the Assistant Secretary.

Any charge of an alleged unfair labor practice occurring after January 1, 1970, shall be filed directly with the party or parties against whom the charge is directed within six (6) months of the occurrence of the alleged unfair labor practice. The alleged unfair labor practice shall be investigated by the parties involved and informal attempts to resolve the matter shall be made by the parties. If informal attempts are unsuccessful in disposing of the matter within thirty (30) days, (a) the parties may agree to stipulate the facts to the Assistant Secretary and request a decision without a hearing or (b) a party may file a complaint requesting the Assistant Secretary to issue a decision in the matter: *Provided, however,* That a complaint to the Assistant Secretary shall not be considered timely unless filed within nine (9) months of the occurrence of the alleged unfair labor practice or within thirty (30) days of the receipt by the charging party of the final decision, whichever is the shorter period of time.

§ 203.3 Contents of the complaint.

A complaint alleging a violation of section 19 of the Order shall be submitted on forms prescribed by the Assistant Secretary and shall contain the following:

(a) The name, address, and telephone number of the employee, agency, or activity or labor organization making the complaint (hereinafter referred to as the complainant);

(b) The name, address, and telephone number of the agency or activity or labor organization against whom the complaint is made (hereinafter referred to as the respondent);

(c) A clear and concise statement of the facts constituting the alleged unfair labor practice, including the time and place of occurrence of the particular acts and a statement of the portion or portions of the order alleged to have been violated;

(d) A statement of any other procedures invoked involving the subject matter of the complaint and the results, if any, of their invocation including whether the subject matter raised in the complaint has been referred to the Council, Panel, or Federal Mediation and Conciliation Service for consideration or action;

(e) The entire report of investigation by the parties, pursuant to § 203.2, shall be filed with the complaint;

(f) A declaration by the person signing the complaint, under the penalties of the Criminal Code (18 U.S.C. 1001), that its contents are true and correct to the best of his knowledge and belief.

§ 203.4 Filing and service of copies.

(a) An original and four copies of a complaint shall be filed with the Area Administrator for the area in which the alleged unfair labor practice occurred or if it occurred in two or more areas, the complaint shall be filed with the Area Administrator for the area in which the headquarters of the respondent is located.

(b) Simultaneously with the filing of a complaint and the parties' report of investigation, copies shall be served by the complainant on the respondent, and a written statement of such service shall be furnished to the Area Administrator.

§ 203.5 Investigation of the complaint.

Upon the filing of a complaint the Area Administrator shall make such additional investigation as he deems necessary, and shall report the essential facts, the positions of the parties, and any offers of settlement to the Regional Administrator.

§ 203.6 Action by Regional Administrator.

The Regional Administrator shall take appropriate measures which may consist of the approval of a withdrawal request or dismissal of the complaint, approval of a satisfactory offer of settlement, or the issuance of a notice of hearing.

§ 203.7 Withdrawal or dismissal of complaint.

(a) If the Regional Administrator determines that the complaint has not been timely filed, that a reasonable basis for the complaint has not been established, or that a satisfactory offer of settlement has been made, he may request the complainant to withdraw the complaint or in the absence of such withdrawal, within a reasonable time, he may dismiss the complaint.

(b) If the Regional Administrator dismisses the complaint, he shall furnish the complainant with a written statement of the grounds for dismissal, sending a copy of the statement to the respondent. If the dismissal is based on approval of an offer of settlement which is satisfactory to the Regional Administrator, such statement shall set forth the terms of settlement and the implementation thereof.

(c) The complainant may obtain a review of such action by filing a request for review with the Assistant Secretary within ten (10) days of service of such notice of dismissal and simultaneously serving a copy of such request on the Regional Administrator and the respondent. Statement of service shall be filed with the Assistant Secretary. The request for review shall contain a complete statement setting forth facts and reasons upon which the request is based.

§ 203.8 Notice of hearing.

The Regional Administrator may cause a notice of hearing to be issued if, after the filing of a complaint, he finds, based on the allegations and the report of investigation by the parties and any additional investigation by the Area Administrator, which has been reported to the parties, that there is a reasonable basis for the complaint and that no satisfactory offer of settlement has been made.

§ 203.9 Contents of the notice of hearing.

(a) The notice of hearing shall include:

(1) A copy of the complaint;

(2) A statement of the time and place of the hearing which shall be not less than ten (10) days after service of the notice of hearing except in extraordinary circumstances;

(3) A statement of the nature of hearing;

(4) A statement of the authority and jurisdiction under which the hearing is to be held;

(5) A reference to the particular sections of the Order and regulations involved.

(b) The reports of investigation referred to in § 203.8 shall be furnished to the Hearing Examiner.

§ 203.10 Conduct of hearing.

(a) Hearings shall be conducted by a Hearing Examiner and shall be open to the public unless otherwise ordered by the Hearing Examiner.

(b) An official reporter shall make the only official transcript of such proceedings. Copies of the official transcript will not be provided to the parties but may be purchased by arrangement with the official reporter or may be examined in the Area Office during normal working hours.

§ 203.11 Intervention.

Any person desiring to intervene in any proceeding shall file a motion in writing or, if made at the hearing, may move orally on the record, stating the grounds upon which such person claims an interest. Prior to the hearing, such a motion shall be filed with the Regional Administrator issuing the notice of hearing; during the hearing such motion shall be made to the Hearing Examiner. An original and two copies of written motions shall be filed. Simultaneously upon filing such motion, the moving party shall serve a copy thereof on the other parties. The Regional Administrator shall rule upon all such motions filed prior to the hearing, and shall cause a copy of such rulings to be furnished to the other parties, or may refer the motion to the Hearing Examiner for ruling. The Hearing Examiner shall rule upon all such motions made at the hearing or referred to him by the Regional Administrator. When the Hearing Examiner rules, before the hearing, on a motion referred to him by the Regional Administrator, he shall furnish copies of such ruling to the parties. The Regional Administrator or Hearing Examiner, as the case may be, may permit intervention in person or by counsel or other representative to such extent and upon such terms as he may deem proper.

§ 203.12 Rights of parties.

Any party shall have the right to appear at such hearing in person, by counsel, or by other representative, to examine and cross-examine witnesses, and to introduce into the record documentary or other relevant evidence, except that the participation of any party shall be limited to the extent prescribed by the Hearing Examiner: *And provided further,* That two (2) copies of documentary evidence shall be submitted.

§ 203.13 Rules of evidence.

The technical rules of evidence do not apply. Any evidence may be received, except that a Hearing Examiner may exclude any evidence or offer of proof which is immaterial, irrelevant, unduly repetitious, or customarily privileged. Every party shall have a right to present his case by oral and documentary evidence and to submit rebuttal evidence.

§ 203.14 Burden of proof.

A complainant in asserting a violation of the order shall have the burden of proving the allegations of the complaint by a preponderance of the evidence.

§ 203.15 Duties and powers of the Hearing Examiner.

It shall be the duty of the Hearing Examiner to inquire fully into the facts as they relate to the matter before him. Upon assignment to him and before transfer of the case to the Assistant Secretary, the Hearing Examiner shall have the authority to:

(a) Grant requests for appearance of witnesses or production of documents;

(b) Rule upon offers of proof and receive relevant evidence;

(c) Take or cause depositions to be taken whenever the ends of justice would be served thereby;

(d) Limit lines of questioning or testimony which are immaterial, irrelevant, or unduly repetitious.

(e) Regulate the course of the hearing and, if appropriate, exclude from the hearing persons who engage in misconduct and strike all related testimony of witnesses refusing to answer any questions ruled to be proper;

(f) Hold conferences for the settlement or simplification of the issues by consent of the parties or upon his own motion;

(g) Dispose of procedural requests, motions, or similar matters which shall be made part of the record of the proceeding, including motions referred to the Hearing Examiner by the Regional Administrator and motions to amend pleadings, also to recommend dismissal of cases or portions thereof, and to order hearings reopened prior to issuance of the Hearing Examiner's report and recommendations;

(h) Examine and cross-examine witnesses and to introduce into the record documentary or other evidence;

(i) Request the parties at any time during the hearing to state their respective positions concerning any issue in the case or theory in support thereof;

(j) Continue, at his discretion, the hearing from day-to-day, or adjourn it to a later date or to a different place, by announcement thereof at the hearing or by other appropriate notice;

(k) Prepare, serve, and submit his report and recommendations pursuant to § 203.22.

(l) Take official notice of any material fact not appearing in evidence in the record, which is among the traditional matters of judicial notice and also concerning which the Department by reason of its functions is presumed to be expert: *Provided,* That the parties shall be given adequate notice, at the hearing or by reference in the Hearing Examiner's decision of the matters so noticed, and shall be given adequate opportunity to show the contrary.

(m) Take any other action necessary under the foregoing and not prohibited by the regulations in this chapter.

§ 203.16 Unavailability of Hearing Examiners.

In the event the Hearing Examiner designated to conduct the hearing becomes unavailable, the Chief Hearing Examiner shall designate another Hearing Examiner for the purpose of further hearing or issuance of a report and recommendations on the record as made, or both.

§ 203.17 Objection to conduct of hearing.

(a) Any objection with respect to the conduct of the hearing, including any objection to the introduction of evidence, may be stated orally or in writing accompanied by a short statement of the grounds for such objection, and included in the record. No such objection shall be deemed waived by further participation in the hearing. Such objection shall not stay the conduct of the hearing.

(b) Automatic exceptions will be allowed to all adverse rulings. Rulings by the Hearing Examiner shall not be appealed prior to the transfer of the case to the Assistant Secretary, but shall be considered by the Assistant Secretary only upon the filing of exceptions to the Hearing Examiner's report and recommendations in accordance with § 203.22.

§ 203.18 Motions before or after a hearing.

(a) All motions made before a hearing shall be made in writing to the Regional Administrator. All motions made after the transfer of the case to the Assistant Secretary shall be made in writing to the Assistant Secretary. The moving party shall serve simultaneously a copy of all motion papers on all other parties. A statement of service shall accompany the motion. Answering affidavits, if any, must be served on all parties and the original thereof, together with two (2) copies and statement of service, shall be filed either with the Regional Administrator before the hearing or the Assistant Secretary after the hearing, within five (5) days after service of the moving papers unless it is otherwise directed.

(b) The Regional Administrator may rule upon all motions filed with him, causing a copy of such ruling to be served on the parties, or he may refer such motions to the Hearing Examiner or Chief Hearing Examiner. Rulings by the Regional Administrator shall not be appealed prior to the transfer of the case to the Assistant Secretary, but shall be considered by the Assistant Secretary when the case is transferred to him for decision.

§ 203.19 Waiver of objections.

Any objection not duly urged before a Hearing Examiner shall be deemed waived.

§ 203.20 Oral argument at the hearing.

Any party shall be entitled, upon request, to a reasonable period prior to the close of the hearing for oral argument, which shall be included in the official transcript of the hearing.

§ 203.21 Filing of brief.

Any party desiring to submit a brief to the Hearing Examiner shall file the original and one copy within seven (7) days after the close of the hearing: *Provided, however,* That prior to the close of the hearing and for good cause, the

Hearing Examiner may grant a reasonable extension of time. Copies thereof shall be served simultaneously on all other parties to the proceeding. Requests for additional time in which to file a brief under authority of this section not addressed to the Hearing Examiner during the hearing shall be made to the Chief Hearing Examiner, in writing, and copies thereof shall be served simultaneously on the other parties. A statement of such service shall be furnished. Requests for extension of time shall be received not later than three (3) days before the date such briefs are due. No reply brief may be filed except by special permission of the Hearing Examiner.

§ 203.22 Submission of the Hearing Examiner's report and recommendations to the Assistant Secretary; exceptions.

(a) After the close of the hearing, and the receipt of briefs, if any, the Hearing Examiner shall prepare his report and recommendations expeditiously. The report and recommendations shall contain findings of fact, conclusions, and the reasons or basis therefor including credibility determinations, and recommendations as to the disposition of the case including, where appropriate, the remedial action to be taken and notices to be posted.

(b) The Hearing Examiner shall cause his report and recommendations to be served promptly on all parties to the proceeding. Thereafter, the Hearing Examiner shall transfer the case to the Assistant Secretary including his report and recommendations and the record. The record shall include the complaint, notice of hearing, service sheet, motions, rulings, orders, official transcript of the hearing, stipulations, objections, depositions, exhibits, documentary evidence and any briefs or other documents submitted by the parties.

(c) An original and two (2) copies of any exceptions to the Hearing Examiner's report and recommendations may be filed by any party with the Assistant Secretary within ten (10) days after service of the report and recommendations: *Provided, however,* That the Assistant Secretary may for good cause shown extend the time for filing such exceptions. Requests for additional time in which to file exceptions shall be in writing, and copies thereof shall be served simultaneously on the other parties. Requests for extension of time must be received no later than three (3) days before the date the exceptions are due. Copies of such exceptions and any supporting briefs shall be served simultaneously on all other parties, and a statement of such service shall be furnished to the Assistant Secretary.

§ 203.23 Contents of exceptions to Hearing Examiner's report and recommendations.

(a) Exceptions to a Hearing Examiner's report and recommendations shall:

(1) Set forth specifically the questions upon which exceptions are taken;

(2) Identify that part of the Hearing Examiner's report to which objection is made;

(3) Designate by precise citation of page the portions of the record relied on, state the grounds for the exceptions, and include the citation of authorities unless set forth in a supporting brief.

(b) Any exception to a ruling, finding, conclusion, or recommendation which is not specifically urged shall be deemed to have been waived. Any exception which fails to comply with the foregoing requirements may be disregarded.

§ 203.24 Briefs in support of exceptions.

(a) Any brief in support of exceptions shall contain only matters included within the scope of the exceptions and shall contain, in the order indicated, the following:

(1) A concise statement of the case containing all that is material to the consideration of the questions presented;

(2) A specification of the questions involved and to be argued;

(3) The argument, presenting clearly the points of fact and law relied on in support of the position taken on each question, with specific page reference to the transcript and the legal or other material relied on.

(b) Answering briefs to the exceptions and cross-exceptions and supporting briefs may be filed at the discretion of the Assistant Secretary.

§ 203.25 Action by the Assistant Secretary.

After considering the Hearing Examiner's report and recommendations, the record, and any exceptions filed, the Assistant Secretary shall issue his decision affirming or reversing the Hearing Examiner, in whole or in part, or making such other disposition of the matter as he deems appropriate.

(a) Upon finding a violation of the order the Assistant Secretary may order the respondent to cease and desist from conduct violative of the order and may require the respondent to take such affirmative corrective action as he deems appropriate to effectuate the policies of the order.

(b) Upon finding no violation of the order, the Assistant Secretary shall dismiss the complaint.

(c) The Assistant Secretary may refer cases or any issue(s) therein involving major policy questions to the Council for decision or general ruling in accordance with its regulations.

§ 203.26 Compliance with decisions and orders of the Assistant Secretary.

When remedial action is ordered, the respondent shall report to the Assistant Secretary, within a specified period that the required remedial action has been effected. When the Assistant Secretary finds that the required remedial action has not been effected, he may order cancellation of dues deduction, withdrawal of recognition or referral to the Council as appropriate.

PART 205—MISCELLANEOUS

Sec.

AUTHORITY: The provisions of this Part 205 issued under secs. 6, 18, E.O. 11491, 34 F.R. 17605.

§ 205.1 Computation of time for filing papers.

In computing any period of time prescribed by or allowed by the regulations in this chapter, the day of the act, event, or default after which the designated period of time begins to run, shall not be included. The last day of the period so computed is to be included unless it is a Saturday, Sunday, or Federal legal holiday in which event the period shall run until the end of the next day which is neither a Saturday, Sunday, or a Federal legal holiday. When the period of time prescribed or allowed is less than seven (7) days, intermediate Saturdays, Sundays, and Federal legal holidays shall be excluded from the computations. When the regulations in this chapter require the filing of any paper, such document must be received by the Assistant Secretary or the officer or agent designated to receive such matter before the close of business of the last day of the time limit, if any, for such filing or extension of time that may have been granted.

§ 205.2 Additional time after service by mail.

Whenever a party has the right or is required to do some act pursuant to the regulations in this chapter within a prescribed period after service of a notice or other paper upon him and the notice or paper is served on him by mail, three (3) days shall be added to the prescribed period: *Provided, however,* That three (3) days shall not be added if any extension of time may have been granted.

§ 205.3 Documents in a proceeding.

(a) *Title.* Documents in any proceeding under the regulations in this chapter including correspondence shall show the title of the proceeding and the case number, if any.

(b) *Number of copies; form.* Except as otherwise provided in the regulations in this chapter, any documents or papers shall be filed with four (4) copies in addition to the original. All matters filed shall be printed, typed, or otherwise legibly duplicated; carbon copies of typewritten matter will be accepted if they are clearly legible.

(c) *Signature.* The original of each document required to be filed under the regulations in this chapter shall be signed by the party or by an attorney or representative of record for the party, or by an officer of the party and shall contain the address and telephone number of the person signing it.

§ 205.4 Service of pleading and other paper under this chapter.

(a) *Method of service.* Notices of hearing, decisions, orders and other papers

may be served personally or by registered or certified mail or by telegraph.

(b) *Upon whom served.* All papers except complaints, petitions and papers relating to requests for appearance of witnesses or production of documents shall be served upon all counsel of record and upon parties not represented by counsel or by their agents designated by them or by law and upon the Assistant Secretary, or his designated officer or agent or examiner, where appropriate. Service upon such counsel or representative shall constitute service upon the party, but a copy also shall be transmitted to the party.

(c) *Statement of service.* The party or person serving the papers or process shall submit simultaneously to the Assistant Secretary or other designated representative, or to the individual conducting the proceeding, a written statement of such service; failure to file a statement of service shall not affect the validity of the service. Proof of service shall be required only if subsequent to the receipt of a statement of service a question is raised with respect to proper service.

§ 205.5 Transfer of case to Assistant Secretary.

(a) In any case under Parts 202 and 203 of this chapter in which the Regional Administrator determines that no material issue of fact exists, he may transfer the case to the Assistant Secretary who shall decide the case on the basis of the papers alone after having allowed ten (10) days for the filing of briefs and/or requests for review of the Regional Administrator's action; or the Assistant Secretary may remand the case to the Regional Administrator if he determines that material fact questions exist. Orders of transfer and remand shall be served on all parties.

(b) In any case under Parts 202 and 203 of this chapter in which it appears to the Regional Administrator that the proceedings raise questions which should be decided by the Assistant Secretary, he may, at any time, issue an order transferring the case to the Assistant Secretary for decision or other appropriate action. Such an order shall be served on the parties.

§ 205.6 Request for appearance of witnesses and production of documents at hearing.

The Regional Administrator, Hearing Officer, or Hearing Examiner as appropriate may request the attendance of witnesses and the production of documents at a hearing held pursuant to this chapter. A party may file a written application for such request with the Regional Administrator before the opening of a hearing or with a Hearing Officer or Hearing Examiner during the hearing. The application for request shall name and identify the witness or the documents sought, or both, and the reason therefor. Notice of an application for request need not be communicated to the parties. The Regional Administrator, Hearing Officer or Hearing Examiner shall grant the request provided the anticipated testimony or documents appear to be reasonably related to the matters under investigation and describes with sufficient particularity the documents sought. If the Regional Administrator, Hearing Officer, or Hearing Examiner denies such request he shall set forth the basis for his ruling, which shall become a part of the record. Upon the failure of any party or officer of any party to comply with such a request the Regional Administrator, the Hearing Officer, Hearing Examiner, or the Assistant Secretary may disregard all related evidence offered by the party failing to produce such evidence.

§ 205.7 Rules to be liberally construed.

(a) The regulations in this chapter shall be liberally construed to effectuate the purposes and provisions of the order.

(b) When an act is required or allowed to be done at or within a specified time the Assistant Secretary may at any time order the period altered where it shall be manifest that strict adherence will work surprise or injustice or interfere with the proper effectuation of the order.

§ 205.8 Petitions for amendment of regulations.

Any interested person may petition the Assistant Secretary in writing for amendments to any portion of the regulations in this chapter. Such petition shall identify the portion of the regulations involved and provide the specific language of the proposed amendment together with a statement of grounds in support of such petition.

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

Signed at Washington, D.C., this 28th day of January 1970.

W. J. USERY, Jr.,
Assistant Secretary of Labor for Labor-Management Relations.

[F.R. Doc. 70-1247; Filed, Jan. 30, 1970; 8:45 a.m.]

DEPARTMENT OF LABOR

Office of the Assistant Secretary for Labor-Management Relations

REGIONAL AND AREA ADMINISTRATORS

Addresses and Jurisdiction

In Chapter II of Title 29 of the Code of Federal Regulations, which is published in the FEDERAL REGISTER on this date, there are various references to the duties of Regional and Area Administrators. Set forth below is a listing of the addresses and jurisdiction of the Regional and Area Administrators.

(a) The addresses of the Regional Administrators and Area Administrators of the Labor-Management Services Administration are listed below:

(1) Regional Administrator—Atlanta, Room 323, 1371 Peachtree Street, NE., Atlanta, Ga. 30309.

(i) Area Administrator—Atlanta, Room 317, 1371 Peachtree Street, NE., Atlanta, Ga. 30309.

(ii) Area Administrator—Miami, Room 1517, 51 Southwest First Avenue, Miami, Fla. 33130.

(iii) Area Administrator—Nashville, 786 U.S. Courthouse Building, 801 Broadway, Nashville, Tenn. 37203.

(2) Regional Administrator—Chicago, 770 Federal Office Building, 219 South Dearborn Street, Chicago, Ill. 60604.

(i) Area Administrator—Chicago, 773 Federal Office Building, 219 South Dearborn Street, Chicago, Ill. 60604.

(ii) Area Administrator—Cleveland, 821 Federal Office Building, 1240 East Ninth Street, Cleveland, Ohio 44199.

(iii) Area Administrator—Detroit, 1906 Washington Boulevard Building, 234 State Street, Detroit, Mich. 48226.

(iv) Area Administrator—Minneapolis, 110 Federal Courts Building, 110 South Fourth Street, Minneapolis, Minn. 55401.

(3) Regional Administrator—Kansas City, 2511 Federal Office Building, 911 Walnut Street, Kansas City, Mo. 64106.

(i) Area Administrator—Dallas, Rooms 1005–1006, 1416 Commerce Street, Dallas, Tex. 75201.

(ii) Area Administrator—Denver, 323 New Customhouse, 721 19th Street, Denver, Colo. 80202.

(iii) Area Administrator—Kansas City, 2503 Federal Office Building, 911 Walnut Street, Kansas City, Mo. 64106.

(iv) Area Administrator—New Orleans, 940 Federal Office Building, 600 South Street, New Orleans, La. 70130.

(v) Area Administrator—St. Louis, 4919 Federal Office Building, 1520 Market Street, St. Louis, Mo. 63103.

(4) Regional Administrator—New York, 233 West 49th Street, New York, N.Y. 10019.

(i) Area Administrator—Boston E–329 John F. Kennedy Federal Building, Government Center, Boston, Mass. 02203.

(ii) Area Administrator—Buffalo, 435 Federal Building, 121 Ellicott Street, Buffalo, N.Y. 14203.

(iii) Area Administrator—Newark, 635 Federal Building, 970 Broad Street, Newark, N.J. 07102.

(iv) Area Administrator—New York, 233 West 49th Street, New York, N.Y. 10019.

(v) Area Administrator—Santurce, 706 San Alberto Condominium, 1200 Ponce de Leon Avenue, Santurce, P.R. 00907.

(5) Regional Administrator—Philadelphia, 710 Penn Square Building, 1317 Filbert Street, Philadelphia, Pa. 19107.

(i) Area Administrator—Philadelphia, 704 Penn Square Building, 1317 Filbert Street, Philadelphia, Pa. 19107.

(ii) Area Administrator—Pittsburgh, 2002 Federal Office Building, 1000 Liberty Avenue, Pittsburgh, Pa. 15222.

(iii) Area Administrator—Washington, D.C., 509 Vanguard Building, 1111 20th Street NW., Washington, D.C. 20210.

(6) Regional Administrator—San Francisco, 10140 Federal Office Building, 450 Golden Gate Avenue, San Francisco, Calif. 94102.

(i) Area Administrator—Honolulu, Room 601, 1833 Kalakaua Avenue, Honolulu, Hawaii 96815.

(ii) Area Administrator—Los Angeles, 7731 Federal Building, 300 North Los Angeles Street, Los Angeles, Calif. 90012.

(iii) Area Administrator—San Francisco, 9403 Federal Office Building, 450 Golden Gate Avenue, San Francisco, Calif. 94102.

(iv) Area Administrator—Seattle, 3301 Smith Tower Building, 506 Second Avenue, Seattle, Wash. 98104.

(b) The geographic jurisdictions of the Regional Administrators and Area Administrators of the Labor-Management Services Administration are listed below:

REGIONAL AND AREA ADMINISTRATORS JURISDICTION

State	Area	Regional
Alabama	Atlanta	Atlanta.
Alaska	Seattle	San Francisco.
Arizona	Los Angeles	Do.
Arkansas	New Orleans	Kansas City.
California	Los Angeles/San Francisco.[1]	San Francisco.
Colorado	Denver	Kansas City.
Connecticut	Boston	New York City.
Delaware	Philadelphia	Philadelphia.
District of Columbia.	Washington, D.C.	Do.
Georgia	Atlanta	Atlanta.
Guam, Wake Island, American Samoa.	Honolulu	San Francisco.
Hawaii	do	Do.
Idaho	Seattle	Do.
Illinois	Chicago	Chicago.
Indiana	do	Do.
Iowa	St. Louis	Kansas City.
Kansas	Kansas City	Do.
Kentucky	Nashville	Atlanta.
Louisiana	New Orleans	Kansas City.
Maine	Boston	New York City.
Maryland	Washington, D.C.	Philadelphia.
Massachusetts	Boston	New York.
Michigan	Detroit	Chicago.
Minnesota	Minneapolis	Do.
Mississippi	Nashville	Atlanta.
Missouri	Kansas City/St. Louis.[2]	Kansas City.
Montana	Denver	Do.
Nebraska	Kansas City	Do.
Nevada	San Francisco (Except Clark County which is in Los Angeles jurisdiction).	San Francisco.
New Hampshire	Boston	New York City.
New Jersey	Newark	Do.
New Mexico	Dallas	Kansas City.
New York	New York City[3]/Buffalo.	New York City.
North Carolina	Atlanta	Atlanta.
North Dakota	Kansas City	Kansas City.
Ohio	Cleveland	Chicago.
Oklahoma	Dallas	Kansas City.
Oregon	Seattle	San Francisco.
Pennsylvania	Philadelphia/Pittsburgh.[4]	Philadelphia.
Puerto Rico	Santurce	New York City.
Rhode Island	Boston	Do.
South Carolina	Atlanta	Atlanta.
South Dakota	Kansas City	Kansas City.
Tennessee	Nashville	Atlanta.
Texas	Dallas	Kansas City.
Utah	Denver	Do.
Vermont	Boston	New York City.
Virginia	Washington, D.C.	Philadelphia.
Washington	Seattle	San Francisco.
West Virginia	Pittsburgh	Philadelphia.
Wisconsin	Minneapolis/Chicago.[5]	Chicago.
Wyoming	Denver	Kansas City.
Virgin Islands	Santurce	New York City.
Canal Zone	do	Do.
All overseas installations except Virgin Islands, Canal Zone, Guam, Wake Island, and American Samoa.	Washington, D.C.	Philadelphia.

[1] (San Francisco includes following California counties: Monterey, Kings, Tulare, Inyo, and all counties north thereof—also includes all of Nevada except Clark County which is in the Los Angeles jurisdiction.)

[2] (St. Louis includes following Missouri counties: Putnam, Sullivan, Linn, Chariton, Saline, Pettis, Benton, Hickory, Polk, Greene, Christian, Stone, and all counties east thereof.)

[3] (New York City includes following New York counties: Ulster, Sullivan, Greene, Columbia, and all counties south thereof.)

[4] (Pittsburgh includes following Pennsylvania counties: Potter, Clinton, Centre, Mifflin, Huntingdon, Franklin, and all counties west thereof.)

[5] (Chicago includes following Wisconsin counties: Vernon, Columbia, Sauk, Dodge, Fond Du Lac, Sheboygan, and all counties south thereof.)

Signed at Washington, D.C., this 28th day of January 1970.

W. J. USERY, Jr.,
Assistant Secretary of Labor for Labor-Management Relations.

[F.R. Doc. 70–1248; Filed, Jan. 30, 1970; 8:45 a.m.]